

JustComment

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Deported to death: churches speak out!

Australia has a right to protect its borders. We also have a responsibility to uphold the United Nations Conventions that we have signed. Asylum seekers have a right to remain in Australia while their applications for refugee status are being determined. They also have a right to be returned to a "safe" country if their claim for refugee status is denied. That is the law!

Church leaders and social justice advocates are beginning to speak out about their grave concerns for those whose claims are rejected, or who give up their claims, and are then deported back to their country of origin or to other countries. There is mounting evidence that people are being deported¹ to face serious human rights violations, some to their death, despite

We, leaders of Australia's

religious communities, call on the Australian Government to stop immediately the deportation of asylum seekers to countries of origin or third countries whose governments have not demonstrated their willingness and ability to offer effective protection. We make this statement in response to mounting evidence of the deaths, disappearances and serious violations of human rights of people who have been removed by the Australian government, after their claims for protection have been rejected.

Coalition for the Protection of Asylum Seekers Against Deportation, 2003

Australia's obligations under international law. The government makes a number of claims which distort or conceal the truth from the public.

Claim: *What happens to asylum seekers outside Australia is not our concern*

Truth: Death, disappearance, torture, imprisonment and other serious violations of human rights in overseas countries are some outcomes of Australia's removal of those whose applications for refugee status have been denied. The process of removal itself, when it involves traumatized, terrified people who are often sedated and restrained can also breach human rights and put deportees in jeopardy when they arrive in dangerous overseas locations.

Claim: *"All claims for protection are properly considered" Hon Phillip Ruddock*

Truth: There are some tragic mistakes in denying well-founded claims for refugee status on arrival, in the Immigration Department (DIMIA) decisions and at the Refugee Review Tribunal.²

Claim: *People who have failed in their claims for refugee status can always be legally removed.*

Truth: This power is limited by Australia's international treaty obligations to consider the harm which may occur as a result of removal/deportation. Article 33 of the UN Refugee Convention says that no state shall return a refugee to a place where his or her life or liberty is threatened (non-refoulement). The UN Convention Against Torture says that no state can send a person to a place where there is a real prospect of torture.³

Claim: *Many asylum seekers decide to leave voluntarily so their*



plight is their own responsibility.

Truth: Many so called "voluntary" departures occur under some duress not least of which is the prospect of many more years in Australia's isolated mandatory detention centres not used by any other country. Asylum seekers are not always aware that they can personally request the Minister to exercise discretion on humanitarian grounds apart from the refugee convention (s.417 applications) and there is some evidence that information is selectively released to create credible threats of involuntary removal so that asylum seekers will accept "voluntary" removal.⁴

Claim: *Australia has no responsibility for asylum seekers once they have left Australia*

Truth: "Some form of monitoring may be the only way in which Australia can be assured that its refugee determination processes are correctly identifying genuine refugees and humanitarian cases".⁵

Some Case Studies of Deportation

Further case studies and information can be obtained from Coalition for the Protection of Asylum Seekers Against Deportation. e-mail firmilne@aol.com , Edmund Rice Foundation www.erc.org.au

Death in Colombia

Alvaro Moralez came to Australia to escape the paramilitary within Columbia and was refused refugee status in December 2001. El Espanol (September 24, 2002), and the Sydney Morning Herald (October 9, 2002), published details of how Moralez was gunned down within meters of his mother's apartment in Bogota. The Federal Government claims that Australia is not responsible for this death because he 'voluntary' departed from detention. Amnesty International points out that the choices given to Alvaro were to leave voluntarily or face deportation.

Death in Pakistan

Ahab Bilal fled Pakistan in November 2000, due to threats from a drug smuggling group that has executed other members of his family who were active in the anti-narcotics movement. He applied for protection as a refugee, but DIMIA rejected his application and the Refugee Review Tribunal concluded he " has tried to concoct a case motivated by misguided opportunism. He is not a reliable witness". Eighteen-year-old Bilal was informed by DIMIA that he was to be sent back to Pakistan. He was deported from Villawood Detention Centre on June 1, 2002 and murdered within two months of his return to Pakistan.

