

The Network for International Protection of Refugees

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THE NETWORK FOR INTERNATIONAL PROTECTION OF REFUGEES SUBMISSION TO THE SENATE INQUIRY INTO MIGRATION ZONE EXCISION FURTHER BORDER PROTECTION MEASURES BILL 2002

26 July 2002

EXECUTIVE SUMMARY

Since late 1999 and especially after *The Tampa Crisis* in August 2001, the Commonwealth Government of Australia has introduced a raft of legislation limiting the rights of asylum seekers. This legislation by and large is in direct contravention against the letter and spirit of the United Nations Convention relating to Status of Refugees (1951) to which Australia is a State Party. In terms of human rights violations, the proposed amendment "*Further Border Protection Measures Bill 2002*" can not be said to be creating another form of human rights violation. However, the way in which the current bill is introduced in the parliament and the political environment under which this amendment bill is proposed needs a proper examination.

The right to seek and enjoy asylum is a fundamental human rights which must be observed, especially by those states that are signatory to the UN Refugee Convention. The Network for International Protection of Refugees (NetIPR), a South Australian-based refugee advocacy group, condemns the Australian Government's denying the rights of refugees and asylum seekers. NetIPR further deplors the Australian Commonwealth Government continuing exploitation of the asylum seekers' issue to further domestic political agenda.

The NetIPR is primarily concerned about the Australian Government's policy on the mandatory detention and suppression of the rights of refugees and asylum seekers. NetIPR calls on Australian Government and Prime Minister to:

- *Apologise to the refugees who were being wrongly accused of throwing their children overboard*
- *Conduct an independent inquiry into the death of two women asylum seekers in November 2001*
- *Carry out speedy processing and resettlement of asylum-seekers who are held in off-shore detention centers*
- *Cease the interception of refugee boats on the high seas and put a halt to the Pacific Solution*
- *Repeal Temporary Protection Visa legislation of October 1999*
- *Remove existing excision bill of September 2001 and withdraw current amendment.*

INTRODUCTION

The Network for International Protection of Refugees (NetIPR) was founded on the 10 December 1998, the 50th anniversary of the Proclamation for the Universal Declaration of Human Rights. NetIPR focuses on the protection of refugees and displaced people within the Asia-Pacific region, including Australia. NetIPR seeks to address at the policy level the Governments' abuses of the rights of refugees and asylum seekers¹. Within this context, NetIPR has, over the years on various occasions, raised its concerns to the

¹ The Network for International Protection of Refugees, Structure, Object and Operation. 10 Dec 1998.

Australian Government about the treatment of asylum seekers and refugees in Australia². NetIPR wishes to thank the Senate Legal and Constitutional References Committee for providing an opportunity to present our view on Australia's refugee policy and related matters.

NetIPR enunciates the view that the majority of Australians are sympathetic to the plight of refugees and asylum seekers. NetIPR also recognises that the case of unauthorised arrivals has always been an emotional issue in Australia and that there has been some inherent anti-refugee sentiment across the political divide. While these xenophobic Australians do not constitute a majority, they form a pattern of cleavage within society based on the anti-refugee/anti-migrant agenda. The current Liberal/National Coalition Government, under the leadership of Prime Minister John Howard, had sought to exploit such social cleavage to its advantage³.

The inhuman treatment given to asylum seekers as well as persistent demonisation of refugees and asylum seekers by the Australian Government are seen by NetIPR as calculated measures to create electoral advantage and hence, to serve to maintain the Government's political power. Seen in this context, the introduction of further excision of Australian territory is the Government's attempt to merely maintain its "tough" image on the issue of refugees and asylum-seekers.

CRISIS CREATION AND POWER MAINTENANCE

By the world's standard, Australia has never had a large scale involuntary movement of people or any large influx of asylum seekers. This is mainly because of Australia's geographical isolation with her sea borders. The potential for a large scale involuntary movement of people to Australia has occurred in the past when the human rights crisis over East Timor was developing. Within the Asia-Pacific region, there are a few trouble spots, such as Burma, India-Kashmir and Indonesia-Ache, that do have the potential for producing refugee influx. But any chance for the occurrence for the large scale involuntary movement of people is still remote. NetIPR views the current Australian government's policy and practice regarding refugees as the Government's own creation and maintenance of a crisis.

Temporary Protection Visa regime

By any measure, the recent movement of middle eastern asylum seekers does not constitute a large scale influx. The asylum-seekers from Iraq, who have lived in the Islamic Republic of Iran began to move in 1998/99 after the Iranian government had threatened to send back the Iraqis to their own country. The movement by displaced Iraqis in Iran was compounded by the Afghans trying to escape the religious fundamentalist Taliban regime⁴. By analysing the profiles of unauthorised arrivals, there has been an increase in the percentage of women and children after the Temporary Protection Visa (TPV) legislation was introduced in October 1999. In our view, the number of unauthorised arrivals may have been significantly lower if there had been a properly maintained family reunion program for refugees.

The concept of the "Temporary Protection Visa" is not new to Australia. Australia granted a number of Chinese students TPVs after the Tiananmen Square massacre of 1989. These Chinese TPVs were subsequently granted residency some years later. Whilst the concept of granting TPVs to new arrivals is not new, the provisions which restrict various welfare supports, especially the rights to family reunion, by the October 1999 TPV legislation are seen as punitive to the refugees.

