

CASE STUDIES OF DEPORTATION FROM AUSTRALIA

This report concerns both the **outcomes** and **processes** of involuntary removal and so called ‘voluntary’ departures after claims for asylum fail. In view of the language of the Migration Act, the above title may need some explanation.

In this present document, the terms ‘deportation’ and ‘removal’ are used interchangeably. The Migration Act usually applies the term ‘deportation’ to the cases of criminals and applies the term ‘removal’ to the cases of all others who have no lawful status and no current application. In ordinary usage, however, both actions may be described by the word ‘deportation’ and we have opted to retain ordinary usage.

I THE OUTCOMES OF DEPORTATION

Our evidence suggests that there can be four quite alarming outcomes for some asylum seekers forcibly or ‘voluntarily’ removed from Australia. These include death, disappearance, gaol and torture. Benign outcomes can also occur when refugees find safety in other countries even though Australia has denied them refugee status.

1 Those Killed on Their Removal from Australia

Alvaro Morales : Deported and Murdered in Colombia

The Spanish language paper *El Espanol* of September 24, 2002, and the *Sydney Morning Herald* of October 9, 2002, reported the murder of Alvaro Morales, whose claims for refugee status in Australia had been refused in December, 2001. Following so called ‘voluntary’ departure, Alvaro disembarked at Buenos Aires in Argentina and claimed asylum as a refugee. After being interrogated in Buenos Aires, he was put on a plane to Colombia. He was gunned down by the paramilitary within metres of his mother's apartment in Bogotá. His chest was reported being ‘like a sieve’. Alvaro's wife and baby are still in Sydney facing possible deportation.

Alvaro was one of many Colombians who came to Sydney to escape the paramilitary. They were part of a *New Colombia Movement* in Australia, which held a peaceful protest at the Colombian Consulate on August 28, 2001. His story is buttressed by the evidence that another of the protesters, DB, has disappeared since leaving Australia and arriving in Bogotá airport. DB was also detained and interrogated in Buenos Aires en route to Colombia. Human rights activists suggest there are disquieting elements about the way Alvaro Morales and other Colombians have been treated by the authorities in Australia.

The argument that Colombia is a very dangerous place for some people is not being heard despite the evidence of advocates like Dr Jeffrey Browitt, a Latin American expert from Monash University, who argues that there is so much violence inflicted by paramilitary and guerrilla groups in Colombia that ‘you can murder with impunity’. Dr Browitt has pointed out that over 90% of homicides go unpunished in Colombia where, in his view, ‘police (and) paramilitary are virtually incapable of preventing assassinations’. Publication of Alvaro's death has sparked an investigation by the United Nations High Commissioner for Refugees (UNHCR). The UNHCR, however, indicated it was not free to comment on its findings but stated that it had been in contact with Alvaro's mother who confirmed he had been killed.

The Federal Government claims that Australia is not responsible for what happened to Alvaro Morales because his was a ‘voluntary’ departure from detention and hence what occurred after that was really his own responsibility. Amnesty points out, however, that the choices given to Alvaro were to leave voluntarily or face deportation. The Government appears to have no regard for the fact that the harsh policy of detention can lead to people accepting ‘voluntary’ departure as a last resort. There are believed to be about 120 cases involving Colombians pending in Australia. At least 10 cases are understood to have been refused and there have been calls for them to be reopened. (This account is from Frances Milne, Coalition for the Protection of Asylum Seekers and articles of Cynthia Banham in the *Sydney Morning Herald* on October 9 and 10, 2002)

Ahad Bilal: Deported to Pakistan and Murdered * (Note Article on Bilal's Corrupt Migration Agent by

The Australian Financial Review at end of Case Studies)

Ahad Bilal was born in Sawabi in north Pakistan but left his country in November 2000 for Dubai in the United Arab Emirates (UAE) because of threats from a drug smuggling group. He and his family had been active in an anti-narcotics movement in his homeland and feared retaliation. His grandfather and uncle had been killed by a drug-smuggling network before the family fled to the UAE and settled in Dubai. Ahad Bilal eventually left the UAE in March 2001 and arrived in Australia with a temporary visa. He secured a job and remained in Australia after his visa had expired. He was picked up and put into detention at Villawood in January 2002 and applied to DIMIA to be granted protection as a refugee.

