

Ten years since the SIEV X tragedy

# Did the Australian government deliberately allow 353 refugees to drown?

Linda Tenenbaum  
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*Ten years ago today at approximately 3.10 p.m., an overcrowded, unseaworthy fishing boat, later known as SIEV X and carrying more than 400 asylum seekers, overturned and sank in the Indian Ocean between Indonesia and Australia's Christmas Island.*

*The tragedy—the worst maritime disaster in Australian history—took the lives of 353 refugees, mainly women and children. The boat's passengers, from Iraq, Iran, Afghanistan, Palestine and Algeria, were fleeing political persecution, exercising their democratic right to seek refuge in Australia.*

*Powerful circumstantial evidence strongly suggests that the drownings were the direct result of deliberate political decisions taken by Prime Minister John Howard and his Liberal-National coalition government. A decade on, no inquiry into the events surrounding the SIEV X sinking has been conducted, and no one has been held politically accountable, let alone charged with responsibility, for the multiple deaths.*

*The following article from the World Socialist Web Site archives, published as a four-part series from August 13-16, 2002, examines the political circumstances surrounding the SIEV X tragedy and the official cover up that followed it.*

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From evidence presented to a Senate inquiry during the past four months, it appears that the Australian government may have been directly implicated in the deaths of 353 asylum seekers, including 146 children, as a result of its anti-refugee campaign aimed at winning last year's November 10 general election.

On October 19, 2001 the Iraqi, Afghan, Palestinian and Algerian refugees drowned after their grossly over-crowded boat sank in the Indian Ocean, between Indonesia and Australia's Christmas Island. Some died immediately. Others were unable to hold on for the 21 hours they were left in the ocean, without help. Of the more than 400 passengers who set out from southern Sumatra for Australia in a rickety Indonesian fishing vessel, equipped to carry less than half that number, only 44 survived, including an eight-year-old boy, who lost 21 members of his family.

Top figures in the Australian political and military establishment, including Prime Minister John Howard and senior naval commanders, repeatedly insisted after October 23, the day the shocking tragedy first came to light, that Australian authorities had no clear information as to the boat's whereabouts, no ships or aircraft were therefore in a position to mount a rescue and, anyway, the victims drowned in Indonesian territorial waters.

Submissions and evidence presented to the inquiry directly contradict these claims. The drownings occurred in the midst of an unprecedented anti-refugee scare campaign, orchestrated by Howard to boost his chances of winning the upcoming federal election. The Royal Australian Navy (RAN) had been directed to conduct ongoing surveillance of the international waters between Australia's northwest coast and Indonesia in

order to intercept the few refugee boats trying to reach Australian territory. It is now well established that this is precisely where the ill-fated boat sank. Moreover, the RAN received repeated intelligence reports about the boat's movements, as well as its unseaworthy condition, and passed the reports every day to the special interdepartmental committee set up in Canberra by Howard to direct the government's "border protection" operation.

Why were these intelligence reports apparently ignored? Why did the navy not intercept this boat, like every other refugee boat sailing from Indonesia to Christmas Island at the time? It certainly had the capability. Operation Relax, launched by the government to intercept "Suspected Illegal Entry Vessels" (SIEVs) and force them back to Indonesia, was in full swing. Several ships were on round-the-clock patrol, backed up by daily flyovers conducted by Royal Australian Air Force (RAAF) PC3 Orion surveillance aircraft, as well as Coastwatch aircraft. Indeed, the entire operation had become the central focus of the government's re-election strategy.

What, then, was different about this boat (SIEV X as it was later to be called)? How did it slip through the naval cordon and air surveillance without detection? Most importantly, why the litany of lies? What has the government been trying to conceal?

So explosive has the issue become, that the Howard government has repeatedly intervened to bar witnesses from testifying to the Senate inquiry and the opposition Labor party, which, along with the Democrats and Greens, set up the investigation in the first place, moved early this month to effectively shut it down.

## The "children overboard" inquiry

The Senate inquiry into "A Certain Maritime Incident" began hearings nearly four months ago after the parliamentary opposition parties voted to investigate government lies about another asylum-seeker incident that occurred during last year's election campaign—the so-called "children overboard" affair. In early October, government ministers, on the advice of Howard's People Smuggling Taskforce (PST)—a handpicked committee of top public servants and defence personnel—circulated false claims that refugees on a boat bound for Australia had thrown young children overboard, endangering their lives, in order to force navy ships patrolling the area to rescue them and take them to Australian territory. The refugee boat was code-named SIEV 4 (Suspected Illegal Entry Vessel Number 4).

SIEV 4 had been intercepted by HMAS Adelaide on the evening of

October 6 just inside Australia's contiguous zone. When the vessel failed to respond to demands to turn back to Indonesia, the Adelaide fired several rounds of cannon and machine-gun fire at it, some at extremely close range. At least one parent held a child up high—apparently fearful (with good reason) that the boat was about to be attacked—to indicate that children were on board. This took place in the early hours of October 7. Not long after, heavily armed military personnel boarded SIEV 4.

Under control of the Adelaide's crew, SIEV 4 was steered back into international waters and warned not to re-enter Australia's contiguous zone. After the boarding party left, the boat's engine was apparently disabled by passengers in a final, desperate attempt to pressure the Adelaide into picking them up. In line with its obligations under the International Law of the Sea, the Adelaide responded to SIEV 4's distress signal and took the boat in tow. When SIEV 4 sank the next day, October 8, the Adelaide's crew jumped into the water and rescued all the passengers.