The involuntary movement of refugees takes no consideration of any domestic political concerns. The decision of an individual asylum seeker is driven by the instinct for survival and is not influenced by the outcome or, rather, the treatment they may receive in the country of refuge. In this context, the 1999 TPV legislation has only helped to inflate the numbers of unauthorised arrivals. The restrictive measures

² <http://users.senet.com.au/~netipr> (see also attachments)

³ "Spin Myth and Winning Edge", The Melb. Age 24 November 2001. (The election win and voting pattern for two major party in Australia is always marginal in nature, something like 48% vs. 52%).

⁴ Carolyn Graydon, "THE PUSH FACTOR", Adelaide Voices Feb/Mar 2000.

placed in the 1999 TPV legislation do not achieve the so-called “deterrent effect” , but serve only the domestic constituents’ interest. NetIPR again call upon the Australian Federal Government to remove the offending provisions in the TPV legislation .

Mandatory Detention Policy

The Australian Government imposes long-term detention on asylum seekers who arrived by boat. Successive Australian governments have maintained the mandatory detention policy to deter would-be asylum seekers to Australia. Whilst it is abhorrent to detain individuals as a means of deterrence, the current Federal Government’s motive for maintaining mandatory detention policy appears to go one step further:

By late 1990s, it was already been proven that the mandatory detention of asylum seekers has no deterrent effect. However, the Australian Government is prepared to spend about \$150 million per annum to maintain detention centres ⁵. The Government continues to use this policy not because of the lack of an alternative or has this policy been demonstrated as successful in the deterrence of asylum seekers. The government continues to detain asylum seekers in order to appease its supporters.

The detail costs of running immigration detention centre onshore (per person per day)		Cost comparison (per day per person)	
Payment to Wackenhut/ACM	\$ 77.00	Onshore detention	\$ 117.00
DIMA management costs	\$ 27.00	Offshore detention (PNG)	\$ 413.00
Indirect costs	\$ 13.00	Offshore detention(Nauru)	\$ 218.00
Total daily cost for a detainee	\$ 117.00		
Source Naomi Edwards 21/1/2002.		Source AAP/CanberraTimes 18/4/2002	

As various analyses have shown, the detention of asylum seekers costs a great deal to Australian tax payers. Refugee advocacy groups within Australia have already put forward alternatives to the detention policy, such as community parole models. NetIPR believes that the long-term mandatory detention of asylum seekers on any grounds is unacceptable and requests the Australian Government to remove the mandatory detention policy.

The MV Tampa

There is little doubt that the Australian Commonwealth government has sought to create a crisis over the Tampa incident. The incident occurred in late August 2001, when the government was under domestic political pressure with an election due in few months time. In this context, the Howard government sought to create the “*Tampa Crisis*” to divert the electorate’s attention from domestic politics. The arrival of cargo ship MV Tampa with 430 Afghan asylum seekers onboard was labelled as an “invasion” by the Government which sought to deploy armed forces, such as the Australian Special Air Service.

The practice of deploying armed forces in a primarily civil dispute is common only to totalitarian countries, such as Burma and China, in which the governments grossly violate human rights. The Australian Government’s claim of a national emergency and subsequent deployment of Special Air Service Commando units to a cargo ship with unarmed asylum seeker can only be seen as a government actively seeking to violate human rights ⁶.

With the benefit of hindsight, the court challenge mounted by the Victorian Council of Civil Liberty was somewhat mis-directed in that the challenge does not raise the question about the rights of the Tampa refugees to seek asylum in Australia. The refugee advocacy groups are heartened by the great

⁵ Financial Analysis of Detention Centre Costs, Naomi Edwards, 21 January 2002.

⁶ Julian Burnside QC, “Human Rights”, Paper presented on 10 December 2001.

Way to a Totalitarian State: Authority vs Human Rights

Governments may likely to seek to compromise with human rights of individuals in three possible circumstances:

- (i) When effective opposition is absent, or so compliant, or so weak as to enable Government to ignore electoral retribution. This is the position in totalitarian regimes.
- (ii) In times of war or civil emergency, when the people cede to Government greater than usual powers in order to meet more effectively a collective threat.
- (iii) When the freedoms in issue are those of the politically irrelevant: the disenfranchised or the voiceless.

It is in relation to the third group that abuses of human rights are most common. The voiceless minorities are by definition marginal and powerless. They do not have resources needed for the essentials of a civilized life, let alone the resources to fight to vindicate their rights. As a result, their rights are reduced or extinguished, and those responsible are answerable to no-one but an electorate which neither knows nor cares.

Excerpt from Paper by Julian Burnside QC presented on 10 December 2001.

capacity with which Australian people joining to defend the rights of refugees. Nevertheless, the drama at Federal Court regarding MV Tampa merely has created a temporary reprieve for the Australian Government, while the situation was demanding immediate answer on the rights of asylum seekers.

Children Overboard Affair

After an inquiry into the painful details, it has now been confirmed that the refugees on SIEV-4 had not thrown their children overboard. The false allegations were made by the Prime Minister, the Immigration Minister and the Defence Minister during the election campaign. Perhaps there are enough analysis reports about the incident in the public domain⁷. None the less, NetIPR wishes to highlight the connection between the Government's "children overboard" allegations and the "Pacific Solution".

