

# Australia: Labor keeps 900 refugees in detention pending spy agency reports

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About 900 of the more than 6,500 asylum seekers currently held in Australia's increasingly over-crowded immigration detention centres are there despite having proved themselves refugees according to international law. The figures were revealed for the first time by immigration officials last week during evidence before a parliamentary committee. Officials said 481, or more than half the 900, had been detained for more than a year.

For months, the Gillard Labor government had suppressed these statistics, fearing renewed public opposition to its anti-refugee measures. Labor maintains that refugees must remain in detention until the finalisation of security checks by the Australian Security Intelligence Organisation (ASIO), but there is no timeframe for the completion of those checks.

The indeterminate length of the checking process is having an incalculable effect on the well-being of the refugee population, especially children. Earlier last month, 16 Burmese asylum seekers complained in an open letter to the immigration minister, Chris Bowen, that they had all been assessed as refugees but had nevertheless been detained in Darwin for 13 to 17 months while ASIO completed its checks. The Burmese men said four of their number had attempted suicide due to stress and depression.

Last month, Bowen decided to permanently split a family of Sri Lankan refugees because ASIO had assessed the father as a "security risk". The government released the mother and her four-year-old son into the community but the man—also a proven refugee—was to remain in detention pending his eventual removal from Australia.

Refugees who are rejected by ASIO have no right to even be told why they were given an adverse assessment, making it practically impossible for them

to challenge the ruling. ASIO's findings are effectively above the law, with the Migration Act specifying that the security reports cannot be divulged in any court.

Because the government refuses to release details of any ASIO assessment, the basis for Bowen's refusal to grant the Sri Lankan father a visa to stay in Australia remains unknown. The mainstream press has carried unattributed reports that the man had been a member of the Tamil Tigers or LTTE (the Liberation Tigers of Tamil Eelam), the Sri Lankan separatist group that was militarily crushed by the regime of President Mahinda Rajapakse in 2009.

The allegations against the Sri Lankan refugee can only have come from one source, namely, the regime from which, according to the Australian government's own determination, he is fleeing persecution. Over the past two years alone, the Rajapakse government has killed or imprisoned hundreds of thousands of Tamils and alleged LTTE supporters. After its initial 2009 victory, it detained more than 250,000 Tamils, in line with its policy of regarding all Tamils as LTTE suspects.

In November 2009, the Labor government and the Rajapakse regime signed an agreement designed to stop Tamils from escaping from Sri Lanka. In effect, the Australian government pledged to assist the rounding up and imprisonment of alleged LTTE supporters. Such collaboration violates the International Refugee Convention, which upholds the right to flee persecution.

The Sri Lankan man is the 13<sup>th</sup> refugee refused a visa because of an adverse ASIO check during the past decade. In each case, the refugees have remained in detention for long periods. Two Iraqi men were imprisoned on the Pacific island of Nauru (the site of a remote immigration detention centre under the former

Howard Liberal government) for five years. One was eventually released after widespread public outrage developed. The other Iraqi, who could not be returned to Iraq because he faced persecution there, was resettled in Sweden.

In every one of these cases, the Australian government has flouted the most basic provisions of the Refugee Convention. The Convention provides that no country can withhold protection except where the refugee has “committed a crime against peace, a war crime ... a crime against humanity or has been ... guilty of acts contrary to the purposes and principles of the United Nations.” It has never been alleged that any of the refugees who have failed ASIO checks, including the latest Sri Lankan, fall into any of these categories.

Labor’s decision to break-up a Sri Lankan refugee family on security grounds further breaches what the Convention requires in regard to families. The Convention’s preamble states that “the unity of the family ... is an essential right of the refugee.” Signatory countries must ensure that “the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country.”

The legal basis for the ASIO-administered “security checks” is the immigration minister’s power to refuse or cancel any visa, including a refugee visa, on “character grounds”. Those grounds are sweeping and open to political victimisation. Bowen only needs to assert that the person might “vilify a segment of the Australian community ... incite discord in the Australian community or [is] ... liable to become involved in activities that are disruptive to that community”.

The demand for ASIO assessments of the growing number of detainees has helped expand the agency’s role and influence. The budget for ASIO, which functions as a political spy agency, has increased 60 percent in the past year. Politically, the government also hides behind the agency’s assessment system, creating the impression that the character test is applied according to independent, professional advice. As a matter of law, the minister has no obligation to follow ASIO’s rulings.

In any case, ASIO acts in close collaboration with the government at the most senior levels. A former immigration official, Frederika Steen, last year told the *Sydney Morning Herald* that ASIO security checks

were routinely the subject of political interference from “the top”.

By refusing refugees Australian visas, the Labor government is prosecuting definite political aims, including those embodied in its deal with the Rajapakse regime. Despite expressing reservations about human rights abuses, the government backed the suppression of the LTTE. In pursuit of that course, Labor is working hand in glove with ASIO and the Rajapakse regime, and blatantly breaching its international law obligations, at the expense of the basic democratic and legal rights, as well as the well-being, of hundreds of refugees.



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