

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: ASA 12/007/2002 (Public)
News Service No: 79
3 May 2002

Embargo Date: 3 May 2002 15:00 GMT

Australia: Ten years of detention for asylum-seekers - time for change

Tens years since the introduction of mandatory detention for asylum-seekers lacking visas, Amnesty International is appealing to the Australian government to step back and consider the costs and consequences of the policy and to bring it in line with international human rights standards.

"Now is a good time for the government to reflect on whether it is necessary, fair and humane for Australia to continue such a tough detention policy, which restricts the rights of refugees," Amnesty International said on the eve of the anniversary (5 May).

Australia's detention system falls short of international standards and it is the only country world-wide with a national, mandatory detention policy which cannot be reviewed by a court.

Even though the government says that asylum-seekers are "seeking a migration outcome", their own figures show that the majority are found to be refugees entitled to the protection and safety they are seeking.

"Detaining children for up to five years, frequent rioting and self-harm by detainees, are not acceptable by-products of refugee processing. Legitimate border control and the fight against people smuggling can be achieved without violating human rights," Amnesty International said.

There are also major concerns about how the detention system affects the mental and physical health of the detainees. There is a growing body of evidence that prolonged detention of unspecified duration, particularly when people are already traumatised by past persecution and do not know what the future holds for them, can lead to serious, physical and psychological damage.

The Australian Human Rights Commissioner, the Ombudsman, Parliamentary Committees, religious organizations and NGOs have repeatedly pointed to the sense of deep frustration and despair among asylum seekers in detention centres - the kind of hopelessness and helplessness which has driven people to sew their lips together, to try to kill themselves or to hurt others.

Furthermore, mandatory detention does not act as a deterrent; the numbers of those arriving in Australia without visas rose in 2000 and 2001.

"With a decade's experience of mandatory detention, the time is ripe for the government to take a serious look at alternatives. The problems associated with the system will not go away - rather the situation could worsen if more creative and constructive thinking does not emerge soon." The Government should use the Australian Human Rights Commission's "Immigration Detention Centre Guidelines" - based on international human rights standards, as a framework for addressing these issues, and should engage human rights experts and activists.

"Pacific solution"

Following her recent visit to Australia, Amnesty International Secretary General Irene Khan has written to Australian Immigration Minister Philip Ruddock, raising new concerns that, contrary to the Minister's assurances, recognized refugees are currently detained in Australian-sponsored detention centres in Nauru.

On Nauru, a small Pacific island country some 4,000 kilometres from Sydney, Australia is funding the detention of some 1,100 mainly Afghan and Iraqi asylum-seekers who were taken there by Australian warships last August. With a resident population of only 11,000, Nauru now has the highest proportion of asylum-seekers world-wide. Of these, at least 280 continue to be held despite their recent recognition as refugees, in camps run by the International Organization for Migration.

Consistent with Amnesty International's opposition to unreviewable mandatory detention of asylum-seekers, the organization is seeking an explanation from Minister Ruddock for the continued and open-ended detention, funded and controlled by Australia, of at least 280 people recognised as refugees on 8 April 2002 by Australia (147) and the UN High Commissioner for Refugees (133) in Nauru. A similar call to Australia has been made in relation to recognized refugees on Manus Island.

Background

It was five years ago this week, in the case of *A v Australia*, that the United Nations Human Rights Committee found Australia's practice of detaining asylum-seekers to be arbitrary and unlawful, in violation of international human rights obligations binding on Australia. Australia is yet to heed the findings of the Human Rights Committee. The finding was made in an individual case, but the Committee has in July 2000 expressed its concern at the policy itself.

International guidelines on detention of asylum-seekers, adopted by UNHCR's Executive Committee, of which Australia is a member, also call for detention to be used only exceptionally, to be justified in each individual case, and to be subject to the safeguard of an independent review of continuing detention of the individual in question - Australia's policy respects none of these criteria.

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