When DIMIA rejected his application, he appealed to the Refugee Review Tribunal to review his claim. The Tribunal concluded "the Applicant has tried to concoct a case motivated by misguided opportunism. He is not a reliable witness. The tribunal is not satisfied that he faces a real chance of Convention-related persecution in Pakistan. He is not a refugee." Ahad Bilal lost his appeal on 8 May 2002 and received a 'letter of removal' on 27 May 2002.

Informed by DIMIA that he was about to be sent back to Pakistan, Bilal begged to be sent to Dubai where his parents were living. DIMIA told him it was up to him to pay his own fare and to ensure that he would be received back in UAE. Having been out of UAE for more than six months, Bilal needed to check that his visa there was still valid and he suggested also another possible arrangement via UAE to Abu Dhabi. However, he was not allowed time either to check these matters or attempt to raise his fare

Ahad Bilal, still aged only 18, was deported from Villawood on June 1, 2002. After arriving in Pakistan he stayed with his aunt and grandmother in the family home. On the day he was murdered his relatives have evidence that he was forced to ingest poison - probably an overdose of heroin. Bilal told his aunt who found him barely conscious, that he had been poisoned. They raced him to hospital by car but he was dead on arrival. He had extensive bruising around his neck consistent with a fierce struggle which probably took place while he was being poisoned. His father flew from UAE to Pakistan the next morning for his son's funeral. On July 31, 2002, friends in Sydney received word from Ahad's aunt that he was dead. The father was later contacted and confirmed that he had seen his son's body and the bruising.

(Material provided by Frances Milne, Coalition for the Protection of Asylum Seekers).

2 Those Who Have Disappeared : Two Iranian brothers

Nasser and Nader Esthabanati came to Australia as stowaways on the ship arriving in Victoria in September 2000. The brothers were fleeing persecution in Iran following the Abadan water riots. Twenty-three people were shot dead at this protest and hundreds disappeared. Nasser escaped with his brother Nader and friend BM by hiding in the ceiling space of a friend Hossein Iran's cabin on the ship.

Nasser's brother Nader, unable to bear separation from his wife and children, returned voluntarily in August 2001 and disappeared. Attempts by his family to find out what happened have been unsuccessful. Nader was escorted to Malaysia on an MAS plane and then put on a direct flight to Tehran. Australasian Correctional Management (ACM) and the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) told Nasser this when he reported his brother's disappearance. They said that what happened later was not their concern.

Nasser was the main witness in the recent case against Hossein Iran who was found guilty of three counts of people smuggling. In summing up, the magistrate acknowledged that there was clearly no financial motive involved and Hossein Iran had done this for humanitarian reasons. He was given a suspended sentence of four months. During this court case no attempt was made to suppress the identity of the Iranians. The case was reported in Iranian newspapers and on cable television with pictures of Nasser and the others.

Nasser broke down as he described missing his wife and children and being in detention for 20 months. He said, 'I saved my life but lost my spirit'. Despite pleas from advocates in Melbourne, Nasser was returned to the Perth Immigration Detention Centre. While in Melbourne, he was kept in isolation and not allowed contact with his friend whom he had not seen for 12 months. Nasser was depressed and suicidal, slashing his wrists in April and locking himself in the toilet. He was discovered, however, and taken to hospital. After that time, he was kept in isolation.

Nasser was forcibly removed from the Perth Detention Centre in May 2002. Witnesses report that he put up a struggle but was overcome by guards and injected with medication. Other detainees were told that he was deported on the same ship on which he had arrived.

Although the first report in Port Hedland feared Nasser was dead, later it was found that he was taken off the ship and arrested and detained for some time. After this he was released, detained again, then released again and kept under obvious surveillance. He has now disappeared and friends hope this means he is alive and on the run.

BM and Hossein Iran were subsequently given refugee visas. Their risk of exposure following the publicity of the trial may have been one factor in the success of their applications.

(Material provided by Nasser by phone to Hossein Iran, and thence to Pamela Curr, Greens Spokesperson on Refugees in Victoria and Ian Rintoul, Refugee Action Coalition.)

3 Those Put in Gaol: RH, Rwandan Hutu

This account is in the words of an Australian, Brother Sean McManus at the Edmund Rice Centre in Nairobi, who sent the following account about RH, a young Hutu from Rwanda.