The Australian Government claimed that the refugees from SIEV-4 threw their children into sea so as to compel the Royal Australian Navy to rescue them. These allegations were made at a time when the navy frigate, *HMAS Manoora*, had already picked-up two other boatloads of asylum seekers on its way to Nauru. The case of SIEV-4 thus represents a totally separate incident for implementing the "Pacific Solution".

To informed observers, the Australian Government is known for deploying tactics of racist scapegoating of racial minorities for furthering Government's agenda^{8,9}. The Government has routinely made a one sided portrayal of refugees and asylum seekers as illegal, unruly and violent individuals in order to justify the Government's harsh treatment. In this context, the government's particular defamation campaign brought up against the refugees onboard SIEV-4 can be seen as a precursor to implementing the Pacific Solution.

Racial vilification or discrimination against any racial or religious minority group is a violation of human rights. In the SIEV-4 incident, the government vilified the innocent people in a most serious and debasing way. The Australian government cannot be excused for committing such human rights abuses irrespective of whether the group of asylum seekers on SEIV-4 are considered as illegal or aliens. NetIPR demands that the Australian Prime Minister and Federal Government publicly apologise to the asylum-seekers onboard the SIEV-4.

⁷ Australian Senate Select Committee on Certain Maritime Incident, Submissions < www. aph. gov. au >.

⁸ Alison Dellit, "Philip Ruddock: Minister for Racism", Green Left Weekly, 24 January 2001.

⁹ Revd Martin Chittleborough (Chairperson, NetIPR), "The Pawnography of Refugees", 14 May 2002.

Excision of Territory and the Pacific Solution

As noted, the issue of unauthorised arrival in Australia is an emotional issue. Successive Australian governments have, over the years, sought to limit the rights of asylum seekers who arrive by boat. In the first instance, boat people are not given any grounds to lodge asylum claims under Australian laws. Such tactics as excision of Australian territory for immigration purposes was implemented, using a different piece of legislation, under the Australian Labour Government in 1989.¹⁰ In comparison, the excision bill of Australian territory in September 2001 is even more clumsy and likely to encounter more court challenges along the way.

There is international precedence for invoking off-shore processing for a resettlement, under the auspices of the United Nations, in case of occurrence of a large scale influx of refugees¹¹. Such solution, with multilateral cooperation by resettlement countries, can be justified only when the influx of concern is of a large scale that it threatens stability of the region. The Australian Government's "Pacific Solution" does not meet these criteria; the number of asylum seekers in this case is too small and Australia will not receive international support.¹²

THE SITUATION OVERVIEW

Among those policies violating human rights, only the mandatory detention policy can be said to have a proper and rational foundation. The other measure taken after the Tampa incident, such as the excision of territories and the "Pacific Solution", are more adhoc and poll-driven in nature¹³. These policies are not well thought out in legal and constitutional sense, but rather are clearly designed to fit populist election slogans such as, "We will decide who comes to this country" and "Those who come illegally should never set foot on Australian soil". These policies have originated from the Government's hostility and arrogance towards domestic human rights groups, which has been inflamed by election campaign madness.

Popular with the electorate as they may be, these policies do not constitute a long term and sustainable solution for Australia. For example, the "Pacific Solution" alone is costing as much as \$500 million this year¹⁴. Attempt by the Australian Government to save the "Pacific Solution", along with Prime Minister's gambling with international politics, will likely to cost Australia even further.

Refugees are not illegal

" We are told asylum seekers are illegal. That is not true. Under international law, to which we have committed ourselves, a person is entitled to make application for refugee asylum in another country. All asylum seekers should be treated in the same manner, no matter how they arrived in Australia. Those who come without documentation are not illegal, they are simply asylum seekers, with a legal status under international law.

Excerpt: Malcolm Fraser, Former Australian Prime Minister (The Melbourne Age , 27 March 2002)

There has been a misinformation campaign by the Government about the rights of asylum seekers in Australia. For years, the government has been portraying the unauthorised asylum seekers as illegals and queue jumpers or in association with human smugglers, as if Australia has no international obligation whatsoever to receiving the boat people. Such a deliberate misinformation campaign is obviously being

¹⁰ The 1989 amendment to the Immigration Act (1958), persons who arrived by boat are considered as "prohibited non-entrants". Under this bazaar amendment, the person is considered as not to have entered Australia, thus void of opportunity to lodge asylum claim.

¹¹ Submission No. (25) Senate Select Committee on Certain Maritime Incident 2002 by Amnesty International Australia.

¹² Australia can take 25,000 (Twenty Five Thousands) refugees per year without problem in addition to usual migration scheme.

¹³ Amnesty International Australia submission paper for Children Overboard Inquiry, March 2002.

¹⁴ Margo Kingston, "Border Protection SMH Online Budget Night", 17 May 2002.

used to justify the Government's inhuman treatment of these asylum seekers. There is also much flaunting by Government about the measures regarding asylum seekers' policy are connected with national security. However, it is all too obvious that the "Pacific Solution" and these restrictive measures are implemented to further the Government's own interests.

