

2015/17: Should R & B singer Chris Brown be denied entry to Australia?

What they said...

'People need to understand, if you are going to commit domestic violence and then you want to travel around the world there are going to be countries that say to you, "You cannot come in because you are not of the character that we expect in Australia"'

The federal Minister for Women, Michaelia Cash

'At best, a ban on Brown is a distraction, a cheap headline-grabbing stunt that takes the focus away from the real work - and the allocation of real resources - necessary to make women safe'

Jeff Sparrow, writing for The Guardian

The issue at a glance

On September 25, 2015, officials acting for the federal Immigration Minister, Peter Dutton, issued United States R&B singer, Chris Brown, with a Notice of Intention to Consider Refusal of the singer's visa application.

Brown has shows booked in Australia in December for his One Hell of a Nite tour. Tickets went on sale for these shows on Monday, September 28, 2015, despite the uncertainty surrounding Brown's visa application.

The singer has 28 days from the time the Notice of Intention was issued to demonstrate why he is a fit and proper person to be given a visa.

It appears the Notice of Intention was issued because of concerns about Brown's 2009 conviction for assault against his then girlfriend, the singer, Rihanna. The Migration Act allows the Immigration Minister to deny entry to Australia on a number of grounds, including 'character'. One indication of unsuitable character is a prior criminal conviction.

The decision is, however, open to ministerial discretion, and critics have claimed that the possible denial of entry to Brown is an over-reaction and inequitable.

The debate continues, with the social media protest group, GetUp, withdrawing its 15,000 signature petition which demanded the government refuse to admit Brown because it was concerned the demand might appear racist.

Both Brown's parents are African-American and he also claims to have Pamunkey Native American ancestry.

Background

The following information has been taken from the Internet site of the Australian Human Rights Commission. It details the operation of Section 501 of the Australian Immigration Act, outlining the circumstances and process under which a person may be denied a visa to enter Australia.

The full text of this document can be accessed at <https://www.humanrights.gov.au/publications/background-paper-human-rights-issues-raised-visa-refusal-or-cancellation-under-section-1>

Circumstances under which a visa application to enter Australia may be denied

The threshold test for refusal or cancellation is:

(a) Refusal or cancellation by the Minister or a delegate under subsections 501(1) or (2)

The Minister may refuse to grant a visa to a person under section 501(1) if the person does not satisfy the Minister that he or she passes the character test.

A person's visa may be cancelled under section 501(2) of the Migration Act if: the Minister reasonably suspects that the person does not pass the character test, and the person does not satisfy the Minister that they pass the character test.

The power in subsections 501(1) and 501(2) can be exercised by the Minister personally, or by a delegate of the Minister. In practice, certain DIAC officers usually act as the Minister's delegates in making such decisions.

(b) Refusal or cancellation by the Minister under subsection 501(3)

The Minister may refuse to grant a visa or may cancel a person's visa under subsection 501(3) of the Migration Act if: the Minister reasonably suspects that the person does not pass the character test and the Minister is satisfied that the refusal or cancellation is in the national interest.

This power can only be exercised by the Minister personally. 'National interest' is not defined - it is a matter for the Minister to determine what constitutes the national interest in making a decision about whether to refuse or cancel a person's visa.

It is also important to note the Minister's personal powers under sections 501A and 501B of the Migration Act. These powers enable the Minister to set aside an initial decision by a delegate or the Administrative Appeals Tribunal in relation to refusal or cancellation under section 501, and substitute it with his or her own decision to refuse or cancel the visa on character grounds. These personal powers are discussed in section 5.3 below.

The character test

(a) Introduction

Section 501 of the Migration Act provides that a person does not pass the character test if they fall within any of the grounds specified in subsections 501(6)(a) to (d). These grounds can be grouped into five broad categories:

- substantial criminal record
- conviction for immigration detention offences
- association with persons suspected of engaging in criminal conduct
- past and present criminal or general conduct
- significant risk of particular types of future conduct.

Further guidance on the interpretation and application of these grounds is contained in Direction No. 55. Each of these categories is discussed briefly below.

(b) Substantial criminal record

A person will not pass the character test if they have a 'substantial criminal record', as defined in subsection 501(7). For the purposes of the character test, a person has a 'substantial criminal record' if they have been:

- sentenced to death or to imprisonment for life
- sentenced to imprisonment for 12 months or more
- sentenced to two or more terms of imprisonment where the total of these terms is two years or more
- acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result they have been detained in a facility or institution.

A person who has a 'substantial criminal record' will automatically fail the character test, regardless of any mitigating factors which attended their offending. However, mitigating factors may be taken into account at the second stage under section 501, when the decision-maker is considering whether to exercise the discretion to refuse or cancel the person's visa.

(c) Conviction for immigration detention offences

In 2011 the character test in section 501 was amended to include additional grounds upon which the Minister or a delegate may decide to refuse to grant, or to cancel, a person's visa. These amendments to the character test were introduced following disturbances in the Christmas Island and Villawood Immigration Detention Centres in March and April 2011. Due to these amendments, a person will fail the character test if that person has been convicted of any offence which was committed while the person was in immigration detention, or during or after an escape from immigration detention, before being re-detained. Also, an escape from immigration detention is itself an offence which will result in the person failing the character test under section 501.