The whole affair was conducted under aggressive new Rules of Engagement (ROE), introduced by the government in the aftermath of the Tampa affair in late August, when a Norwegian freighter rescued hundreds of asylum seekers from their sinking boat and tried to bring them to Australia. The prime minister responded by introducing emergency measures to prohibit the ship's captain from landing. Eventually the refugees were dumped on Manus Island, a remote Pacific outpost, under the government's so-called "Pacific Solution". On September 3, the government launched Operation Relex, deploying the navy to chase away refugee boats and authorising the use of significant force to intimidate those asylum seekers who persevered into turning back. Directly flouting United Nations refugee conventions, the government's aim was to prevent any refugees from reaching Australian territory and applying for asylum.

In the course of the election campaign, government ministers misrepresented photographs of sailors retrieving the SIEV 4 refugees from the water on October 8 as children flailing about in the ocean after being thrown in by their parents on October 7. These lies became a key element in the xenophobic climate consciously fomented by the government, backed by a compliant media and Labor opposition, prior to the November 10 poll.

Even before the election, rumours started to circulate that sailors aboard the Adelaide had complained to Christmas Island residents that Howard and Immigration Minister Philip Ruddock were lying about the incident, that eye-witnesses had been gagged and that media coverage was completely false. After the election, as internal recriminations about their own filthy role in stoking up anti-refugee sentiment began to mount, the Labor party and the Democrats joined with the Greens to instigate a Senate inquiry into how the lies were circulated, who was responsible and how many government officials were involved in the cover-up.

By early April, it was clear that the lies went all the way to the top. Chief of the Defence Forces, Admiral Barrie (a Howard appointee), was forced to retract his initial testimony after being humiliatingly contradicted by subordinates. It turned out that dozens of government and military personnel knew, within days of the incident, that children were not thrown off SIEV 4. And the government's guilt only became more obvious when it started prohibiting its own advisers from appearing before the inquiry. Howard continued to vigorously deny any wrongdoing, claiming the problem was simply one of "communication".

The "children overboard" inquiry received several submissions from individuals and organisations attacking various aspects of Operation Relex—in particular, its racist character and its defiance of international conventions. One submission from a number of journalists raised serious concerns about the government's unprecedented censorship of information regarding the navy's activities off the north-west coast. The most significant critique was lodged by a former senior diplomat, Tony

Kevin, who suggested "a possible causative link" between the events involving SIEV 4 on October 6-8 and the subsequent sinking 11 days later of SIEV X and the loss of 353 lives.

A former ambassador to Poland (1991-94), to Cambodia (1994-97) and currently a Visiting Fellow in the Research School of Pacific and Asian Studies at the Australian National University in Canberra, Kevin argued there was compelling circumstantial evidence that the Australian government acted "in such a way as to bring about or make more probable the sinking of the boat". Moreover, he argued, "there was both a strong Australian motive and an available Australian capability."

### Tony Kevin's submission

In an article in the *Canberra Times* in May, explaining why he had begun his own investigation into the SIEV X drownings, Kevin wrote: "From the beginning, I had a strange foreboding about this dreadful event. Somehow it seemed too conveniently timed." Elsewhere, he commented: "I felt that the drowned people had not been treated with decency. I felt the Australian government had treated them like rubbish, reflecting its cruelty and callousness during the election."

In his first submission to the inquiry in March, Kevin pointed out that the Adelaide's encounter with SIEV 4 "was the first major test of the [navy's] new ROE." From the standpoint of the Howard government, the encounter was a dismal failure. SIEV 4 was not forced back to Indonesia. Its passengers had disabled the boat, successfully relying upon the Adelaide's crew to obey international protocols and rescue them. Once on board the Adelaide, the refugees became the responsibility of the Australian government—precisely the outcome Howard was intent on preventing.

Referring to the public responses of the prime minister and the foreign affairs minister, Alexander Downer, to the SIEV 4 incident, including the lie that the passengers had thrown their children overboard, Kevin wrote: "I believe that Ministers' anger reflected their intense disappointment that what was intended to be—and clearly was—a very forceful and frightening interception under the new ROE, finally failed to deter the passengers of this SIEV. This was because the people on SIEV 4 trusted that in the end, the Australian navy would not sail away from their disabled or sinking boat and leave its passengers to die."

From the government's standpoint, Kevin argued, there were two basic flaws in its strategy. In the first place, it had underestimated the preparedness of the asylum seekers to risk their lives, to the point of disabling their boat, to get to Australia. Secondly, it could not get round the navy's obligations under international law to rescue them. While the new rules of engagement legitimised force, they did not permit the navy to sink a boat or place passengers' lives in jeopardy.

How, then, to avoid a repetition of the SIEV 4 incident? Howard and his minders were adamant that any further breach of the navy's *cordon sanitaire* would severely undermine the government's key electoral pitch: that it was "strong on border protection". A minute of a meeting of the prime minister's interdepartmental PST, held in Canberra on October 7, 2001 in the midst of the SIEV 4 incident, reveals the level of concern. Entitled "Options for handling unauthorised arrivals: Christmas Island boat" the minute states: "A strong signal that the people smugglers have succeeded in transporting a group to the mainland (Australia) *could have disastrous consequences*. There are in the order of 2,500 PUA's (potential unauthorised arrivals) in the pipeline in Indonesia awaiting transport, therefore *this should be avoided at all costs*" (cited in Kevin's second submission to the Senate inquiry, dated April 11. Emphasis added).

One possible solution for the government would be if a boatload of

refugees were to sink under conditions where the navy *was not in a position* to rescue them. If no RAN or Coastwatch patrols were anywhere near a vessel that was foundering, then neither the navy nor the government would be responsible under the International Law of the Sea for any resulting deaths.

