

Alleged “people smuggler” jailed in Egypt

Australian government continues cover-up of refugee deaths

Jake Skeers
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The jailing in Egypt late last month of Abu Quassey, an alleged organiser of the voyage of a refugee boat which sank, drowning 353 asylum seekers in international waters between Australia and Indonesia in late 2001, has raised further questions about the Australian government’s complicity in the tragedy.

Over 400 refugees from Iraq, Iran, Afghanistan, Palestine and Algeria were packed onto the dangerously overloaded fishing boat, which sank on October 19, 2001 on its way to Australia’s Christmas Island. Those who died included 150 children.

For the past 18 months, the Howard government has claimed that it vigorously pursued the extradition of Quassey, an Egyptian citizen, from both Indonesia and Egypt, so that he could stand trial in Australia. However, a substantial body of evidence suggests that the government instead supported his deportation on visa charges from Indonesia to Egypt.

Quassey was tried, reportedly under emergency laws, in a semi-secret national security court in Cairo. On December 27, Egyptian judge Issam Matarid sentenced him to five years’ imprisonment for “causing death by mistake” and another two for aiding illegal migration. He was also ordered to pay a fine of 500 Egyptian pounds (\$A111). His imprisonment means that he will probably never testify to the circumstances surrounding the sinking of the boat, dubbed by Australian authorities the SIEV X (Suspected Illegal Entry Vessel Number X—for unknown).

The morning after Quassey’s conviction, Australia’s Foreign Minister, Alexander Downer snapped at a journalist on the Australian Broadcasting Corporation’s *AM* radio program who asked whether the government had made sufficient efforts to extradite Quassey.

Downer launched into an attack on *AM*’s previous guest, retired Australian diplomat Tony Kevin, who has played a leading role in unearthing evidence of the government’s responsibility for the SIEV X disaster. Downer accused Kevin of speaking “nonsense” and peddling “crackpot theories” for accusing the government of making only token attempts to extradite Quassey. Downer labelled Kevin’s renewed call for an independent inquiry into the SIEV X sinking as a “political stunt”.

But the record confirms that the government did not push for Quassey’s extradition from Indonesia, where he was detained for visa violations, nor seek his extradition from Egypt.

Quassey’s name first emerged publicly in the immediate aftermath of the SIEV X tragedy. Survivors told the media that Quassey was the main organiser of the voyage. Refugees also cited Quassey as the organiser of earlier voyages to Australia.

According to Kevin, there is evidence that Australian intelligence authorities tracked Quassey for several months before the SIEV X disaster, that his boats were permitted to reach Australia to build his reputation among refugees and that he worked with Indonesian authorities, who, in turn, had close contact with the Australian Federal Police (AFP).

The AFP eventually issued warrants against Quassey for “people smuggling” in June 2002, despite there being no such offence in Indonesia, while refusing to issue a warrant for murder or manslaughter. Justice Minister Chris Ellison told the Senate that because the government could not determine whether the SIEV X sank in Indonesian or international waters, it could not prosecute him for homicide.

Yet, all the documentation points to a sinking in international waters, which would entitle Australia to issue a homicide warrant because of the boat’s destination. However, the government instead claimed it was pressing Indonesia to introduce “people smuggling” laws.

By August 2002, the AFP had made little effort to mount a case against Quassey. In an interview with journalist Marian Wilkinson, an AFP agent said the “AFP has no knowledge of who worked with/for Abu Quassey”. If true, this suggests that 10 months after the sinking, the AFP was conducting no investigation at all into Quassey and his connection to SIEV X.

The official inaction became so transparent that the Senate passed a motion in December 2002 calling on the Howard government to pursue Quassey before his release from an Indonesian jail on January 1, 2003. This provoked Ellison to tell the media that Quassey was one “of the No 1, if not the No 1” fugitives being sought by the government. Ellison pledged to “chase him and there will be no relenting in that pursuit”.

But Indonesian Justice Minister Yusril Ihza Mahendra immediately denied receiving any Australian extradition request. “Australia’s ambassador has never talked to me about the case of Abu Quassey,” he told the *Melbourne Age*. “There is no official interest from (Australia’s) Minister of Legals (Justice), no diplomatic note sent by the Australian government to our government, compared with the Egyptians. I think the Egyptian Government is more serious compared with the Australian government regarding the case of Abu Quassey.”

Mahendra indicated that Quassey could be extradited even without Indonesian “people smuggling” laws. He said Australia had asked Indonesia for “legal co-operation” to jointly investigate Quassey under the agreement used for the Bali bombing investigation and that

agreement could act as a starting point for extradition.

By January 9, 2003, the AFP had still made little effort to collect evidence on Quassey. Questioned in the Senate, AFP Commissioner Mick Keelty acknowledged that the AFP had only interviewed six of the SIEV X survivors.

