

The Network for International Protection of Refugees



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The additional submission to the Senate Legal and Constitutional References Committee
re: Migration Zone Excision bill 2002
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At the Senate Committee's public hearing on 6 August 2002, the NetIPR was asked by the Committee to provide information as to (1) the increase of women and children among asylum seekers who arrived by sea after Australian government enactment of Temporary Protection Visa Legislation and (2) the legal and constitutional inconsistencies of the government's September 2001 border protection legislation ("TAMPA Legislation").

1. The increase of women and children among Middle Eastern asylum seekers

There has been a marked increase of children and women on board refugee boats after the TPV legislation was introduced in 1999. The attached table shows that the increase in frequency of refugee boats with children on board as well as the percentage of children onboard those boats has increased. It is a clear indication that the asylum seekers have elected to take children (and women) after TPV legislation because of the legislations' restrictions.

| | Pre-TPV (1995-1999 November) | Post-TPV (1999 December-2001) |
|--|---------------------------------|----------------------------------|
| No. of boats (passengers) | 57 (1902 passengers) | 100 (7728 passengers) |
| No. of boat with children (no. of children onboard) | 26 (148 children) | 83 (1779 children) |
| Frequency of boat with children | 46 % | 83 % |
| Percentage of children Among passengers | 8 % | 23 % |

2. Legal and Constitutional inconsistencies of "TAMPA legislations"

So far, NetIPR has found no group or person(s) plainly stating that the "TAMPA Legislation" has specific legal or constitutional problem. However, given the extent to which the legislation is contravening various international human rights treaties that Australia has signed (as presented by the Human Rights Committee [Refugee Policy: is there a way out of the mess?, Racial Respect Seminar 21 February 2002] and Amnesty International Australia [Submission (25) to the Senate Select Committee on Certain Maritime Incident]) the conclusion can be drawn that legal and constitutional challenges against the "TAMPA Legislation" is inevitable in the future. The "TAMPA Legislation" obviously denied natural justice and procedural fairness to the asylum seekers. It is as a matter of time community and legal groups, through judiciary, will seek to challenge and overturn the legislation.

(for)
 Executive Committee
 Network for International Protection of Refugees.

by @ NetIPR

Add-1

The increase of children and women among Middle Eastern Asylum Seekers after the TPV legislation of October 1999 (source DIMIA fact sheet 74)

| Year | No. | Total on-board | No. of children | Child-Percent age |
|------|-----|----------------|-----------------|-------------------|
| 1995 | 40 | 5 | 0 | 0 |
| 1996 | 44 | 4 | 0 | 0 |
| 1996 | 57 | 7 | 0 | 0 |
| 1996 | 58 | 5 | 0 | 0 |
| 1996 | 60 | 8 | 0 | 0 |
| 1996 | 61 | 24 | 1 | 4 % |
| 1996 | 62 | 12 | 0 | 0 |
| 1997 | 63 | 4 | 0 | 0 |
| 1997 | 64 | 7 | 0 | 0 |
| 1997 | 66 | 9 | 0 | 0 |
| 1997 | 70 | 15 | 0 | 0 |
| 1997 | 71 | 25 | 8 | 32 % |
| 1997 | 73 | 6 | 2 | 33 % |
| 1998 | 75 | 22 | 2 | 9 % |
| 1998 | 89 | 15 | 0 | 0 |
| 1999 | 91 | 9 | 4 | 44 % |
| 1999 | 92 | 3 | 0 | 0 |
| 1999 | 95 | 5 | 0 | 0 |
| 1999 | 96 | 10 | 0 | 0 |
| 1999 | 98 | 13 | 0 | 0 |
| 1999 | 100 | 12 | 7 | 58 % |
| 1999 | 103 | 8 | 0 | 0 |
| 1999 | 105 | 10 | 1 | 10 % |
| 1999 | 108 | 15 | 0 | 0 |
| 1999 | 109 | 54 | 1 | 2 % |
| 1999 | 112 | 20 | 0 | 0 |
| 1999 | 114 | 10 | 0 | 0 |
| 1999 | 118 | 10 | 0 | 0 |
| 1999 | 119 | 8 | 1 | 12 % |
| 1999 | 120 | 76 | 2 | 3 % |
| 1999 | 123 | 12 | 0 | 0 |
| 1999 | 124 | 53 | 7 | 13 % |
| 1999 | 126 | 16 | 5 | 31 % |
| 1999 | 128 | 7 | 0 | 0 |
| 1999 | 130 | 44 | 0 | 0 |
| 1999 | 131 | 16 | 0 | 0 |
| 1999 | 132 | 140 | 14 | 10 % |
| 1999 | 133 | 8 | 0 | 0 |
| 1999 | 134 | 13 | 1 | 10 % |
| 1999 | 135 | 24 | 2 | 8 % |