In other words, a boat, already known to be too unseaworthy to make the distance, could simply be allowed to founder, without the government appearing to have any involvement whatsoever. Government ministers could publicly express their sorrow, while at the same time blaming the victims for their own misfortune. As Kevin pointed out, only such a major loss of life would overcome the limitations of the ROE and successfully send “a strong deterrent signal against further attempted asylum-seeker boat voyages to Australia in the pre-election period.”

## **The fateful voyage of SIEV X**

There is compelling evidence that the scenario suggested by Tony Kevin in his submissions to the Senate inquiry on “A Certain Maritime Incident” formed the backdrop to the sinking of SIEV X. From Indonesian and Australian media reports at the time of the tragedy, as well as testimony from survivors, recounted by Kevin in his two submissions, the following appears to be what happened.

On October 18, 2001 SIEV X—a 19-metre wooden boat, grossly overloaded with more than 400 asylum seekers—set sail from Bandar Lampung at the southern tip of Sumatra, the largest island in the Indonesian archipelago. Its destination was Christmas Island, an Australian territorial outpost, about 300 nautical miles due south of Sumatra.

Intelligence about the boat’s movements was being forwarded to Australian authorities by a large network of paid informers in Indonesia who had infiltrated the “people smuggling” industry operating out of Indonesia. Their task was not only to follow the “people smugglers” activities, but to try and disrupt them. For some unexplained reason, there was no attempt to disrupt SIEV X’s journey.

Many of the passengers were reluctant to board when they saw the boat’s unseaworthy condition. They were falsely informed that this was just a transit vessel and they would soon be transferred to a larger boat. Some nevertheless took fright and paid bribes to be let off by the armed and uniformed officers who were at the dock. The rest were herded onto the vessel at gunpoint. Another 24 alighted when the boat stopped briefly at an island in the Sunda Strait (the strip of water between Sumatra and Java), convinced it was about to sink. The vessel was leaking, its engine failing and there was a large crack in the hull.

The boat set out for the open sea on the morning of October 19. In the early afternoon, one of its two engines failed. Within minutes the vessel capsized, about 80 miles south of the Sunda Strait, breaking up into planks almost immediately. Of the 397 refugees still on board, 353—including 146 children—perished. The boat was carrying only 70 life vests.

Around 21 hours later, what appeared to be an Indonesian fishing boat happened by, rescuing the 44 who were still alive, clinging to life vests or pieces of wood. According to survivor accounts, two large ships passed them during the night, shining floodlights onto the terrible scene. Aircraft were seen and heard flying above. But none of them stopped or mounted a rescue.

The fishing boat took the traumatised survivors to Jakarta, about 300km away (although the south coast of Java was only 80km away). The journey lasted nearly two days. On October 22, the refugees were met at the pier by Indonesian immigration police.

The next day CNN broke the news of the tragedy. An Egyptian, Abu

Qussey, was arrested as the “people smuggler” responsible, but charged only with document fraud. Two police officers were arrested in northern Indonesia for their part in the armed duress at the port of embarkation.

Responding to questions on October 23-24 as to why the victims had not been rescued by Australian naval vessels patrolling the area, Prime Minister Howard stressed: “This boat sank in Indonesian waters. We are not responsible.”

None of the media questioned Howard’s position. The election campaign was well underway. Both the media and the Labor opposition had fallen in behind the government’s vilification of asylum seekers and its attempts to paint them as possible terrorists in the wake of September 11. The drownings were depicted as an unfortunate accident. No assessment was made of exactly where the boat sank or how much the government knew about its movements and overloaded condition. The unstated premise was that, by virtue of the fact that they were refugees, the lives of these people were expendable. After a few days in the headlines, the issue all but disappeared from the public arena.

It did have the effect, however, of deterring any further voyages. On October 25, one boatload of refugees arrived at Ashmore Reef, but that was to be the last. Between then and the start of the Senate inquiry in late March, none of the 2,500 asylum seekers alleged by the Australian government to be waiting in Indonesia to travel to Australia embarked on the journey.

On election night, Prime Minister Howard, triumphant at his third consecutive electoral victory, was asked in an interview on ABC TV whether he expected the number of refugee boats to diminish.

“The advice is that the flow of people into the pipeline has slowed,” he answered. “It’s a bit hard to know how quickly the people who have accumulated in Indonesia are going to try and come here. *Obviously the more difficult we make it, the less likely they are to come ...*” (quoted in Kevin’s second submission. Emphasis added).

## **The Senate inquiry**

When Kevin’s allegations about possible government involvement in the SIEV X tragedy were first raised in the inquiry, they were attacked by witnesses as unfounded and offensive and dismissed out of hand. The government and media, publicly at least, chose to ignore them.

In early April, the maritime commander in charge of Operation Relex, Rear Admiral Geoffrey Smith, testified to the Senate that the RAN had no information about SIEV X, its likely departure from Indonesia or due date in Australian territory. “At no time under the auspices of Operation Relex were we aware of the sailing of that vessel until we were told that it had in fact foundered,” he declared. He told the senators that when SIEV X sank on October 19, the closest ship, HMAS Arunta, was 150 nautical miles away, patrolling the waters close to Christmas Island. (At that distance, Arunta’s helicopter could have been at the accident scene in less than an hour and the ship itself in four or five hours.)

Under questioning, Smith admitted that normal practice since September 3 when Operation Relex was launched, was to respond to any information regarding the possible departure of an SIEV for Australia by sending ships to intercept it. Every one of the 12 other SIEVs that set out from Indonesia for Australia between September 3 and October 25 was intercepted and boarded by the navy. The reason this did not happen in the case of SIEV X, according to Smith, was that the navy simply received no intelligence about it.

