

Australian government seeks to block High Court case on offshore detention centres

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19 October 2015

For the second time in four months, the Australian government, now led by Malcolm Turnbull, is brazenly attempting to prevent a legal challenge to its policy of transporting asylum seekers to be incarcerated in camps on remote islands.

Australia's High Court held a hearing last week in Canberra that challenged the legality of the indefinite detention of people in the "offshore processing" facilities on Nauru and Papua New Guinea's Manus Island.

The Human Rights Law Centre brought the case on behalf of a Bangladeshi woman who was transported to Australia last year from Nauru for medical treatment. She now has a 10-month old baby and is terrified of returning to Nauru.

Her lawsuit has broader implications, potentially affecting hundreds of refugees trapped on Nauru and Manus. Some 200 detainees from Nauru, or other offshore detention centres, are in Australia to receive medical treatment or to have a baby. They are also facing the prospect of returning to forced imprisonment, and other appalling conditions, on Nauru or Manus Island.

After the case was first heard on June 3, the Liberal-National government pushed a bill through parliament to block any legal challenge to its "border protection" regime of barring entry to all asylum seekers who arrive in Australia by boat.

Reportedly at one minute to midnight the day before the second hearing of the case was due, Tony Abbott, then the prime minister, called Labor Party opposition leader Bill Shorten who pledged bipartisan support for the bill. Shorten claimed it was "in the national interest."

As the WSWs explained: "The passage of the refugee bill was itself a brazen display of lawlessness.

It specifically sought to block a High Court challenge currently underway by asylum seekers to the legality and funding of the offshore detention regime. The explicit purpose of the Migration Amendment (Regional Processing Arrangements) Bill 2015 was to strip detainees of any legal right to challenge their inhuman treatment."

In a further act of lawlessness, 48 hours before last week's hearing, Nauru's government announced that it was "ending" detention. It claimed it was adopting an "open centre" model, allowing asylum seekers to move "freely" around the island. This "model" was recommended by a recent Australian Senate report, designed to mask the government's responsibility for the abuses at the refugee camp.

The Nauruan government also announced that all 600 asylum seekers on the island would have their applications for refugee status processed by the end of last week, a promise that was not met.

These decisions are not made independently by the Nauruan government, but are overseen by the Australian government, which funds and controls the detention centre and provides aid to Nauru in return for its government hosting the facility. It is clear that Nauru's announcements were timed to derail the High Court hearing.

Immigration and Border Protection Minister Peter Dutton asserted that Nauru's move had nothing to do with the legal case. In an interview on the Australian Broadcasting Corporation (ABC) "Lateline" program, Dutton stated: "It's not just an announcement 48 hours before a court case. There are High Court cases, court cases, going on all the time between advocates and the Federal Government, between advocates and other parties, and these matters continue to roll through the courts."

Yet two days later, Commonwealth Solicitor-General Justin Gleeson argued in the court that the case should be thrown out because the “open centre” model meant the “question had fallen away.” Gleeson stated the government’s “primary submission is there’s now nothing left in this case where the court could give relief in respect to the future because of those facts.”

The High Court judges said they would reserve judgment on the case, with a further hearing set down for early November.

Immediately after the hearing, the Nauruan government backtracked on its pledge to process the 600 asylum seekers by last week. At least 200 people would wait for weeks. The new processing timeline would not apply to people “who are overseas for medical transfers,” it said.

Fairfax Media reported that an unnamed Nauruan government official stated that approximately 75 percent of refugee claims would be accepted, while the other 25 percent, some 150 people, would likely be told to return to the country they fled. Those who were given refugee status would not be admitted to Australia but would be “settled” on Nauru.

The Labor Party once again backed the government, endorsing the “open centre” model. Shadow immigration minister Richard Marles said: “Labor has consistently said that the Liberal Government should be working with the Nauruans to ensure that all asylum seekers have access to safe, dignified and humane refuge. We welcome the decision to make the facility more open.”

There is nothing humane about the conditions facing refugees on Nauru. The island has effectively been transformed into a prison camp, refugees are routinely subjected to vilification and assault, including by camp guards.

Nauru is the smallest island nation in the world with a size of just 21 square kilometres (about 8 square miles) and a population of approximately 10,000. Far from being an island paradise, it has a legacy of poverty and economic backwardness from a history of colonial exploitation as a phosphate quarry, first by Germany, then Britain, Australia and New Zealand.

The island’s landscape was transformed by mining from a lush tropical island into a barren wasteland. Then in the 1990s, after the deposits were exhausted and mining fell away, the country’s government lost

millions of dollars in business ventures, plunging the country into poverty. As of 2012-13, official unemployment stood at 41 percent and the average life expectancy was just 58 for men and 64.9 for women.

Nauru’s government has sought to direct the hostility of the population to these worsening living conditions against the refugees, leading to numbers of assaults. In the past week alone, a Somali woman was allegedly raped by two Nauruan men and two 17-year-old boys were reportedly attacked by a group of Nauruan men.

The cynicism of the Turnbull government’s attempt to cover over the illegality of its “offshore processing” facilities underlines the reactionary character of the bipartisan “border protection” policy. It is a regime that mobilises Australia’s military-police state apparatus to prevent the entry of oppressed people, and consign them to inhuman conditions.



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