

## **IMPRISON AND DETAIN | 24 MAY 2001**

### **MAQSOOD ALSHAMS | Honourary National Coordinator, Justice for Refugees**

Ladies and Gentlemen,

I thank you very much for inviting me to speak here today on the longstanding plight of asylum seekers and refugees. I sincerely appreciate your interest to be informed and probably to be active on the cause and issues concerning social justice and human rights for all in Australia and the world.

My name is Maqsood Alshams. I am an asylum seeker from Bangladesh and a full-time volunteer/activist of the 'Justice for Refugees'. I am also known as the 'Sun Herald's 63,000 Dollars Man' discovered in September last year. The story of that dollar-man-hood I will discuss after my speech as an answer to your question, if it is come across.

In the mid 1995 while I was working as the Regional Director and Bureau Chief of a potentially important news wire service patronised by the Bangladesh Nationalist Party and also as their adviser, I was forced to leave my country fearing safety of my life due to the death threats and armed attacks on me by opponent political terrorists. Violence in the politics are very common problems in the third world countries like Bangladesh.

Due to my active and significant political role with the Bangladesh Nationalist Party for the last 20 years, I am not at all safe there and which prompted me to seek Protection in Australia afterwards. I was not aware that Australia's Refugee and Humanitarian Program is somewhat politically motivated. Although there are compassionate, fair officers are working in the Department but their voice does not make any effect in the whole racist political influence.

Anyway, the Department's Case Officer refused my application for a protection visa without bothering to interview me just by showing some vague and inconsistent reasons.

It is to be mentioned that the primary decision-maker of Protection Visa Applications, DIMA Onshore Protection section does not have an efficient work force to look after the various asylum claims nor does have the adequate knowledge on the specific country situation and sociopolitical background.

I can say that for sure by seeing the way my case being dealt. I have had an opportunity to look into the criteria defined by the department to get a job as a Case Officer. Applicants are not required to be an expert on the Refugee Law and on the Refugee Determination Process and not necessarily to be a Graduate on the related field of studies from a recognised University. The cruel fact that these officers are involved in deciding the most sensitive question of every individual Asylum Seekers life and death.

During my sixteen months of incarceration I have had an wide opportunity to look into many cases of my former inmates and often found those decisions

are full of errors and reflects a high degree of hostile and anti-refugee attitude of the DIMA. It is probably the best to say a trend of 'fitting into the box' but not a proper system or procedure. It may be wise for the DIMA to hand-over 'Refugee Matters' to an absolutely independent body which should be free from any kind of influence of the Department and politics.

Harsh reality is that those unfortunate asylum seekers have no right or none of the Australian Courts have the jurisdiction to intervene into those arbitrary decisions and prolonged detention. Court can only review on the point of whether any legal or procedural error has been made by the Second Stage Review Body called Refugee Review Tribunal [RRT].

As I and you may well be aware that RRT is an Independent Body under the complete control and racist influence of the Minister for Immigration and Multicultural Affairs.

In my personal experience of appearing before the RRT, I have found that the concerned member acted on a prejudiced manner with preconceived ideas and concepts based on the influence of DIMA and departmental files. Members' minds are not open for persuasion based on the evidence of the case. It is perceived to me as a 'Court of Ali-baba Regime', I was told the Australian term 'Kangaroo Court' which acting on the wish and will of their emperor.

For your information I have had an opportunity to attend RRT hearing three times only in six months time. At the second occasion concerned member rudely attacked the Amnesty International Australia and its National Refugee Coordinator, asking why they should write letters to RRT outlining their concerns on behalf of the individual asylum seekers.

At the third and first occasion I was wondering and getting confused whether am I being interviewed by a DIMA Compliance Officer regarding my Passport and Visa or by a respected Member of RRT to determine as to whether 'I'm a Refugee' or not according to the Convention definition.

Ultimately member rejected my appeal after eight months showing that of my non-compliance with the visa conditions and merely because I did not apply for a refugee status at the very early stage, I am not a refugee. Given that I was holding a valid visa at that time and I was not in any form of threat to be deported directly to my country of nationality to be persecuted there. In spite of the fact that I have spend the whole period in detention without having any of mercy and compassion of release from the custody of DIMA.

Above all the concerned member's depth of knowledge on the specific country situation naturally arises an inescapable question in my mind; 'Does these jobs really come through 'Equal Opportunity Basis' or just handed down to somebody because of political reasons' to justify their taxpayers' funded existence?

After RRT's refusal I've appealed and appeared before the Federal Court of Australia to review the decision of RRT. Honourable Judge was perplexed with the decision and comments of RRT Member and did not agree with the findings. Court found that I'm in risk of harm from my political opponents. There is a real chance of persecution and a genuine fear of persecution but the case is not reviewable under Section 476 of the Migration Act as there is no error of law.

Three Judges in the Full Bench of the Federal Court of Australia stated that at the manner of investigating this case, 'RRT was unpardonably rude and offensive' towards the applicant. Full-Court found it was fit for severe criticism but the case is not reviewable due to the limits of jurisdiction. I have an appeal now at the High Court to be heard sometime this year.

