

Australian government moves to axe legal rights for mass deportations to Nauru

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Yesterday, for the second time this week, the Australian Labor government launched previously unannounced measures to overturn basic legal and democratic rights. Its immediate aim is to consign up to 400 former immigration detainees to the impoverished tiny Pacific island of Nauru, a former British, Australian and New Zealand colony.

Prime Minister Anthony Albanese's government is setting far-reaching precedents, initially directed against refugees and immigrants, that parallel or go beyond those being pursued by other capitalist governments internationally, spearheaded by the Trump administration in the US and the Starmer government in the UK.

Without any prior notice, Home Affairs Minister Tony Burke made a snap visit to Nauru on Friday to sign a \$408 million-plus deal to allow the Albanese government to start deporting to the remote island hundreds of people, including asylum seekers, who had been released from indefinite detention in November 2023 as the result of a High Court case known as NZYQ.

Burke's office silently uploaded a cursory statement to the Home Affairs website on Friday afternoon, providing no details. It simply stated that Burke had met with Nauru's President David Adeang, cabinet and entire parliament to sign a memorandum of understanding. Under the deal, Nauru, with a population of just 12,000 people, will take ex-detainees who had been freed by the ruling in NZYQ v Minister for Immigration.

A transcript from the Nauru parliament's session on Friday showed that Australia committed an upfront \$408 million to Nauru, and will keep paying about \$70 million each year to cover the ongoing costs of "resettlement."

Bullied by Australia, Nauru's government had previously "agreed" in February to grant 30-year visas to victims of this policy. They will be consigned to live under a supervised regime, potentially for life, supposedly with vague shared accommodation and working rights.

On Tuesday, equally without public warning, the Albanese government introduced a bill into parliament to abolish the right of procedural fairness—the fundamental right to a fair hearing—for the ex-detainees and for anyone else facing removal to a location where the government has similar "third country reception arrangements."

Burke told parliament: "Procedural fairness is a fundamental principle in many areas of decision-making, however, these provisions can and are being used by non-citizens to frustrate their removal at cost to the Commonwealth in circumstances where it is neither necessary or appropriate for it to continue to apply."

That logic opens the door for the abolition of hearing and due process rights, and other basic democratic rights more broadly, wherever the government wants to expunge the ability of its victims to challenge its decisions.

In fact, the bill seeks to scrap procedural fairness rights, with retrospective effect, on all issues relating to any "third country" deportation plans. It also aims to limit the power of the relevant tribunal, the Administrative Review Tribunal, to overturn a minister's decision to deny or cancel a visa on "character" grounds.

Even the official Human Rights Commission expressed concern yesterday. Commissioner Lorraine Finlay stated: "These amendments strip away one of the most basic legal protections of a fair society: the right to be heard. They would allow the government to remove someone to a third country without giving them a meaningful opportunity to respond to a decision that has significant consequences for their life, safety, health and family."

But the bill's official explanatory memorandum blatantly dismissed such reservations. "To the extent that the measures in these amendments limit human rights, they do so in order to maintain the integrity of the migration system," it stated.

The government's moves could see around 350 former detainees quickly rounded up for a new version of indefinite detention—first inside Australian detention facilities and then on Nauru. They had been released in 2023 after the High Court ruled that it was unconstitutional to indefinitely imprison people who could not be deported because no other country would take them.

A previous bill passed last year means that if a "third country" offers an ex-detainee a visa, their current Australian visa would be automatically cancelled and they would be sent back into immigration detention.

Axing the right to procedural fairness would mean that the ex-detainees can be forcibly removed to Nauru, or any other contracted "third country," without any form of hearing or due process.

That is regardless of whether those "third countries" are signatories of the international refugee convention, which prohibits removal back to countries that refugees had fled, fearing death or persecution.

The High Court's NZYQ ruling involved a stateless Rohingya man, identified only as NZYQ. The judges partially overturned a shocking near-20 year precedent set by the High Court of permitting indefinite detention of non-citizens. In NZYQ, the judges said detention amounted to punishment, which only courts can inflict under the Australian Constitution, but said it would still be constitutional to lock up people where there was a real prospect of removal to another country.

The Albanese government's more than \$400 million pledge to Nauru is on top of a \$100 million deal it earlier signed with Nauru's government, despite opposition from Nauru's population, to reopen a notorious Australian-funded refugee detention facility.