The effect of these amendments is that if a person commits an offence while in (or while escaping from) immigration detention, pursuant to subsection 501(6)(aa) or (ab) their criminal behaviour will trigger the power in section 501 to refuse or cancel their visa, even if the offence is not serious enough to warrant a sentence of 12 months' imprisonment (or any period of imprisonment). Under subsection 501(6)(aa) or (ab) therefore, a lower level of criminality may cause a person to fail the character test, because of the context in which their offence was committed, as compared to the criminality required for a 'substantial criminal record' for the purposes of subsection 501(6)(a).

Also, unlike under the ground of 'past and present criminal or general conduct' in subsection 501(6)(c) (discussed below), under subsections 501(6)(aa) and (ab) there is no consideration of the severity (or lack thereof) of the offending, or any mitigating circumstances. If an 'immigration detention offence' conviction has been recorded, the person will automatically fail the character test.

(d) Association with persons suspected of engaging in criminal conduct

A person does not pass the character test under subsection 501(6)(b) if the person 'has or has had an association with someone else, or with a group or organisation, whom the Minister reasonably suspects has been or is involved in criminal conduct'.

Direction No. 55 requires that in establishing 'association' for the purposes of the character test, decision-makers are to consider:

- the nature of the association
- the degree and frequency of association the person had or has with the individual, group or organisation, and
- the duration of the association.

Direction No. 55 also requires decision-makers to assess whether the person was sympathetic with, supportive of, or involved in the criminal conduct of the person, group or organisation, and directs that 'mere knowledge of the criminality of the associate is not, in itself, sufficient to establish association'. The association must have some negative bearing upon the person's character in order for the person to fail the character test on this ground.

(e) Past and present criminal or general conduct

Under subsection 501(6)(c) of the Migration Act, a person does not pass the character test if, having regard to the person's past and present criminal conduct and/or general conduct, the person is 'not of good character'.

In considering whether a person is 'not of good character', Direction No. 55 requires decision-makers to take into account 'all the relevant circumstances of the particular case ... to obtain a complete picture of the person's character', including evidence of 'recent good behaviour'.

In determining whether a person's past or present criminal conduct means that they are 'not of good character', decision-makers are to consider:

- the nature, severity, frequency and cumulative effect of the offence/s
- any surrounding circumstances which may explain the criminal conduct
- the person's conduct since the offence/s were committed, including:
 - the length of time since the person last engaged in criminal conduct
 - any evidence of recidivism or continuing association with criminals;
 - any pattern of similar offences;
 - or any pattern of continued or blatant disregard or contempt for the law
- 'any conduct which may indicate character reform'.

The consideration under subsection 501(6)(c)(ii) of a person's past or present general conduct allows the decision-maker to take into account 'a broader view of a person's character where convictions may not have been recorded or where the person's conduct may not have constituted a criminal offence'.

In considering this broader view of character, the decision-maker should take into account all relevant circumstances, including evidence of rehabilitation and any relevant periods of good conduct'.

Direction No. 55 sets out the following factors which may be considered in determining whether a person's past or present general conduct means that they are 'not of good character':

- whether the person has been involved in activities which show contempt or disregard for the law or human rights (such as war crimes, crimes against humanity, terrorist activities, drug trafficking, 'political extremism', extortion, fraud, or 'a history of serious breaches of immigration law')
- whether the person has been removed or deported from Australia or another country, and the circumstances that led to the removal or deportation
- whether the person has been dishonourably discharged or discharged prematurely from the armed forces of another country as the result of disciplinary action in circumstances, or because of conduct, that in Australia would be regarded as serious.

(f) Significant risk of particular types of future conduct

Subsection 501(6)(d) provides that a person does not pass the character test if there is a significant risk that, while in Australia, the person would:

- engage in criminal conduct
- harass, molest, intimidate or stalk another person
- vilify a segment of the Australian community
- incite discord in the Australian community or in a segment of the community or
- represent a danger to the Australian community or to a segment of the community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community or segment, or in any other way.

Direction No. 55 provides that these 'significant risk' grounds are enlivened if there is evidence suggesting that there is 'more than a minimal or remote chance that the person, if allowed to enter or remain in Australia, would engage in [the prescribed] conduct'. It is not sufficient to find that the person has engaged in such conduct in the past - there must be a significant risk that the person would engage in such conduct in the future.

Direction No. 55 also states that the operation of the last three grounds of 'future conduct' set out above must be balanced against Australia's 'well established tradition of free expression'. The Direction states that these grounds are not intended to be used in order to deny entry or continued stay of persons merely because they hold and are likely to express unpopular opinions, even if those opinions may attract strong expressions of disagreement and condemnation from some elements of the Australian community.

Internet information

On October 2, 2015, the ABC's current affairs opinion site, The Drum, published a comment by Monica Attard titled 'Were we right to deny Chris Brown and Troy Newman visas?'

The comment looks at the attempts to deny visas to Troy Newman and Chris Brown and asks whether in an educated democracy it might not be better to allow the people to decide.

