

Australian government to deport cleric as “national security threat”

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26 June 2010

This week’s installation of Julia Gillard as Australian prime minister has made no difference to a decision by the Labor government to deport a Sydney Muslim cleric, Sheikh Mansour Leghaei, next Monday as an alleged national security threat.

The cleric’s removal has far-reaching implications for basic political, legal and democratic rights. Like the previous Howard government, which first ordered Leghaei’s deportation, the Labor government has insisted that he has no right to know why the Australian Security Intelligence Organisation (ASIO) gave him an “adverse security assessment”.

Despite objections by civil libertarians and several demonstrations by the cleric’s supporters, who include Christian clergy, the government ordered the Iranian-born Leghaei to leave the country by June 28. Immigration Minister Chris Evans also defied a call by the UN Human Rights Committee, which asked him not to send the cleric back to Iran until it had time to review his case.

The government has allowed Leghaei’s wife and four children to remain, but not the cleric himself. Announcing the decision last month, Evans unequivocally backed ASIO’s power to declare anyone a security threat without having to provide any reasons at all, let alone evidence. Evans stated: “In reaching this decision, I have acted in the national interest because Australia’s national security must always be paramount.”

Yesterday, Evan’s spokesman told the WSWs there would be no last-minute reversal of the decision. Leghaei’s removal highlights Labor’s continuation and deepening of the tearing up of legal and democratic rights initiated by the Howard government in the name of “national security” and the “war on terrorism”.

Over the past decade, Leghaei, who has lived in Australia for 16 years with his family, has gone to the Migration Review Tribunal, the Federal Court and the High Court in unsuccessful bids to require ASIO to explain why it issued with him with an adverse assessment. His saga is reminiscent of Franz Kafka’s novel, *The Trial*, in which the accused man, Josef K, is arrested, prosecuted and ultimately executed for a crime that is never identified.

Leghaei was initially denied a permanent residency visa in 1997, on unspecified security grounds. In 2004, he was advised that ASIO had reaffirmed its adverse assessment, still without providing any reasons. Instead, there have been unsubstantiated media suggestions, apparently fed by ASIO or government leaks, that he is suspected of being sympathetic to the Iranian government, which the Western powers have accused of backing Islamist movements in Lebanon, Gaza and Afghanistan.

In 2005, a Federal Court judge rejected Leghaei’s objection that he had been denied natural justice—the basic legal right to procedural fairness—because he had not been told of any allegations contained in his ASIO file, and thus denied the opportunity to respond to them. Justice Rodney Madgwick ruled that, solely because of ASIO’s national security concerns, Leghaei’s right to procedural fairness had been “reduced, in practical terms, to nothingness”. The judge ruled that Leghaei could not be given even a summary of the accusations against him.

An entire section of Madgwick’s judgment, of unknown length, is not available publicly, because he ordered that it remain confidential. This sets a further precedent, for the censorship of court decisions for alleged national security reasons. On appeal in 2007, three Federal Court judges

upheld Madgwick's ruling, and ordered that about one-third of their own judgment be blacked out in the published version.

Later in 2007, Leghaei sought to appeal to the High Court, Australia's supreme court, but two members of the court rejected his special leave application. In a cursory statement that took just four minutes to read, Justices Kenneth Hayne and Susan Crennan said they saw no reason to doubt the conclusion of the Full Federal Court that the "public interest" must outweigh procedural fairness "in the particular circumstances of this case".

Since taking office in November 2007, the Labor government has continued to insist that ASIO's security assessments must be enforced without question. ASIO and other intelligence agencies have a record of assisting governments with fabrications and slurs, the most notorious example being the lies about "weapons of mass destruction" used to justify the Howard government's participation in the 2003 invasion of Iraq.

Citing unspecified adverse ASIO assessments, the Labor government has denied refugee visas to several Tamils fleeing Sri Lanka, and stripped numbers of Australian citizens of their passports. Most recently, Shyloh Jayne Giddins, a Sydney mother of two, was detained by the authorities in Yemen for more than three weeks after Foreign Minister Stephen Smith cancelled her passport.

In Giddins's case, ASIO issued a statement of reasons, alleging that Giddins "has an extremist interpretation of Islam and her activities in Yemen are prejudicial to security". It said she was "likely to engage in activities prejudicial to the security of Australia or another nation". ASIO refused to elaborate. Its statement nevertheless revealed that Giddins's religious views were regarded as objectionable.

The potential for these arbitrary powers to be used to suppress political dissent is underscored by the Labor government's backing for ASIO in another long-running case, that of Scott Parkin. He is a US anti-war and anti-corporate activist whom the Howard government deported in 2005. His tourist visa was cancelled on the basis of an adverse ASIO assessment and he was bundled out of the country with no opportunity to challenge the decision.

Parkin was deported from Australia solely on the basis of his political views and activities. In August 2005 he took part in a series of publicly advertised demonstrations

and workshops against the Iraq war, US corporate giant Halliburton, which made billions of dollars out of the war, and a "Global CEO Conference" organised by *Forbes* magazine (see "Australian government to deport American antiwar activist").

Parkin's lawyers have since gone to the Federal Court repeatedly to attempt to force ASIO to release its documents showing why he was declared a security risk. In 2008, after three years of litigation, the Full Federal Court finally ordered ASIO to hand over a list of relevant documents. However, when ASIO subsequently produced a list of nine documents, it insisted that none could be disclosed. The agency claimed "public interest immunity" in the interests of national security.

Parkin unsuccessfully issued a public plea to Attorney General Robert McClelland to intervene in the case to "respect the right to a fair hearing and allow my case to proceed in an open court". Eventually, last September, on the basis of confidential ASIO affidavits, a Federal Court judge, Justice Ross Sundberg, ruled that Parkin's lawyers could not read the documents, even if they gave undertakings not to divulge them to their client.

Almost five years since Parkin was deported in September 2005, the Labor government, ASIO and the court have combined to suppress his access to any documents about his removal.

Over the past two and a half years, the Labor government has maintained all the Howard government's draconian terrorism laws, which potentially outlaw many forms of political protest, and further boosted the budgets and powers of the security and intelligence agencies. In April, Labor rejected a proposal for a Human Rights Act, effectively dismissing any notion of limiting official power to override basic legal and democratic rights (see "Australian government rejects human rights charter").

Amid signs of mounting political disaffection and a deepening global economic crisis, the Gillard government's deportation of Leghaei is a further warning of Labor's determination to defend and bolster the police and intelligence apparatus, violating fundamental rights in the process.



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