

Australian court sentences Iranian seaman on "people smuggling" charges

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Further examples of the brutal treatment meted out to asylum seekers by Australian authorities were revealed in a magistrates court case last week in Melbourne. The hearing involved Hossein Iran, a 44-year-old seaman from the *Iran Mazandaran*, who was charged with breaches of section 233 of the Migration Act—the laws used to prosecute those involved in the black-market transportation of refugees and asylum seekers.

Iran's crime, according to Australian immigration authorities, was that he assisted three of his countrymen to stowaway to Australia two years ago. The three men—his cousin Bahram Peyrou and two brothers, Nasser and Nader Sayadi-Estahbanati—were wanted by Iranian security forces. In a humanitarian act that put his own life at risk, Iran helped the men board the ship and hid them in his cabin until it reached Australia.

Australian immigration officials intercepted the stowaways after they jumped ship at Portland in southwestern Victoria on September 11, 2000. Fearing that Iranian authorities would persecute him when the ship returned to its home port, Iran decided soon after arriving to give himself up to Australian officials. While all four men applied for refugee status, they were treated as criminals and incarcerated in detention centres, including Iran, who was charged with "people smuggling".

Last week Magistrate Noreen Toohey found Hossein Iran guilty as charged and imposed a four-month suspended jail sentence. She ruled that Iran's actions constituted a serious breach of the Migration Act, and stated that a "notion of general deterrence" was an element in the punishment.

While Hossein will appeal the jail sentence, he was immediately returned to the Maribyrnong Detention Centre to await the outcome of his asylum application appeal to the Refugee Review Tribunal. He has already spent 22 months in detention, some of it in solitary confinement. None of this was taken into account by the magistrate when handing down the sentence.

Taped interviews with the defendant by Department of Immigration and Multicultural Affairs (DIMA) officials were played as evidence, revealing the contemptuous attitude of government officials toward asylum seekers' claims. Janet Creaner, the DIMA official investigating Iran's case, blankly refused the seaman's repeated request for a lawyer in Portland

and told him to look for one in the phone book. Her tone became increasingly provocative and she sarcastically denigrated his claim to have saved his friends' lives. "What did you do, put a bandage round their legs?" she scoffed.

Three senior DIMA officials attended the court proceedings to check on the progress of the prosecution case, indicating its importance as a legal precedent and as part of the increasingly intimidatory atmosphere being fomented by the Howard government.

Remarks by prosecuting counsel Berge Tchikirian demonstrated the lengths to which the government is prepared to go to stop asylum seekers entering Australia. Tchikirian suggested that even if Amnesty International organised a shipload of refugees from a war-torn country and brought it to Australia, this would be considered a criminal action under section 233.

According to Tchikirian, it made no difference whether or not Hossein Iran was aware of Australian law, "He knew," the prosecutor said, "they didn't have visas to enter Australia or any other country for that matter." He argued that once the defendant became aware (mid Indian Ocean) that the ship's destination was Australia, he should have given up the stowaways to the ship's captain. "After all, the captain is a Pakistani national, not an Iranian," he joked.

Magistrate Toohey accepted a statement from Hossein Iran made under duress on the *Iran Mazandaran* in Portland and in front of the ship's captain and chief officer. This was despite the fact that Iran pleaded several times with Australian officials to be taken ashore because he was in fear of his life. Following interrogation, the ship's radio officer typed up a statement for Hossein to sign.

Australian attorney Steven Harper, acting for the Islamic Republic of Iran shipping line, was present during the Portland interview and produced a copy of the seaman's statement in court. The original has been forwarded to the ship owners—the Iranian government. When asked at the magistrate's court why an independent interpreter was not provided during the ship interrogation, Harper claimed that the defendant spoke good English, even though the seaman has virtually no understanding of legal language.