The full text of the comment can be found at <http://www.abc.net.au/news/2015-10-02/attard-chris-brown-and-troy-newman-visas/6822028>

On October 1, 2015, Eureka Street, published a comment by freelance writer, Jen Vuk, titled 'Brown ban helps parents talk about domestic violence'

The mother of two young boys, Vuk argues that government action against men like Brown and the media attention that has accompanied the visa challenge makes it easier for parents to explain and defend a message of non-violence to their male children.

The full text of this piece can be found at <http://www.eurekastreet.com.au/article.aspx?aeid=45528#.VhDqY5fLpEd>

On September 30, 2015, writing in the New Zealand community blog, Public Address, Russell Brown outlined the nature of Chris Brown's initial offence and his problematic behaviour during his five-year period of probation..

The full text of this comment can be found at <http://publicaddress.net/hardnews/about-chris-brown/>

On September 30, 2015, The Adelaide Advertiser published a comment by Tory Shepherd titled 'Australia blocks Chris Brown but if you're not famous we might let you in'

Shepherd criticises the inconsistencies in Australia's application of its visa regulations.

The full text of this comment can be found at <http://www.adelaidenow.com.au/news/opinion/tory-shepherd-australia-blocks-chris-brown-but-if-youre-not-famous-we-might-let-you-in/story-fni6unxq-1227549495128?memtype=anonymous>

The online lobby and petition site GetUp issued an apology and a retraction of inadvertently racist elements of its campaign to have Chris Brown denied a visa to enter Australia.

The group is no longer pursuing that campaign.

The full text of the apology can be found at <https://www.getup.org.au/campaigns/surge/australians-say-no-to-violence/apology-for-some-aspects-of-the-chris-brown-campaign>

On September 29, 2015, The Courier Mail published a comment by Charis Chang titled, 'Potential ban of singer US Chris Brown raises difficult questions for Australia'

The comment looks at the inconsistent and potential racist aspects of Australia's condemnation of Chris Brown.

The full text of this article can be found at <http://www.couriermail.com.au/entertainment/music/potential-ban-of-singer-us-chris-brown-raises-difficult-questions-for-australia/story-fnihmfcg-1227549617076>

On September 27, 2015, The Courier Mail published a comment by David Penberthy titled 'Hating blokes who beat women should be norm'

Penberthy argues that the extent of Australia's domestic violence problem should mean that governments take a stand and deny visas to foreign nationals with a history of violence against women.

The full text of this comment can be found at <http://www.couriermail.com.au/news/opinion/opinion-david-penberthy-hating-blokes-who-beat-women-should-be-norm/story-fnihsr9v-1227545572675>

On September 25, 2015, Mamamia published an opinion piece by Georgina Dent titled 'What sort of message do we send when we make excuses for Chris Brown?'

The comment supports GetUp's initial petition seeking to have Chris Brown denied entry to Australia.

The full text of the comment can be accessed at <http://www.mamamia.com.au/lifestyle/chris-brown-violence/>

On September 24, 2015, a petition was posted on ipetitions challenging GetUp's petition calling for the denial of an entry visa to Chris Brown and arguing that governments should not attempt to determine what entertainers can come into Australia.

The full text of this petition can be accessed at <http://www.ipetitions.com/petition/stop-censorship-let-chris-brown-into-australia>

On September 24, 2015, The Telegraph published an opinion piece titled 'Blocking abusive rapper Chris Brown from Australia is a really smart move'

Written by Radhika Sanghani, the piece condemns Brown's previous assault of Rihanna and argues that neither the music industry nor individual countries should ignore instances of domestic violence.

The full text of the comment can be found at <http://www.telegraph.co.uk/women/womens-life/11888089/Blocking-abusive-rapper-Chris-Brown-from-Australia-is-a-really-smart-move.html>

On September 23, 2015, The Guardian published an opinion piece by Jeff Sparrow titled 'Banning Chris Brown would

only distract from the fight against domestic violence'

Sparrow argues that focusing on a racialised, external threat misdirects attention from both the causes of domestic violence in Australia and what steps are necessary in order to reduce its incidence.

The full text can be accessed at <http://www.theguardian.com/commentisfree/2015/sep/25/banning-chris-brown-would-only-distract-from-the-fight-against-domestic-violence>

On January 29, 2013, The Huffington Post published a comment by Brendan O'Neill in which he argues that racial stereotyping and blame displacement is part of the popular outcry over Chris Brown.

The comment is titled 'The Real Reason Feminists Hate Chris Brown: He's Big, Bad and Black' and can be accessed at http://www.huffingtonpost.co.uk/brendan-oneill/the-real-reason-feminists-hate-chris-brown_b_2209732.html

Arguments supporting the denial of an entry visa to Chris Brown

1. Chris Brown's character disqualifies him from entering Australia

Under section 501(1) of the Migration Act, the Immigration Minister may refuse to grant a visa to a person seeking entry to Australia. This section makes it possible to disallow a visa if the applicant does not satisfy the Minister that he or she passes the character test.

One of the grounds on which an applicant can be judged not to have shown good character is if he or she has a 'substantial criminal record.'

