

The tragedy of SIEV X

Did the Australian government deliberately allow 353 refugees to drown?

Part 1 of a four part series

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See: Part 2; Part 3; Part 4

From evidence presented to a Senate inquiry during the past four months, it appears that the Australian government may have been directly implicated in the deaths of 353 asylum seekers, including 146 children, as a result of its anti-refugee campaign aimed at winning last year's November 10 general election.

On October 19, 2001 the Iraqi, Afghan, Palestinian and Algerian refugees drowned after their grossly over-crowded boat sank in the Indian Ocean, between Indonesia and Australia's Christmas Island. Some died immediately. Others were unable to hold on for the 21 hours they were left in the ocean, without help. Of the more than 400 passengers who set out from southern Sumatra for Australia in a rickety Indonesian fishing vessel, equipped to carry less than half that number, only 44 survived, including an eight-year-old boy, who lost 21 members of his family.

Top figures in the Australian political and military establishment, including Prime Minister John Howard and senior naval commanders, repeatedly insisted after October 23, the day the shocking tragedy first came to light, that Australian authorities had no clear information as to the boat's whereabouts, no ships or aircraft were therefore in a position to mount a rescue and, anyway, the victims drowned in Indonesian territorial waters.

Submissions and evidence presented to the inquiry directly contradict these claims. The drownings occurred in the midst of an unprecedented anti-refugee scare campaign, orchestrated by Howard to boost his chances of winning the upcoming federal election. The Royal Australian Navy (RAN) had been directed to conduct ongoing surveillance of the international waters between Australia's northwest coast and Indonesia in order to intercept the few refugee boats trying to reach Australian territory. It is now well established that this is precisely where the ill-fated boat sank. Moreover, the RAN received repeated intelligence reports about the boat's movements, as well as its unseaworthy condition, and passed the reports every day to the special interdepartmental committee set up in Canberra by Howard to direct the government's "border protection" operation.

Why were these intelligence reports apparently ignored? Why did the navy not intercept this boat, like every other refugee boat sailing from Indonesia to Christmas Island at the time? It certainly had the capability. Operation Relax, launched by the government to intercept "Suspected Illegal Entry Vessels" (SIEVs) and force them back to Indonesia, was in full swing. Several ships were on round-the-clock patrol, backed up by daily flyovers conducted by Royal Australian Air Force (RAAF) PC3 Orion surveillance aircraft, as well as Coastwatch aircraft. Indeed, the entire operation had become the central focus of the government's re-

election strategy.

What, then, was different about this boat (or SIEV X as it was later to be called)? How did it slip through the naval cordon and air surveillance without detection? Most importantly, why the litany of lies? What has the government been trying to conceal?

So explosive has the issue become, that the Howard government has repeatedly intervened to bar witnesses from testifying to the Senate inquiry and the opposition Labor party, which, along with the Democrats and Greens, set up the investigation in the first place, moved early this month to effectively shut it down.

The "children overboard" inquiry

The Senate inquiry into "A Certain Maritime Incident" began hearings nearly four months ago after the parliamentary opposition parties voted to investigate government lies about another asylum-seeker incident that occurred during last year's election campaign—the so-called "children overboard" affair. In early October, government ministers, on the advice of Howard's People Smuggling Taskforce (PST)—a handpicked committee of top public servants and defence personnel—circulated false claims that refugees on a boat bound for Australia had thrown young children overboard, endangering their lives, in order to force navy ships patrolling the area to rescue them and take them to Australian territory. The refugee boat was code-named SIEV 4 (Suspected Illegal Entry Vessel Number 4).

SIEV 4 had been intercepted by HMAS Adelaide on the evening of October 6 just inside Australia's contiguous zone. When the vessel failed to respond to demands to turn back to Indonesia, the Adelaide fired several rounds of cannon and machine-gun fire at it, some at extremely close range. At least one parent held a child up high—apparently fearful (with good reason) that the boat was about to be attacked—to indicate that children were on board. This took place in the early hours of October 7. Not long after, heavily armed military personnel boarded SIEV 4.

Under control of the Adelaide's crew, SIEV 4 was steered back into international waters and warned not to re-enter Australia's contiguous zone. After the boarding party left, the boat's engine was apparently disabled by passengers in a final, desperate attempt to pressure the Adelaide into picking them up. In line with its obligations under the International Law of the Sea, the Adelaide responded to SIEV 4's distress signal and took the boat in tow. When SIEV 4 sank the next day, October

8, the Adelaide's crew jumped into the water and rescued all the passengers.

The whole affair was conducted under aggressive new Rules of Engagement (ROE), introduced by the government in the aftermath of the Tampa affair in late August, when a Norwegian freighter rescued hundreds of asylum seekers from their sinking boat and tried to bring them to Australia. The prime minister responded by introducing emergency measures to prohibit the ship's captain from landing. Eventually the refugees were dumped on Manus Island, a remote Pacific outpost, under the government's so-called "Pacific Solution." On September 3, the government launched Operation Relex, deploying the navy to chase away refugee boats and authorising the use of significant force to intimidate those asylum seekers who persevered into turning back. Directly flouting United Nations refugee conventions, the government's aim was to prevent any refugees from reaching Australian territory and applying for asylum.