Last February, while still claiming to be working to extradite Quassey to Australia, Ellison promised Egyptian authorities that Australia would help prosecute Quassey in Cairo. Last April 24, Indonesia deported Quassey without any serious attempt by Australia to request extradition.

During the preparations for the Egyptian trial, however, the AFP and the Australian government played an extremely active role. Three days after Quassey first appeared in court on September 6, Australian Ambassador Robert Newton met the Egyptian prosecutor-general Maher Abdelwahed to offer the prosecution assistance.

The AFP interviewed more of the survivors, seven of whom are living in Australia on precarious three-year Temporary Protection Visas, and selected and provided most of the trial evidence, which consisted of six large files of statements, video-taped interviews and other material. Neither the Australian authorities nor the court has released any of this evidence for public scrutiny.

"This was a travesty of proper judicial process, the mystery of how and why SIEV X was sunk remains unsolved," Kevin explains on his web site. His offers to testify were ignored. None of the survivors, now scattered around the world, appeared as witnesses and the United Nations and international human rights bodies did not monitor the trial. Little else is known about the hearing, which went largely unreported by the Egyptian and international media.

Quassey has lodged an appeal, due to be heard on January 28. He has claimed that he was merely a translator and played a minor role in organising the SIEV X voyage. "They are using me as a scapegoat because in Indonesia they could never get to those who were fully involved," he told Egyptian reporters, speaking from inside a wire cage during the trial.

The entire purpose of the Egyptian trial, as far as Canberra is concerned, has been to prevent any investigation of the truth about Quassey's role, along with that of Australian and Indonesian police and agents, in the SIEV X operation. By helping to stage the trial, the government hopes to have buried the case. Justice Minister Ellison immediately welcomed the Cairo verdict, noting that the double jeopardy principle, which prevents an accused from being tried twice for the same crime, meant Quassey's chances of facing trial in Australia were slim.

In an attempt to show that it is taking some action, the government has extradited an alleged associate of Quassey's from Sweden in November 2003. However, Khaled Shnayf Daoed appears to be a secondary figure. He faces trial in April for people smuggling, not the murder or manslaughter of the 353 who drowned. Because people smuggling offences are easier to prove—all that has to be shown is that a refugee boat was prepared for a voyage—the scope of questioning will be limited.

The Howard government's machinations are a continuation of more than two years of cover-up of its culpability for the worst maritime incident ever recorded in or near Australian territorial waters. The SIEV X sank at the high point of the government's mobilisation of the navy and air force, called "Operation Relex," to detect and intercept refugee boats headed to Australia. Howard, facing an electorate hostile to his party's pro-business economic and social policies, had staked his campaign for the November 2001 election on anti-refugee

fear mongering and so-called "border protection".

In violation of international law, which requires states to protect those fleeing persecution, the government was determined to deter any asylum seekers from sailing to Australia. After earlier incidents in which rickety boats were fired upon, forcibly boarded and towed back into international waters, the SIEV X sinking provided the ultimate deterrent. Once word spread of the tragedy, no further refugees set sail from Indonesia to Australia for more than a year, permitting the government to claim that its uncompromising policy had succeeded.

Many questions remain unanswered about the SIEV X. Despite regular air force surveillance of the entire area in which it sank and intelligence reports of the boat's movements, the navy did not attempt to rescue the boat's passengers. Some refugees were in the water for 21 hours before drowning.

There is a strong case that the Australian government deliberately allowed the refugees to drown (see: "Did the Australian government deliberately allow 353 refugees to drown?"). Evidence has also emerged that AFP agents, who had infiltrated the refugee network, may have sabotaged asylum seekers' boats in Indonesia at the time of the SIEV X departure. (see: "Australian police agents involved in sabotage of refugee boats")

The protracted cover-up has only been possible with the assistance of the Labor Party. The government blocked military personnel, ministers and key government bureaucrats from testifying to a Senate inquiry, initially set up to investigate the government's lies during the 2001 election campaign about refugees throwing their children overboard. Not long after the inquiry began examining the government's role in SIEV X, Labor bowed to the government's refusal to co-operate. Despite the Senate having the power to subpoena witnesses and force them to testify, Labor voted with the government to shut down the inquiry.

Since then, the government has defied calls, including several Senate resolutions, for it to convene a judicial inquiry into SIEV X. It has gone to extraordinary lengths to prevent any investigation or courtroom probing of its sordid part in the deaths of so many innocent men, women and children. Its prolonged cover-up indicates that it still lives in fear of the political implications of its involvement being exposed in any way. Its methods are a warning of how far it will go to cling to office, as well as to maintain the policy, which Labor fully supports, of militarily repelling refugees, regardless of the human toll.



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