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Australia: Detention regime in breach of international human rights

"During two years we are living in a prison without committing any crime.... support us and give our message to all the world that we need freedom.... it is needed for every human being."

Nauru detainee

"We came to a country we heard has human rights and freedom. We can't believe what's happening to us... We haven't any human rights. We are just like animals. We do not have a normal life like a human. Our feeling is dead. Our thinking is dead. We are very sad about everything. We can't smile."

Ibrahim Ishreti - refugee living on a bridging visa*

Australia's asylum policy is having an appalling human cost with children being kept behind razor wire for many months and people whose asylum applications have been dismissed but who cannot be returned to their countries of origin being detained indefinitely, according to a new report published today.

In launching its report: *"Australia: The impact of indefinite detention -- the case to change Australia's mandatory detention regime"*, Amnesty International called on the Australian Government, as a matter of urgency, to make comprehensive amendments to the policy and legislation of Australia's mandatory detention regime to ensure that no person is detained in violation of their human rights.

"People seeking asylum in Australia from human rights abuses in other countries are currently met with a system that further violates their human rights. These violations include administrative detention for a prolonged and potentially indefinite period of time," said Amnesty International.

Amnesty International said that the case of Peter Qasim -- the longest serving immigration detainee, who is now in his seventh year in detention -- highlights the punitive nature of Australia's immigration detention regime.

"Australia's mandatory detention regime continues to fall far short of international standards for the treatment and protection of refugees and asylum-seekers and the protection of the human rights of persons whose asylum applications have been dismissed," said Amnesty International.

In Australia, asylum-seekers arriving without adequate documentation are subject to the provisions of the Migration Act, which imposes mandatory detention until a decision is made in their case.

They may be detained for a prolonged period, until they are recognized as refugees and released, or following a negative decision, removed or deported.

The lack of independent review of the lawfulness of detention and the absence of any maximum statutory time limit for detention means that detention can not only be prolonged, it can also continue indefinitely in circumstances where it is not possible to remove a failed asylum-seeker from Australia.

"Changes announced recently by Australia's Prime Minister, the Hon. John Howard MP, on 17 June represent a positive step towards a more humane refugee policy - especially for children and their families. However, they still leave Australia in clear breach of its international human rights obligations in the treatment of asylum-seekers and refugees," said Amnesty International.

"The Australian Government should implement the model for change proposed in our report. Implementing our recommendations would allow Australia to meet its international legal obligations. It would protect the human rights of asylum-seekers including the human rights of those whose applications for asylum have been dismissed, and help to achieve a humane immigration policy."

Amnesty International is also concerned that the Australian government through the so-called "Pacific Solution" (agreement with some South Pacific Ocean's islands, among others with the Independent Republic of Nauru to accept asylum seekers while their refugee claims are being processed in Australia) has exported its practice of arbitrary detention to another state. Australia denies responsibility for those in Nauru, as does the government of Nauru.

Background:

Recent decisions by the High Court of Australia have confirmed that under Australia's Migration Act, failed asylum-seekers who cannot be returned to their countries of origin, can be held in immigration detention for the rest of their lives.

As at 29 May 2005, Amnesty International estimates that at least 150 people have been detained for more than three years in immigration detention by the Australian Government. This figure includes those detained in Australia's immigration facilities on Nauru, of which there are 54 including 48 adults and six children. The total number of persons detained by Australia rises to at least 200 when those detained for more than 18 months but less than three years are included.

Australia's longest serving immigration detainee, a rejected Kashmiri asylum-seeker, Peter Qasim, has been in detention since September 1998.

In the case of children, Australia's Human Rights and Equal Opportunity Commission reports that the average detention period for a child in immigration detention is one year, eight months and 11 days.

* **Bridging visa** - a bridging visa is granted to individuals applying for a visa in Australia whose current visa ceases before a decision is made on their application, or if their application has been rejected but the review of the refusal is pending. There are five classes of bridging visas.

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For or full text of the report, please go to:

<http://web.amnesty.org/library/index/engasa120012005>

For more information on Amnesty International's work on asylum seekers, refugees and other displaced persons, please visit:
www.amnesty.org/refugees

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