



AFGHAN AND SRI LANKA ASYLUM VISA FREEZE

ON 9 April, the Australian government announced a freeze on processing new asylum claims for Sri Lankan nationals for three months and for Afghan nationals for six months. The rationale is that changing circumstances in these countries mean fewer people are likely to need protection as refugees.

The processing freeze is a complete about-face on the Rudd government's policy, announced in July 2008, that detention that is "indefinite or otherwise arbitrary is not acceptable"; that holding asylum-seekers in immigration detention centres is "only to be used as a last resort and for the shortest practicable time"; and that people held in detention "will be treated fairly and reasonably within the law".

The Rudd government has also announced that single men whose visa applications are frozen are to be held in Curtin detention centre. The decision to re-open Curtin – the worst of the hell-holes under the Howard government—has been condemned by the Refugee Council of Australia and the UNHCR.

The return to the worst of the Howard era policies is almost complete. The Indian Ocean solution and the Indonesian Solution replicates the disgraced Pacific Solution of the Howard government.

The processing freeze raises serious concerns:

(i) Freezing the visa applications of Afghans and Sri Lankans is arbitrary and discriminatory. It is no coincidence that it just so happens that the greatest number of asylum seekers arriving in Australia come from these two countries. There is no objective basis for believing the country conditions have changed substantially (see below). The government's announcement has compromised any pretence that off-shore processing is genuinely independent.

(ii) Regardless of what changes there may be in any particular country, each case should be assessed on the individual merit of claims for protection.

Despite any improvements in a specific country, it may still be unsafe for particular individuals. Tamils and others are still being subjected to harassment and human rights violations in Sri Lanka, despite the end of the war. (see below)

The Australian government put a similar freeze on Afghan refugee cases in late 2001. Iraqi refugees were left on temporary protection visas for years because the Howard government claimed the invasion by the US and Australia would normalise conditions in Iraq. Similarly there was a freeze on Afghan asylum seekers in late 2001 when the US invaded Afghanistan. Afghan asylum seekers were deported from Nauru. Almost ten years later, Afghanistan and Pakistan are still unstable and unsafe. Some of those deported from Nauru have once again come to Australia seeking asylum.

(iii) Freezing the assessment process leaves people in limbo. Mental health experts have extensively documented the long-lasting effects of indefinite detention and temporary protection visas. Suspending processing is a variation on this theme. The freeze may also affect family members left behind – leaving them in danger or without support.

(iv) The effect of the freeze is to hold Sri Lankan and Afghan asylum-seekers in arbitrary (and potentially indefinite) detention. Visa processing could be frozen again. This is a clear breach of international human rights law and a violation for which Australian governments have been criticised on numerous occasions by the UN Human Rights Committee.

(v) The processing freeze breaches asylum-seekers' rights to due process under international law, including

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Next meetings 6pm Mon 3 May, 6pm Mon 17 May,

NSW Teachers Federation, 23-33 Mary St Surry Hills (between Reservoir & Albion Sts)

web refugeeactioncoalitionsydney.wordpress.com

email irintoul@ozemail.com.au **or call** Ian 0417 275 713

the right of access to a procedure within a reasonable time.

Sri Lanka isn't safe

The government claimed that one reason for suspending Sri Lankan visa applications was new country information. But only days later, the newly released 2010 UNHCR report <http://www.unhcr.org/refworld/docid/4bd1aa632.html> documents in detail the scale of the Sri Lankan government sponsored human rights violations.

For example: The US Department of State (USDOS) notes that, "...outside of the conflict zone the overwhelming majority of victims of human rights violations, such as extrajudicial killings and disappearances, were young male Tamils."

"In January 2010 the International Crisis Group reported that more than 12,000 Tamils were held in irregular detention centres on suspicion of ties to the LTTE [Tamil Tigers]."

A Human Rights Watch report also quoted in their report says: "The [Sri Lankan] government's refusal to address accountability for serious [human rights] abuses continues a longstanding pattern of impunity for rights violations by state security forces..."

Mistreatment at the hands of Sri Lankan security forces included being shackled in an uncomfortable posture and hung upside down for extended periods, kochchi (hot pepper) juice in the eyes and nostrils, beatings with sticks or metal rods, and denial of medical treatment. "Complaints made to the National Police Commission yielded no results."

Nor is Afghanistan...or Pakistan

On 13 April, one prominent Afghanistan expert, the Australian National University's William Maley, described the government's decision to suspend Afghan asylum claims on the grounds that the situation was evolving as "loopy".

"If anything, the consensus among experts on Afghanistan is that the security environment has been deteriorating," Professor Maley told *The Australian*.

On 27 April, the United Nations shut its mission in Kandahar and evacuated many foreign staff because of the worsening security situation there. Hours after the announcement, suspected Taliban infiltrators blew up tankers at a fuel depot outside the city.

On 20 March, in Quetta, Pakistan (where there is a big Hazara diaspora population fleeing Afghanistan) three Hazaras were killed while three others sustained serious injuries when armed men opened fire on a vehicle carrying Hazara vegetable-sellers from market to Hazara Town.

Days before that, in a recent wave of targeted killings, two Hazara labourers were killed in Akhtarabad Area of Hazar Ganji, Quetta. More than 400 Hazaras have been killed over the last two years. None of those responsible have been arrested.

On 16 April, in what police officials described as a "sectarian attack", a suicide bomber blew himself up killing 11 Hazaras on the gate of Civil Hospital.

Off-shore processing

Off-shore refugee determination processing of asylum seekers is inadequate and adversarial. Because Christmas Island is excised, asylum seekers arriving there are excluded from making visa applications under the Migration Act. They do not have access to the Refugee Review Tribunal or to any judicial review by Australian courts. There is only one appeal allowed to a government-appointed merits reviewer.

Neither the asylum seekers nor their lawyers have access to records of their initial arrival interview even though discrepancies between that interview and their refugee status hearing are often used to discredit the asylum seekers' claims.

The arbitrary basis of off-shore processing is shown by the fact that following the government's announcement of the visa freeze, the rejection rate of Tamils and Afghans has dramatically escalated.

Merak and the Indonesian Solution

In October 2009, Kevin Rudd called Indonesian President Yudhoyono to intercept a boat carrying 254 Tamils on their way to Australia. The boat was taken by the Indonesian navy to the port of Merak.

Seven months later, on 19 April, around 140 Tamil asylum seekers still on the boat were removed by Indonesian authorities and taken to the prison-like Tanjung Pinang detention centre – a facility built with Australian government money.

They are all, including the 15 children, being held in crowded cells for 24 hours a day. Women and children have been separated from husbands and fathers.

Up to 45 people are being kept in cells that measure only 18.25m x 6m, which includes three toilets. This means there are around only 2.5 square metres for each person.

Under the Rudd government's announced policy, detention is meant to be a last resort and women and children are not to be housed behind razor wire. But under the Indonesian Solution, this doesn't apply to those being warehoused and held by the Indonesian government at the request of Australia.