The NetIPR has been greatly encouraged by the appearance of numerous community groups supporting refugees since the Tampa Crisis. However, there appears to be much misunderstanding in the community about the nature of the flight of refugees and the obligation Australia has with regards to asylum seekers. Understandably, some support groups have been focusing on the campaign mainly to arouse a humanitarian and compassionate response by Australian public. Whilst there is nothing wrong with calling for more humanitarian responses to the refugees from Australians, an approach based on the human rights of refugees will be needed. The human rights groups as well as political opposition should build the campaign based on sound human rights principles. After all, the Australian government plundering of \$500 million for 1,550 asylum seekers is neither sound economic management nor the "Pacific Solution" a good and viable policy¹⁵.

Interestingly, there has been policy put forward by the Australian Labor Party based on a multi-pronged approach which proposes humane alternative to the treatment of boat arrivals¹⁶. The fact will remain however that, despite any effort – humane or inhumane – there will continue to be an inflow of asylum seekers to Australia albeit on a small scale. What is needed is for the Government to inform the Australian public in the most honest and straightforward manner that the number of asylum seekers arriving Australia has been, and probably will always be, small.

CONCLUSION

The current inquiry is a predictable outcome of the Australian Senate's investigation¹⁷ into the so-called the Children [non]Overboard Affair. It is likely that the Senate Select Committee on Certain Maritime Incident has already gathered enough evidence that the Government deliberately misled the Australian public by manipulating the children overboard affair during the election campaign. Some analysts note that, according to Westminster traditions, the responsible minister or prime minister must resign from the post if it found guilty of misleading the public^{18, 19, 20}. Seen in this political context, the introduction of this amendment is designed to trigger a double dissolution at the parliament, which is to give the government advantage of calling election at a time of its choosing.

It remains for the Australian public and political parties to dispense justice in such highly political matters as the Children Overboard affair. As for the Network for International Protection of Refugees, an independent non-government organisation, we will continue to demand the rights of asylum seekers from the Australian Government. On this occasion, the NetIPR requests the Australian Government and Prime Minister to:

- *Apologise to the refugees who were being wrongly accused of throwing their children overboard*
- *Conduct an independent inquiry about the death of two women asylum seekers in November 2001*
- *Carry out speedy processing and resettlement for asylum-seekers who were held in off shore detention centres*
- *Cease the interception of refugee boats on the high seas and put a halt to the Pacific Solution*
- *Repeal Temporary Protection Visa legislation of October 1999*
- *Remove existing excision bill of September 2001 and withdraw current amendment.*

¹⁵ Jesuit Refugee Service Australia, "Australias Expensive Pacific Solution", LINK Vol III No3 Extra 2002.

¹⁶ Australian Labour Party, Policy draft, October 2001.

¹⁷ Senate Select Committee inquiry into Certain Maritime Incident, 22 March 2002.

¹⁸ Sen. Bob Brown, "PM falls short of Westminster Convention Ministerial Responsibility", Press release 14 February 2002.

¹⁹ Robert Manne, "The Nations Conscience Overboard", Melbourne Age 1 April 2002.

²⁰ Chris Sidoti, "Refugee Policy: is there a way out of this mess?", Racial Respect Seminar Canberra, 21 February 2002.



amnesty international australia

Changes to Australian Legislation Affecting Refugee's Rights

Recently there have been changes to Australian legislation that restrict the right of those seeking asylum in Australia as refugees. This factsheet outlines the various amendments, and their implications on the human rights of refugees in Australia.

Migration Amendment (Excision from Migration Zone) Bill 2001. This Bill served to excise Cocos Island (retrospective from September 17th, 2001), as well as Christmas Island, Ashmore Reef and Cartier Reef (retrospective from September 8th, 2001) from the Australian Migration Zone under the *Migration Act 1958*. This means that any person arriving at these Australian territories without proper documentation no longer has the right to seek refugee status under Australian law. If asylum-seekers are deemed to be a refugee by either Australian officials or the UNHCR (it is still to be determined who will assess their claims) whilst in such excised territories, they will be attempted to be relocated by the Australian government to another country. There is no guarantee they would come to Australia.

Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001. This Bill was introduced as part of a package of Bills that included the Migration Amendment (Excision from Migration Zone) Bill 2001 and the Border Protection (Validation and Enforcement Powers) Bill 2001.

This Bill has two schedules. The first provides certain powers for dealing with 'unlawful non-citizens' entering an 'excised offshore place' without a visa, including a new power to take an 'offshore entry person' from Australia to a declared country in certain circumstances and to clarify that this does not amount to immigration detention. It also provides a bar to certain legal proceedings relating to the entry, status and detention of a non-citizen who entered Australia at a specified 'excised offshore place'.

The second schedule provides for a new Australian visa regime, with a 'hierarchy of rights', intended to deter further movement from, or the bypassing of, other safe countries. Those who make their claims in refugee camps outside Australia and are approved by the UNHCR are granted permanent residency. Those who are settled in Australia from transit countries (such as Indonesia) may be granted a temporary protection visa in the first instance, and only eligible for the grant of a permanent visa after four-and-a-half years. Those who reach an Australian excised territory, other than those directly fleeing persecution from within their country of origin, would only be eligible to be granted successive temporary protection visas if eventually settled in Australia.