I was at Jomo Kenyatta International Airport in Nairobi the other evening to meet a young 18 year old refugee from Rwanda who had just been expelled from Australia. The latest threat to Australia's security and well-being was young RH! His parents were killed in the 1994 genocide in Rwanda. He and his twin 10-year-old sister escaped to Mozambique where he lost contact with his sister. He got a boat to Mombasa, Kenya and lived on the streets there for five years, and realized it was going nowhere. He has a very justified fear of persecution if he returns to Rwanda.

He stowed away with five others on a ship and ended up in Melbourne. The shipping company called the immigration people and he has since had a two and a half year sojourn in such delightful Australian hostels as Villawood, Port Hedland (most of the time) and the Perth Airport Detention facility. He exhausted all levels of appeal except the last. He had an appeal in the Federal Court or somewhere high up, but in the end he got sick of being in detention and asked out.

So (on August 24, 2002), they sent him back to Kenya, escorted under guard to Johannesburg and on to a Kenya Airlines plane to Nairobi. I have no idea how he got through Immigration in Nairobi. He had some emergency travel documents from the Australian authorities but these were taken from him at the airport and once again he became documentless and stateless. At customs, with me and some JRS (Jesuit Refugee Services) people watching, RH was bailed up by some plain-clothes police who said they had to detain him. They also expressed a close interest in how much money he had (about \$80 US). Somehow he managed to talk his way through, though I would have been prepared to move and intervene if they had held him. There was a JRS lawyer present too. So he came with us to South C (a Brothers' Community in Nairobi), and had his first meal out of detention in two and a half years. He slept for about four hours and then, at his request, we put him on a night bus for Mombasa (a seven hour journey overnight). What lies there, I do not know.

A month later RH left Mombasa to try to get to some other more friendly African country, running the risk of detention or worse as he crosses more borders without papers. He knows English fairly well, but has NEVER been to school, neither in Africa nor in Australia.

Eventually RH was able to connect with Australian friends who discovered that in his attempt to enter South Africa, he and his companions were detained in Lindela prison. At present he is being detained in Durban.

4 Those Who Found Refuge in Other Countries: Angolan Asylum Seeker

An Angolan asylum seeker, called AC by Amnesty International, sought refugee status in Australia in 1998. He was detained in Villawood for three years while the Department of Immigration and the Refugee Review Tribunal were assessing his claims. The applicant's claims were repeatedly rejected on the grounds of lack of credibility, particularly in relation to his claims of fear of persecution based on his ethnicity and religion. The applicant requested the assistance of a Kikongo interpreter during hearings but was provided with a Portuguese interpreter.

During the course of the assessment and review process DIMIA sought the services of a South African private company, P&I, to verify the applicant's nationality, despite the fact that the applicant had consistently maintained he was a citizen of Angola. P&I, on behalf of DIMIA secured travel documents that claimed the applicant was a citizen of the Democratic Republic of Congo (DRC). On the basis of these documents DIMIA decided to remove the applicant to DRC rather than Angola. The applicant refused to be forcibly removed to DRC.

The applicant was held in Silverwater prison on charges of behavioural misconduct in detention. While in Silverwater he was beaten and raped by other inmates. Several applications were made to DIMIA to have the applicant released from prison. However he was held in prison until his removal from Australia in 2000. After enduring such horrific mistreatment the applicant agreed to 'voluntary removal'.

On his arrival in South Africa, the applicant demanded to see officials from the Angolan Embassy, who deemed that he was in fact a citizen of Angola and he was permitted to return there rather than the DRC. Soon after arriving in Angola the applicant fled to England, where he was granted refugee status.

(Material provided by Amnesty International)

II THE PROCESSES OF DEPORTATION

There is evidence to suggest that DIMIA officials or their representatives may be involved in a number of inappropriate procedures with regard to the removal of asylum seekers. Australia has signed various international human rights protocols safeguarding refugees. Activities such as 'turn around' or attempted 'turn around' at the airport, physical abuse, chemical injection, inhumane treatment and intimidation breach these protocols.

1. 'Turn Around' at the Airport: Iraqi Woman and Her Daughter

Amnesty International in Sydney reports the case of an Iraqi asylum seeker and her five-year-old daughter. On November 16, 1999, these two were 'turned around' at the airport by the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) without being allowed to make an application for asylum. This occurred while their legal representative was appealing to the Federal Court for an injunction to enable the applicant to have her claims for protection considered and determined in accordance with the law.