| Year | No. | Total on-board | No. of children | Child-Percent age |
|------------|-----|----------------|-----------------|-------------------|
| 1999 | 136 | 98 | 15 | 15 % |
| 1999 | 137 | 35 | 1 | 3 % |
| 1999 | 138 | 14 | 0 | 0 |
| 1999 | 139 | 6 | 0 | 0 |
| 1999 | 141 | 6 | 0 | 0 |
| 1999 | 142 | 49 | 3 | 6 % |
| 1999 | 144 | 21 | 0 | 0 |
| 1999 | 145 | 23 | 1 | 4 % |
| 1999 | 146 | 62 | 5 | 8 % |
| 1999 | 147 | 110 | 21 | 19 % |
| 1999 | 148 | 12 | 2 | 16 % |
| 1999 | 149 | 24 | 2 | 8 % |
| 1999 | 151 | 140 | 4 | 3 % |
| 1999 | 152 | 26 | 0 | 0 |
| 1999 | 153 | 355 | 29 | 8 % |
| 1999 | 154 | 75 | 7 | 9 % |
| 1999 | 155 | 82 | 0 | 0 |
| TPV | | TPV | | TPV |
| 1999 | 156 | 25 | 2 | 8 % |
| 1999 | 157 | 156 | 22 | 14 % |
| 1999 | 158 | 23 | 0 | 0 |
| 1999 | 159 | 31 | 7 | 23 % |
| 1999 | 160 | 33 | 3 | 9 % |
| 1999 | 162 | 23 | 2 | 8 % |
| 1999 | 163 | 24 | 5 | 20 % |
| 1999 | 164 | 151 | 24 | 16 % |
| 1999 | 165 | 28 | 3 | 11 % |
| 1999 | 166 | 180 | 27 | 15 % |
| 1999 | 168 | 135 | 21 | 16 % |
| 1999 | 169 | 7 | 0 | 0 |
| 1999 | 170 | 127 | 9 | 7 % |
| 1999 | 171 | 58 | 26 | 45 % |
| 1999 | 172 | 53 | 19 | 36 % |
| 1999 | 173 | 229 | 65 | 28 % |
| 1999 | 175 | 35 | 15 | 43 % |
| 1999 | 176 | 4 | 0 | 0 |
| 2000 | 177 | 118 | 15 | 13 % |
| 2000 | 178 | 44 | 2 | 5 % |
| 2000 | 179 | 25 | 2 | 8 % |
| 2000 | 180 | 54 | 7 | 13 % |
| 2000 | 181 | 38 | 6 | 16 % |

