

**United Nations finds Australia commits 143 violations
of international law by illegally detaining refugees
for four years in ASIO security cases**

22 August 2013

Today the **UN Human Rights Committee** in Geneva found that Australia has committed 143 serious violations of international law by indefinitely detaining 46 refugees for four years, on the basis of their 'adverse security assessments' issued by ASIO. Australia breached its obligations under a binding treaty accepted by Australia, the *International Covenant on Civil and Political Rights* (ICCPR). Specifically the UN found:

- 46 cases of **illegal detention**, because Australia did not individually justify their detention, inform them of the specific reasons why they threatened security, did not use less invasive means of addressing any security risks, and did not afford them adequate legal safeguards;
- 46 instances where the refugees had **no effective judicial remedies for illegal detention**, because the Australian High Court has previously said that indefinite detention cannot be challenged;
- 46 cases of **inhuman or degrading treatment in detention**, because the arbitrary nature of the refugees' detention, its protracted or indefinite nature, the lack of information or procedural rights provided to the refugees, and the difficult conditions of detention, are cumulatively inflicting serious psychological harm on them.

The UN Committee has directed Australia to provide the refugees with an **effective remedy**, including **release from detention on appropriate conditions, rehabilitation and compensation**. It also asked Australia to **prevent future violations** to **review its migration laws**. The UN has also asked Australia to report to it within 180 days on the steps it has taken to remedy these violations of international treaty law.

This is the largest complaint ever made against Australia to the UN Human Rights Committee. The freedoms from arbitrary detention or inhuman or degrading treatment are among the most important of all human rights, after the right to life. **These are exceptionally grave violations of international law by Australia.**

The refugees were represented pro bono by Professor Ben Saul, Professor of International Law at The University of Sydney and barrister, on instructions from the refugees and their lawyers (including Stephen Blanks, Julian Gormly and Jo Murphy).

Professor Saul said: "These decisions demonstrate the grave lawlessness of Australian policies on refugees. This is a major embarrassment for Australia, which is a member of the Security Council and often criticises human rights in other countries. Australia should now do the right thing by respecting its international obligations and treating people decently. Australia does not indefinitely detain dangerous Australians without charge, and it should not lock up foreigners either. Australia must release them."

The cases were lodged in August 2011 and February 2012 by 46 detained refugees who received adverse security assessments from ASIO.

The UN Human Rights Committee has power under the Optional Protocol to the ICCPR to consider individual complaints lodged by people in Australia against action by the Australian government. Australia consented to the complaints procedure and participated in the proceedings in these cases.

The UN Human Rights Committee is a quasi-judicial body of independent experts. Its decisions are not strictly legally binding, but are regarded as authoritative legal interpretations of Australia's binding obligations under the ICCPR. Australia is required by international law to implement its ICCPR obligations.

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