

Australian government defies growing outcry over deporting refugees to Malaysia

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Prime Minister Julia Gillard's minority Labor government is pushing ahead this week to finalise an agreement with its counterpart in Kuala Lumpur to begin forcibly removing 800 asylum seekers to Malaysia, brushing aside mounting condemnations and evidence that the refugee-swapping scheme will violate fundamental legal and democratic rights.

Gillard and Immigration Minister Chris Bowen have not only re-iterated their determination to proceed with the plan, but provocatively declared that it would include unaccompanied minors and pregnant women. They further dismissed all criticisms after leaked documents showed that the Malaysian government has insisted on deleting any references to "human rights" in the agreement.

If finalised this week, a Memorandum of Understanding signed with Malaysian Prime Minister Najib Razak on May 8, could allow Australia to immediately start deporting asylum seekers to Malaysia, which has a notorious record of abuse of refugees, in exchange for accepting 4,000 certified refugees over four years. (See: "Australian government plans to deport refugees to Malaysia")

In a blatant breach of international refugee law, which recognises the right of people to flee persecution and prohibits governments from punishing or discriminating against them, the Labor government is promoting its so-called "Malaysian solution" as a means of deterring refugees from seeking asylum.

Bowen emphasised last Thursday that he was not prepared to make any exceptions for children. "I've been very clear that you need to send a strong message," he told the ABC television program "Lateline." "I don't want unaccompanied minors, I don't want children getting on boats to come to Australia thinking or knowing that there is some sort of exemption in place."

Over the weekend, Bowen sought to limit the resulting public outcry by saying he would retain a personal discretion over which children were sent to Malaysia. This means that the fate

of vulnerable minors would daily rest in the hands of a government committed to supposedly "protecting the borders" at the expense of asylum seekers.

Bowen repeated his claim that the plan aimed to bust the "business model" of "people smugglers", but it is clear that the real targets are refugees, including children and teenagers. Under Labor's refugee-swapping scheme, they are to be trafficked to Malaysia, where they could remain for many years, and be in constant danger of being sent back to the countries they have fled.

The leaked documents, aired on "Lateline" last Thursday night, reveal that the Malaysian government has refused to even refer to those deported as refugees or asylum seekers. Instead, they are termed "transferees" who will be treated "in accordance with the Malaysian laws, rules, regulations and national policies."

Forced removals of refugees to other countries are specifically envisaged in the draft agreement. "Where the transferee does not agree to return to their country of origin, voluntarily forced returns may be necessary. In this event, the Government of Australia will be fully responsible to accept and ensure voluntarily forced returns," it stipulates.

Malaysia has refused to sign the international refugee convention, which bars countries from expelling refugees to face the danger of persecution. It has also never agreed to the global anti-torture convention or the UN declaration on the rights of the child.

The Malaysian government is known for its abuses of basic rights, particularly of the 83,000 estimated refugees currently languishing in the country. Refugee children are barred from attending public schools. Most refugee families live in cramped flats, in constant fear of arrest, detention or deportation, and unable to complain of exploitation by employers because they are liable to be punished, including by public canings, for working without official permission.

A UN High Commissioner for Refugees (UNHCR) situation report on the treatment of refugee children in Malaysia, dated

April this year, stated that the UNHCR faced serious challenges monitoring the well-being of minors in Malaysia. It said the refugee children—there are presently about 18,000 in Malaysia—were forced to move around frequently and that the shelter services available to them were often short-term, inadequate and lacking in safety and protection.

According to refugee advocate Pamela Curr, there are 17 children among the 158 asylum seekers currently being detained indefinitely on Australia's Christmas Island pending removal to Malaysia. "Amongst that 17, we also hear that there are teenage Vietnamese girls who are unaccompanied minors who are in that group," she told "Lateline." "[Y]ou don't need an imagination to fear what would happen to them in an overcrowded Malaysian detention centre."

Bowen flatly dismissed these concerns last Thursday. "The Malaysian government has been very clear [in its] commitment to deal with those people in a way which respects their dignity, which respects human rights standards, and that is why organisations like the UNHCR have been involved in these discussions," he told the television.

The UNHCR issued a statement the next day, however, saying it could not support the deal because it had become clear that the Gillard government intended to deport unaccompanied children. Over the weekend, the UNHCR's Australian office said it was continuing talks with both governments.

Numbers of refugee advocates and civil liberties figures, including former Australian human rights commissioner Sev Ozdowski and lawyer Julian Burnside, have described the Malaysian arrangements as scandalous, and worse than the previous Howard Liberal government's "Pacific Solution" which saw asylum seekers transported by force to Nauru or Manus Island in Papua New Guinea.

Labor has, for now, ruled out acceding to the demand of the Liberals for the reopening of the infamous facilities on Nauru—where refugees were incarcerated for up to five years from 2001—cynically arguing that the Malaysian model will prove more effective in stopping the arrival of refugee boats. Gillard and Bowen are evidently hoping to use the Malaysian deal as a template for similar arrangements with other governments, possibly including those of Thailand, Papua New Guinea and Solomon Islands.

The political stench surrounding the Malaysian "solution" has become so great that even some Labor parliamentarians are trying to distance themselves from it. A group of Western Australian state Labor MPs are petitioning Bowen not to send children and pregnant women to Malaysia. One MP, Martin Whitley, said: "It's frankly the sort of policy I would have expected from the worst aspects of Liberal Party, not from the Labor Party."

The truth is that the Malaysian scheme surpasses the horrors imposed by the Howard government. In addition, nearly 7,000 asylum seekers are incarcerated in Australian detention centres—far more than under the Liberals—and almost 4,400

have been detained for more than six months. All those who urged support for the return of a Labor government in 2007, and again in last August's election, on the basis that Labor represented a "lesser evil" to the Liberals, are politically responsible for this outcome.

In the run-up to the 2007 election, the Labor leadership, aided and abetted by the trade unions, the Greens and ex-left groups, sought to exploit the widespread revulsion with the Howard government's treatment of asylum seekers by promising a more humane approach. But Labor remained unequivocally committed to the entire framework of mandatory detention, first introduced by the Hawke and Keating Labor governments.

Ever since the global economic crisis erupted, Labor has sought to outbid the Liberal opposition in denouncing asylum seekers, as a diversion from the social and class tensions produced by rising unemployment, losses of working hours and the subsequent assault on working conditions and living standards. Before being installed as prime minister in a backroom coup last June backed by business and the US embassy, Gillard had a track record, as Labor's shadow immigration minister from 2001 to 2003, of aligning with the Howard government's measures, and she made her anti-refugee intentions clear by riding on a naval border patrol boat in the opening days of her campaign for last August's election.

While the Greens have sought to cover their own tracks by imploring the government to drop the Malaysian deal, they have emphasised that they will not withdraw their backing from the government, which depends on their votes in parliament to survive. Likewise, Independent MP Andrew Wilkie described the Malaysian scheme as an "abomination" that established "a trade in people fleeing violence and persecution" but hastened to add that he was not withdrawing his support from the government.

Amid the escalating crisis of Gillard's government, as it strives to implement the austerity measures required by the financial markets, refugees have increasingly become scapegoats and victims of Labor's efforts to cling to office.



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