That virtual concentration camp had originally been established as

part of the 1996–2007 Howard Liberal-National government’s “Pacific Solution” to imprison asylum seekers on remote islands in Nauru and Papua New Guinea, both former colonies. That “solution,” which Labor backed, set a global model for extinguishing the rights of the growing numbers of refugees and others trying to flee the oppression, impoverishment and military violence that has its roots in imperialist exploitation and plunder around the world.

According to Amnesty International, there were about 100 people in the Nauru detention centre at the start of this year. On August 1, the Asylum Seeker Resource Centre reported an outbreak of painful and debilitating mosquito-borne dengue fever among the refugees, on top of other physical and mental health problems. The centre voiced fears for their safety because of Nauru’s fragile health system, reporting: “The people seeking asylum are surviving on a stipend of \$230 a fortnight, and are unable to afford or access mosquito nets and repellent to protect themselves.”

The Labor government’s moves this week mark its fifth and most sweeping step, backed by the Coalition, to thwart the High Court’s NZYQ ruling and hence the constitutional bar to indefinite detention, and to terminate all legal challenges currently underway against its Nauru plan.

Labor’s previous measures included far-reaching “preventative detention” laws that proved difficult to implement, and powers to impose ankle bracelets, curfews and other police-state restrictions on released detainees. But the High Court then ruled that these latter restrictions were another form of unconstitutional indefinite punishment.

Despite popular opposition, Labor and the Coalition also joined hands to pass three anti-immigrant bills. One was a potential mass deportation bill. Immigration officials admitted that more than 80,000 people on bridging or temporary visas could be expelled from the country under its provisions

The second bill ordered migrants being expelled from the country to “cooperate in efforts to ensure their prompt and lawful removal,” or they could be imprisoned repeatedly for up to five years. The third bill provided the government the power to confiscate mobile phones from detainees, to prevent them from communicating with the outside world.

All these moves have been accompanied by bipartisan and corporate media scaremongering, demonising the detainees as “serious criminals,” murderers and rapists. Many are traumatised refugees, and all have completed any prison sentences they received for earlier convictions. If they were citizens, they would not be incarcerated.

Why Nauru?

Nauru was ravaged by decades of colonial phosphate mining, leaving many of its people destitute and now facing the danger of being swamped by the rising ocean levels produced by global climate change.

Researchers estimate 80 percent of Nauru has become uninhabitable due to mining, and local authorities believe that rising tides will force 90 percent of its residents to relocate to higher ground. Its government has become so desperate that it is selling \$160,000 “golden passports” to wealthy foreigners to raise cash.

In response, the Albanese government is intensifying the Australian

ruling class’s neo-colonial pressure, and not just on becoming a dumping ground for immigration detainees.

Last December, in return for a pittance in aid, the Labor government imposed a pact on Nauru that gives Australian governments veto powers over Nauru’s diplomatic and foreign policy, and will dominate its financial and communication infrastructure.

Similar “agreements” with Australia were inflicted last year on two other former strategically-located colonies, Papua New Guinea and the small island state of Tuvalu, all on the condition that they line up unequivocally with the US-led and Canberra-enforced confrontation with China.

The Labor government is now rushing to get parliament to ratify the Nauru treaty, raising an alarm that a \$A1 billion (\$US648.85 million) Chinese investment proposal could breach its provisions. Under that proposal, the China Rural Revitalization and Development Corp would help develop Nauru’s renewable energy, phosphate industry, fisheries, water, agriculture, transportation and health sectors.

Labor’s role is not an aberration. The Labor Party was founded in the 1890s on the racist White Australia policy of excluding non-European migrants. In recent decades, Labor has headed attacks on asylum, including the introduction of mandatory detention for all refugees in the 1990s and the reopening of offshore detention camps in 2012.

Since the 1990s, both Labor and Coalition governments have set leads for other governments to shut their doors, block refugee boats, detain asylum seekers and either return them or transport them to grim isolated locations.

Today, the Labor government is also slashing the numbers of immigrants and international students, blaming them for the deteriorating social conditions produced by capitalism’s economic and cost-of-living crisis, and the channelling of billions of dollars into military spending amid the US-backed Gaza genocide and the preparations for war against China.

This amounts to a poisonous nationalist drive to divide working people, domestically and globally. To defeat it means fighting for the international unity of working people, including refugees, in the common struggle against capitalism and for socialism.



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