This appeared to be the end of the matter. Kevin, however, responded to Smith’s testimony with a second submission, highlighting a number of inconsistencies. Smith had testified that the navy knew nothing about

SIEV X. But according to media reports in October, Australian search and rescue authorities had issued an “overdue” notice about SIEV X on the morning of October 22. Kevin wrote: “In order to be able to put out a boat overdue notice on 22 October, the Australian search and rescue authorities must have had some previous information that this boat had set out for Christmas Island, when it had set out, and from where.”

That the overdue notice was issued on October 22 suggested that “Australian authorities might have expected it to arrive at the Christmas Island contiguous zone by 21 or 22 October, on the basis of a presumed knowledge that it had set out from Bandar Lampung on around 18 or 19 October.”

Kevin posed the obvious question: “From where did Australian search and rescue authorities obtain such information and when did they receive it?”

Smith had told the Senate inquiry that unlike the situation prior to Operation Relex, the Australian Defence Force (ADF) had full operational control of all surveillance, monitoring and interception of SIEVs, and that intelligence “sat behind” these activities. “It was a government decision that the ADF would take the lead. Prior to 3 September, we were a supporting agency; after 3 September, we were the lead agency,” he said.

Smith also outlined just how closely involved the prime ministerial taskforce was: “Once these vessels were intercepted in the early stages of Operation Relex, every decision that was taken in terms of what to do with that particular vessel and the people on it was in fact directed from Canberra. It is my understanding that that came out of the interdepartmental committee process and therefore, from our perspective, it was a government direction.”

Under these conditions, whatever information had been received by search and rescue leading it to issue an overdue notice on October 22 would, as a matter of course, have been relayed both to the navy and to the government. Yet Smith had forcefully insisted, on three separate occasions in the course of his testimony, that the navy knew nothing about SIEV X prior to its sinking.

### **Smith’s “clarification of evidence”**

On April 16, Rear Admiral Smith decided to publicise his repudiation of Kevin’s allegations in a letter to the *Canberra Times*. In it, he repeated his claim that the navy had no information and was thus unable to rescue SIEV X’s 353 victims.

Rear Admiral Marcus Bonser, director general of Coastwatch and the man responsible for coordinating his organisation’s relations with Defence under Operation Relex, was due to testify before the Senate inquiry on May 22. After reading Smith’s *Canberra Times* letter, he immediately phoned Smith’s office to let him know that the evidence he, Bonser, would be presenting directly contradicted Smith’s claims.

Smith was overseas at the time, so Bonser left a message. On April 22, having received no response from Smith, Bonser met with Admiral Gates, head of the defence taskforce on “people smuggling”. On May 10 and still no response, he advised navy chief Vice-Admiral David Shackleton that “there would be inconsistencies between Admiral Smith’s evidence and mine when I appear at the Senate committee, and he should be aware of that.”

On May 16, one month after Bonser’s first attempt to contact him, Smith finally phoned Bonser to say he would be sending a letter to the Senate to “clarify” his evidence.

On May 22, the day of Bonser’s appearance before the inquiry, Rear Admiral Smith’s letter was delivered. Entitled “clarification of evidence”, its contents were astonishing. Far from “clarifying” his earlier evidence

Smith was now openly contradicting it. The rear admiral admitted that the navy had received no less than six intelligence reports between October 14 and October 22 about SIEV X and its intended or actual departure from Indonesia. The reports had been passed on by Coastwatch and contained such details as the name of the “people smuggler” organising the voyage, Abu Qussey.

Smith cited a dispatch on October 18 in which Coastwatch assessed SIEV X’s possible arrival at Christmas Island on October 18 or 19. Another, on October 19, reported that the vessel had departed. On October 20, the boat was described in considerable detail as being “small and with 400 passengers on board, with some passengers not embarking because the vessel was overcrowded.” The purpose of the reports, according to Smith, was to indicate “a possible SIEV arrival in an area within a probable time window.” Amazingly, and despite the navy’s receipt of detailed and precise information as to the unseaworthy condition of the boat, it considered the reports too inconclusive to warrant an aerial search. Smith added that when the boat sank on October 19, surveillance aircraft were flying near Christmas Island (not in the area south of the Sunda Strait where the boat sank).

Smith’s letter—which amounted to an admission that he had lied under oath—should have led, at the very least, to his immediate recall before the inquiry. Why had he not been forthcoming with this information in April? Either the navy had made a terrible miscalculation, a fatal error of judgement, in its assessment of the SIEV X intelligence—removing any possibility of rescue for the 353 refugees when their boat sank—or a conscious decision had been taken to simply let them drown. At the very least, the navy was guilty of breathtaking callousness concerning the lives of the men, women and children aboard SIEV X.

Most importantly, the inquiry should have immediately posed the question: who made the final decisions in relation to the quality and status of the SIEV X intelligence? What role did the government and its “People Smuggling Taskforce” play? Was a decision made at the highest level to allow this particular boat to pass through the Operation Relex dragnet precisely *because* it had no chance of making the distance? Were surveillance aircraft and RAN ships *deliberately* kept away?

Remarkably, Smith was not recalled and very little was made, in the inquiry and the press, of his admissions. Even more remarkably, when the ADF insisted that Smith’s letter be returned on the basis that it contained confidential information, the senators presiding over the inquiry dutifully obliged.

### **Marcus Bonser’s testimony**

Rear Admiral Bonser, a serving officer of the RAN, became director general of Coastwatch, a division of the Australian Customs Service, in August 2001. In his testimony of May 22, 2002 to the Senate inquiry he declared that the primary function of Coastwatch was to “conduct coastal and offshore surveillance in order to generate information on potential or actual breaches of legislation as they relate to Australia’s maritime zones.” Coastwatch passed that information, including signals traffic, on to “relevant client agencies”, including Defence, enabling them to “make informed decisions on whether further action is warranted and, if so, the nature and extent of that action. Under Operation Relex, Bonser explained, Coastwatch operated “in support of Defence”—“a reversal of the arrangements that normally apply to civil surveillance matters in Australia’s maritime zones.”