This Bill also restricts the eligibility of refugees currently in Australia on Temporary Protection Visas (TPVs) if the TPV was granted after September 27th 2001. A refugee currently in Australia on a TPV who had spent more than seven days on route to Australia in a 'safe country' (as determined by Australia) will not be eligible for a Permanent Protection Visa (PPV). This means that although such a person may be recognised as a refugee, that person will not be able to bring their family out to Australia. They cannot leave the country without their TPV being cancelled and, should they attempt re-entry to Australia, they will be deemed illegal arrivals and will face detention and deportation. Amnesty International has evidence of TPV holders being detained after re-entering Australia, despite being previously recognised as a refugee.

For assistance in finding accommodation, bond money, employment and learning English upon release from detention, TPV holders must rely on the assistance of volunteers and the extremely stretched resources of church and community groups.

After three years the asylum seeker has to apply again to stay in Australia on the basis that they can still be considered a refugee. The onus is on them to prove that the conditions in their country have not changed and that it would not be safe for them to return.

Appendix - 1

Border Protection (Validation and Enforcement Power) Bill 2001. This Bill is an amendment to the Border Protection Bill 2001, which was first introduced into Parliament on 29 August 2001, but subsequently blocked in the Senate on 30 August 2001. This Bill provides authority to prevent arrival in, and to remove a vessel from, Australia's territorial waters if it is deemed that the intention of the people aboard was to enter Australia unlawfully (ie enter Australia without valid visas or with false passports and identity papers). The Bill also prevents any legal challenges to such forced removal. With regard to actions taken by the Commonwealth of Australia in relation to the *MV Tampa* and 'other vessels carrying unlawful arrivals' – the Bill validated all such actions from 27 August 2001.

Migration Legislation Amendment Bill (No 6) 2001. The aim of this bill is to 'curb expansive judicial interpretations of the Refugee Convention and preclude abuse of asylum seekers in Australia and to restore the effectiveness of the codified natural justice framework set out in the *Migration Act 1958*'. Although the Bill had previously been referred to a Senate committee it was brought back early from this committee and reintroduced into the Senate. Amnesty International believes that the amendments in this Bill will in effect:

- narrow by legislation both commonly accepted and judicial interpretations of the definition of a refugee, inconsistent with the original intent and the purpose of the Refugee Convention;
- limit the role of the Australian courts to interpret the Refugee Convention;
- grant refugee status only when the 'predominant motivation' of perpetrators is Convention related (thus failing to recognise that perpetrators may have many motivations to inflict harm);
- allow adverse inferences to be drawn when determining refugee status if asylum-seekers do not have documents to prove their identity—any adverse interpretation of asylum-seekers' claims based on their lack of identification runs counter to the intent of the Refugee Convention;
- allow decision-makers to make adverse inferences if an asylum-seeker takes an affirmation to tell the truth and NOT an oath according to their religious beliefs without an explanation that is deemed 'reasonable' by the Department of Immigration, allowing subjective interpretation by bureaucrats; and
- ignore the actions of asylum-seekers in Australia that may lead to persecution in their country of origin;

Migration Legislation Amendment Bill (No 5) 2001. This Bill amended the *Migration Act 1958* to ensure that private sector organisations can continue to disclose, to officers exercising powers and functions under the Act, information concerning a persons travel, or proposed travel, to or from Australia.

Migration Legislation Amendment (Judicial Review) Bill 1998. This Bill introduced a mechanism that severely restricts access to Federal and High Court judicial review of administrative decisions made under the *Migration Act 1958*. This mechanism is known as a 'privative clause'.

Migration Legislation Amendment Bill (No 1) 2001. This Bill restricts access to the courts for judicial review of migration decisions. It does this by preventing class actions in migration matters before the Federal and High Courts, by changing the requirements for standing in the Federal Court and by introducing time limits for original applications to the High Court in migration matters.

Amnesty International believes that these Bills pose a serious threat to the UN Convention on the Rights of Refugees within Australia. These Bills could see people denied asylum in Australia based on subjective interpretations of the Convention. While Amnesty International has a number of concerns with these legislation changes there are grave concerns with the possible indefinite and ongoing detention of asylum seekers and what, if any, complaint mechanisms will be in place for those detained, if they feel abuse has taken place. There is no firm guarantee that asylum seekers will not be returned to a country or region where they face further persecution. There are also concerns that those who are recognised as refugees in excised territories, but are unable to be relocated to other countries by the 'burden sharing program,' will face indefinite detention.

Appendix - 1

BORDER PROTECTION

By: Margo Kingston

SMH Online Budget Night 2002

http://www.smh.com.au/specials/budget2002/730/730_4.html

Number's up on trying to buck the influx.

Keeping 1,000 boat people out of mainland Australia will cost taxpayers five times the extra defence spending on the war against terror, and is the biggest spending program of the budget.

Despite the big increase, the government admits its policy will not stop the boat people - it expects to process 4,500 boat people a year offshore, compared to its pre-Pacific solution estimate of 5,500 boat people a year.

