

Australian government hails High Court ruling backing indefinite immigration detention

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Prime Minister Anthony Albanese yesterday demanded that the Senate quickly pass his Labor government's draconian immigration deportation bills after the High Court ruled that an Iranian asylum seeker, known only as ASF17, who has refused to be deported—fearing persecution—can be detained indefinitely.

Amid an ongoing witch hunt throughout the media and political establishment against immigration detainees, Albanese not only welcomed his government's victory in the High Court but seized upon it.

He declared the Liberal-National Coalition should “get on with it” and pass the far-reaching bills, which include the power to repeatedly imprison people for up to five years for refusing to sign documents facilitating their deportation.

Yesterday's High Court verdict unanimously backed the government's insistence that it must have the power to keep up to 200 asylum seekers and other immigration detainees, like ASF17, locked away indefinitely for refusing to be deported, even if they could face harm or even death.

The ruling also effectively clears the way for the government to similarly imprison or forcibly deport at least 5,000 other people currently living in the community on bridging visas. This prospect has caused widespread concern and opposition throughout working-class immigrant communities.

The judges yesterday revealed the narrow basis of their decision last November to partially overturn the court's previous approval of three decades of indefinite arbitrary detention without trial in immigration prisons. That ruling, in a case known as NZYQ, struck down as unconstitutional the indefinite detention of people for whom there was no foreseeable prospect of deportation—often because they were stateless or no country would take them.

As a result of the NZYQ ruling, the government was forced to release 152 detainees, including asylum seekers. Ever since then the ex-detainees have been demonised relentlessly in the corporate media, and by the government

itself, as dangerous criminals.

Yesterday the judges declared that no limit on detention applied to detainees who supposedly made a “voluntary” decision not to cooperate with their deportation, even if the country they fled, such as Iran, refused to accept non-voluntary returns. “ASF17 could be removed to Iran if he cooperated in the process of obtaining the requisite travel documents from Iranian authorities,” the main judgment stated. “He has decided not to cooperate. He has the capacity to change his mind. He chooses not to do so.”

ASF17's barrister, Lisa De Ferrari told the High Court he refused to cooperate with efforts to deport him because he “fears for his life” because he is bisexual, Christian, and a Failsi Kurd. She described his option to return as akin to choosing to jump from a boat to “swim with the sharks.” She also told the court her client had repeatedly asked government officials to try to find another country to take him in, but they had refused to do so.

But the judges said no refugee protection finding had been made in favour of ASF17, so he could be deported to Iran or kept in detention “irrespective of whether that claim might be found on investigation to be genuine or well-founded.” Like many others, he was denied refugee status by a “fast-track” assessment process.

Immigration Minister Andrew Giles immediately welcomed the outcome, saying the government had “fought strongly to defend our position in the High Court.” Giles further embraced the corporate media scare campaign against the detainees, saying “community safety continues to be our highest priority” and demanded quick passage of Labor's legislation.

Labor's Migration Amendment (Removals and Other Measures) Bill would hand a virtually unlimited power to the immigration minister to coerce any visa holder to assist with their own deportation—and that of their children. Anyone who failed to obey a ministerial directive would face a mandatory one-year prison term and a \$93,000 fine.

They could be jailed for up to five years, and then imprisoned repeatedly, if they still did not obey.

Being a refugee fleeing persecution would not be a “reasonable excuse” for failing to follow a directive. Moreover, the minister could overturn a previous finding that a person is a refugee to “whom Australia has non-refoulement obligations.” These are flagrant violations of the International Refugee Convention.

The bill would also give the government the power to impose blanket travel bans, barring entry visas to people from designated “removal concern countries.” Those mooted by government sources and the media for listing include Iran, China, Russia and South Sudan.

Such bans would have a devastating impact on the many families in Australia from these and any other listed countries, potentially barring them from ever seeing their relatives again.

The Labor government’s determination to proceed with its bill as fast as possible following yesterday’s High Court ruling shows that its imprisonment and deportation plans go far beyond the up to 200 detainees directly affected by the verdict.

Home Affairs Department officials told a Senate committee last month that Labor’s bills could apply to 4,463 people on bridging visas, 150 to 200 people in immigration detention, the 152 released detainees and another 99 people released before November’s High Court decision.

This may be a serious underestimate. According to human rights advocates, the victims could include almost 10,000 people who arrived in Australia in 2012 or 2013 and had their refugee claims rejected in a “fast-tracked” assessment process.

The Albanese government has attacked the Coalition, as well as the Greens, for proposing amendments to the bill to place some limits or parliamentary oversight over aspects of the sweeping ministerial powers.

Immigration Minister Giles accused the opposition of “playing politics with national security and community safety.” Giles dubbed Opposition Leader Peter Dutton, a previous home affairs minister, a “complete fraud, someone who’s weakened our border protection and fundamentally undermined the integrity of our migration system.”

The Labor government is intent on displaying its “national security” and “border protection” credentials to the ruling class. That is despite overwhelming opposition by refugee, migrant and human rights groups, voiced in 102 submissions to the Senate committee hearing on the bill last month.

That one-day hearing was convened after the government failed in its initial bid, just before Easter, to ram its bill through both houses of parliament in less than 36 hours, making a mockery of any pretence of democracy. Two

previous bills seeking to thwart the High Court’s NZYQ ruling were rushed through in record time.

Those bills included 24-hour ankle-bracelet monitoring, curfews and other police-state measures imposed on released detainees, and a new “preventative detention” regime to re-imprison detainees on flimsy accusations of what they might do in the future.

In addition, the government has reopened the notorious “offshore” detention camp on the tiny impoverished Pacific Island state of Nauru and forcibly transported asylum seekers there. These include another few who were reported to have landed on Australia’s northern coast this week.

This has been accompanied by the maligning of non-citizens, falsely accusing immigration detainees, including refugees, of being murders and rapists, when even those with past convictions have long ago served their prison sentences.

The Labor government is matching far-right and fascistic elements globally, including Donald Trump, the Conservative government in Britain, the Meloni administration in Italy and the AfD (Alternative for Germany) in witch-hunting and seeking to deport “non-citizens.”

The US-backed Gaza genocide and the plunge into wider war in the Middle East, and against Russia and China, is being accompanied by a drive to divide working people, domestically and globally, and introduce police-state powers to suppress dissent. “Foreigners” are being blamed for the deteriorating social conditions being produced by capitalism’s economic and cost-of-living crisis and the diversion of billions of dollars into military spending.

Workers must come to the defence of immigrants, and basic democratic rights. Reactionary precedents are being set that can and will be used against workers and youth more broadly, not just asylum seekers and immigrants, as opposition grows to the worsening social crisis and war.



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