

Australia: Inquest evidence shows Rudd government policies caused refugee deaths

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Evidence unveiled on the opening days of a coronial inquest into the deaths of five Afghan asylum seekers last April has confirmed that the men were victims of the Rudd government's ruthless "border protection policies". In particular—like the Howard government before it—the Labor government has placed at the centre of its anti-refugee strategy the dispatch of naval vessels to intercept refugee boats.

The five men—Mohammad Hassan Ayubi, Muzafar Ali Sefarli, Mohammed Amen Zamen, Awar Nader and Baquer Husani—were aged between 26 and 50. Four were known to be married. Among them they left behind 19 children.

Another 40 men were injured, some suffering serious burns, when their boat, designated by Australian authorities as SIEV (Suspected Illegal Entry Vehicle) 36, exploded and quickly sank. Twenty hours earlier, naval personnel had boarded and taken control of the overcrowded boat near Ashmore Reef, an Australian outcrop about 320 kilometres off the mainland's north-west coast.

There is no doubt that the 47 passengers on SIEV 36 were genuine refugees, fleeing persecution. All the survivors were eventually granted protection visas. Yet, under the government's "border protection" regime, they were met with military force, in violation of international refugee and maritime law.

Indicating the likely line of the inquest, Stephen Walsh, QC, the counsel assisting the Northern Territory Coroner, Greg Cavanagh, spoke of "failings in procedures and actions" and "apparent confusion" of naval commanders about government policy. Walsh said a Northern Territory police investigation had catalogued a series of blunders. But the evidence points, on the contrary, to systemic efforts by the government and the authorities to prevent the asylum seekers from reaching Australia.

While the inquest has been scheduled to run for four weeks, the initial testimony last week has already provided a graphic picture of the deadly consequences of the government's policy.

A member of the naval boarding party, air force corporal Sharon Jager, a medic, told the inquest that after the explosion she saw a colleague pushing and kicking two asylum seekers who were alongside her and were clambering to get into an inflatable rescue craft. Jager, who was thrown into the sea by the blast, said a sailor "moved along and ... physically removed the two asylum seekers, saying 'Get the f--- off her, get the f--- of her' as he dragged me into

the boat". She testified: "I saw him raise one of his feet, connect with the asylum seekers, from what I saw it was the head."

Jager said she was "shoulder to shoulder" with two asylum seekers as they swam toward the rescue vessel. They were not wearing lifejackets. After she had been lifted onto the vessel she saw what she thought was "the top of somebody's head... I was saying to myself, 'I think he is drowning,' or 'I think he is dead'." The medic, who broke down in the witness box, revealed that she had been diagnosed with post-traumatic stress disorder.

Another witness also broke down. Chief Petty Officer Dean Faunt, the officer in charge of the SIEV 36 when it exploded, said his training did not require armed forces members to be rescued first. Both Jager and Faunt were clearly appalled by what happened, which flowed directly from the government's determination to block refugees from applying for asylum on the Australian mainland.

More refugees would have died if at least one sailor had not disobeyed orders. Leading Seaman Paul Heatherington told the inquest said he was holding on to the side of the SIEV 36, trying to reach those in the water when he heard crew aboard the nearby patrol boat HMAS Childers give orders by loudhailer telling "us to get away from the SIEV". Heatherington said he "disregarded" the order, because "there were people on the burning boat ... they needed rescuing; we were there". He testified that about 10 to 12 passengers were pulled into the inflatable vessel.

In his opening address, the counsel assisting the coroner stated that it was the policy of the Australian Defence Force that personnel be saved before civilians. He said it was possible that some asylum seekers had died because of the policy. Walsh also admitted that the refugees had not been provided with life jackets that could have saved their lives.

"Whilst life jackets for all 49 passengers and crew had been transferred to the SIEV 36, they were stowed on the top of the cabin in large bags that did not allow them to be readily accessed," Walsh stated. Throughout the rescue operation the jackets "remained inaccessible" and those "who could not swim or were disabled by injuries were in serious difficulty".

Naval video footage of drowning refugees being pushed and kicked off rescue craft, as well as of the events leading up to the explosion, has been suppressed by the government and the military for the nine

months since the incident, and is still being withheld from the public by the coroner, who claims it could prejudice witnesses.

