

# The wrongful detention of Tony Tran: yet another immigration cover-up

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Another shocking story of Australia's migration detention regime came to light last week, this time involving the unlawful incarceration of a Vietnamese immigrant for five-and-a-half years. The belated report of what happened to Tony Tran highlights how both the Howard government and the Labor opposition have buried the issue of mandatory detention throughout the 2007 election campaign.

After two years of cover-up, the details of Tran's experience only emerged when he and his lawyers took the case to the media, via the ABC television program, "Lateline".

Tran lived, as a legal resident, in Australia for almost seven years after arriving in 1993 from the United States, where he had lived since fleeing Vietnam as a child. He had a permanent job, got married to a South Korean woman, who gave birth to their son, and bought a house. In December 1999, he applied for a visa for his wife, and then suddenly, without notice, the young husband and father was handcuffed and taken to jail by immigration officials. Tran was separated from his wife, whom he never saw again, and lost his home and his livelihood. Later, his Australian-born son was placed in foster care and the immigration department made an attempt to deport the boy to South Korea without his father's knowledge. While in detention, Tran was stabbed and bashed by a fellow inmate and now suffers a range of chronic health problems.

Tran was only released in June 2005 as a by-product of the public outcry over the illegal detention and mistreatment of Cornelia Rau, a permanent resident, and the unlawful imprisonment and deportation to the Philippines of an Australian citizen, Vivian Alvarez. He received a letter from the immigration department acknowledging that he had been wrongly detained, but has still received no official apology or compensation.

Both he and his son face possible deportation, even though they are stateless with no citizenship rights elsewhere. Tran has been waiting for two years for Immigration Minister Kevin Andrews to review his application to stay in Australia as a permanent resident.

Tran's case is just one of 249 officially-admitted instances of unlawful detention between 1993 and 2007—a period that began under the Labor government of Paul Keating. The Howard government has smothered public information about these cases by referring them to the Commonwealth Ombudsman, Professor John McMillan. The Ombudsman's terms of reference not only ensure that the details of the cases are kept anonymous, but prevent him from investigating the responsibility of successive Labor and Liberal governments and their immigration ministers, and the policy supported by both parties of compulsorily locking up suspected "unlawful" non-citizens.

In a series of reports, completed in July this year, McMillan blamed the immigration department's "culture," describing it as "dehumanised", with officials expected to treat refugees and other so-called "illegals" with contempt and hostility. One of the final reports noted that people had been wrongly detained simply because "the person had an accent, was not of Anglo-Saxon appearance or could not be located on [the department's] systems". But he failed to address the policy of compulsory detention that underlies all these cases.

Tran's treatment, like that of Rau and Alvarez, cannot be attributed to the attitude of specific officials or simply to a departmental "culture". In the first place, the abuses flow directly from the legal framework of mandatory detention, which was first established by the Keating government in 1992. Section 189 of the

Migration Act specifically obliges officials to detain and, as quickly as possible, remove from the country anyone they “reasonably suspect” of being an “unlawful non-citizen”. It establishes a far-reaching regime of executive detention without any trial or hearing.

Secondly, the “culture” has been consciously established by successive Labor and Coalition governments through their systematic demonising of asylum seekers. In the 1980s, Prime Minister Bob Hawke and his immigration minister, Gerry Hand, branded refugees arriving by boat as “queue jumpers” in order to divert growing anger among working people over declining working conditions, real wages and living standards. Howard simply carried on where Labor had left off. In the 2001 election campaign, he insinuated that refugees could be terrorists and falsely accused them of throwing their own children into the ocean to force the navy to rescue them. The scapegoating of asylum seekers became the central axis of the Howard government’s campaign—and the Labor Party simply echoed all the slanders.

Six years on, despite all the abuses that have surfaced, both parties remain firmly committed to the detention regime. Labor’s only difference is that, for purely tactical and cost reasons, asylum seekers should not be transported by the navy to the remote Pacific Island of Nauru, but imprisoned within Australia or on Christmas Island, an Australian territory in the Indian Ocean. What is clear is that whichever party wins the 2007 election, the same type of abuses suffered by Tony Tran will continue.

Asked by “Lateline” to respond to Tran’s case, Immigration Minister Andrews refused to comment, continuing the Howard government’s long-established practice of stonewalling and denying all knowledge of the specific outcomes of its policies. His Labor counterpart, Tony Burke, adopted the Ombudsman’s line, claiming that the problem was a departmental culture of “assumption,” “denial” and “cover-up”. Interestingly, Burke backed away from Labor’s previous calls for a royal commission into the Rau and Alvaraz affairs, saying, “I imagine as minister, I would be able to get access to the relevant files to be able to see whether or not a royal commission was the best way to deal with this”.

The Socialist Equality Party (SEP) is completely

opposed to any form of immigration detention. It violates the fundamental right of all asylum seekers and refugees—and of immigrants generally—to be treated as human beings, with full access to all the rights and benefits associated with citizenship. At the same time, it places into the hands of the government unchecked powers that violate fundamental legal and democratic principles. Together with the so-called anti-terrorism laws imposed since 2001, the rounding up and indefinite detention or deportation of asylum seekers and other “suspects” establishes police-state conditions against the most vulnerable sections of the population, which will increasingly be utilised against wider layers.

Furthermore, the SEP opposes the entire system of national-based immigration controls, which serves to split and divide the international working class. While the wealthy and corporate elite are free to live where they please and to move their investments around the globe to maximise profit, workers and the poor face impenetrable barriers. The SEP demands the right of all working people to live and work wherever they choose, with full legal, political and social rights.

I urge all those who agree with the SEP’s socialist and internationalist program, and who want to end the inhumanity of immigration detention, to support our election campaign and apply to join the SEP.

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