In his opening statement to the inquiry, Bonser not only confirmed the six intelligence reports about SIEV X mentioned in Smith’s “letter of clarification”. He declared that Coastwatch had received information “as

early as August 2001 that Abu Qusey was allegedly in the process of arranging a boat departure of illegal immigrants, probably to Christmas Island. In the ensuing period, Coastwatch received information that the vessel was expected to depart, or had departed, Indonesia on four different dates in August, anywhere within a seven-day block in September and on five separate dates in October.” He said that “information in relation to possible boat departures from Indonesia is often imprecise and subject to frequent change.”

What his testimony did, however, was provide conclusive evidence that SIEV X had been under constant surveillance for nearly three months. He also revealed that the source of the intelligence was the Australian Federal Police, and that the information received by Coastwatch was routinely passed on to Operation Relex, accompanied by “a précis of the relevant information in its daily operation summary message.”

Bonser explained that Coastwatch had issued the “overdue” notice on October 22 on the basis of previous advice from the Australian Federal Police as to when the boat had departed.

Questioned about whether it would be standard practice to send a plane to where a boat was reported to be leaving, Bonser replied: “The whole general area is being covered by what is *probably the most comprehensive surveillance that I have seen in some 30 years of service*” (emphasis added).

Despite this “comprehensive surveillance”, and the constant flow of information specifically about SIEV X, Bonser was unable to explain why it dried up right at the time the SIEV X sank.

After Bonser’s opening statement came the following extraordinary exchange.

*Senator Bartlett (Democrats):* I noticed in your statement—in paragraph 43—that you said you got advice on the 22nd [October, 2001] that [SIEV X] was overdue and you notified Search and Rescue. On the 23rd, you got advice from Australian Theatre Joint Intelligence Centre that a SIEV had sunk. Later that day, CNN ... reported the sinking and the rescue of survivors. Was that the first time you or any of the Australian operations were aware of survivors being located—hearing it through CNN?

*Rear Adm Bonser:* Yes, it was.

*Bartlett:* So we have got a comprehensive surveillance operation, the strongest we have ever had, and CNN could find out what was happening before we could?

*Bonser:* In this case the vessel clearly was not detected prior to its sinking.

*Senator Faulkner (Australian Labour Party):* Do you know why not?

*Bonser:* No, I do not.

*Faulkner:* Have there been any inquiries at all—internal Commonwealth inquiries—into this issue since the sinking that you are aware of?

*Bonser:* I do not know of any.

Bonser also testified that the most probable location of the sinking was “somewhere between the Sunda Strait and perhaps 80 miles south of Sunda Strait, or 80 miles south of Java”—an area, he said, that was “under surveillance from Defence and not Coastwatch” during Operation Relex. “They had ships with helicopters and aircraft there,” he added.

Later, he told the senators that the limit of Defence (ADF) surveillance was “about 30 miles south of Indonesian territory” and that Tony Kevin’s estimation of where the boat foundered “would be within the surveillance area”.

Despite this, Bonser maintained throughout that there was no “course of action that any Australian authority could have taken that would have prevented the sinking of the vessel.” He said he “disagreed” with Kevin’s allegations.

In response to further questions, Bonser admitted that Coastwatch had made no requests of any of the agencies with the capacity to detect radio communications from boats or aircraft in the area at the time “to check to see if anything they retain indicates that messages or broadcasts were

intercepted by them.”

In other words, despite the greatest loss of life at sea in the immediate vicinity of Australian territorial waters in living memory, (approximately equivalent to the crashing of a jumbo jet full of passengers) *not a single government agency or department conducted an investigation into how it happened or who was responsible.* No review was made of the information available at the time, or why it was that the 353 victims were not rescued. In recent years, drownings of fishermen and yachtsmen have, correctly, triggered coronial inquests and Senate inquiries. Extensive and costly searches have, also correctly, been mounted for a single missing yachtsman. At the very least, Bonser’s astonishing admission meant that the lives of 353 asylum seekers were considered to be simply not worth the effort of an investigation. The only other conclusion was that the government and the navy had something even worse to hide.

### **Admiral Chris Ritchie contradicts Smith and Bonser**

Two weeks later, on June 4, the incoming chief of the navy, Admiral Chris Ritchie, appeared before the inquiry to attempt to save the day for the government. With Smith’s initial testimony shot to pieces by Bonser, the navy’s top official tried to smooth over the contradictions.

At the outset, Ritchie disclosed that, during the month of October, there was actually a great deal more intelligence reporting on SIEV X than either Smith or Bonser had divulged. Other agencies had also sent messages to the navy about the boat on October 10, 11, 12 and 14. Like Smith and Bonser, Ritchie was at pains to emphasise that the information was, nevertheless, inconclusive.

Unlike Smith, however, Ritchie testified that under Operation Relex the navy *did not* send out ships to intercept SIEVs once reliable information about their departure had been received. “We put ourselves between the archipelago and Christmas Island,” he said, “and we waited for these people to come through those particular areas. All of the boats that we detected, that is how we detect (sic) them; they came through the area that we sat in.” Therefore, he told the senators, “there was no reason, no cause, nor, indeed, *no right* for Admiral Smith ... to send ADF assets into the area where the boat subsequently foundered and disappeared” (emphasis added).

