



NetIPR

Network for International Protection of Refugees

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18 October 2002

Mr. A Hope, Coroner
10 Floor, Grain Pool Building
172 St George Terrace
Perth WA 6000

Re: The inquest into the deaths of Fatima Hussein (b.1981) and Nurjan Hussein (b.1946)

Dear Sir,

Network for International Protection of Refugees is a South Australia based refugee advocacy group. We are aware that the West Australian Coroner will hold an inquest into the circumstances surrounding the drowning death of Fatima Hussein (b.1981) and Nurjan Hussein (b.1946). Fatima Hussein was reported to be pregnant at the time of her death. We understand that these two women were drowned during the operation by Royal Australian Navy Frigate, *HMAS Woloongong*, and Australian Custom Vessel, *Amhem Bay*, intercepting the refugee boat *Sumbar Lestari* to turn its course back to international water.

We are alarmed by the reports that the inquest will not likely to include refugee witnesses. Regarding the Royal Australian Navy interception against unarmed asylum seekers boats, there have been much censorship as well as manipulation of news by the Australian Government. With the Sumbar Lestari incident, there was a claim by government sources (Commander Joint Task Force 639) of refugees lighting a fire onboard. The claim was retracted later by the Immigration Minister (News Items included). Therefore, it is essential that refugee witnesses be brought to testify the inquest so as to corroborate with the testimony of Australian Navy/Custom Officers. It should also be arranged for the relatives of the deceased to observe the inquest.

We trust that you will be making use of all available avenue to establish and to bring justice to those who are ultimately responsible for the death of these two asylum seekers.

Yours respectfully

W. (UNe00) for
Executive Committee

Network for International Protection of Refugees

Copy:

1. Hon Daryl Williams, Attorney General
2. Hon Philip Ruddock, Minister for Immigration

✓
To: RRAN RRAN
Sent: Friday, September 20, 2002 11:22 PM
Subject: [rran] [Fwd: inquest]

The inquest into the deaths of 2 women asylum seekers on their way to Australia off Ashmore Reef is due to be held in the week starting November 4th.

I attended the directions hearing in the Coroner's court, a number of things disturbing me. These include the list of witnesses to be called - 20 naval and customs officers but no refugee witnesses. Neither was there any indication that the family of the two women are to be brought to perth.

As you know the Human Rights Council successfully lobbied the WA Coroner to hold an inquest and it seems just that it be as open as is possible (especially given the way that Senate and other hearings have unfolded)

Using information here or from the barrister Catherine Crawford would you please write a letter on behalf of your organisation to the Coroner, Mr A Hope, 10th Floor, Grain Pool Building, 172 St Georges Tce Perth 6000 to ask that refugee witnesses be brought to Perth for the inquest and family members also.

Then write to Minister Ruddock saying you have requested this of the Coroner and point out that refugee witnesses have been brought to Perth for the hearing into people smuggling resulting in the Tampa crisis

The Sumber Laestari took on 164 people including crew. All of them but the two women were rescued when the boat caught fire and sank 2 days before the election. Fatimeh Hussaini aged 20 was pregnant and her husband Sayed Shahi Hussaini is detained at Christmas Island. Noorjan Hussaini (not related) was about 40 and her son is detained at nauru. It seems right and fair that family members be brought to Perth for the inquest and provided with interpreter services among other things.

As there are currently 7 Nauru tampa witnesses in the perth detention center it can be said that a precedent has been set to bring witnesses.

It was clear at the hearing that the Commonwealth QC and team representing Navy, Customs and DIMIA (!) did not want to extend the list of witnesses to include refugees.

Thank you for your earliest consideration

file:///Free-burma71/scratch/racs/currentnews/temp-sencl/060902x03

But Justice Kirby said the 35-day limit in effect deprived visa applicants of their rights to go to the High Court.

Many asylum-seekers could not speak English, were in detention and could not readily access lawyers and, when they did, received poor advice, he said.

"We've had enough cases to know that happens," Justice Kirby said.

Confusion of fire and fear in navy's report

Natalie O'Brien

THE confidential incident brief to COMAST refers to them as PIIs sailing an SIEV into the AS contiguous zone and the episode is reported as a safety of life at sea incident.