In 2009, Chris Brown was found guilty of assault against his then-girlfriend Rihanna, and sentenced to five years probation and an initial thousand hours of community service.

On September 30, 2015, writing in the New Zealand community blog, Public Address, Russell Brown outlined the nature of Chris Brown's offence. Russell Brown stated, 'Brown was convicted of felony assault in 2009 on the basis of a police statement that describes a vicious and prolonged attack on his then-girlfriend - biting, strangling and a "barrage" of punches that "caused Robyn F.'s mouth to fill with blood and blood to splatter all over her clothing and the interior of the vehicle." He told her he was going to kill her and it ended only when he fled after someone heard her screaming and called the police.'

Russell Brown went on to demonstrate that Chris Brown's conduct since his offence has remained highly problematic. Russell Brown explained, 'Probation did not go well. In 2011, he "went berserk" after a challenging Good Morning America interview. The following year, he was part of an ugly nightclub brawl in which a number of bystanders were injured. The next year he punched and threatened to kill Frank Ocean in a dispute over a parking space, also verbally abusing Ocean, who had recently come out, as a "faggot".'

In 2013 his lawyers negotiated him out of a hit and run charge after an incident in which he was described as highly aggressive and calling the victim a "bitch". In the same year, he launched an unprovoked attack on two men who had tried to join in a fan photo with him, shouting "I'm not into this gay shit, I'm into boxing."

As a culmination of this pattern of aggressive and violent behaviour, Chris Brown was eventually sentenced to a prison term. Russell Brown details what occurred after Chris Brown was evicted from one rehabilitation facility to which he had been sent as a result of his violent behaviour, 'A judge committed him to another rehab facility, warning that if he left that one he would go to jail. He was kicked out of that one too. And was thus duly sentenced to a year's jail, less the time spent in rehab, and eventually served only half of that time because California's jails are overcrowded with non-violent drug offenders.'

Supporters of Brown being excluded from Australia argue that his pattern of violence and his initial conviction for serious assault against his former partner make him a potential public menace and an unsuitable person to allow into this country.

On September 24, 2015, the federal Minister for Women, Michaelia Cash, stated, 'People need to understand, if you are going to commit domestic violence and then you want to travel around the world there are going to be countries that say to you "You cannot come in because you are not of the character that we expect in Australia".'

2. Admitting Chris Brown into Australia would appear an endorsement of domestic violence

Proponents of Chris Brown being denied entry to Australia argue that the offence of assault against a woman is a very prevalent one in this country and that it is therefore particularly inappropriate for Australia to admit a high profile entertainer with a history of domestic violence.

In an opinion piece published in The Courier Mail on September 27, 2015, David Penberthy stated, 'In the past few weeks, this country has seen some jaw-dropping cases of the most extreme and sinister violence against women. The death toll for female victims of domestic violence for the year to date in Australia stands at 63, far outstripping the shorthand statistic of an average of one murder a week...'

When you consider this year's miserable roll call of wives and girlfriends who are no more, I am really not sure whether our country should be laying out the welcome mat to troubled celebrities with a proven track record of violence against women.'

Those who adopt Penberthy's position argue that allowing Chris Brown and others like him to perform in Australia would create dangerous negative role-modelling. It would imply that Australia is prepared to treat as celebrities young men who have seriously assaulted women. It is claimed that feting men who abuse women sends the message that this crime does not really matter. For some of Chris Brown's followers it might even suggest that the victims of domestic violence deserve the treatment they have received.

The online public protest and lobby group GetUp organised a petition to have the Immigration Minister reject Chris

Brown's visa application. GetUp! campaigner Sally Rugg stated, 'Speaking out against Chris Brown has nothing to do with pop music, and everything to do with men's violence against women. If we stand by and do nothing while he performs around the country ... we are implicitly sending the message that if you brutally beat a woman, in a short amount of time you will be forgiven, or even celebrated.'

A recent VicHealth survey has shown an increasing tolerance of violence against women among young people in the 16 to 24 age group. VicHealth CEO Jerril Rechter stated, 'A quarter of young people (26%) agree that partner violence can be excused if the perpetrator regrets it and a further 24% agree that partner violence can be excused if the person is so angry they lose control...'

This report shows how far Australia has to go before we fully understand the nature of violence and reject it. Attitudes are learned and can be unlearned.'

Those who want to see public rejection of male celebrities who abuse women claim that this is part of the process necessary to change popular attitudes.

In an opinion piece published in Eureka Street on October 1, 2015, Jen Vuk, who is a freelance writer and mother of two young boys, explained the value that Brown being denied entry to Australia would have as she attempts to shape the values of her sons. Rather than acting as a negative role model, Brown's probable exclusion from Australia allowed her to have a conversation with one of her children about public rejection of violence against women.

Vuk writes, '[I]t feels good to tell my son that Brown will probably not be allowed to enter the country, and I give examples of other "bad men" the country has closed its doors to, such as boxer Floyd Mayweather Jr and Holocaust denier David Irving.

He knows there are bad men out there. But he's reassured by the news that one more has been stopped from coming our way, for now at least.