Ritchie went even further. Directly contradicting the evidence of both Smith *and* Bonser, he said that Operation Relex “does not specifically trigger surveillance activity because surveillance activity is there.” According to Ritchie, ongoing surveillance took place, irrespective of the intelligence forwarded to the ADF. Aircraft were not sent to specific areas to look for SIEVs, they simply conducted general surveillance. Moreover, he testified—again contradicting Bonser—that air surveillance was *not* conducted in the area south of the Sunda Strait. That made it impossible, he said, for anyone involved in Operation Relex to have detected SIEV X. He went so far as to declare that SIEV X “is not a SIEV, as far as we are concerned.”

Ritchie also informed the Senate that, contrary to Bonser’s evidence, there had, indeed, been an inquiry into the sinking of SIEV X and the intelligence surrounding it. “There has been a review of all the intelligence that was received in a chronological order. All it shows is that there was considerable confusion as to where this boat departed from, when it departed, how many people were in it and whatever.”

But—strangely—when asked when the review was launched, Ritchie replied: “I do not know the answer to your question as to when it was done.”

How to account for this? Indeed, how to account for the totally contradictory evidence supplied by three leading naval officers? In this

relation, it is noteworthy that Ritchie had only recently been appointed by Prime Minister Howard as the navy's new chief. Was Ritchie's evidence which, taken together, placed the navy's role in the best possible light, just another high level cover-up? Was this an attempt at damage control in the face of potentially explosive admissions by Smith and Bonser?

### What Howard's PST knew

Asked in the course of his testimony on May 22 whether the matter of SIEV X had been discussed at meetings of the Howard government's People Smuggling Taskforce prior to October 22, when Coastwatch issued the "overdue" notice, Rear Admiral Bonser replied: "No, I am not aware of that at all." At the same time, he confirmed that Coastwatch was represented at all PST meetings.

Bonser's evidence dovetailed with that of Jane Halton, Howard's handpicked head of the PST. On April 16, Halton indicated—without going into the matter in any detail—that the committee knew nothing about SIEV X until October 22, three days after it sank and two days after its survivors were rescued. But on June 15 the PST's minutes were published, after the Senate ordered their release. They revealed that the interdepartmental committee discussed SIEV X at six successive meetings between October 18 and October 23. At the very first discussion on October 18, the minutes show that the committee had information on that SIEV X had departed for Christmas Island and that there was "some risk of vessels in poor condition and rescue at sea." The intelligence was described as "multi-source information with high confidence level".

The PST was set up in September for the specific purpose of monitoring and directing Operation Relax. It was charged with making all operational decisions concerning the interception and boarding of SIEVs. The revelation that the taskforce was in receipt of high level intelligence about SIEV X's departure and its unseaworthy condition *on the day it departed* raises the obvious question: why was the navy not instructed to intercept the boat? Why was no aerial surveillance ordered?

The answer is not that information about the boat was simply passed over. On October 20 the minutes note that SIEV X was expected to arrive the next day. On October 21 there is a very odd entry: "Check Defence P3 [Orion aircraft] is maintaining surveillance over *Christmas Island*" (emphasis added). So the PST, it seems, *had* directed that surveillance be carried out—perhaps the day before—but why near Christmas Island? Since the boat was known to be "in poor condition" and potentially in need of "rescue at sea" why was surveillance not ordered further back, closer to the Sunda Strait, which was still well within the ADF's general surveillance area?

By October 22 the minutes indicate that the PST assumed the boat had sunk. The chilling minute reads: "SIEV 8: not spotted yet, missing, grossly overloaded, no jetsam spotted, no reports from relatives."

Clearly, the committee expected "jetsam" and "reports from relatives". The obvious question is: if Halton and her colleagues were *anticipating* a disaster, why didn't they take action to avert it? Who made the decision not to? There is no question but that Howard and his closest political allies would have regarded a rescue at sea of 400 refugees, three weeks before the November 10 poll, as an electoral disaster. Did the committee (or someone outside it) therefore decide to simply ignore SIEV X?

Significantly, in the October 22 minute, the boat was referred to as "SIEV-8"—as opposed to Ritchie's evidence that it was "not a SIEV, as far as we were concerned". This further confirmed that the boat had been clearly identified and was being tracked by the PST.

The next PST minute on SIEV X was dated October 23. It reported the committee receiving an account of the testimony of SIEV X's survivors

(the same testimony accessed by Tony Kevin). The minutes conclude: "Vessel likely to have been in international waters south of Java" when it went down.

It is inconceivable that the PST would have failed to immediately brief Howard on the details it had gathered of the boat's fate. The PST's October 23 meeting took place a few hours before CNN's first public report of the drownings. Yet, contrary to the information contained in the PST minute, the prime minister declared on that very day: "This boat sank in Indonesian waters. We are not responsible."

The publication of the PST minutes exposed the extent to which virtually every witness called before the Senate inquiry up to then had consciously withheld evidence or lied outright. As Kevin pointed out in an article in the *Australian Financial Review* on June 21: "These minutes show that such information was available in the defence system, and to the AFP and departments such as immigration and foreign affairs [all of whom had representatives on the PST—LT]. Many officials in member agencies, briefed by their departmental representatives at PST meetings, must have known since April that false testimony was being furnished to the committee. With the exception of Bonser, none came forward. Even after Bonser, the system tried to sustain the claim that not enough had been known about SIEV X to warrant a search ..."

### A further "clarification" from Bonser

One week after the release of the PST minutes, Rear Admiral Bonser appeared again before the Senate inquiry to expand upon his May 22 evidence. In his first appearance, he had confirmed the six intelligence reports outlined in Rear Admiral Smith's letter of "clarification". Included among them was the intelligence received by Coastwatch at 9.30am on October 20: that SIEV X had set sail and that it was "small and with 400 passengers on board, with some passengers not embarking because the vessel was overcrowded." At that time—9.30am—SIEV X's survivors had been desperately clinging to life vests and planks in the ocean for some 18 hours, after witnessing hundreds of their co-passengers, including their children, other family members, friends and colleagues lose the battle to stay alive.