Key Points

- \$353m more for dealing with asylum seekers
- \$5.1m to be offered to Afghan asylum seekers to go home
- \$7m more for Nauru, plus \$2.1 for a temporary consulate there
- \$144m for a new processing centre on Christmas Island
- \$129m for processing on Nauru and Manus Island

Extra boat people costs for next financial year alone will be \$353 million, after deducting \$86 million savings from onshore processing. This is the same cost as a big upgrade in domestic security next financial year.

Over four years, the border protection policy will cost an extra \$910 million. In contrast, the government has budgeted an extra \$194 million for the war against terrorism.

Notwithstanding promises to the Nauru government to remove asylum seekers as soon as possible, the budget says some will remain there until June 2006, costing \$129 million to receive and process next financial year alone.

The government will offer \$5.1 million to Afghan asylum seekers on Nauru, Manus Island, in Indonesia and in Australia - including those assessed as refugees and on Temporary Protection Visas - to go home.

It will also offer \$740,000 to non-Afghan asylum seekers on Nauru and Manus Island to go home. It will give Nauru another \$7 million next financial year and spend \$2.1 million to maintain a 'temporary' Nauru consulate.

The government will spend \$144 million next financial year to build a detention centre on Christmas Island and process boat people and \$129 million to process boat people on Nauru and Manus Island. The breakdown of extra spending next financial year is:

- Offshore processing in other countries - \$129.3 million;
- Offshore processing on Christmas Island: \$81.9 million;
- Christmas Island costs - \$137.5 million;
- Voluntary return and resettlement payments - \$3 million;
- A regional cooperation agreement - \$18.4 million.

These figures include a grant of \$22 million to Defence and \$24.3 million to Customs for more coastal surveillance and the gift of five boats to the Indonesian government.

Implications

The government admits it will meet only one of its two goals via the Pacific Solution. It says it will stop any boat people getting to mainland Australia - thus depriving them of the protection of the Australian courts and avoiding the limited scrutiny of onshore detention centres. "It is expected that no additional unauthorised boat arrivals seeking asylum will be processed on the mainland," the budget papers state.

But its big pitch - that the Pacific Solution would end attempts to get here by boat - has proved false. "This budget allows for the processing of 4,500 asylum seekers per annum at offshore locations in Australia's external territories and third countries," the budget papers state. This compares to this financial year, when pre-Tampa the government estimated it would process 5,500 boat people a year onshore.



Net IPR

Network for International Protection of Refugees

Contact Address(*): 18 Shannon Place, Adelaide SA 5000, Australia

10 December 1998.

Grass-roots Human Rights Network for the Protection of Refugees within Asia-Pacific Region, including Australia

Name: The Network for International Protection of Refugees (Net IPR)

Structure: (#)

Patrons: Sr Janet Mead

Chairperson: The Rev'd Martin Chittleborough

Secretary: Dr U Ne Oo

Treasurer: Salai Nilian

Executive Members: Danny Connell, David Mathieson, Scott Litchfield, Juan Garrido

Members: (not listed)

Object: The Network will primarily campaign for displaced persons to receive international protection in accordance with UN refugee conventions. The Network will study the root causes of the refugee movements in Asia-Pacific region as well as the policy responses by the governments of the region and international agencies.

The Network will function purely as a refugee advocacy network, in contrast to the refugee support network/groups. It will take interest in the matters of protecting human rights of the refugees and displaced persons. The Network will not be involved in matters such as the individual casework of refugee. It will not be engaged in resettlement/sponsorship of refugees to Australia. It will primarily be devoted to responding to government policies, including that of Australia, with regard to the refugees and displaced persons.

Though the Network is not intended to function as a refugee support network, it will however be engaged in advocating governments for humanitarian support to the refugees and displaced persons. For example, the network may advocate the governments to provide humanitarian support to a group of refugees or displaced persons within the region.

The Network is intended to function at the grassroots level with the longer-term aim of providing solutions to the problems of refugees and displaced people. Since refugee problems essentially are human rights problems with political roots, the policy coordination between the professional human rights organizations (such as Amnesty International, Human Rights Watch) and solidarity groups can be beneficial to solving refugee problems. The Network will be autonomous and independent in its operation, and will not take any political position on issues beyond the stated objectives.

Assessment for the need: Currently, organization such as 'Coalition for Asylum-Seekers' have been doing the advocacy for protection of refugees in Australia. The Network will have similar aim in advocating for refugees and displaced persons within the Asia-Pacific region. In addition, the Network will explore and advocate, whenever possible, for a solution to refugee and displaced people problems.

App-3

There has been a vacuum for grassroots advocacy as regards international protection of refugees and displaced people. Although the protection of the human rights of refugees will generally fall within the mandate of organizations such as Amnesty International, it is not always the case that AI can act. A locally based grassroots group, with more autonomy and wider political mandate is more appropriate in advocating for the refugees.

The ethnic solidarity groups and community organizations often are not in the best position to act upon refugee protection cases. Most ethnic solidarity groups often work closely with governments concerning refugees. They can become dependent upon governments. Therefore, the solidarity groups are not a good platform to start with as regards international protection of refugees.

Therefore, an independent grassroots network focusing on international protection of refugees can make a valuable contribution to this end.

Membership: Individuals, social justice and human rights groups, and international solidarity organizations are invited to join the Network. There will be two types of membership: The executive and ordinary membership.