Death and Disappearance in Iran

Mohammad and Achmed, two Iranian brothers fleeing persecution following a protest where hundreds were killed, arrived as stowaways in their friend Wasim's cabin in a ship that docked in Victoria in September 2000. Achmed returned voluntarily in order to be reunited with his family. DIMIA officers escorted Achmed to Malaysia by plane before being placed on another direct flight to Tehran. When family members reported his disappearance, DIMIA officers stated that what occurred after Achmed boarded that last flight was not their concern. More recently, Mohammed was the main witness in an Australian government's case charging Wasim with three counts of people smuggling. Iranian newspapers and cable television stations reported details of the case, and featured photos of the man whose testimony was responsible for the government victory in the courtroom. According to witnesses Mohammed was sedated, forcibly removed from the Perth Detention Centre and deported in May 2002. An Australian Correctional Management (ACM) guard reported to a refugee advocate that Mohammed was killed in Iran and since then attempts have been made to independently confirm this information.

Rwandan imprisoned in South Africa...

The Australian government chose to expel eighteen year old Javad, whose Hutu parents were murdered in the 1994 genocide in Rwanda. He lost contact with his twin sister when they fled to Mozambique and he survived on the streets for five years in Kenya. On August 24, 2002, following two and a half years of detention, the Australian government sent Javad back to Kenya, escorted under guard to Johannesburg and on to a Kenya Airlines plane to Nairobi. He had some emergency travel documents from the Australian authorities but these were taken from him at the airport and once again he became stateless and without documents. One month later, Javad left Mombassa in search of a more friendly African country, running the risk of detention, or worse, as he crossed more borders without papers. Some Australian friends discovered that in Javad's attempt to enter South Africa he was detained in Lindela prison and is presently being held in detention in Durban.

Angolan now with asylum in England after Australia's attempt to deport him to the Congo...

Damas, an Angolan asylum seeker, requested the assistance of a Kikongo interpreter during his hearing in which the Australian government provided a Portuguese interpreter. DIMIA employed a South African private company, P&I, to verify the applicant's nationality, despite the fact that Damas had consistently maintained he was a citizen of Angola. P&I secured travel documents that claimed the applicant, Damas, was a citizen of the Democratic Republic of Congo (DRC), and DIMIA decided to remove the applicant to DRC rather than Angola. Damas had been moved to the Silverwater prison on charges of behavioral misconduct while in detention before he agreed to 'voluntary' deportation after enduring multiple beatings and rapes in prison. Upon his arrival to South Africa, the applicant demanded to speak with officials from the Angolan Embassy who ascertained that he was indeed a citizen of Angola. Soon after Damas returned to Angola he fled to England, where Amnesty International reported he was granted refugee status.

These cases are feared to be only the tip of the iceberg! Not only should a just and fair determination process be implemented, those whose claims for protection are still rejected should be removed in a humane way to a country which can offer effective protection, or live freely in the community until such a country can be found.

Just Action

- Check out the full report of the Senate legal and Constitutional References committee "A Sanctuary under review" : An Examination of Australia's Refugee and Humanitarian Determination Process, June 2000 ? Check Amnesty International and the Refugee Council of Australia websites for the latest reports on deportation from Australia.



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Footnotes

1. Legally deportation refers to criminals and those threatening national security but the term is popularly used for asylum seekers.
2. Evidence: The danger that people are turned around at airports by Immigration officials without proper consideration of their situation is noted by Senate Committee June 2000 A Sanctuary Under Review (e.g. 4.31) The same committee identified problems with primary decisions on refugee status made by the Department (e.g. 4.72-4.78) and at the Refugee Review Tribunal (RRT). (Chapter 5) The High Court Judgment s157 (4 February 2003) also notes flaws at the RRT. Further evidence is that some of those whose claims Australia rejected were accepted in other countries – Canada, Norway, Sweden, England and New Zealand.
3. _ United Nations High Commission for Refugees, Basic Facts, www.unhcr.ch/cqi-bin/texis/vtx/home? page=basics
_ United Nations Convention relating to the Status of Refugees of 28 July 1951.
_ Refugee Council of Australia, Fact Sheet 3: Refugees and Migrants
_ Edmund Rice Centre for Justice & Community Education, Debunking the Myths About Asylum Seekers, www.erc.org.audis
4. Evidence: Senate Committee June 2000 op. cit 8.60-8.77 on s.417 information to asylum seekers; Australian Financial Review 2.5.03 describes a DIMIA strategy involving “the creation of a credible threat of involuntary removal” to encourage Iranians in detention to accept voluntary removal in 2003.
5. Senate Committee June 2000 op. cit. 11.36