However a DIMIA official refused to allow the applicant and her daughter to remain in Australia while the matter was being determined by the Federal Court. In addition to this, a solicitor from the Australian Government Solicitor's office was actually present during the Federal Court application on DIMIA's behalf, but did not intervene to prevent the removal of the applicant pending the Court's determination on this matter. Even though the Federal Court approved the injunction, pending further consideration of the applicant's claims, the applicant and her daughter had already been placed on a plane which had departed before further action was

possible. Fortunately when the applicant and her daughter arrived in Canada they were granted refugee status within six months.

2 Attempted 'Turn Around': Tamil Male from Jaffna, April, 1998

(Material provided in a solicitor's letter from McDonnells, Solicitors, Sydney)

My client is a 24-year-old Tamil male from Jaffna. On the evening of April 6, 1998, my client arrived at Mascot and he identified himself to an officer at the airport as a 'refugee from Sri Lanka'. He was taken by that officer (probably an airport security officer) and was interviewed by a Department of Immigration officer.

In the course of the interview, he stated that he had been captured by the Tigers and had been forced to work for them for a period of nine months. He stated that he was afraid to return to Sri Lanka because the army would suspect him as a Tiger supporter, as he had been working for them for nine months (June 96- March 97). This is all confirmed by the Freedom of Information (FOI) record of the interview.

My client also stated that he intended to provide further information about his arrest and interrogation by the army but the Departmental officer interrupted him and questioned him about the name he used on his boarding card. This is not recorded in the FOI, but my client provided an affidavit of the contents of the interview.

The Department of Immigration record indicates that after the interview, the officer contacted the State Director and 'relayed all the information' to him. The response was 'on the information presented, he does not engage Australia's protection'. I was contacted on the morning of April 7, by a relative (aunt, I think) and I obtained an interim injunction from his Honour Justice Burchett preventing the removal of my client. The injunction was settled on terms including allowing my client to lodge an application for a protection visa on April 21. That application was made and he was interviewed for onshore protection on May 8. His protection visa was issued on May 21.

3 Physical Abuse and Chemical Injection : Algerian Man

This is the story of AA, an Algerian deported from Villawood three years ago to Algeria as told to Ngareta Rossell on October 18, 2002 by a former ACM Officer, (name withheld but can be supplied on request). The deportation happened during the officer's first week of employment in the maximum-security section of Villawood IDC, known as Stage One.

I was told we have an 'extraction'; he's high risk, whatever that meant. I mean I didn't know anything then. I just followed orders. We get this guy out of bed early in the morning. We pull the sheet off him. He's in his pyjamas or those long pants that those people wear. He clings on to the bedstead; this is a steel bedstead. My job is to unwind his fingers, struggling, shouting he won't go. There are nurses. First time I'd seen a 'chemical restraint' used.

They must have broken about three needles on him. I'm thinking there must be a better way. This bloke's not an animal. Sometimes there's a smell. They've urinated or something. We put him in the fish bowl. That's like a cage. There were about six big blokes like me. Another tries to get these injections into him. But it's not working.

He scratches and there's blood. He's shouting he won't go back. Also he's Muslim, this guy. Putting this chemical stuff into his blood - that's unclean. That's against his religion. Anyway we get the handcuffs on him. We get him out of the cage and get him into the van to the airport. He's saying 'I want my shoes.' His T-shirt is torn. He's saying: 'I can't go without my shoes.'

When we get him into the aircraft we handcuff him to the seat. But he pulls the whole seat out of the floor. That was it. We got him off the plane and took him back. Next week we did it again. This time he went

quietly. 'Just give me the tablet', he said. 'Don't inject me with that'. I don't know what happened to him. I think he went to jail at the other end.

4 Inhumane Treatment: Hindu Malaysian, Eight Months Pregnant

LS is a Hindu from Malaysia, who came to Australia as a student for three years but overstayed her visa and was detained in Villawood Detention Centre for a year. On Easter Sunday, 2001, she married RS, a Catholic from Southern India and their baby was due on February 3, 2002. LS had been in contact with her mother but her father has disowned her and she was not confident about her future welcome in the family. Her husband said he had been tortured and that he had the medical records to prove it. Now stateless, he claimed that his case was to be heard before the High Court.

