

## Deportation of Afghan Asylum Seekers from Australia

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This paper aims to critically evaluate a newly signed agreement between the Australian and Afghan governments on deportation of Afghan asylum seekers from Australia.

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On Monday, 17 January 2011, the Australian Immigration Minister, Chris Bowen signed an agreement with the Afghan Refugee and Repatriation Minister, Jamaher Anwary, and the United Nations High Commissioner for Refugees, Richard Towel. Signing this agreement is part of Australia's broader attempts for the intention of decreasing illegal immigrants to Australia. This agreement particularly provides the Australian government with an exceptional opportunity to successfully respond to the challenge of Afghan asylum seekers to further send those back home who fail to pass the refugee test.

Despite the promises given by the Australian government in terms of helping the Afghan government to improve passport system, funding a housing project outside Kabul, and providing skills training to Afghans, the government of Afghanistan, with signing this agreement, has ignored the fact that it is no longer capable of protecting Afghan returnees. However, neither the government of Australia nor the Afghan government has paid attention to this issue that the sustainable return of those Afghans not considered genuine refugees to Afghanistan is not a realistic approach to deal with the challenge of Afghan asylum seekers.

First of all, signing such an agreement, that allows for the forced return of those Afghans who do not pass the refugee test, is in contrary to the international human rights obligations of the Australian government. As a party to the 1951 Refugee Convention, Australia is obliged to ensure that people who meet the definition of refugee under the Convention are not sent back to a country where their life or freedom is threatened. As well, Australia has signed the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1984 Convention Against Torture (CAT), and the 1989 Convention on the Rights of the Child (CRC), obliging Australia to not return people who face a real risk of violation of human rights even if they do not meet the definition of refugee under the 1951 Refugee Convention. As such, signing to further the implementation of this agreement indicates that the Australian government has neither paid attention to its international human rights obligations nor taken serious the life and freedom of the returned Afghan asylum seekers.

In addition to the failure of the Australian government in respecting its international human rights obligations, the government of Afghanistan, with signing such an agreement for returning Afghan asylum seekers, has entirely ignored the fact that the returnees neither in the southern and eastern regions of Afghanistan nor in other parts of the country are safe due to the Taliban-led insurgency. In particular, the government of Afghanistan has denied the fact that all people who leave Afghanistan and seek for overseas asylum are those who cannot return due to serious security concerns to further because of their race, religion, nationality, membership in a particular social group, and political opinion. For example, Professor William Maley from the Australian National University and an expert on Afghanistan and immigration issues points out that the life and freedom of ethnic Hazaras are mostly at risk if they are forced to go back Afghanistan. Thus, regardless of incapability of protecting the returnees, the government of Afghanistan has signed the agreement with the Australian government, demonstrating the carelessness of the Afghan government in protecting the lives and freedoms of its citizens.

Furthermore, regardless of few achievements in improving human rights institutions in the post-2001 era, the Afghan government has failed to systematically protect human rights of the people of Afghanistan. In other words, in spite of signing the major international human rights treaties, the Afghan government has paid less attention in protecting human rights of its citizens. As such, the Afghan Immigration Minister has signed the agreement for returning Afghan asylum seekers with no intention of caring about the protection and improvement of the basic rights of the returnees. Therefore, signing such an agreement is another step towards violating human rights of Afghan citizens rather than guaranteeing their rights and freedoms because the government of Afghanistan no longer believes in human rights. More specifically, signing such a deal obviously indicates that respect for human rights is not a policy-priority for the Afghan government; unless it did not agree with the Australian government for returning Afghan asylum seekers to a country where respect for the dignity and rights of the people is like a dream

that have never come true.

Finally, there is no guarantee that the agreement on deportation of failed Afghan asylum seekers is based on reliable and balanced security assessments of the situation in Afghanistan. As Professor William Maley points out, the security expertise of Australian officials for the purpose of returning failed Afghan asylum seekers is partly doubtful. Likewise, Paul Power, the Chief Executive of the Refugee Council of Australia, points out that even if the returned asylum seekers in Afghanistan are not so much under the threats caused by the government, they will be facing serious threats from the people or groups who are not under the control of the government. Meanwhile, The Afghan government has signed the agreement without undertaking any security expertise assessments; otherwise the deteriorated security situation in Afghanistan does not allow the Afghan government to agree with the Australian government for returning Afghan asylum seekers. As a result, this agreement is neither prepared based on reliable security assessments in Afghanistan nor pays attention to the security risks that might threaten the Afghan returnees.

To conclude, the 17 January agreement on returning Afghan asylum seekers between the Australian Immigration Minister and the Afghan Refugee Minister is an agreement that is in contrary to the principles of human rights to further violates Australian as well as Afghanistan international human rights obligations. While the agreement ignores the deteriorated security situation in Afghanistan, it is a deal that is not prepared based on reliable and balanced security expertise assessments. In particular, while the agreement is technically an achievement for the Australian government, it does not pay attention to the security concerns of Afghan asylum seekers who do not pass the refugee test in Australia. By signing such a violating human rights agreement, the government of Afghanistan once again proves that it does not value the lives and freedoms of its citizens whether they are at risk or under uncertain security threats.

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