

CHECK OUT

CCJP

May 2010

Current Asylum Seeker Issues

Who gets detained?

In 2008, the Rudd Government announced their new directions in detention policy, which enshrined 7 key values for detention. The policy introduced a new approach of risk-based detention, where detention would be reserved for those who were a risk to the community, people who had been non-compliant with their immigration process, and unauthorised arrivals for health, identity and security checks, after which they would be released into the community pending the outcome of their visa application.

When announcing the policy change, the immigration Minister, Senator Chris Evans said *"Labor rejects the notion that dehumanising and punishing unauthorised arrivals with long-term detention is an effective or civilised response."*

This means that asylum seekers should be detained for a short period while those checks are made, then released either onto a Bridging Visa or into community detention. The reality this works fairly well for plane arrivals, but not at all for boat arrivals who are kept on Christmas Island. Those people are generally kept in detention for the duration of their processing, and released only when granted a visa, although some vulnerable caseloads have been moved to the mainland near the end of their process in order to make more room on the overcrowded island. Arguably, this has once again created arbitrary detention for boat arrival asylum seekers, as all arrivals (except children) are detained, regardless of the need to detain them based on individual circumstances. This is potentially a breach Article 9 of the 1948 *Universal Declaration of Human Rights* decrees that *"no one shall be subjected to arbitrary arrest, detention or exile."*

The principle of a risk-based approach – only detaining people who pose a threat – is not being applied to the most vulnerable population, boat arrival asylum seekers, in the same way it is being applied to mainland asylum seekers. This is clearly discriminatory and a breach of article 31 of the Refugee Convention which says that States should not impose penalties on refugees who entered unlawfully.

Offshore Processing

The current government has maintained the excision policy and offshore processing—on Christmas Island. This means that boat arrival asylum seekers have fewer legal rights than those who arrive by plane. They do not get access to merits review by the Refugee Review Tribunal (RRT) only an 'independent' merits review by a panel set up by the Department. And they cannot appeal to the courts, the way people processed on the mainland can. Again, this is a breach of Article 31 of the *Refugees Convention*.

Detaining in Indonesia

The Australian government has cooperation agreements with regional countries such as Indonesia to tackle people smuggling. Indonesia has over 13 immigration detention centres, with contributions to food, medical care and other facilities made by the International Organisation for Migration, which is partly funded by the Australian government.

In October 2009, a boat carrying 254 Tamils on their way to seek asylum in Australia was intercepted after Prime Minister Kevin Rudd made a request to the Indonesian President. The boat was taken to the port of Merak, where most of the asylum seekers remained on board for many months, asking to be given immediate processing by UNHCR. In April, after seven months on board, 140 of the asylum seekers remained. They were forcibly removed from the boat and taken to the Tanjung Pinang detention centre. This included the women and 15 children. They are being held in crowded conditions, women and children separated from fathers.

What can you do?

It seems like it is all too much for one person to have any impact. But when your voice joins with hundreds or thousands of others, politicians start to take notice. Write letters and call your local MPs and Senators to let them know you care about this issue, and have faith that out there somewhere, hundreds of others are doing the same.

Asylum processing freeze for Sri Lanka and Afghanistan

On 9 April, the Government announced they would suspend asylum applications from Sri Lanka for 3 months and Afghanistan 6 months. At the end of the period, the suspensions would be re-evaluated, based on the latest country security assessments from UNHCR.

The reason for the suspension given was that the Government claimed UNHCR is reviewing country conditions in both these countries and related guidelines for refugee status determination, also stating that the security situation in both countries was improving so that far more asylum seekers would be found not to be in need of protection.

Currently, there is no strong evidence to show there is a significant improvement in the security of either country that could warrant such a move. As these two countries are the largest source of boat arrival asylum seekers, an issue gaining a great deal of negative media attention, the freeze appears to be done for domestic political benefit, rather than for genuine concern for the protection needs of refugees.

The processing freeze, applying only to Sri Lankan and Afghani asylum seekers, is discriminatory and a breach of Article 3 of the Refugees Convention *The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.* It also deprives asylum seekers of their right to seek asylum from persecution, as guaranteed by article 14 of the Universal Declaration of Human Rights.

There is no guarantee there would not be rolling suspensions, effectively creating indefinite detention. This situation is a breach of the government's own detention policy that it should be "only used as a last resort and for the shortest practicable time." The freeze will inflict great mental anguish on the asylum seekers, who will be left in a cruel limbo, not knowing if they have found safety.

In the same media release, the Government also announced tough new laws against people smuggling. It is clear that the two issues are related, and both are intended to try and stop the arrival of asylum boats during an election year. Human Rights Watch stated: "*In the heat of an election year, the Rudd administration is choosing politically expedient refugee bashing over the principles of refugee protection. It is a sorry reflection on Australian public opinion that the government thinks it must discriminate against Afghan and Sri Lankan refugees in the hope of winning votes.*" The decision has once again put Australia in a negative

Reopen desert detention

On 18 April, the Government announced they would reopen Curtin detention centre to house asylum seekers whose cases are suspended.

The combination of keeping people in limbo as to their future safety, while keeping them in extreme isolation in a desolate area, will create a pressure-cooker environment that will inevitably create anxiety disorders in some of the detained refugees. Many studies have shown that prolonged detention, particularly in isolated areas, has severe and detrimental effects on the health and psycho-social wellbeing of those detained.

UNHCR has said: "The combination of mandatory detention, suspension of asylum claims and the geographical isolation of detention facilities such as Curtin Air Force Base in Western Australia - all without any effective judicial oversight - is a deeply troubling set of factors."

Coalition to bring back TPVs and turn boats back

Tony Abbott has stated categorically that in order to stop boat arrivals, he would bring back Temporary Protection Visas (TPVs), and as much as possible turn boats back at sea. TPVs are a failed policy. The highest numbers of boat arrivals are recorded after they were introduced. Because they deny access to family reunion, male refugees who flee and come via boat and later hope to bring their wives and children to safety, cannot do so. Those women and children are then forced to also board boats if they ever want to see their husbands and fathers again. 363 people died during the sinking of the SIEV-X asylum boat, most of whom were woman and children, and many of those were trying to reunite with men who were refugees in Australia on TPVs.

Should you wish to receive further
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