LS went before the Migration Review Tribunal making application for a bridging visa to allow her to stay till her baby was born. Her solicitor had also written to the department asking for a similar permission. The couple had written to the authorities to say they were prepared to leave Australia voluntarily after the birth of their child. A Uniting Church minister and his wife, who had been giving the couple moral support for some time, had written to the department to say they were prepared to have LS live with them and to support her until the baby was born as long as the department would allow her to remain in Australia after that.

In her distress, LS stopped eating at one stage and began taking only fluids. Later she was sedated (voluntarily) with Valium. In December 2001, the couple were told that LS would be deported. Her husband was so distressed that he said he did not want to live. Whatever the validity of LS's claim, the fact remains that she was heavily pregnant and was distraught at being separated from her husband.

Refugee advocates believe that the haste with which this removal was carried out was due to the fact that for medical reasons LS could not have been deported after January. A professor of community medicine was prepared to examine LS and assess her suitability to travel, but was denied access to her, first at Villawood, then at Sydney Airport.

CONCLUSION

These stories are a small sample of the evidence which underpins the concerns of human rights activists in Australia that the present Government's policies and practices in regard to asylum seekers are in breach of international human rights standards.

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Lost in Translation

²The dangerous undercurrents of refugee politics², by Julie Macken

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Section: Perspective

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[Emphases in bold added by Frances Milne]

As Australians went to the polls in 2001 the refugee issue was making headlines. Today, two weeks from another federal election, refugees are off the political agenda. Images of detention centre riots, sewn lips, screaming children and suicide attempts are just a bad memory. After 9500 refugee applications and five years, this chapter in Australia's history seems to be finally drawing to a close.

The fate of the refugees who were sent back, however, is another story but it is one which links the past to the present.

A lengthy investigation by the Weekend AFR has illuminated some of the troubled byways of the refugee saga, byways that stretch from Sydney to the hide-out of Osama bin Laden.

But first a brief history.

As the number of people arriving by boat went from 157 in 1998 to 923 in 1999 and finally peaked at 9589 in June 2002, the federal government panicked. As a well-placed source within Canberra's Department of Immigration told the AFR, "the Minister [Philip Ruddock] was desperate to stop the boats coming and everyone who worked in the department was desperate for the Minister's approval."

Four years later, with most of the camps shut down and boat arrivals non-existent, the noise from and about the camps has died down. More than 9000 people have been given temporary protection visas and only 81 children remain in detention. Yet it now appears that some of the measures adopted by the Howard government during that period, far from securing Australia's borders, may have enfeebled them. Other measures had unintended and deadly consequences for a number of asylum seekers.

Of the 9500 people who came to Australia by boat, 3892 of them were from Afghanistan. They were largely Hazara Afghans fleeing persecution by the predominantly Pashtun Taliban force.

So what relevance does this have for asylum seekers? Well, back in 1999 the Howard government had to find a way to turn the boats around without overtly breaching Australia's international treaty obligations, and return those who had already made it ashore. Aside from the legislative changes made from 1999 through to 2001, the government developed a strategy. This was to find interpreters who would work with the Department of Immigration (Dimia) and who could help process those who had made it to Australia.

Finding qualified interpreters who were fluent in Dari, Farsi, Hazargi - the three languages used by Afghans - and English was nearly impossible.

In the end, Dimia drew many of its interpreters from the previous wave of Afghan refugees - those who had fled to Australia during the 1980s when Russia and the United States turned Afghanistan into yet another Cold War battleground. These were almost exclusively Pashtuns.

The problem for the Hazara Afghans, who made up the bulk of the asylum seeker population in detention, was the deep ethnic animosity and power difference that exists between the Pashtun and Hazara tribes.

It is not clear whether the Department of Immigration was unaware of these tensions or just unconcerned by them. Whatever the reason, two interpreters and translators who were used extensively in Woomera, Port Hedland, Curtin and Nauru were Pashtun Afghans.

Malyar and Sayar Dehsabzi are Afghan-Australian brothers. They work as migration agents through their company, Ethnic Interpreters & Translators, located in Parramatta, Sydney. Both men have worked extensively as interpreters and translators for Dimia and are registered migration agents.