| Year | No. | Total on-board | No. of children | Child-Percent age |
|------|-----|----------------|-----------------|-------------------|
| 2000 | 182 | 281 | 50 | 18 % |
| 2000 | 183 | 47 | 6 | 13 % |
| 2000 | 184 | 22 | 1 | 5 % |
| 2000 | 185 | 14 | 0 | 0 |
| 2000 | 186 | 71 | 20 | 28 % |
| 2000 | 187 | 21 | 0 | 0 |
| 2000 | 188 | 47 | 16 | 34 % |
| 2000 | 189 | 34 | 10 | 29 % |
| 2000 | 190 | 70 | 8 | 11 % |
| 2000 | 191 | 10 | 0 | 0 |
| 2000 | 192 | 62 | 16 | 26 % |
| 2000 | 193 | 4 | 0 | 0 |
| 2000 | 194 | 78 | 3 | 4 % |
| 2000 | 195 | 66 | 14 | 21 % |
| 2000 | 196 | 17 | 2 | 12 % |
| 2000 | 197 | 36 | 4 | 11 % |
| 2000 | 198 | 112 | 28 | 25 % |
| 2000 | 199 | 3 | 1 | 33 % |
| 2000 | 200 | 30 | 0 | 0 |
| 2000 | 201 | 36 | 3 | 8 % |
| 2000 | 202 | 23 | 1 | 4 % |
| 2000 | 203 | 74 | 20 | 27 % |
| 2000 | 204 | 77 | 8 | 10 % |
| 2000 | 205 | 101 | 30 | 30 % |
| 2000 | 206 | 2 | 0 | 0 |
| 2000 | 207 | 47 | 10 | 21 % |
| 2000 | 208 | 14 | 4 | 29 % |
| 2000 | 209 | 94 | 10 | 11 % |
| 2000 | 210 | 33 | 5 | 15 % |
| 2000 | 211 | 32 | 7 | 22 % |
| 2000 | 212 | 116 | 18 | 16 % |
| 2000 | 213 | 69 | 7 | 10 % |
| 2000 | 214 | 24 | 0 | 0 |
| 2000 | 215 | 48 | 0 | 0 |
| 2000 | 216 | 100 | 0 | 0 |
| 2000 | 217 | 3 | 0 | 0 |
| 2000 | 218 | 117 | 33 | 28 % |
| 2000 | 219 | 92 | 20 | 22 % |
| 2000 | 220 | 35 | 0 | 0 |
| 2000 | 221 | 97 | 19 | 20 % |
| 2000 | 222 | 32 | 2 | 6 % |
| 2000 | 223 | 30 | 4 | 13 % |
| 2000 | 224 | 43 | 7 | 16 % |
| 2000 | 225 | 49 | 11 | 22 % |
| 2000 | 226 | 177 | 69 | 39 % |

| Year | No. | Total on-board | No. of children | Child-Percent age |
|------|-----|----------------|-----------------|-------------------|
| 2000 | 227 | 68 | 19 | 28 % |
| 2001 | 228 | 51 | 17 | 33 % |
| 2001 | 229 | 84 | 21 | 25 % |
| 2001 | 230 | 148 | 39 | 26 % |
| 2001 | 231 | 49 | 10 | 20 % |
| 2001 | 232 | 115 | 32 | 28 % |
| 2001 | 233 | 179 | 28 | 16 % |
| 2001 | 234 | 62 | 16 | 26 % |
| 2001 | 235 | 169 | 48 | 28 % |
| 2001 | 236 | 196 | 61 | 31 % |
| 2001 | 237 | 22 | 4 | 18 % |
| 2001 | 238 | 14 | 10 | 71 % |
| 2001 | 239 | 82 | 26 | 32 % |
| 2001 | 240 | 43 | 8 | 19 % |
| 2001 | 241 | 24 | 0 | 0 |
| 2001 | 242 | 94 | 12 | 13 % |
| 2001 | 243 | 120 | 35 | 29 % |
| 2001 | 244 | 198 | 32 | 16 % |
| 2001 | 245 | 65 | 27 | 42 % |
| 2001 | 246 | 2 | 0 | 0 |
| 2001 | 247 | 131 | 21 | 16 % |
| 2001 | 248 | 1 | 0 | 0 |
| 2001 | 249 | 54 | 25 | 58 % |
| 2001 | 251 | 235 | 83 | 35 % |
| 2001 | 252 | 231 | 50 | 22 % |
| 2001 | 253 | 108 | 9 | 8 % |
| 2001 | 254 | 76 | 12 | 16 % |
| 2001 | 255 | 147 | 50 | 34 % |
| 2001 | 256 | 60 | 13 | 22 % |
| 2001 | 257 | 345 | 154 | 45 % |
| 2001 | 258 | 225 | 73 | 32 % |
| 2001 | 259 | 359 | 95 | 26 % |

[* the nationality of all boat arrivals after 2000 is taken as Middle Eastern asylum seekers.]