3. Chris Brown has shown no consistent signs of remorse or reform

Many of those opposed to Chris Brown being allowed into Australia argue that he has shown no regular signs of regret or remorse for the assault he committed six years ago. They trace what they claim is a long line of self-pre-occupied, unrepentant statements and behaviours which leave many questioning whether Brown has been significantly rehabilitated.

Brown was publicly criticised for holidaying at P Diddy's Miami compound in February 2009 shortly after he assaulted Rihanna. Singer Usher Terry Raymond tweeted at the time, 'C"mon, Chris. Have a little bit of remorse, man. The man"s on Jet Skis? Like, just relaxing in Miami?'

In November 2009, Brown stated during an MTV interview that he was 'confused' that some people wanted to see him in prison for the attack, claiming 'They don't want to see me do anything...they want to see me kind of, basically in jail.'

In November, 2011, prior to temporarily closing his Twitter account in response to questions about his assault of Rihanna, Chris Brown posted, 'I don't say s**t to anybody and everyone feels its cool to attack me. GROWN ADULTS!!!! that s**t happened three years ago!...

People please grow up. I've never dealt with so much negativity in my life! It's to the point now that it's just ridiculous.'

In February 2012 Brown denied allegations that he had said to a woman, 'Can I get your number? I promise I won't beat you!'

Brown suffered criticism in early 2012 for performing and receiving an award at the Grammys - his first appearance at the awards since the attack on Rihanna in 2009. He responded on Twitter with, 'HATE ALL U WANT BECUZ I GOT A GRAMMY. Now! That's the ultimate F*** OFF,' which he then deleted. He later tweeted, 'I'm so OVER everyone's opinion...'

In 2012 Brown also attracted criticism for getting a tattoo of a woman's distorted face on his neck which many claimed was a representation of the widely-publicised police photograph of Rihanna after the assault. (Brown has denied that the tattoo depicts Rihanna.)

In 2013, the Los Angeles district attorney also stated there was some evidence to suggest that Chris Brown had lied in his community service reports, claiming, for example, to have been picking up litter in his home state of Virginia when he was actually travelling to Cancun on his private jet.

4. Other public figures have been denied entry to Australia on similar grounds

Proponents of Chris Brown being denied entry to Australia argue that similar action has been taken against other public figures who either have a significant criminal record or who are judged to pose a threat to public order in Australia.

On February 4, 2015, world champion boxer, Floyd Mayweather, was blocked from entering Australia on the grounds of his history of violence towards women.

The undefeated professional and multi-division world champion was originally booked for dinner and nightclub appearances in Sydney and Melbourne on January 29 and 30 respectively. These appearances were then deferred to February 5 and 6 and ultimately cancelled when the visa application proved unsuccessful.

Mayweather has a criminal record, which includes serving two months in jail in 2012, after pleading guilty to an assault on his former partner in front of their children.

Assistant Minister for Immigration and Border Protection, Senator Michaelia Cash, 'The Government takes very seriously its role in protecting the Australian community from the risk of harm by non-citizens who engage in criminal conduct and/or conduct that is of serious concern.'

On April 25, 2015, Tony Manfred outlined Mayweather's history of abuse of women in an article published in Business Insider. Manfred stated, 'Since 2002 Mayweather has been accused of violence against women with alarming frequency.

He pleaded guilty in two of those incidents, and in another he was convicted only to have the charges dismissed four years later...'

Mayweather does not publicly acknowledge these incidents. When asked about the assault on his former partner, to which he had pleaded guilty, he stated, 'Did I kick, stomp and beat someone? No, that didn't happen. I look in your face and say, "No, that didn't happen."'

In July, 2015 United States rapper Tyler the Creator was also denied a visa to Australia.

On November 7, 2014, Immigration Minister, Scott Morrison, cancelled the visa of Julien Blanc, of the United States group Real Social Dynamics. Blanc describes himself as a 'pick-up artist' and his techniques include manipulation, choking and pulling women into his groin. Blanc was in Australia to run a series of seminars sharing his techniques. Immigration Minister Scott Morrison stated, 'This guy wasn't pushing forward political ideas, he was putting a view that was derogatory to women and that's just something that our values abhor in this country.'

5. Other nations have refused to grant Chris Brown a visa

Those who argue that Chris Brown should be denied entry to Australia note that a number of other countries have taken this action.

In June 2010, Brown's application for a visa to enter the UK was refused on the grounds of his 'being guilty of a serious criminal offence' due to his assault on Rihanna. Brown had been planning to do a tour of British cities as part of a European tour but Sony stated that due to 'issues surrounding his work visa' the tour was to be postponed.

In February 2015 Brown was denied an entry visa to Canada. Stephane Malepart, a spokesperson for Canada Border Services, indicated that Canada's privacy act prevented him from commenting on any individual case, but did note that several factors are used in determining admissibility, including involvement in criminal activity. Brown's critics have drawn the conclusion that he was denied entry to Canada because of his prior conviction for assault.

There also seems a reasonable likelihood that Chris Brown's tour of New Zealand, slated to take place in December 2015, will not go ahead. Immigration New Zealand spokesperson Marc Piercey confirmed that Brown may be denied entry into the country after he was rejected from entering the United Kingdom in 2010.