Malyar Dehsabzi confirmed to the AFR he had worked with both the Department of Immigration and Asio in the Woomera, Port Hedland, Curtin and Nauru detention camps from 1999 onward. "But I was an interpreter only - that's all," he says.

However, according to some refugees, lawyers and people within Dimia, Malyar and Sayar were a lot more than that.

A number of people within the Australian Afghan community remember the mid 1980s when they claim the pair worked for the Afghan warlord and, later, bin Laden supporter and head of the Hesb-e-Islami party, Ghulbuddin Hekmatyar, in New Delhi.

According to Ahmed Rashid, author of *The Rise of Militant Islam in Central Asia*, Hesb-e-Islami "is a terrorist group in the same category as Taliban and al-Qaeda." He further asserts that a connection between the Hesb-e-Islami and the Pakistani secret service, ISI, remains firm because ISI, "consider Hesb-e-Islami as the main Pashtun party apart from Taliban."

The AFR has been told of an alleged fist fight that occurred while Malyar was working in New Delhi. According to one source: "Malyar had put out a pamphlet supporting Hekmatyar and saying terrible things about the Hazaras. A group of men began yelling at him and his group. It ended in a big fight."

Hekmatyar is now second to Osama bin Laden on the US most-wanted list, although at the time of the alleged fight, Hekmatyar was being spoken of as a possible prime minister for Afghanistan. Indeed, he visited Canberra in 1989 and met then foreign minister Gareth Evans.

For his part, Malyar concedes he was working in New Delhi at that time, but he denies ever working for Hekmatyar or ISI. However, Sayar has confirmed that, after the Russian invasion of Afghanistan, he became involved with Hekmatyar and wrote a memorandum to the Indian government demanding Russia withdraw from his country. "I no longer support Hekmatyar," he says, "but at that time everyone had to decide which side they were on."

All of this would have remained a footnote in recent history had Malyar not been put in such a powerful position by Dimia.

By the time Malyar moved to Nauru to work as an interpreter with both UNHCR and Dimia, his co-workers were complaining of his approach to the Hazara Afghans he was translating for.

"Interpreters were assigned 15 or so cases at a time," says an International Organisation for Migration officer who worked on Nauru at the time. "Malyar would regularly declare 10 out of his 15 to be Pakistani. Other interpreters found either none or one at most."

The consequences of a declaration of ethnicity could prove fatal to an asylum seeker's chances of finding protection in Australia, because these remarks would become part of the application process.

It is important to note that, according to a former Pakistani diplomat, the Pakistan government had told the federal government in the last half of 2003 that Australia would not be allowed any access to Pakistan's identity database. That meant Dimia had no way of confirming or denying whether an asylum seeker was from Afghanistan or Pakistan.

Thus the department became almost exclusively dependent on anonymous dob-ins and translators and interpreters to determine whether they thought someone was from Pakistan or Afghanistan. But Malyar's work on Nauru went much further than translating and interpreting.

By the second half of 2002, with the Taliban in retreat and disarray, the federal government launched a program to repatriate the almost 4000 Afghans living on Nauru and in Australia on temporary protection visas.

Despite offering the financial incentive of \$2000 per single person, many Hazaras were still afraid of a resurgent Taliban presence and persecution by the Pashtun population. 0

Dutch psychiatrist Dr Maarten Dormaar, who was working for IOM on Nauru at the time, told the AFR: "I was arguing with some colleagues from IOM, saying it was not safe for the Hazaras to be sent back, when one of my

colleagues said I was wrong and produced these emails from Malyar. In the emails Malyar said Afghanistan was wonderful and that he had travelled all over the country and it was safe to travel everywhere."

At the same time, the Minister for Immigration, Philip Ruddock, put out a press release saying: "The Afghan transitional government has emphasised the stability and safety that has been brought to the region, paving the way for Afghan nationals to return."

According to Afghan specialist William Maley, the idea that Afghanistan was a safe country for Hazaras in 2002 was fanciful. "I was in Afghanistan a few months after that and it is a fantasy to say it was safe," he says. "In September 2002, a massive bomb killed 30 people in Kabul."

Mohammad Mussa Nazari was one of the first Hazaras to put the safety of the country to the test. He joined a group of 113 people and returned to Afghanistan in the first major repatriation flight from Nauru.

