

Australian government transports ex-detainees to Nauru to thwart High Court ruling

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Yet again, the Albanese Labor government is effectively defying a High Court ruling to stop illegally punishing ex-immigration detainees, now by increasingly removing them to the tiny remote Pacific island of Nauru, a former British, Australian and New Zealand colony.

Last Wednesday, the country's supreme court struck down as unconstitutional punishment the most recent bid by the government to keep ex-detainees shackled in ankle bracelet monitors and subject to curfews, after the court had already ruled the entire regime unlawful in 2024.

For the second time, the judges ruled that the shackling and curfew regime—even if slightly modified by ministerial regulations issued by Home Affairs Minister Tony Burke to try to evade the 2024 verdict—violated the separation of powers in the 1901 Australian Constitution, which reserves to the courts the power to inflict criminal punishment.

Burke immediately declared that the government would dodge the latest ruling by accelerating its dumping of the refugees and other non-citizens on Nauru, whose government last year agreed to place the ex-detainees on 30-year visas in return for an Australian government upfront payment exceeding \$400 million, plus \$70 million a year.

“Fortunately we now have the agreement with Nauru, because the best thing for people who have had their visa cancelled is to not be in this country,” Burke said in reaction to the High Court's judgment, against which the government's lawyers had strenuously argued in court.

Labor's response marks another blatant violation of basic legal and democratic rights, combined with brutal treatment of asylum seekers and immigrants, and a resort to neo-colonial methods.

Prime Minister Anthony Albanese's government is setting precedents that match those being pursued by other capitalist governments internationally, spearheaded by the Trump administration's fascistic Immigration and Customs Enforcement (ICE) raids in the US.

For the past two and a half years, the Labor government

has gone to ever-greater efforts to demonise, re-detain, shackle or deport about 350 people, including asylum seekers, whom it had been forced to release from indefinite immigration detention in November 2023 as the result of a High Court case known as NZYQ.

That case overturned a notorious regime—maintained for nearly two decades by Labor and Liberal-National Coalition governments alike and sanctioned by the High Court itself—of incarcerating non-citizens indefinitely if they could not be deported, usually because they were stateless or their previous home countries would not accept them.

In NZYQ, however, the judges said it would still be constitutional to lock up people where there was a real prospect of removal to another country, which now includes Nauru.

Last week's ruling was a challenge by a Papua New Guinea citizen, referred to only as EGH19. As an immediate outcome the government must end the shackling and curfewing of people in the NZYQ cohort. But it will place them under a new reporting and monitoring regime—the legality of which is unclear—until they can be removed to Nauru.

Above all, as indicated by Burke, the government will ramp up its operation to remove them to Nauru, regardless of ongoing or likely legal challenges to the deportations. Government sources told corporate media outlets that six people had already arrived in Nauru since last year's 30-year visa deal. A further 27 people had Nauruan visas approved—which allows them to be re-detained under Labor's laws—while 27 more had their visa applications sent to Nauru for consideration.

In 2023, the Labor government also reopened the barbaric refugee detention facilities in Nauru, originally established by the Howard Coalition government in 2001 as part of a “Pacific Solution”—a world first in imprisoning asylum seekers on remote islands.

Nauru has become a desperate neo-colonial dumping

ground. With a surviving population of only around 12,000 people, Nauru was impoverished by decades of phosphate mining under colonial rule before nominal independence was granted in 1968. The mining has left about 80 percent of the small island uninhabitable and rising sea levels caused by global climate change are forecast to force 90 percent of its residents to relocate.

The Albanese government has also stripped the basic right of procedural fairness—the right to a hearing—from people being consigned to Nauru or any other designated “third country,” setting a wider precedent for potential use against more than 80,000 other people living in Australia on insecure temporary visas.

Labor tried to evade the 2024 High Court ruling by amending Migration Regulations to set a nominally higher threshold for Burke, as the home affairs minister, to impose shackling and curfew conditions on a visa holder. But Burke only needed to be “satisfied” that the person posed a “substantial risk” of “harming any part of the Australian community by committing a serious offence” and it was “reasonably” necessary and appropriate to do so.

Non-compliance with either a shackling or curfew order was punishable by imprisonment for up to five years. The High Court held that these regulations were just as punitive and therefore unconstitutional as the previous ones struck down in 2024.

The Labor government’s moves this week mark its sixth attempt, backed by the Coalition, to thwart the High Court’s NZYQ ruling and to terminate all legal challenges against its Nauru plan.

Labor’s previous measures included “preventative detention” laws that proved difficult to implement, as well as powers to impose ankle bracelets, curfews and other police-state restrictions on released detainees.

Despite popular opposition, Labor and the Coalition further joined hands last year 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” with their prompt removal, or they could be imprisoned repeatedly for up to five years. The third bill gave the government powers to confiscate mobile phones from detainees, to prevent them from communicating with the outside world.

These moves have been accompanied by bipartisan and media scaremongering, branding detainees as “serious criminals,” murderers and rapists. In reality, 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.

Earlier this month, having joined an illegal war in which the US and Israeli governments are pulverising Iran and Lebanon, killing thousands of people, the Labor government also rushed a bill through parliament to block entry to anyone trying to flee to safety, even if they hold a valid visiting visa.

This takes Labor’s historic anti-refugee record—from the Keating government’s pioneering of the introduction of mandatory detention of asylum seekers in 1991—to new depths of reaction.

A direct parallel exists between Labor’s measures and those of the Trump White House in rounding up thousands of working-class people and throwing them into detention prisons for deportation to horrific locations without any due process, blaming them for deteriorating social conditions.

Increasingly, amid a spiralling cost-of-living and housing crisis, Labor has also scapegoated refugees, together with other immigrants and international students, seeking to outflank the Coalition and the far-right anti-immigrant One Nation by slashing intake numbers.

On every continent, the media and political establishments are seeking to whip up anti-immigrant sentiment, nationalism and patriotism to divide the working class globally, now under conditions of a war in the Middle East that threatens to ignite another world war. They are seeking to divert the growing discontent with plummeting living and working conditions away from the real source—the staggering accumulation of wealth by the billionaires and the underlying capitalist profit system itself—now compounded by war.

Workers and young people must oppose this poison. They must defend the basic democratic right of people to live and work wherever they choose, with full social and citizenship rights. This is an essential component for the fight for a unified mass movement of the working class worldwide against war and for the establishment of workers’ power to reorganise society on a socialist basis, for human and social need, not corporate profit.



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