Australia illegally detains Sri Lankan refugees in prison ship

Mike Head
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Shocking images and testimony have emerged of the barbaric and illegal conditions under which 153 Sri Lankan Tamil asylum seekers, including 37 children, have been incarcerated onboard an overcrowded Australian Customs boat for a month.

Prime Minister Tony Abbott, Immigration and Border Protection Minister Scott Morrison and other members of the Australian government have repeatedly refused to say where the refugees are, or what the government intends to do with them.

In an unprecedented military operation, the asylum seekers are thought to have been detained, floating somewhere in the Indian Ocean, since their refugee boat was intercepted by the Australian navy near the Australian territory of Christmas Island, after setting sail from the southern Indian port of Pondicherry on June 13.

A photograph of the narrow canvas bunks—stacked in banks of four in narrow aisles—inside the windowless hull of the Customs vessel Ocean Protector, in which the refugees are believed to be detained, shows that the conditions are even worse than in prisons or land-based detention camps.

Detention in this inhuman regime is clearly in violation of international law—not just the Refugee Convention but also the covenants against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and against the deprivation of fundamental civil, political and human rights.

A document filed by the refugees' lawyers in the Australian High Court this week reveals that they are being kept locked up in windowless rooms, with men kept apart from their families against their will. They have not been told where the Australian government is planning to take them.

The detainees have no freedom of movement, can only leave their rooms in the presence of guards, and do not know who the guards are, the document states. It also reveals that their possessions, including any mobile phones, were seized when they were detained, and asserts they are being denied "reasonable access" to legal advice.

The statement of claim submitted to the court confirms that the asylum seekers have been denied their basic right to apply for protection visas, and denied access to a qualified translator, despite almost all being unable to speak English. Immigration officials only requested information such as names, dates of birth and addresses, not their reasons for fleeing from Sri Lanka and India.

The document specifies that lawyers will challenge the legality of the detentions on the vessel, and also argue that any decision to return the asylum seekers to Sri Lanka or detention in one of the Australian detention camps on Christmas Island, Nauru or Papua New Guinea's Manus Island would be unlawful.

The statement of claim says the government has no power to take the refugees to a place, other than Australia, against their will. However, it does not challenge the legality of the detention camps, which were reopened by the previous Labor government.

At a High Court hearing last week, Solicitor-General Justin Gleeson, representing the government, argued that because the 153 people were intercepted outside Australia's territorial waters, they had no rights whatsoever under Australia's Migration Act. That included the right to apply for asylum and to have their applications heard in line with the rules of procedural fairness.

Instead, the government insisted, the refugees were being detained under vague and arbitrary executive powers. This claim was first asserted in 2001—and

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rubberstamped by the High Court—when the previous Howard government forcibly removed 433 asylum seekers rescued by the Tampa, a Norwegian container ship, to Nauru.

The High Court, Australia's supreme judicial authority, has yet to decide whether to hear the current case. Even if it does, the full bench is not expected to convene before August 5, or hand down a ruling for weeks—leaving the refugees imprisoned for many more weeks to come.

At a directions hearing yesterday, Justice Kenneth Hayne gave the government's lawyers until Monday to file their defence.

In the meantime, the government has only given an undertaking not to hand the detainees back to the Sri Lankan military and government without giving 72 hours' notice to the court.

In 2001, the Howard government breached a similar undertaking to bring the Tampa refugees back from Nauru if the courts ruled against them. By the time the case got to the High Court, the judges washed their hands of it, on the grounds that the detainees were then out of Australia's jurisdiction.

After the 153 refugees were first intercepted, Abbott, Morrison and other government ministers refused to answer any questions about their fate, citing the need for secrecy in Operation Sovereign Borders, the codename given to the extensive military operation underway to repel or tow back all refugee boats.

Once the case was placed in the hands of the High Court, the government's leaders cynically switched their story, declaring that no questions could now be answered because the issue was before the court.

The only reason for the intensive coverup is to hide the truth. The Australian government, following in the footsteps of the last Labor government, which consigned refugees to indefinite detention in hellhole camps on Nauru and Manus Island, is committing gross violations of fundamental legal and democratic rights.

The fascistic methods being used against asylum seekers, some of the most defenceless members of the international working class, are a warning of the kinds of measures being prepared for wider use against workers and youth as social conditions deteriorate.

The Australian government has already demonstrated its readiness to flout even the most essential principles of international law, such as the Refugee Convention's core ban on refoulement, by handing back asylum seekers into the arms of the regimes whose persecution they are fleeing.

A separate boat carrying 41 Sri Lankan refugees, Tamil and Sinhala alike, was intercepted near the Australian Indian Ocean outpost of Cocos Islands and transferred to the Sri Lankan navy. At least five of those asylum seekers are now languishing in a high-security prison, while the others, although released on bail, face possible lengthy jail terms on charges of illegally leaving Sri Lanka.

Immigration Minister Morrison displayed the thuggish mentality of the ruling elite when he denounced Labor politicians in parliament this week as "dandelions" and "jellyfish" for even asking the whereabouts of the 153 people thought to be on board the Ocean Protector.

The fact is that the outrages now being perpetrated against the Sri Lankan asylum seekers are the product of years of relentless anti-refugee witch-hunting by Labor and Liberal-National governments alike, and their equally bipartisan collaboration with President Mahinda Rajapakse's brutal regime in Sri Lanka.

The Socialist Equality Parties in Australia and Sri Lanka call on the working class to come to the defence of the refugees (see: " Oppose Australia's handover of refugees to Sri Lankan navy ").

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