Bonser now testified that an Australian Federal Police officer (later identified as Kylie Pratt) had personally warned Coastwatch that the boat was grossly overloaded and feared it was in grave danger of sinking. Moreover, Coastwatch relayed this information on to Defence before 10am on October 20.

Yet, with highly reliable information that hundreds of refugees' lives were immediately at risk, both Coastwatch and the navy concluded there was no "definitive assessment that the vessel had departed Indonesia." Coastwatch therefore decided not to alert the search and rescue authorities and the navy decided not to alert the *HMAS Arunta*, lying 150 nautical miles south, (about four hours away) or any of its helicopters or P3 Orion surveillance aircraft. Moreover, as we already know, the PST's minute of October 21 made clear that Howard's committee itself had already directed that aerial surveillance be kept to Christmas Island and was adamantly insisting that it remain there.

### More incriminating evidence

Having maintained a stony silence on the fate of SIEV X and its 353 victims once the Senate inquiry began, by June 20, Prime Minister

Howard felt obliged to speak. “This attempt being made to besmirch the Royal Australian Navy in relation to this incident is appalling. To suggest that the navy stood by and allowed people to die is appalling. The navy ... had no way of acting, on the information it had, to prevent the sinking or to provide assistance to those who drowned.”

Notwithstanding Howard’s belated protestations, the contradictions and unanswered questions continued to mount. On June 21, Rear Admiral Raydon Gates, head of the defence taskforce on the inquiry, was scheduled to testify. In the wake of the debacle of Rear Admiral Smith’s testimony, Gates had been asked by Defence Minister Robert Hill to prepare a full review of all intelligence material related to SIEV X. But when the Senate called upon Gates to appear, Hill intervened to ban him from giving evidence. Another *seven* requests for Gates to testify were turned down by Hill. His justification? “Well, I don’t see that he has got any relevant information. I’ve written to the committee four times actually asking them what they want him for, and they won’t say ... I can’t see that there’s anything he’s got to offer.”

Not until mid-July did the government release Gates’ report. It included information that on the morning of October 19, just before SIEV X sank, a surveillance aircraft had flown directly above the area where the boat was travelling. The vessel foundered at around 3pm but, unusually, the plane failed to conduct the scheduled afternoon flight. Instead it had been diverted further south, apparently to substitute for the *Arunta*’s helicopter which was being repaired. According to the report, bad weather then prevented the normal evening flight. The next morning, the plane again flew directly above the now shattered SIEV X (the boat’s survivors heard and saw it) but reported no abnormal sightings.

A former senior defence official, Allan Behm, was asked by SBS TV’s “*Dateline*” program of July 17 to comment on the failure of the surveillance aircraft to “spot” the survivors. He replied: “Had the maritime patrol group of the Air Force been asked either to find that particular boat or, particularly, to have found the survivors of that vessel once it had foundered, they would have had a better-than-90% chance of finding them, I think.”

He added: “If they could find that yachtsman Bullimore [a British yachtsman competing in a round-the-world race whose boat capsized in the Southern Ocean] 1,000 nautical miles to the south-west of Australia, then I think they could have found a few hundred people floating in the water. But the fact is that they weren’t tasked to do it so far as I’m able to understand, and that’s where I think the problem actually lies.”

In other words, neither the PST nor the navy issued a directive to the surveillance aircraft’s pilot to search for a boat they all knew to be in imminent danger of sinking.

The same “*Dateline*” program obtained a set of coordinates from the Harbour Master in the port in north Jakarta, where the survivors were taken. The coordinates—almost identical to those worked out by Tony Kevin—were given to the Harbour Master by the fishermen who rescued the SIEV X passengers. They established that the boat sank 51.5 nautical miles south of Indonesia, “well into international waters and right in the surveillance area of Operation Relex” (“*Dateline*” transcript, July 17, 2002).

Finally, in late July, Colonel Patrick Gallagher commander of the Australian Theatre of Joint Intelligence Centre, the defence force’s joint intelligence centre, testified to the inquiry that defence intelligence specifically advised Admiral Geoffrey Smith, in his capacity as head of Operation Relex, on October 20 that SIEV X was a confirmed departure. Smith had insisted that no such confirmation had ever taken place. While the boat had already sunk by this time, several of its passengers were still struggling to stay alive in the sea and an emergency rescue, even at this late stage, could well have saved several more lives.

## Some political conclusions

Despite the enormity of the SIEV X tragedy and the political implications of the evidence that has emerged, it has been largely ignored by the Australian media. Until mid-June there was almost no coverage. When the extent of the lies and cover-up could be suppressed no longer, the few articles and features that did appear dismissed any possibility of criminal intent on the part of the government as exaggerated, unsubstantiated and offensive.

Cameron Stewart, writing in Murdoch’s *Australian* of June 22-23 declared, for example, that the Senate inquiry’s investigation of SIEV X was “driven initially by sensational suggestions by a former diplomat, Tony Kevin, who said the government, in seeking to deter would-be asylum seekers, had encouraged the navy to turn a blind eye to the fate of SIEV X.

“It is a grave claim, and one that is not supported by the available public evidence. Neither does any evidence support the equally grave implication that the navy knew SIEV X was sinking and refused to help.”

Likewise, the very SBS “*Dateline*” program that went to considerable lengths to expose the government’s lies came up with the conclusion that the problem was “the structure and focus of Operation Relex”. Other articles have commented that what was involved was a “fiasco”, a “cock-up of immense proportions” and a “communication breakdown”.

