

Australia: Report leaves unanswered questions on refugee deaths

Zac Hambides
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An internal inquiry by the Australian Customs Service, whose findings were announced on January 24, has been used by the Gillard government to absolve itself of any responsibility for the deaths of up to 50 refugees on December 15. The boat carrying the asylum seekers was smashed apart on the rocky coastline of Australian-controlled Christmas Island in the Indian Ocean.

The inquiry, conducted entirely behind closed doors, suggests that the vast Australian military and police surveillance and intelligence network across the waters between Indonesia and Australia failed to detect the boat, termed Suspected Irregular Entry Vessel (SIEV) 221, until it arrived off the coast of Christmas Island.

A senior Customs official concluded: “Based on the information provided to me, neither Customs and Border Protection, BPC (Border Protection Command) nor its assigned assets, appear to have had any actionable intelligence that would indicate the vessel that foundered at Christmas Island on 15 December had departed Indonesia or was likely to arrive at Christmas [Island] around that time.”

Despite the limited nature of the inquiry, Prime Minister Julia Gillard immediately announced that her government had accepted the report, adding that she wholeheartedly commended the actions of Border Protection Command personnel. Attorney-General Robert McClelland, who participated in the media conference to release the report, said it had demonstrated that gathering intelligence was an “imprecise science”.

In reality, the report raises more questions than it answers.

The documents and transcripts that supposedly provide the evidence for the inquiry’s finding of no “actionable intelligence” have not been released. In an attempt to head off questions, Rear Admiral Tim Barrett, the commander for Border Protection Command (BPC) on the day of the incident, told ABC Radio on January 26: “[T]he information was readily available to the reviewing officer and is being made available for the subsequent coronial inquest and the inquiries that are being done by the AFP [Australian Federal Police]. So it’s not being hidden, it just would be imprudent to release it with this information, with this internal review.”

Last year alone, the Australian government spent \$1.2 billion on patrolling these waters and intercepting so-called “illegal” refugees. AFP agents also operate in Indonesia, monitoring the movements of potential asylum seekers and alerting Customs and the Navy to the departure of boats.

In the week before and after the crash, five boats were intercepted in the vicinity of the Christmas and Ashmore Islands (located midway between Indonesia and Australia).

According to the inquiry, an AFP internal report had predicted two boat arrivals on December 14 and 16—later dubbed SIEV 220 and SIEV 222. The first was intercepted near Christmas Island on December 14, while the other was intercepted at Ashmore Island on December 16. SIEV 221’s tragic arrival at Christmas Island on December 15 was not included in the AFP report.

The Customs Service report states that on December 14 the surveillance capabilities of the Jindalee Over the Horizon (JORN) radar system (which monitors ships off the coast of Indonesia) had not been employed. “Due to the surveillance posture taken on the basis of perceived threat, BPC did not seek JORN support.”

Tony Kevin, author of a book on the cover up of the 2001 SIEV X disaster, in which 353 asylum seekers drowned when their vessel sank, noted in the *Australian* on January 28: “JORN certainly has the capacity to detect vessels of any size, in any weather, moving through Australia’s northern seas to a distance of 2,000km.”

Kevin added: “While JORN would obviously not work in crowded ports, it is a powerful open-seas broad-area radar surveillance system that has helped Australia to detect and safely intercept 220 of 221 suspected illegal entry vessels (SIEVs) over the past 10 years. JORN is not a secret, though officials seem strangely reluctant to acknowledge it exists.”

Why was a radar system with such capacities not in use, given the stormy weather conditions? What data had been previously obtained by JORN regarding SIEV 221’s path from Indonesia? These are just two of the questions that remain unanswered.

The Customs inquiry also found that the time taken for navy and

Customs boats to reach the sinking vessel—which it said was about one hour and 25 minutes from the time the alarm was raised—was reasonable, given the severe weather.

The report states that the first sighting of SIEV 221 by an Australian official “appears” to have been at 5:40am, when it was 500-600 metres offshore. The vessel was reported by an Australian Customs and Border Protection officer as operating on its own power. This report did not indicate that the boat was in distress.

This official record contradicts the accounts of local residents who told the *West Australian* on December 15 that they had seen and heard refugees crying out for help for hours, while the boat was “lurching” backwards and forwards. They said that only the back swell from waves was preventing the vessel from colliding with the shore and that only one of the boat’s three engines was still running.

One of the crew members onboard SIEV 221, 60-year-old mechanic, Abdul Rasjid, told the *Australian* on January 31 that the boat had sailed up and down the coast of Christmas Island for nearly five hours. “Nobody came [referring to any rescue operation], we went up and back. We could see the detention centre, we could see the lights of houses and we were calling out, but nobody came.”

Another first-hand account was provided by the brother of Oday El Ibrahimy, a former refugee living in Australia. El Ibrahimy’s brother survived the disaster but his wife, four-year-old son and eight-month old daughter did not. El Ibrahimy spoke with his brother, who is in detention on Christmas Island, and told the *Australian* on January 25: “They said they waited two hours. They called police, they called everyone.”

The Customs report bluntly emphasises that the Border Protection Command is not designed to perform rescue operations, but to detect and intercept foreign vessels. The report states: “The Command and Control structure within BPC is structured to respond to security threats in Australia’s maritime domain (including the detection and interception of SIEVs), not as an emergency search and rescue (SAR) operation.”

About 30 refugees, including survivors from the crash, held an all-day protest on January 24, when immigration officials visited the Christmas Island detention camp to tell them of the report’s key findings. They reportedly objected to the mention of the word “responsibility” and believed they were being told the crash was their fault.

The report’s publication was timed to aid the efforts of the government and the media to blame “people smugglers” for the disaster. The day after the report was released, Rasjid and two other Indonesian men, Hardi Han, 22, and Supriyadi, 32, who had remained in police custody since December 15, were brought before a Perth court. They were charged with assisting entry to Australia of “about 69 Iraqi, Iranian and Kurdish people” while being “reckless as to whether the people had a lawful right to

come to Australia”. The maximum penalty for such charges is 20 years’ imprisonment and a \$220,000 fine.

Attorney-General McClelland directly sought to shift the responsibility for the tragedy onto these crew members. He stated: “Any people smuggling operation is a tragedy waiting to happen. No vessel, let alone a vessel heavily laden with civilians, should have been out there at these times.”

A January 25 editorial in Murdoch’s *Sydney Daily Telegraph* stated: “Blame for this disaster properly lies with people smugglers, who lure both the desperate and the opportunistic with promises of easy passage to Australia, only to send many to their deaths.”

However, under conditions in which Canberra pours billions into preventing refugees from arriving in Australia, many asylum seekers have no other alternative but to risk their lives in international waters, most commonly on flimsy boats, crewed by impoverished fishermen.

The response of ordinary people to the disaster on Christmas Island was to do all they could to assist in the rescue effort. By contrast, the government and media have sought to smother both the unanswered questions and the underlying culpability of the “border protection” regime, while at the same time sending a message to others seeking asylum that they could face a horrific death.

Gillard announced that because of “strong community and political interest in this incident,” the government would refer the tragedy to a parliamentary committee inquiry. At the same time, she sought to further preempt the outcome by calling on the Opposition, Greens and Independents to “resist the urge to play politics on this issue”.

A similar inquiry whitewashed the SIEV X disaster in 2001. Despite intelligence reports of an unseaworthy boat departing Indonesia and subsequently disappearing in the Indian Ocean, no effort was made to locate or rescue its passengers. The then Howard government exploited the deaths of 353 refugees, including 150 children, to deter refugees from trying to sail to Australia.



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