Earlier, Walsh told the inquest that passengers became extremely agitated when one of them found a warning notice that had been issued to the boat's crew. "You should now consider immediately returning to Indonesia with your passengers and not enter Australian territory," the notice said. Walsh stated: "The passengers began remonstrating with the boarding party. Some were saying 'no Indonesia, no Indonesia'."

Obviously, the warning notice would have provoked tensions among the refugees, fearing that their unseaworthy boat was about to be towed back to Indonesian waters. Walsh also conceded that the military had been initially ordered to keep the SIEV 36 circling in the water for days, a decision that "held the potential to result in unrest, given the hard conditions and over-crowding on the vessel".

Walsh sought to deflect responsibility away from the government by claiming that its orders had not been communicated to the commanding officers of the two naval boats, the HMAS Albany and Childers, that took control of the SIEV 36. Walsh cited a government media release on the day the boat was intercepted, announcing that its passengers would be transferred to the government's detention facility on Christmas Island, a remote Indian Ocean territory.

In reality, for desperate refugees there was little difference between being towed back toward Indonesia or to Christmas Island, nearly 2,000 kilometres away. There they would be detained indefinitely, denied basic legal rights to apply for refugee visas and barred from appealing to Australian courts against any refusal of asylum.

Walsh claimed there was a "body of evidence" indicating that the SIEV 36 had been deliberately disabled and that petrol was poured or deliberately leaked into the bilge and ignited by a lighter or match, either by asylum seekers or SIEV 36 crew members. This unsubstantiated claim was immediately highlighted by the media, with headlines such as "Refugees' boat a floating bomb" in the *Sydney Daily Telegraph*. The coverage was in line with last year's efforts by the media and political establishment to blame the refugees for the tragedy and whip up anti-refugee sentiment.

Many questions remain about the latest version of events. Walsh claimed there had been a series of lapses by naval personnel—an insufficient search of the vessel to identify the presence of fuel, a lack of supervision of the fuel compartments, and a failure to confiscate matches and cigarette lighters. No explanation has been offered for these seemingly elementary mistakes.

Last October, Hassan Gulam, an Afghan elder who interviewed the survivors, told the *Weekend Australian* that the explosion occurred after a naval officer directed the crew to fill a small bilge-pump fuel tank. Gulam said that fuel vapours, which had built up in the boat's engine compartment, were probably ignited by a cigarette.

Ever since the fatal blast, the surviving passengers have been gagged from speaking to the media. Some may testify toward the end of the inquest, but there is obvious pressure on them to remain silent about what happened, and to make no criticism of the government. The

Australian Broadcasting Corporation has reported that it "understands the government will deport the remaining men if they are convicted of serious charges in relation to the incident".

A host of unanswered questions and apparent contradictions remain. But the evidence has already confirmed that the Rudd government misled the public at a media conference on the day of the disaster. Home Affairs Minister Bob Debus and Border Protection Command commander Rear Admiral Allan du Toit said the refugees had been told that they would be moved to Christmas Island. (See: "Australia: Unanswered questions about refugee boat tragedy")

Summing up his opening submission, Walsh suggested that "a level of confusion, oversight and lack of control" had simply "permitted an environment to exist which allowed the events to occur as they did". Whatever details emerge over the coming weeks of the inquest, however, it is clear that the underlying cause of the disaster were not mistakes or shortcomings by naval personnel or refugees intent on "sabotage" to gain entry to Australia, but the Rudd Labor government's mobilisation of the military to deny refugees the basic right to flee persecution.

The five Afghan men who died last April are not the only victims of this policy. Last November, 12 Sri Lankan Tamil refugees drowned northwest of the Cocos Islands after attempting to bypass Labor's naval blockade by sailing further out into the treacherous waters of the Indian Ocean.

The official and media response to these tragedies is reminiscent of that of the Howard government, which, in October 2001, falsely accused asylum seekers of throwing their children overboard to force the navy to rescue them. Soon after, when another refugee boat—the SIEV X—sank and some 353 men, women and children lost their lives, Howard and his ministers exploited the loss of life to declare that it would act as a deterrent to future asylum seekers.



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