In the course of the election campaign, government ministers misrepresented photographs of sailors retrieving the SIEV 4 refugees from the water on October 8 as children flailing about in the ocean after being thrown in by their parents on October 7. These lies became a key element in the xenophobic climate consciously fomented by the government, backed by a compliant media and Labor opposition, prior to the November 10 poll.

Even before the election, rumours started to circulate that sailors aboard the Adelaide had complained to Christmas Island residents that Howard and Immigration Minister Philip Ruddock were lying about the incident, that eye-witnesses had been gagged and that media coverage was completely false. After the election, as internal recriminations about their own filthy role in stoking up anti-refugee sentiment began to mount, the Labor party and the Democrats joined with the Greens to instigate a Senate inquiry into how the lies were circulated, who was responsible and how many government officials were involved in the cover-up.

By early April, it was clear that the lies went all the way to the top. Chief of the Defence Forces, Admiral Barrie (a Howard appointee), was forced to retract his initial testimony after being humiliatingly contradicted by subordinates. It turned out that dozens of government and military personnel knew, within days of the incident, that children were not thrown off SIEV 4. And the government's guilt only became more obvious when it started prohibiting its own advisers from appearing before the inquiry. Howard continued to vigorously deny any wrongdoing, claiming the problem was simply one of "communication".

The "children overboard" inquiry received several submissions from individuals and organisations attacking various aspects of Operation Relex—in particular, its racist character and its defiance of international conventions. One submission from a number of journalists raised serious concerns about the government's unprecedented censorship of information regarding the navy's activities off the north-west coast. The most significant critique was lodged by a former senior diplomat, Tony Kevin, who suggested "a possible causative link" between the events involving SIEV 4 on October 6-8 and the subsequent sinking 11 days later of SIEV X and the loss of 353 lives.

A former ambassador to Poland (1991-94), to Cambodia (1994-97) and currently a Visiting Fellow in the Research School of Pacific and Asian Studies at the Australian National University in Canberra, Kevin argued there was compelling circumstantial evidence that the Australian government acted "in such a way as to bring about or make more probable the sinking of the boat". Moreover, he argued, "there was both a strong Australian motive and an available Australian capability."

Tony Kevin's submission

In an article in the *Canberra Times* in May, explaining why he had begun his own investigation into the SIEV X drownings, Kevin wrote: "From the beginning, I had a strange foreboding about this dreadful event. Somehow it seemed too conveniently timed." Elsewhere, he commented: "I felt that the drowned people had not been treated with decency. I felt the Australian government had treated them like rubbish, reflecting its cruelty and callousness during the election."

In his first submission to the inquiry in March, Kevin pointed out that the Adelaide's encounter with SIEV 4 "was the first major test of [the navy's] new ROE." From the standpoint of the Howard government, the encounter was a dismal failure. SIEV 4 was not forced back to Indonesia. Its passengers had disabled the boat, successfully relying upon the Adelaide's crew to obey international protocols and rescue them. Once on board the Adelaide, the refugees became the responsibility of the Australian government—precisely the outcome Howard was intent on preventing.

Referring to the public responses of the prime minister and the foreign affairs minister, Alexander Downer, to the SIEV 4 incident, including the lie that the passengers had thrown their children overboard, Kevin wrote: "I believe that Ministers' anger reflected their intense disappointment that what was intended to be—and clearly was—a very forceful and frightening interception under the new ROE, finally failed to deter the passengers of this SIEV. This was because the people on SIEV 4 trusted that in the end, the Australian navy would not sail away from their disabled or sinking boat and leave its passengers to die."

From the government's standpoint, Kevin argued, there were two basic flaws in its strategy. In the first place, it had underestimated the preparedness of the asylum seekers to risk their lives, to the point of disabling their boat, to get to Australia. Secondly, it could not get round the navy's obligations under international law to rescue them. While the new rules of engagement legitimised force, they did not permit the navy to sink a boat or place passengers' lives in jeopardy.

How, then, to avoid a repetition of the SIEV 4 incident? Howard and his minders were adamant that any further breach of the navy's *cordon sanitaire* would severely undermine the government's key electoral pitch: that it was "strong on border protection". A minute of a meeting of the prime minister's interdepartmental PST, held in Canberra on October 7, 2001 in the midst of the SIEV 4 incident, reveals the level of concern. Entitled "Options for handling unauthorised arrivals: Christmas Island boat" the minute states: "A strong signal that the people smugglers have succeeded in transporting a group to the mainland (Australia) *could have disastrous consequences*. There are in the order of 2,500 PUA's (potential unauthorised arrivals) in the pipeline in Indonesia awaiting transport, therefore *this should be avoided at all costs*" (Cited in Kevin's second submission to the Senate inquiry, dated April 11. Emphasis added).

One possible solution for the government would be if a boatload of refugees were to sink under conditions where the navy *was not in a position* to rescue them. If no RAN or Coastwatch patrols were anywhere near a vessel that was foundering, then neither the navy nor the government would be responsible under the International Law of the Sea for any resulting deaths.

In other words, a boat, already known to be too unseaworthy to make the distance, could simply be allowed to founder, without the government appearing to have any involvement whatsoever. Government ministers could publicly express their sorrow, while at the same time blaming the victims for their own misfortune. As Kevin pointed out, only such a major loss of life would overcome the limitations of the ROE and successfully send "a strong deterrent signal against further attempted asylum-seeker boat voyages to Australia in the pre-election period."

To be continued



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