

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(54) Output 1.2: Refugee and Humanitarian Entry and Stay

Senator Bartlett asked:

What work has been done to date on following up the allegations of dangerous deportations made in the research paper *Deported to Danger*, produced by the Edmund Rice Centre?

Answer:

The department has actively examined the assertions in the Edmund Rice Centre (ERC) report titled 'Deported to Danger', both when the ERC publicised the report in draft form and again when it was finally published in September 2004.

Unfortunately, the methodology and approach followed in the report, seriously limits any prospect of exploring the claims made within it and accordingly substantially diminishes any value the report might have as a resource to the department for identifying any aspects of processing which might be improved. To the extent that there is sufficient information in the report to enable some exploration, the department has found nothing to substantiate assertions that such people have been removed in breach of any international obligations owed by Australia.

Specifically, the report seeks to identify what it considers to be returns from Australia to dangerous or unsafe situations, but does not clearly acknowledge that the broad concepts of danger or safety it uses do not correlate with international obligations to provide protection. Nor does it indicate why the authors believe that general disadvantage or hardship experienced by a person after return to their homeland should become Australia's responsibility.

People in many countries can face generalised dangers, hardships and uncertainty. This does not mean that Australia has obligations to them under the quite specific terms of the Refugees Convention or other international instruments. Generalised considerations of danger, hardships and uncertainty do not equate to the criteria for grant of a protection visa which are set out in legislation and which must be applied by departmental and Tribunal decision makers. The fact that an individual may experience some hardship on return does not automatically establish any entitlement to obtain residence in a country of choice.

The ERC report does not appear to test the assertions in the report. It relies heavily on the self assessment by individuals themselves to indicate the existence of danger without assessment of whether subjective views have any objective basis. Importantly, the report does not disclose the identity of the persons cited as case studies and the ERC has not separately passed this information to the department.

Australia does not return anybody who is found to be a refugee and asylum seekers are **not** returned if they have a real chance of facing persecution. Australia does not monitor those returned on the basis that monitoring, by its very nature, would be intrusive and could draw unwelcome attention to the individuals concerned and to those with whom they associate. These concerns are not unique to Australia. It is not general international practice for countries returning failed asylum seekers to their country of origin to monitor those individuals.

Allegations in the ERC report that DIMIA and Australasian Correctional Management (ACM) officers encouraged detainees to obtain false passports and pay bribes to travel to third countries are not true and have been categorically denied by the department. These claims were investigated by the department and the Australian Federal Police (AFP). The AFP has advised that its investigation found no evidence that staff of either the department or ACM had committed any offences. The AFP investigation found that the documentary evidence **did not** support the claims being made to the ERC by returned asylum seekers.

A thorough internal investigation of two cases that the department could identify has also **not** revealed any misconduct or criminal behaviour by departmental staff.

DIMIA officers met with the ERC on Monday, 23 May 2005 and again on Thursday, 8 September 2005 to seek further information, which might enable the investigation of any residual matters not covered in the first investigation. The department is waiting for information promised by the ERC of contact details of further witnesses.