Within 10 months of his return home, Nazari was shot dead by Taliban forces while riding his motorbike through the Zardak Pass.

The AFR has raised a number of these issues with the Department of Immigration. A spokesperson for the department responded by telling the AFR: "The Privacy Act prevents Dimia from disclosing information about individuals. However, I can say that the current policy of the Translating and Interpreting Service is that interpreters who are also registered migration agents are not allocated any jobs to assist with immigration operations."

Malyar Dehsabzi is now working as a migration agent in Sydney. His brother, Sayar Dehsabzi, works with Malyar as a translator, interpreter and migration agent.

Like his brother, Sayar is now an Australian citizen and well known within the Afghan community in Australia. He is also known to the federal investigators within Dimia.

According to a number of sources, the federal investigation team from Dimia approached two people living in detention centres in late 2001 and again in 2002.

The people approached by the investigative team were shown transcripts of telephone conversations between themselves and their migration agent, Sayar. They were also shown documentation and other material demonstrating the investigative team had had Sayar under observation for some time.

The AFR was told both men declined to work with the team. Regardless of the reassurances offered by the team, they were unwilling to co-operate. It was during this period that a young Pakistani boy, Ahad Bilal, contacted Sayar to act as his migration agent. According to Bilal's friend, Frances Milne, convener of the Coalition for the Protection of Asylum Seekers, Bilal had fled Pakistan after his grandfather and uncle had been killed by a drug-smuggling network operating in north Pakistan.

He arrived in Sydney on a temporary visa and was put in Villawood detention centre in January 2002, where he lodged his application for refugee status with the department.

Bilal told various people that he paid Sayar more than \$2000 to take his case to the Federal Court - Bilal was under the impression that Sayar was a lawyer. Sayar confirmed there was some confusion over his title. "In my language," he said, "there is no clear distinction between the words adviser and lawyer. But I never call myself a lawyer."

Sayar said Bilal did not pay him \$2000. He concedes that Bilal had paid him, "about \$600 to translate some tapes for him - but that is all."

However it soon became clear Sayar would not be taking his case to the Federal Court. Bilal sent a fax to the Department of Immigration complaining about Sayar's conduct and told Sayar he wanted his money back.

According to one person who witnessed their meeting, Sayar visited Bilal in Villawood a week later to discuss Bilal's demand for the money.

Unfortunately, a fortnight later, Bilal was told he would be deported back to Pakistan.

The day before Bilal was sent back he met his friends from the Balmain Uniting Church. As they were leaving Bilal told them not to be sad. "If God allows, I shall survive," he said.

Four weeks later, Bilal was murdered. He was found by his sister-in-law vomiting and dying from a massive shot of heroin. Doctors later confirmed he had died from poisoning and a heroin overdose.

Recently, a Federal Court judge, Justice Murray Wilcox, accepted as a matter of fact that Sayar Dehsabzi had lodged documents designed to mislead Dimia and that he had lied to a client about a number of issues.

"The proceedings took place in my absence," Sayar Dehsabzi argues. "The judge was reasonable and honest, but he was wrong."

Long-time migration agent and advocate Marion Le currently has about 20 clients who have concerns about documents and statements lodged on their behalf by both brothers. While she acknowledges that it is almost standard procedure for failed asylum seekers to blame their interpreters, she believes the allegations concerning the Dehsabzis have now reached a point of critical mass that demands further investigation.

Labor's spokesman for population, Laurie Ferguson, has also had a number of Afghans on TPVs approach him with serious complaints about the brothers.

He told the AFR: "In the context of their allegations it opens up to question the validity of decisions made in detention centres as a result of the brothers' interpreting services."

A number of Afghan refugees have told the AFR they believe the Dehsabzis' attitudes towards Hazara refugees have been affected by the long-held tension that exists between Pashtuns and Hazaras.

Sayar Dehsabzi rejects this. "There have been gross violations of human rights against Hazaras and Pashtuns but I want to work to end that discrimination," he says. "I want to defend the human rights of all Afghans."

Because Pakistan has closed its books to Australia, Australia depends almost exclusively on dob-ins to ascertain the truth about an asylum seeker's identity. The question many are now asking is: who is the department getting the dob-ins from and what is their agenda?

----- End of Forwarded Message