I also appealed to the Honourable Minister for Immigration and Multicultural Affairs to allow me to remain in Australia on humanitarian grounds under Section 417 of the Migration act. Minister refused, and a second application for ministerial intervention has been sent by the Amnesty International Australia in December last year. It is very unlikely, while I am involved in various campaigns focussing DIMA and MIMA's in-consistent administrative procedure, he will have any mercy and compassion to intervene, especially in my case.

I believe you are well informed about the recent incidents and ongoing circumstances surrounding various refugee camps throughout Australia. Facts from Woomera, Port Hedland, Villawood and other detention centres indicates that there are something wrong with the government's policy of mandatory detention of asylum seekers.

I, as a dedicated volunteer in the struggle to establish my rights often have the opportunity to exchange views with the people from the diverse Australian communities and ethnic backgrounds. I do gratefully acknowledge and appreciate that in this point that each and every Australian is united in saying that "no one is willing to accept any violation of human rights in this lovely country".

Fact that the mandatory detention and arbitrary imprisonment of asylum seekers at the outback of various 'medium security prisons' is clearly an unambiguous breach of Australia's human rights obligation. Australian Government's policy of Mandatory Detention and mistreatment of asylum seekers has been accurately documented and severely criticised by various national and international bodies including the Human Rights and Equal Opportunities Commission (HREOC), United Nations Human Rights Commission (UNHRC), United Nations Committee on Racial Elimination and Discrimination and many others.

Recent findings from the inquiry headed by Mr Philip Flood is critical to Government's actions. Many Australian Judges, Politicians and other renowned personalities including former Prime Minister Malcolm Fresser, Former HREOC Cris Sidoti and Justice Marcus Einfeld publicly expressed

their grave concern on the arbitrary and prolonged detention of asylum seekers. ABC, SBS, Sydney Morning Herald, The Australian, The Age, Herald Sun, Sun Herald and as a whole the Australian progressive mainstream media recently made a broader focus, revealed truth and clearly reflected on the Australian people's one and only demand "No One's Human Rights Should be Violated in Our Land". But Liberal Government's racist position is absolutely unmoved.

Ladies and Gentlemen, While I am standing here and pleading before you to provide me a safe home by the touch of your Great Australian mercy and compassion, at the same time I am seeking your kind intervention to ensure my adequate security and protection in your great land. I am severely intimidated and exasperated due to the suppressive attitude of your Government. I can easily feel that I am under surveillance only because I have spoken out in public and informed the Australian people of what is going on behind the barbed wire fences and concrete walls under the pretence of border security and protection.

In the presence of the people here today, with due respect; May I ask the Government's Minister and his Department "What you are offering tous here in Australia: Protection or Punishment"??? Fact that four thousand people are arbitrarily detained including four hundred women and children throughout Australia without trial and the concerned minister writing to the Australian Catholic Social Justice Council "Immigration Detention Centres are better then many Australian homes".

Justice for Refugees recently received a comment from a supporter that the concerned Minister might be considering that the Australians may well be his captives and he has the right to deprive the liberty and freedom of movements of the people of this country as well??? Recent raid by DIMA Officials in the home a social worker who works for the detained women and children clearly indicates that "Mr Ruddock's Australia" is an absolute police-state. Even the prominent Australian citizens are not at all safe from Mr Ruddock's attacks. Almighty God; please render your holy spirit on this Minister to understand the reality, refrain him of using the unbelievable stories in public and moreover save my Australian brothers and sisters from his racist attacks. Amen.

Ladies and Gentlemen, I have had an opportunity to spend 475 golden days of my youth in such a facility "better then many Australian homes" named Villawood IDC. At there, many asylum seekers and I have not been properly fed three times a day, not received adequate medical treatment and my liberty was deprived without an authority from any Court but by the arbitrary as well as unlawful decision of some redneck, racist and corrupt administrative officials.

Moreover the misbehaviour and ill-treatment I have received from the DIMA and ACM officials that will remain as a 'hard to forget' experience for the rest of my life. Threatening and intimidation was very common matters to silence the protesting detainees. 'Troublemaker' is a common term for the people who speaks out. I have witnessed many under aged asylum seekers in the solitary

confinement for months and months. On 2 September 1999 I have made a request under FOI Act to provide me all documents to show why they have kept me imprisoned?

At this time of world every country's law permits that the offender should have the right to be informed the charges against him/her. It is basic and fundamental right of every human being to have an access to a fair and prompt trial provided that country is not being ruled by an autocrat. For sure Australia is not under a martial law??? I have not yet received the documents requested under FOI Act though it is going to be two years.

Ladies and Gentlemen, finally, I would like to thank you once again for your kind invitation and patience to listening of my words. At the conclusion I, on behalf of my fellow asylum seekers would like lodge my final appeal here under your hands to decide "how do you like to treat the human souls who are seeking your help, those who have come across the seas?"

Thank you.

May I now welcome the questions from the audience?

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