The executive member can be either an individual or a group; and must be based in Adelaide, South Australia. The executive members shall be responsible for setting the agenda of the campaign.

Ordinary members can also be individuals or groups, and may reside interstate or overseas. The ordinary members will have the benefit of having a South Australian based organization, readily linked with them and working on issues in the interest of refugees. Ordinary members may also make input in setting agenda for the campaign.

Both executive and ordinary members are to be involved in writing letters to governments and international agencies. All members will receive the newsletter.

Campaign resources: To carry out a campaign, the Network will require information concerning refugees and displaced persons within the Asia-Pacific region. The executive members may do research on the issue or may solicit materials from other human rights organizations and solidarity groups.

Procedure for campaigning: Campaign will mainly involve letter writing to governments and international agencies, such as the United Nations. Any of the executive members may initiate a campaign of their interest. Firstly, the member may collect the relevant and accurate information regarding matters of concern. If the executive member decided to act upon the information, say writing to a government, they must (1) inform the Secretary and (2) write an embargoed draft letter which should be sent out to all executive members for their opinion. The executive members may respond to the initiative. No response will be considered as the approval. Any executive member may write on behalf of the network. The executive members may act on anything that deems to fall within the objectives of the Network.

Term and operation of the Network: Tentatively assumed the term to be (2) to (2 1/2) years. Campaign should be financed solely by public or membership support. Financial support from governments will not be accepted. All positions within the Network will be voluntary. Support is needed for photocopying and mailing. If the Network would like to extend to an Internet based operation, one energetic volunteer will be required.

Meeting and Publications:

regular meeting: Executive members should meet twice a year.

other meeting: Anytime matters arise.

publication: hope to produce 2 Newsletters in a year.

Mailing and Photocopying support: Scott Litchfield, Cross Cultural Ministry Fieldworker, Uniting Church in Australia. (Any other groups offering support of this task would be greatly appreciated).

(*) Temporary contact address. (#) Executive membership are still pending expansion.

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ADELAIDE VOICES



Network advocates for refugees

Based in Adelaide, with a national and international network of members, Network for the International Protection of Refugees (Net IPR) is a local non-government organisation which seeks to address the root causes of the displacement of peoples in the Asia Pacific region.

By lobbying and meeting with politicians and international bodies, Net IPR works to raise public awareness of the plight of those who flee their countries seeking asylum. It also works to ensure that asylum seekers are treated

with due respect according to the UN Charter and are not used as scapegoats or 'easy targets' by political powers.

A refugee from Burma, Dr U Ne Oo, began the group and knows first hand the struggles for asylum seekers: the difficulty of being separated from one's country and living with the uncertainty of one's status. While campaigning primarily for justice in his own country he became concerned for refugees in other parts of the world and particularly for those arriving

in Australia. In response he initiated Net IPR.

Whilst its main aim is to address the root causes of displacement, the group has had most of its time taken up with campaigning for the detainees held in Australia. The main concerns are that detainees be treated in accordance with the UN Charter for Refugees and that the Government desist from angling for votes by treating them harshly and appealing to the xenophobics in the electorate.

Net IPR survives solely on the

contributions of its members. It has met with immigration officials and politicians and protested publicly. Net IPR produces a periodical newsletter and media releases and sends numerous campaign letters.

Net IPR is one part of the larger network of people and organisations around the world supporting refugees. While Net IPR cannot offer physical support, it does stand up for refugees in the political and public arenas. Solidarity from any new members would be most welcome.

Danny Connell



Net I PR

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08 MAY 2000

PRESS RELEASE

The Federally unfunded release of Woomera refugees should be construed as a policy to manufacture xenophobia

1. There have been disturbing reports of the Commonwealth Government of Australia restricting the welfare rights of refugees who have been granted three year temporary protection visa. The Commonwealth Government restricts these refugees accessing programs such as community refugee settlement, language training and jobsearch assistance. There has also been a suggestion for refugees to pay the costs of these welfare programs and, even, suggesting that refugees pay the cost of detention and application processing. The Commonwealth Government has imposed these rules on the ground that these refugees entered Australia "unlawfully" and "illegally" (see immigration minister's statement on 29/4/2000 Advertiser). The minister particularly branded "unlawful" and "illegal" those refugees from Afghanistan and Iraq, who came to Australia by boat.

2. In fact, any asylum-seeker at one stage has to become "illegal" and almost all refugees have to enter the country of their destination "unlawfully". Once an asylum-seeker in Australia has been examined against United Nations Refugee Conventions and is recognised as a refugee, he/she will be granted a protection visa and no longer considered as an illegal person. Therefore, after being granted protection visa, refugees must not be distinguished by how they entered Australia. Those refugees from Afghanistan and Iraq who arrived by boat must be treated the same as other refugees and all other Australian nationals.

3. The UN Refugee Convention requires the Australian Government to provide refugees with the same welfare rights and privileges as all other Australian nationals. On subsistence allowance (rationing) and public relief, the Article 20 and 23 of Convention Relating to Status of Refugees (1951) states:

Rationing: *Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.*

Public relief: *The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.*

Network for International Protection of Refugees

NetIPR is a South Australian based, independent and self-funded advocacy group. Our focus is on refugees within the Asia-Pacific region. Join us today and get a free newsletter to fight for justice for refugees.