But what this confusing navy-speak really means is that a boatload of asylum-seekers was found heading for Australia when a fire forced them to jump overboard and two women tragically drowned.

John Howard yesterday took the rare step of making public an intelligence report describing what the

'This was a deliberate action . . . They all wore lifejackets'

Naval report

navy believes was a deliberately lit fire aboard the Indonesian flagged fishing boat Sumbang Lestari.

The brief to COMAST (the Commander of the Australian Theatre) Rear Admiral Chris Ritchie — which was released a day after Defence Minister Peter Reith flatly refused to release the intelligence report regarding the alleged children-throwing incident — says the boat-

people knew of the government policy and had done everything possible to stop being returned to Indonesia.

The boat was spotted by a Customs vessel and HMAS Wollongong was called in to intercept it and board it.

Navy reports say the boatpeople threw pieces of the boat overboard and that they had set up barricades to stop personnel coming aboard.

It also said that when navy personnel did get on deck they discovered the boat was on fire in the midships' hold.

"Boarding party officer attempted to extinguish fire, which had taken hold and a drum exploded and the hold erupted in flames," the brief said.

"As the fire exploded the PII panicked and rushed to the starboard side and the vessel listed 15 to 20 degrees."

Some of the boatpeople jumped into the sea and others were helped off by navy officers. Two women wearing lifejackets were found a short time later floating and unconscious with no pulse and could not be revived.

The report concluded the fire was deliberate and the exploding drum was "indicative of an attempt to prevent the boarding party from extinguishing the fire".

"That this was a deliberate action by the PII is reinforced by the fact they all wore lifejackets."

The Australian 10/11/2001

The Advertiser 10/11/2001

Government 'acts like Goebbels'

A FORMER chief of the Australian navy has accused the Federal Government of acting like Nazi propaganda minister Joseph Goebbels in its handling of defence and refugee issues.

Retired Vice Admiral Sir Richard Peek said the Government had muzzled defence forces over what was happening

with asylum seekers and deliberately was keeping the public in the dark. "Under the current rules the services generally are completely muzzled and treated rather in the way the German population was treated by Dr Goebbels in World War II — not allowed to say anything in public," he told ABC radio.

Two Asylum Seekers dies as vessel torn apart

By MICHAEL MADIGAN
in Canberra

A CONFRONTATION that has left two women asylum seekers dead began to go seriously wrong at 6pm on Thursday.

The Sumbar Lestari - a wooden vessel flying an Indonesian flag - had sailed into Australian waters in defiance of navy warnings.

Suddenly, some of the passengers among the 162 people on board - 30 children, 24 women and 108 men - began tearing their boat apart.

The Australian Customs vessel Arnhem Bay had seen the boat an hour earlier 63km north of Ashmore Reef heading south at 9km/h.

About 5.35pm the Arnhem Bay was close enough for sailors to issue a blunt threat.

Passengers were told they faced months in an off-shore detention centre and the crew up to 20 years

in jail. But the vessel did not stop.

At 6pm the vandalism began. Passengers began throwing fuel and water overboard along with parts of the boat they had ripped up. The crew of the nearby patrol boat HMAS Wollongong received permission to board and at 6.10pm with the Sumbar Lestari nearly 2km inside Australian waters a six-person boarding party got ready to act.

'An attempt to intimidate us'

At 6.20pm the first sailors aboard were confronted with barricades. Overcoming them, they encountered a fire in the midship hold which they tried to extinguish.

But the fire had taken hold and a

fuel drum in its path exploded, the hold erupting in flames.

The asylum seekers had moved to the bow and some were jumping into the water.

When the drum exploded, many panicked, rushing to starboard causing the vessel to list up to 20 degrees.

By 6.40pm the boarding party had helped about 40 passengers off the crippled boat and then escaped themselves with fire threatening to engulf them.

With at least 20 people in distress, HMAS Wollongong and Arnhem Bay plucked the helpless from the water - including a woman in her mid-70s and another, unconscious, in her mid-40s.