Mr Piercey stated, 'If Chris Brown has been excluded from another country he will be ineligible to be granted a visa to enter New Zealand unless given a special direction.'

Brown will have to make a special application to be allowed into New Zealand and the Minister would have to give a special direction to allow the exemption. Under Section 17 of the New Zealand Immigration Act 2009, a special direction is considered if a person who is not eligible for a visa is allowed exceptions.

Arguments opposing the denial of an entry visa to Chris Brown

1. Chris Brown's character does not pose a risk to public safety in Australia

Those who believe that Chris Brown should be granted a visa to visit Australia argue that his criminal record does not pose a risk to public safety in this country.

Some argue that Brown's criminal past will have little to no impact on criminal behaviour in Australia. From this perspective, Brown is seen as merely a transient, imported entertainer, while the origins of Australia's domestic abuse problems derive from intrinsic features of our own society.

In an article published in Mamamia on September 30, 2015, Alex Greig wrote, 'It's easy to denounce a musician for sending the wrong message, but it's more important to understand that our domestic violence is home-grown, it comes from Australian culture, and "sending messages" by banning people like Brown does little to address the real issue.'

Other supporters of Brown's entry into Australia note that his crime was committed five years ago, that he has completed his period of probation, the community service assigned him and the year of anger management therapy that was ordered.

Contrary to the view of those who see him as unreformed and unrepentant, Brown has recently claimed that has changed and that his altered attitudes could act as a positive example for other young men with violent tendencies.

Brown has stated, 'My life mistakes should be a wakeup call for everyone. Showing the world that mistakes don't define you. Trying to prevent spousal abuse.'

The youth don't listen to parents nor do they listen to PSA's. The power that we have as entertainers can change lives.'

Brown's capacity to reduce the likelihood of young men abusing women has been noted by a number of Maori campaigners for women's rights who have called on their government to allow Brown into New Zealand.

Maori women's advocate Dame Tariana Turia has stated, '[Brown] has said himself, he has changed his behaviour and is willing to talk about the impact that assault charge has had. We believe having done the crime and done the time he should be allowed to enter our country.'

Another Maori women's advocate, Ms Raukawa Tait has also stated, 'If he has said he is a changed person and he is prepared to put out that message, why wouldn't we use him? Why wouldn't we take advantage of him?'

2. Denying Chris Brown entry to Australia is tokenistic opposition to domestic violence

There are many who claim that denying Chris Brown entry to Australia is no more than a gesture of opposition to domestic violence.

From this perspective, what is important is to create social conditions that support at-risk women. The federal government's new domestic violence initiatives have been seen as a positive step.

In an opinion piece published on the ABC's current affairs opinion site, The Drum, Catherine Gander states, 'Malcolm Turnbull's announcement yesterday of a \$100 million package to address domestic and family violence through a

Women's Safety Program was welcomed across the nation.'

Gander went on to claim, however, that the new package was insufficient. She stated, 'On the positive side, the package focuses on shifting culture and changing attitudes towards women to reduce and prevent domestic violence in the long-term...

But what is missing from the announcement is investment for those women who do need to leave, and who will need a women's refuge, shelter or safe house.

This investment is required to give women the choice to leave, or to have somewhere safe to go while the security upgrades and legal interventions are made to enable them to return home safely.'

Gander demonstrated the extent of the problem by quantifying the unmet need. She stated, 'In Australia last year, 2,800 women who chose to go to a women's domestic violence refuge could not be accommodated, and this figure does not include accompanying children.'

In this context actions such as preventing an entertainer such as Chris Brown from entering Australia are seen as essentially window-dressing.

In an article published in The Guardian on September 25, 2015, Jeff Sparrow, stated, 'Foreign musicians are not the reason so many Australian women are being killed by their partners. By focusing on one man, we let the government off the hook.'

Sparrow went on to claim, 'At best, a ban on Brown is a distraction, a cheap headline-grabbing stunt that takes the focus away from the real work - and the allocation of real resources - necessary to make women safe.

By emphasising the menace of a foreign entertainer, it obscures the real locus of violence: the nuclear family. It's much easier for politicians to denounce musicians than to acknowledge that most women are hurt or killed within their family, a fundamental social institution.'

In an opinion piece published on SBS on September 28, 2015, Catherine Lumby stated, 'It's a shibboleth of middle class dinner parties that most social ills can be traced to a named individual - usually a celebrity or politician- who must be named and shamed...

The rapper Chris Brown, who was convicted of domestic violence and whose lyrics and public comments suggest he has questionable views about women, is the latest target of this ritual cursing...

I worry about the tokenistic nature of the call to ban...[Brown]. He's an obvious target: a black rapper. And, as offensive as his attitudes and his violence to his partner are, I also wonder about what a ban will genuinely achieve.'

3. Other entertainers with similar backgrounds have not been denied entry to Australia

Critics of denying Chris Brown entry to Australia have suggested that the action is inconsistent as many other public figures with a similar criminal or personal history have been allowed into Australia. It has been noted that even Brown himself has been allowed into the country twice since his infamous assault on Rihanna, playing the 2012 Supafest festival and also performing Down Under in 2011.