Defence barrister Lex Lasry QC unsuccessfully attempted to

prevent this document being used in the trial because in it, the seaman claimed that the three stowaways left Iran simply for improved economic prospects. When he was taken ashore, Hossein Iran crossed out those sections of the statement before he would sign it. Lasry explained the circumstance in which the statement was being made and said the defendant was attempting to protect the stowaways' families, still in Iran, from reprisals.

These dangers were highlighted by the testimony of two of the stowaways, Bahram Peyrou and Nader Sayadi-Estahbanati, who explained they were wanted by Iranian security forces because of their role in a protest of 40,000 workers in the oil city of Abadan in July 2000.

Peyrou, a former construction worker still awaiting the results of his refugee application and currently detained at Maribyrong, told the court he saw a friend's teenage son killed when the government militia opened fire on the Abadan demonstration. Twenty people died and hundreds were wounded.

As a political organiser for the Fedaiyan of Iran (Majority), Peyrou knew he was a marked man and escaped the city, later to meet up with the Sayadi-Estahbanati brothers. When the three fugitives accidentally met Hossein Iran at Bandar Abbas, they persuaded him to help them escape.

Nader Sayadi-Estahbanati, a motor mechanic, broke down, weeping uncontrollably in the witness stand. His application for asylum in Australia was recently rejected and he has tried to kill himself twice in the past few months, plunging his fist into a live television set and then slashing his wrists. He has been heavily sedated to try to prevent him making further suicide attempts.

After the hearing was temporarily adjourned, he recovered his composure and continued giving evidence. Under questioning by Lasry, he told the court, "I wanted nothing more than to stay in Iran with my wife and child, but they wanted me to leave and save my life. I saved my life, but I lost my spirit." Sayadi-Estahbanati said that two of his brothers were involved in organising the Abadan protest and that security forces had raided his home in an attempt to arrest him.

Last year Nader's brother Nasser Sayadi-Estahbanati, deeply depressed by over 12 months in detention, decided to discontinue his refugee status application and accept deportation to Iran. While Iranian authorities claim he simply disappeared, his family believes that security forces seized him at Tehran airport on his return and that he has been murdered.

This is now likely to be the fate of Nader who, immediately after giving testimony, was flown by DIMA officials to Perth, 3,000 km away, to coincide with the arrival of the *Iran Mazandaran*, on one of its trips to Australia. On May 29, a struggling Nasser was forcibly placed on the ship to be deported back to Iran.

Lawyers in both Melbourne and Perth attempted unsuccessfully to obtain injunctions to prevent Sayadi-

Estahbanati's deportation. Lasry also sought an application in the Victorian Supreme Court before Justice Beach to have Nader Sayadi-Estahbanati brought ashore from the ship as a key witness in Hossein Iran's appeal against his four-month jail sentence. Beach refused to grant an injunction and merely indicated that Lasry should ask federal Attorney General Daryl Williams to intervene.

When the legal bids failed, representatives from the International Transport Workers Union boarded the ship as it docked briefly at the port of Esperance in Western Australia to load grain on June 1. But the ship's captain, after ringing the Iranian embassy in Canberra, refused transport union officials access to Sayadi-Estahbanati.

The deportation is designed to intimidate the 333 Iranians currently being held in Australian detention centres. The Iranian government, which has executed hundreds of political opponents, insists that they must sign voluntary deportation agreements. Despite the fact that Sayadi-Estahbanati refused to sign, the Howard government has claimed the right to deport him by placing him in the same ship on which he entered the country.

A spokesman for Immigration Minister Phillip Ruddock told the media that Sayadi-Estahbanati had given evidence in the original court case and did not need to do so again. "The law says the man must be removed, and he is being removed. There is no reason why he should be kept in Australia," the official said.

A spokesman for the Australian Council of Trade Unions later told *Agence France Presse* that the captain handed a letter to immigration officials in Esperance stating that Sayadi-Estahbanati was on a hunger strike and was so weak that he was only expected to live four to six days. Amnesty International and other human rights organisations have said that if Sayadi-Estahbanati is returned to Iran the authorities will execute him.



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