

After years of incarceration, Australian government recognises Afghans as refugees

By Jake Skeers
11 June 2004

After imprisoning them for almost three years on the remote Pacific island of Nauru, the Australian government has granted refugee status to the majority of the Afghan asylum seekers detained there. Last month's announcement underscores the fact that hundreds of genuine refugees—men, women and children—were literally held hostage to shore up the government's anti-refugee policy.

Immigration Minister Amanda Vanstone said that of the 142 Afghans reassessed so far on Nauru, immigration officials had found that 131 were refugees. The results of the claims of another 51 detainees are due this month, with most expected to be successful.

Vanstone told Channel Seven's *Sunrise* program that the majority of the refugees would be settled in Australia. "That shouldn't be a surprise to anyone. We've always said that where people are judged to be refugees, we're a very welcoming country." This will come as a surprise to the refugees themselves, given that the government has detained them in primitive camps, despite protests and hunger strikes, branded them "illegal" and repeatedly tried to bully them back to Afghanistan.

Vanstone cited deteriorating security conditions in parts of Afghanistan as the reason for granting refugee status to the detainees. This is itself a revealing admission about the political and social conditions in Afghanistan, two and half years after the US-led invasion in November 2001. But regardless of the government's motivations, the fact remains that it has systematically denied the refugees every basic democratic and civil right.

The government first detained the Afghan refugees on Nauru in late 2001. It had flouted international law by blocking the Norwegian freighter *Tampa* from offloading 433, mainly Afghan, asylum seekers it had

rescued from drowning on the way to Australia. Prime Minister John Howard vowed that the asylum seekers would never set foot on Australian soil.

After promoting fears that Australia would be overrun by refugees—who, it ludicrously claimed, could be terrorists—the government set out to promote itself as "tough on border protection". It implemented a massive military operation to turn away refugee boats or forcibly remove their passengers to hastily-erected holding camps on Nauru and the Papua New Guinean island of Manus.

Backed by the Labor Party opposition, the Coalition government pushed through laws to retrospectively legalise the Tampa operation and prevent refugees held offshore from challenging their detention in any tribunal or court.

Australia's offshore detention regime, which became known as the "Pacific gulag," has housed over 1,500 asylum seekers. The accommodation in Nauru consists of mosquito-infested huts made of corrugated iron and shade cloth, with dirt floors. Fresh water has been available only for a few hours per day for washing and flushing toilets. The Nauru government, which is totally dependent on Canberra financially, has blocked all lawyers, journalists, refugee advocates and independent health professionals from visiting the camps. The children have received a substandard education, if any, with schools lacking basic facilities and teachers often left unpaid for months.

In December 2001, a month after the invasion of Afghanistan, Vanstone's predecessor Philip Ruddock denied visas to 160 Afghans whom immigration officials had previously accepted under the international Refugee Convention. He handed all Afghan refugee claims to a special management unit in Canberra and froze further assessments.

The freeze continued until late January 2002 when, after numbers of Afghans began protests and life-threatening hunger strikes inside the domestic detention camp at Woomera, Ruddock agreed to resume processing claims. However, he indicated that none of the Afghans were likely to obtain refuge status because the Taliban administration had been ousted. He insisted that persecution would cease under the US-installed regime headed by Hamid Karzai.

In May 2002, desperate to force asylum seekers home, the government cut a deal with the Karzai regime to repatriate Afghans on a “voluntary” basis. Against the advice of human rights groups, such as Médecins Sans Frontières, the 754 Afghans detained in Nauru, the 260 on the mainland and a small number on Australia’s offshore Christmas Island were offered \$2,000 to return to Afghanistan. Within the camps, immigration officials told detainees they had no choice: they could accept the offer or be forced back to Afghanistan at a later date. Ruddock told the media that the Afghans “may think that, if they wait, in some way we will allow them to stay, and that won’t be happening”.

Facing indefinite detention, 274 Afghans on Nauru and 40 in mainland camps accepted the repatriation package during 2002, after assurances from Canberra that conditions in Afghanistan were “secure and safe”. Since then, reports have emerged that seven to ten repatriated Afghans were murdered on arrival.

As late as January this year, Vanstone was still bullying Afghans on Nauru to return. Even after a 29-day fast last December and January by over 30 Afghan men, who stated they feared for their lives if sent back to Afghanistan, she showed no sympathy. “If someone doesn’t want to be there [in the Nauru detention camp], they can go home,” she insisted.

Purportedly acting on new information from the UN High Commissioner for Refugees, Vanstone has now accepted most of the Afghans. Several factors are involved. Firstly, the government’s initial argument for blocking their refugee status—that a US-backed administration in Afghanistan would bring democracy, security and prosperity—has become less tenable as time has passed.

Secondly, the Australian-financed camps in Nauru clearly violate Nauru’s constitution, which forbids imprisonment without trial or legal representation.

Given that lawyers for the refugees are challenging the detention in the Supreme Court of Nauru, as well as pursuing habeas corpus litigation in an Australian court, the Howard government wants to head off any unfavourable decision.

Thirdly, the remaining asylum seekers on Nauru, who include more than 70 children, have gained significant support from ordinary Australians. Despite its best efforts, the government is finding it difficult to keep scapegoating them and has decided to try to defuse the mounting criticism by releasing them.

At the same time, it is adamantly maintaining its mandatory detention policy. Only last month, Howard and Vanstone rejected out of hand a recommendation from the government’s own Human Rights and Equal Opportunity Commission to release all children from detention.

Even those Afghan refugees who are eventually resettled in Australia will receive only three-year Temporary Protection Visas (TPVs). TPV holders are denied any permanency or security, together with many basic services, including English classes and university places. They cannot apply for children or other family members to join them in Australia and their visas terminate if they leave the country.

In effect, although they may be released from incarceration, the Afghan refugees will remain at the mercy of the Australian government, which can simply refuse to renew their visas in three years’ time, and throw them out of the country.

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