Tommy Lee and Vince Neil of Motley Crew both have domestic violence records; however, they were allowed into this country to complete their recent 'farewell' Australian tour. In 1998, Lee was sentenced to six months in jail for kicking former partner Pamela Anderson while she held one of their children.

Neil was charged with assaulting a prostitute at a Las Vegas brothel in 2003, as well as charged with battery of his former partner in 2011. Neil was not convicted on the latter charge, instead pleading guilty to a disorderly conduct charge.

Former basketball star Rodman has been involved in several instances of domestic violence throughout his career. In 2008, he pleaded no contest to spousal battery after striking his partner. He has also been arrested and charged relating to other domestic violence incidents. However, Rodman visited Australia earlier this year on his 'Bad Boy' speaking tour.

Perhaps the most dramatic instance of inconsistency that critics note relates to former world heavy weight boxing champion, Mike Tyson. Tyson was convicted in 1992 of raping an 18-year-old woman in an Indianapolis hotel room and sentenced to 10 years in jail. He served three. Tyson's ex-wife, Robin Givens, also alleged domestic abuse when she filed for divorce from the boxer in 1988. In 2012, however, Tyson was granted an Australian visa for a speaking tour.

In an article published in The Adelaide Advertiser on September 30, 2015, Tory Shepherd suggested that the inconsistent and ad hoc manner in which visas are granted or denied leaves room for people to be sceptical about why a particular action is taken against one individual and not another.

Shepherd stated, 'There's no argument that men who bash women are abhorrent, that holocaust deniers spread vile ignorance, that extremists spread hate that could convert to action, and that the extreme anti-abortionists are a pox. What we need, though, is a clearer idea of how people end up on the blacklist, and a reassurance that it's not just because GetUp launched a petition against them, or that the Government happened to be spruiking their anti-domestic violence credentials.'

4. Racism is an element in popular opposition to Chris Brown

It has been claimed that the negative attitudes toward Chris Brown, culminating in a number of nations refusing to give him a visa, is the result of racial prejudice which tends to demonise black men.

Brown's 2009 assault of Rihanna attracted enormous and continuing media attention. Some media commentators have suggested that the assault formed such a focus of popular interest because of the already-established celebrity of Rihanna and Brown.

Those who reject this view note the comparable instance of Sean Penn and Madonna. Both were very well known at the time Penn was charged with assault for having hit Madonna, his then-wife, over the head with a baseball bat. Penn,

however, did not carry the stigma of this assault with him, and went on to win two Academy Awards, without ever being the centre of the negative media interest that has followed Brown.

Critics of the treatment that Brown has received claim that the difference between the two cases is race and that racial stereotypes of violent black men make it easy for the white Western world to focus on Brown's supposed enduring and possibly inherent brutality.

On February 23, 2015, in an article published in Buzz Feed, Ira Madison noted, 'Unlike Chris Brown, Penn has continued to be lauded by his Hollywood peers and has since won Oscars for his roles in *Mystic River* and *Milk* (in 2004 and 2009 respectively). Penn is not the subject of frequent thinkpieces or Twitter harassment by Jenny Johnson, a fan of attacking Brown whenever the spirit moves her.'

Madison goes on to ask, 'Is it that it's easier to classify a young black musician as dangerous in the media than it is an established white actor?'

On November 29, 2012, The Huffington Post published an opinion piece by Brendan O'Neill, in which O'Neill compared the media treatment of Chris Brown with that of a range of other white celebrities including Sean Penn. O'Neill asked, 'How do we explain this extraordinary double standard? Why is Brown's crime seen as so much worse than similar crimes committed by other well-known people?'

O'Neill's response followed, 'In essence, Brown is being turned into the new Mike Tyson: a symbolic big, scary, cocky and arrogant black man that it is acceptable for respectable white folk to be scared of and to hate.'

On September 30, 2015, the online lobby group GetUp withdrew its petition calling for Chris Brown to be denied a visa to enter Australia and apologised to Brown for the unintentionally racist elements of its former campaign.

The GetUp website now carries the following statement, 'The intention of the campaign against Chris Brown was to use a celebrity with a well-known history of violence against women to ignite a discussion about attitudes towards gendered violence. Aspects of this succeeded but we now understand the campaign also supported a racist narrative that sees men of colour unfairly targeted, and stereotyped as more violent than their white counterparts.'

We all should stand up to any man who commits violence against women, but Australia has a history of arbitrary executive decisions and disproportionate exclusion of non-white people at its borders and upon reflection our approach contributed to this.'

5. Australians should be able to choose the attitude they wish to adopt to Chris Brown

There have been a number of critics of attempts to deny Chris Brown entry to Australia who have argued that the issues surrounding him are better resolved by discussion and the individual choice of music fans than they are by governments. It has been pointed out that many of his fans will simply see him as an entertainer distinct from his criminal record for assault. Others will associate him with his past conduct and may wish to express their disapproval with their wallets and not attend Brown's concerts. Critics of the possible ban suggest that it is a form of unwarranted censorship and that Australians should be able to decide for themselves what attitude they have to Brown and his work.