Both, who had been in the water about 20 minutes, received CPR for about 30 minutes before being declared dead. By 7.20pm, with all



passengers recovered, the Wollongong reported the Sumbar Lestari had sunk.

On board the Wollongong, sailors helped the rescued people before setting course for Ashmore Reef where a plan for removal of the bodies will be developed.

There are now about 340 people moored at Ashmore Reef with a further 220 on Christmas Island and another 65 on Cocos Island.

The defence minute and accompanying cable said the fire had been deliberately lit.

"It is not possible to know at this time if anyone was trapped in the burning vessel," the report said.

Prime Minister John Howard, Immigration Minister Philip Ruddock and Defence Minister Peter Reith

were told about the incident on Thursday night.

Mr Howard yesterday ordered the navy report on the incident be made public. "What I'm going to do on this occasion is I am going to require that the report that I have received be made public so that if there are any subsequent corrections then people can't come around and accuse me or any of my ministers of manipulating the facts," he said. "What it represents is an attempt to intimidate us," he said.

Opposition Leader Kim Beazley said he was saddened by the tragedy. "I note those tragedies today and the reports of them, and I'm saddened at the thought that two more people have died as a result of this ignominious trade," Mr Beazley said.

ooth in the seat of Parkes, takes no chances. He hasn't seen a sculphur in 25 years. Photo: Andrew Meares

What a difference a day makes: Ruddock changes tack on boat fire

Andrew Clennell
and Craig Skehan

The Immigration Minister, Philip Ruddock, has admitted a fire on a boat of asylum seekers that led to the death of two women may not have been deliberately lit, as initially implied.

This came amid allegations of a political cover-up over false Government claims last month that another group of asylum-seekers threw children overboard in an attempt to blackmail their way into Australia.

The Government released yesterday morning a preliminary Navy report stating the fire on the boat was deliberately lit.

However, Mr Ruddock admitted last night that this might not have been the case.

"Certainly, the Defence people have a view it might well have been deliberately lit, but presumably it could have been [from] trying to cut the fuel line on a hot engine," he said.

"I don't know."

Mr Ruddock said that cutting the fuel line was "equally as dangerous" as arson.

The new arrivals brought the number of people who have come by boat since the end of August, when the Government began its "Pacific solution" of turning vessels back, to more than 2,000.

Yesterday Mr Howard accused

the latest boatload of asylum seekers of attempted intimidation, but said he wanted to rely on the preliminary Navy report so no-one could accuse him of "making any of that up".

The "confidential" report did not contain proof that the fire on the boat was lit on purpose, but suggested such an explanation was "reinforced by the fact they all wore lifejackets".

The report also said that an exploding drum on the boat was "indicative of an attempt to prevent the boarding party from extinguishing the fire".

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Z 081315Z NOV 01

FM NCC AST

TO COMAST

BT

C O N F I D E N T I A L

SIC 13M

FOR NCC FROM CJTF 639

SUBJ: SIEV 10 INCIDENT BRIEF

1. THE FOLLOWING ACCOUNT OUTLINES EVENTS CONCERNING THE ARRIVAL OF SUSPECTED ILLEGAL ENTRY VESSEL (SIEV) 10 IN THE VICINITY OF ASHMORE ISLAND ON THE AFTERNOON OF 8 NOV 01. THIS ACCOUNT IS BASED ON INFORMATION CONTAINED IN HMAS WOLLONGONG'S OPERATIONAL REPORTS, THE LOG HELD AT HQ NORTHERN COMMAND AND ORAL REPORTS FROM THE COMMANDING OFFICER OF HMAS WOLLONGONG.

(ALL TIMES ZULU)

0600Z - SIEV 10 FIRST DETECTED 3NM OUTSIDE AUSTRALIAN CONTIGUOUS ZONE, COURSE 160 AT 5 KNOTS. AUSTRALIAN CUSTOMS VESSEL (ACV) ARNHEM BAY ADVISED CLOSING TO ISSUE WARNING AND DETERRENCE NOTICE BY BOAT.

0615Z - WOLLONGONG INSTRUCTED BY CJTF 639 TO BOARD SIEV 10 WHEN INSIDE AUSTRALIAN CONTIGUOUS ZONE AND ESCORT TO ASHMORE ISLAND.