But there is no innocent explanation for the vast edifice of lies, distortions and misinformation constructed by the Howard government, its top advisers and key military personnel about the fate of SIEV X.

Four months ago Rear Admiral Smith appeared before the Senate inquiry and informed it, under oath, that “At no time under the auspices of Operation Relex were we aware of the sailing of that vessel until we were told that it had in fact foundered.” Not one government minister or advisor came forward to expose Smith’s blatant falsification. When Admiral Bonser did contradict it, the navy and the inquiry senators themselves worked to minimise the damage and shove the issue under the carpet. Since then, the various pieces of evidence that have been slowly extracted in the course of the investigation point to a monstrous conspiracy, carried out behind the backs of the Australian people, to deny available resources to 397 refugees, in the full knowledge that the majority would consequently drown.

The cynical argument—still advanced by senior naval figures—that the reason the refugees drowned without so much as an attempt by the navy to mount a search and rescue operation was the lack of confirmed intelligence, does not hold water.

If it *were* true, why would so many witnesses feel the need to lie and cover-up the information that *was* received? Moreover, how to account for the fact that the other 12 SIEVs travelling between Indonesia and Australia in September and October were aggressively intercepted on the basis of intelligence of no better quality.

In a July session, one of the senators put a “hypothetical question” to Commissioner Mick Keelty, head of the Australian Federal Police: “A 20-odd metre length vessel with some 400 people on board rather than the standard 200-odd, that we know over time had historically been put on such a vessel, would the AFP regard that as a safety of life at sea situation?”

Keelty replied, “If we knew those things that you said, the answer is yes.”

In other words, the intelligence that the navy did receive should have immediately sparked a rescue operation.

Any objective reading of the evidence leads inexorably to the conclusion that all of those who knew about SIEV X at the time of the drownings, including Prime Minister Howard, his ministers of Immigration, Defence and Foreign Affairs, the members of the People Smuggling Taskforce and

the military leaders of Operation Relex, have a compelling case to answer for the deaths of its 353 passengers.

But anyone expecting the Senate inquiry to issue such a finding should think again. Late last month, the Labor party indicated that the investigation had concluded and that the results would be handed down later this month. Despite having the power to subpoena witnesses and force them to testify, the inquiry senators have dutifully accommodated themselves to the government's continued stonewalling. Admiral Smith has not been obliged to reappear to explain his falsifications under oath, while Admiral Gates, author of the only review by defence of all the communications and intelligence associated with SIEV X, never appeared at all, along with many public servants and government advisers who were similarly barred by the Howard government.

Even more importantly, not one of the government ministers who spread the "children overboard" lies during the election campaign, and who closely monitored and directed the workings of the People Smuggling Taskforce in relation to all boat movements prior to the November election, has been called to account for their own role in the SIEV X debacle. Immediately after the drownings, Immigration Minister Philip Ruddock told SBS TV that the sinking of the boat and the deaths of its 353 passengers "may have an upside ... In the sense that some people may see the dangers inherent in it." That such a statement, from a minister directly responsible for the government's treatment of refugees and immigrants, could remain unchallenged, let alone investigated, speaks volumes about the utter prostration of the Labor party to the Howard government.

Denouncing Labor's role in shutting the inquiry down, the *Sydney Morning Herald's* Margo Kingston pointedly wrote: "Courtesy of Labor, a black hole of accountability has been opened which will swallow future attempts to force the buck to stop somewhere in government. Minister's staffers can order public servants to do anything, keep anything from their ministers, tell their ministers and not have to tell that to the public, in fact destroy any reasonable chance for the public to get near the truth of scandals."

There is no question but that Labor's cowardly decision makes a mockery of the inquiry as anything remotely resembling an independent investigation. From start to finish, the Howard government has operated with complete impunity. The Labor party backed its response to the *Tampa* episode and the introduction of legislation directing the navy to forcibly turn back boats. Labor then supported Operation Relex, a campaign specifically launched to victimise, intimidate, and ultimately assault defenceless refugees to prevent them from exercising their fundamental democratic right to seek asylum.

It is now becoming clearer just how far the government was prepared to go to block the entry of asylum-seekers and, thereby, lift its prospects in the forthcoming election. But, had Tony Kevin not conducted his own investigation into the SIEV X drownings and submitted his conclusions to the Senate inquiry, the whole matter would have been completely ignored.

Behind the Howard government's vicious methods, and Labor's abject capitulation to them, lies a political system that is rotten to the core. As the Socialist Equality Party pointed out on October 31 in its 2001 election statement, the election campaign marked a fundamental turning point: "In their unified descent into open state thuggery against thousands of desperate 'boat people', both parties have revealed their true colours. Neither Howard nor [former Labor leader] Beazley has any solution to the economic and social crisis facing working people. Unable to address the fears and insecurities created by their own policies, they turn on the most vulnerable sections of society. The most recent drowning tragedy, which was obscenely welcomed by Immigration Minister Philip Ruddock as a salutary lesson to other potential arrivals, is a direct outcome of their bipartisan refugee policy. It will not be the last."

With the complicity of the media and the Labor party, the Howard

government has been allowed to flout the most basic democratic norms and procedures behind the backs of the Australian population. The "children overboard" inquiry provides a glimpse into the extent to which it has utilised the state apparatus—the military, military intelligence, the federal police and associated agencies, as well as top public servants—to achieve its sordid political ends.

This must sound a sharp warning. While the government has been able to thumb its nose at any genuine investigation into the circumstances surrounding the SIEV X tragedy, and politicians from both sides of parliament prepare to sweep under the carpet the critical issues it has raised, the working class cannot afford to do likewise.



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