In an opinion piece published on the ABC's current affairs opinion site, *The Drum*, on October 2, 2015, Monica Attard stated, '[T]here's...the question of whether shielding Australians from people who've done bad things or preach offensive ideas by banning them from our midst is a step too far for a largely well-educated democratic nation.'

Attard went on to explain, 'We have a free media that can lead debate on views that are unacceptable to the majority. Remember 2013 when there were howls of protest over the Dutch anti Islamist Geert Wilders being allowed entry to Australia to preach racial intolerance. We debated his views and his events were poorly attended, chaotic debacles.'

On September 25, a petition was set up on *1petition* calling for signatures to protest against the attempt by GetUp, another online lobby and petition site to have Chris Brown denied a visa. The petition posted on *1petition* condemns barring Brown as a form of censorship which denies Brown's fans an opportunity to make up their own minds on the issue. It states, '[T]his is an attack on our right as the Australian public to "like what we want to like" and make our own decisions. Don't tell us what we can and can't listen to.'

There are also critics who have claimed that people are capable of making a distinction between the performer and his art. According to this argument, it is possible to enjoy a piece of music without endorsing the behaviour of the person who produced it.

In an opinion piece published in *The Guardian* on July 15, 2012, Andrew Emery, a hip hop journalist and author stated, 'You're also in danger of tarring all his fans with the same brush. They're not some moronic entity turning a blind eye to his character faults... I know plenty of people who think he's a complete idiot but can still appreciate his music.'

Further implications

The arguments surrounding whether Chris Brown should be allowed into this country are essentially about the value of symbols. Those camped on either side of this issue have referred to the importance of 'the message we send'.

There are very few who would argue that Brown represents a direct threat to any sector of Australian society. Reading the 'character test' provisions of the Australian Migration Act makes it apparent that the Act is attempting to protect Australian citizens against those whose arrival here might cause immediate harm. Brown is unlikely to present such a risk. There may be some crowd misbehaviour among members of the audience at his concerts, but this is no greater risk than pertains at an ALF football match or at the concerts of any number of other popular entertainers. No one has argued that there is anything specific to Chris Brown R & B singer that would make his concerts particularly unruly.

What appears to be at issue is that allowing Brown into Australia could be read as offering support to those with a history of assaulting women. The concern here is two-fold. Brown's admission might send the message to other young men that it is acceptable to beat up your partner. Equally, concern has been expressed that Brown's being granted a visa could

signal to victims of domestic violence that Australia does not care about them.

The first of these concerns seems far-fetched. It is unlikely that allowing Chris Brown into Australia would prompt Australian men to believe that it was OK to assault their wives, girlfriends or children. The justification for doing this is already present in Australian culture. For a significant number of Australian men, inflicting violence upon women would appear to be acceptable because that is what they do.

The impression that is created among Australian women if Brown is denied entry to this country may be more important. Those who see themselves as relatively powerless, need all the symbols and societal support they can find in order to alter this self-perception. It is significant that women's groups around the world have protested against the sale of Brown's records, against the staging of his concerts, against his entry into their countries.

What complicates this issue is that Brown is more than just a focus around which to rally opposition to domestic violence. He is also an African-American. He is, as a number of his supporters and critics have noted, a black man. Why this complicates the issue is that it is culturally less challenging to focus opposition to male violence against women on a man who can be seen as in some way 'other'. As Australia's new Prime Minister has recently stated 'real men don't hit women'. He has further suggested that it should come to be seen as 'un-Australian to disrespect women'. The difficulty with making Brown the figure head for such a campaign is that he is 'un-Australian' and belongs to a generally denigrated racial minority. This makes it all too easy for a majority of Australian men to disavow inflicting violence on women without acknowledging it is something they either have done or might do.

If we are looking for symbols to spearhead a campaign against domestic violence or the assault and murder of women and children we would be far better to focus on Australian celebrities. The ranks of Australia's sporting heroes offer numerous instances of men who have abused women. What these men offer the Australian population are symbols that come directly from home. In rejecting their behaviour, Australian men are challenging themselves. Any real shift in public attitudes has to begin with just such an uncomfortable self-analysis.

Newspaper items used in the compilation of this issue outline

AGE, October 1, 2015, page 16, editorial, 'Chris Brown can prove he deserves a visa'.

<http://www.theage.com.au/comment/the-age-editorial/chris-brown-can-prove-he-deserves-a-visa-20150930-gjy7sl.html>

AGE, October 1, 2015, page 13, news item, 'GetUp! apologises over Chris Brown'.

<http://www.smh.com.au/entertainment/music/getup-retract-chris-brown-visa-ban-campaign-over-racist-aspects-20150930-gjyhgx.html>

H/SUN, September 29, 2015, page 20, comment by Elise Elliott, 'Rap on the knuckles sends Brown a pointed message'.

<http://www.heraldsun.com.au/news/opinion/rap-on-the-knuckles-sends-singer-chris-brown-a-pointed-message-about-abuse-of-women/story-fni0ffsx-1227547983579>