



THE MALAYSIAN 'SOLUTION'

On May 7, the Australian government announced plans to deport 800 boat arrivals back to Malaysia as part of a deal with the Malaysian government.¹ Australia will accept 4000 refugees from Malaysia over four years in return. The government claims this will force people to “join the queue” and will “fight people smuggling”. But the idea there is an orderly queue to claim refugee status is a myth. Malaysia has over 90,000 registered asylum seekers, and less than 10 per cent were resettled in 2009.² Some have been waiting for 20 years, and all are forced to live in impossibly difficult conditions.³

Widespread abuse of refugees

Malaysia is a repressive authoritarian state and a human rights pariah.⁴ It is not party to the International Covenant on Civil and Political Rights, and is regularly criticized by Amnesty International and Human Rights Watch.⁵ It has not signed the 1951 UN Refugee Convention, which is intended to guarantee refugees fundamental rights. As Malaysia treats its tens of thousands of refugees and asylum seekers as illegal undocumented workers, they are the targets of systematic abuse. Refugees are subjected to arbitrary arrest, and deportation back to the persecution that they fled. Even UNHCR-recognised refugees are subject to harassment and beatings by the authorities, and live in poverty and fear.⁶ When convicted of immigration offences, a refugee is liable for five years' imprisonment, a \$US2915 fine, and whipping or caning of up to six strokes – a punishment that involves the prisoner being tied up and beaten so that they bleed. Caning is widely used in Malaysia, with 34 923 instances recorded since 2008. Detained refugees and asylum seekers are held in filthy, insect ridden and overcrowded detention camps like the notorious Lenggeng immigration depot, near Kuala Lumpur. Detainees have no beds, only wooden platforms without mattresses.

The Malaysian government encourages a civilian vigilante militia, RELA, which conducts attacks and predawn raids on immigrants, including refugees, and is known for its engagement in humiliation, physical abuse, theft and extortion. Since Malaysia does not formally recognize refugees, the UNHCR is solely responsible for refugee-processing. However, as Amnesty has recently noted, ‘the needs of the refugee population’ in Malaysia ‘currently outweigh the capacity of UNHCR to respond adequately’ to them.⁷

No guarantee of better treatment

Any guarantees that Australia might give of better treatment for Australian-origin refugees in Malaysia cannot be accepted. The very purpose of the deal is to avoid Aus-

tralia's humanitarian responsibilities. It will be Malaysia, not Australia, that decides how refugees will be treated. Gross violations can be expected, as is already the case with the Australian-funded Tanjung Pinang detention centre in Indonesia.⁸

Australia: human rights double standards and refugees' ruined lives

It is unconscionable that Australia is proposing to abandon refugees fleeing war and persecution to abuse in Malaysia. In sending refugees there, Australia will be condemning them to even worse conditions than those they would face under our own widely denounced mandatory detention regime.

The Australian government consistently ruled out reopening the Nauru processing centre because Nauru has not signed the UN Convention. With Malaysia, the government has now shown how little regard it actually has for human rights and international obligations. The Malaysian solution will further compound the misery and suffering of hundreds of innocent people. It constitutes a major victory for populist xenophobia in Australian politics. This is, in fact, exactly the source of the present policy, with a Malaysian-style solution having recently been suggested by the right-wing columnist Andrew Bolt, in response to Family First's Steve Fielding.⁹ As recently as April 2011, Julia Gillard criticized China for its ‘backward steps’ on human rights. This is highly hypocritical. The government is now effectively subcontracting out to Malaysia the violation of our humanitarian obligations to refugees.

The government argues that the Malaysian deal should be welcomed because it rescues 4000 refugees from intolerable hardship in Malaysia. This cannot be accepted. Australia should do everything it can to help find permanent homes for refugees in Malaysia. But it must not do this at the cost of condemning 800 people to further misery. If Australia really cared about Malaysian refugees, it could increase its support for the chronically underfunded UNHCR, or simply offer to resettle Malaysian refugees without any trade-off.

Finally, the government's emphasis on the claim that the new policy will ‘stop the boats’ is to be doubly rejected. First, Australia's signature of the 1951 Convention commits us to *welcoming* refugees, not repelling them. ‘Stopping the boats’ should never therefore be a plank of Australian policy. Second, it has been documented that the Coalition's Pacific Solution made no difference to the volume of boat arrivals. This varies as a result of ‘push’ factors overseas and is not influenced by Australian policy – which, in any case, most refugees know nothing about, as a 2011 government-commissioned report confirmed.¹⁰

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1 The Malaysian High Commissioner, Salman Ahmad, told ABC News24 on May 8 that it was still ‘not a done deal’. After the government's refusal to acknowledge the collapse of its East Timor plans and the controversy over the implementation of its MoU with Afghanistan, scepticism about this latest initiative is warranted.

2 <http://www.unhcr.org/my/cms/basic-facts/statistics>

3 <http://www.unhcr.org/au/unhcr/images/2009globaltrends.pdf>

4 Information about Malaysia in this fact sheet is drawn from the authoritative Human Rights Watch *World Report* for 2011, Amnesty International's 2010 country report on Malaysia, and its 2010 special report *Abused and Abandoned: Refugees Denied Rights in Malaysia*. These reports are all easily accessible on the web.

5 <http://www.themalaysianinsider.com/malaysia/article/malaysia-all-talk-and-no-action-says-human-rights-watch/>

6 ‘Refugee fears for others sent to Malaysia’, *The Australian*, May 9, 2011, p. 10.

7 Amnesty International 2010: *Abused and Abandoned*, p.3. See note 3

8 <http://www.radioaustralianews.net.au/stories/201006/2927351.htm>.

9 http://blogs.news.com.au/heraldsun/andrewbolt/index.php/heraldsun/comments/the_kind_way_to_stop_the_boats_and_the_coalition_now_agrees

10 <http://blogs.crikey.com.au/pollytics/2009/10/19/push-vs-pull-asylum-seeker-numbers-and-statistics/>; <http://www.smh.com.au/national/better-life-main-reason-for-refugees-journey-20110503-1e6ui.html>