*Hon. Patron: Sr Janet Mead
Secretary: Dr U. Ne Oo*

*Chairman: The Rev. Martin Chittleborough
Treasurer: Salai Nilian*

Therefore, by restricting welfare rights (or to apply the 'user-pays' scheme for the remaining assistance programs for those who have arrived by boat), the Commonwealth Government is in violation of this UN Refugee Convention. Further more, by demanding the refugees to pay for the costs of detention and application processing, the Commonwealth Government may be putting those refugees into a debt-bondage, or slavery, to the State. This is totally unacceptable under international human rights conventions.

4. As in other years, the total number of refugees arriving in Australia in this year has been between 8000 and 10,000. Australia does have the capacity to take these refugees in without much difficulty. Recent claims by both State and Federal authorities about hardships in resettling such number of refugees (1100 refugee for three different States) is a mere distortion.

5. According to South Australian Premier 's Press release on 28/4/2000, there have been a rather peculiar suggestion by State and Territory leaders to suspend the processing of Temporary Protection Visa in fear of State Governments having to pick up the cost of caring for refugees. The delay in processing of applications on any ground is unacceptable, especially for those asylum-seekers who already have been under detention for six months.

6. The Commonwealth Government, on the other hand, is threatening to release these refugees without federal funding and without adequate welfare support. The Commonwealth Government's plan to release these refugees at the expense of charitable organisations which are most supportive to refugees, but none the less have limited resources, must be viewed as a calculated attempt to cause distress to those charitable organisations.

The Commonwealth and State Governments do have the power and capacity to assist in resettling those refugees. Denying assistance by Commonwealth Government to these refugees will cause considerable stress within the community and, to some extent, will generate anti-refugee feelings. The Commonwealth Government's policy of denying assistance to these refugees must be duly interpreted as an attempt to manufacture xenophobia within the Australian community.

Dated: 8 May 2000

Secretary: netipr@senet.com.au

The Executive Committee

Network for International Protection of Refugees

Network for International Protection of Refugees

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Net I P R

Network for International Protection of Refugees

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11 September 2001

Press Release

AUSTRALIAN GOVERNMENT'S INHUMAN CONDUCT TOWARDS ASYLUM-SEEKERS

1. The Network for International Protection of Refugees (NetIPR), a South Australian refugee advocacy group, expresses grave concern regarding the Australian Government's conduct towards asylum-seekers. On Saturday 8 September 2001, an Australian Warship, HMAS *Warramunga*, attempted to forcefully divert a boat carrying 237 asylum-seekers from Iraq. The MV *Aceng*, a small vessel carrying unnamed asylum-seekers was intercepted 34 nautical miles off Ashmore Reef and was several times forced to change its course away from Australian waters by HMAS *Warramunga*. The Australian frigate *Warramunga* engaged in a six hour long operation of what could be described as a 'cat-and-mouse game' of forcing asylum-seekers away from Australian territorial waters. On failing to intimidate the vessel to turn back, the 237 asylum-seekers were finally transferred to HMAS *Manoora*, joining with the 433 asylum-seekers from the MV *Tampa*.
2. The NetIPR believes that intercepting and diverting the asylum-seekers' boat on the high sea violates human rights: firstly, by preventing the asylum-seekers from entering Australian territory and seeking asylum; secondly, by attempting to turn away the asylum-seekers amounts to the Australian government's refoulement of refugees. It is an inhuman act by the Australian government to try to turn the asylum-seekers' boat back into international waters.
3. This latest incident of turning away the asylum-seekers' boat must be viewed in the context of the Australian government preparing for a forthcoming federal election. Last week, the Federal coalition government's popularity soared as it gave the asylum-seekers on the MV *Tampa* the "tough treatment". The Australian Government has thus chosen to maintain its controversial and inhuman stand against asylum-seekers so as to shore up public support. The NetIPR strongly condemns the Australian government manipulating the refugee and asylum-seeker issue to gain electoral popularity.
4. Australia in recent years has received a steady stream of boat people who are mainly from Afghanistan and Iraq. During 1999 and 2000, the total number of boat arrivals were 3738 and 2945 respectively. It is inaccurate and self-serving to view these boat arrivals simply as a result of the 'people smuggling rackets' targeting Australia. These boat arrivals are mainly the result of major humanitarian disasters occurring in Afghanistan and Iraq. Afghanistan, for example, has experienced total economic and administrative collapse under religious fundamentalist Taliban regime. An estimated 3.6 million Afghans are now displaced in neighbouring states of Pakistan and Iran. Because of such a major displacement of the people in the region, it is predictable that a small number of those refugees may arrive places like Australia or Europe. The numbers of boat arrivals to Australia is likely to remain unchanged within the foreseeable future, regardless of the Australian government's effort to stem the flow of asylum-seekers.
5. Whereas countries like Australia must treat these asylum-seekers who arrive in its territory with due respect and dignity, the international community should also make efforts to alleviate the suffering of 3.6 million displaced Afghan people. First and foremost, human rights protection is given and humanitarian assistance are delivered to the displaced Afghan people now living in Pakistan and Iran.

Executive Committee
Network for International Protection of Refugees

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