0635Z - SIEV IDENTIFIED AS QUOTE SUMBER LESTARI UNQUOTE FLYING THE INDONESIAN FLAG. APPROX 60-70 POTENTIAL ILLEGAL IMMIGRANTS (PII) WERE OBSERVED ON THE FOREDECK. ACV ARNHEM BAY ISSUED WARNING NOTICE. WARNING REFUSED AND SIEV CONTINUED TO CLOSE THE AUSTRALIAN CONTIGUOUS ZONE AT 5 KNOTS.

0700Z - SIEV 10 OBSERVED DUMPING FUEL AND WATER OVERBOARD. PARTS OF THE SHIPS STRUCTURE ALSO OBSERVED BEING THROWN OVERBOARD.

0710Z - SIEV REPORTED 1 NAUTICAL MILE INSIDE THE AUSTRALIAN CONTIGUOUS ZONE. HMAS WOLLONGONG AND ACV ARNHEM BAY PREPARED TO COMMENCE BOARDING.

0715Z - WOLLONGONG DIRECTED TO BOARD SIEV TO SECURE IT AND MAKE IT SAFE.

0720Z - BOARDING PARTY CONDUCTED BOARDING WHICH WAS MADE DIFFICULT BY BARRICADES. ON BOARDING THEY DISCOVERED FIRE IN MIDSHIPS HOLD. BOARDING PARTY OFFICERS ATTEMPTED TO EXTINGUISH FIRE, WHICH HAD TAKEN HOLD AND A DRUM EXPLODED AND THE HOLD ERUPTED IN FLAMES. PII HAD MOVED TO BOW AND WERE ENTERING THE WATER. AS FIRE EXPLODED THE PII PANICKED AND RUSHED TO THE STARBOARD SIDE AND THE VESSEL LISTED 15 - 20 DEGREES. BOARDING PARTY ASSISTED TWO THIRDS OF THE PII TO EXIT VESSEL AND THEN LEFT THE SIEV AS THE FIRE WAS ENDANGERING THEM. BOARDING PARTY THEN CONTINUED TO ASSIST THE LAST PII OFF THE SIEV.

0740Z - BY THIS TIME MOST PII WERE OFF THE SIEV AND IN THE WATER AND THE ACV ARNHEM BAY AND HMAS WOLLONGONG'S BOATS WERE COLLECTING PII FROM THE WATER AND RECOVERING THEM ABOARD WOLLONGONG AND ARNHEM BAY.

0800Z - 90 PERCENT OF PII RECOVERED.

0820Z - ALL PII RECOVERED FROM WATER. ACV AND PCPB MADE A THOROUGH SEARCH OF THE WATER TO ENSURE NO ONE WAS OVERLOOKED. COASTWATCH AIRCRAFT ALSO SEARCHED THE AREA.

0920Z - WOLLONGONG REPORTED SIEV 10 SUNK IN POSN 1145.755 -

12256.40E, HAVING DRIFTED OUTSIDE THE CONTIGUOUS ZONE (THIS POSITION IS SUBJECT TO CONFIRMATION).

0945Z - COASTWATCH (ACFT) REPORTED NO FURTHER PERSONNEL COULD BE OBSERVED IN WATER AND CONFIRMED THAT SIEV HAD SUNK.

0953Z - WOLLONGONG REPORTED SITUATION STABLE AND PROVIDING HUMANITARIAN ASSISTANCE TO PII AND ASSISTING FAMILY REUNIONS.

1010H - WOLLONGONG REPORTED FINAL HEAD COUNT OF 162 (ONE-SIX-TWO) PII INCLUDING 2 DECEASED. WOLLONGONG AND ASHMORE BAY COMMENCED PASSAGE FOR ASHMORE ISLAND LAGOON.

1330Z - ANTICIPATED ARRIVAL AT ASHMORE ISLAND LAGOON.

2. DECEASED PERSONS: IN THE COURSE OF RECOVERING THE PII TWO WOMEN WERE RECOVERED FROM THE WATER UNCONSCIOUS WITH NO PULSE. ONE AGED IN MID SEVENTIES, THE OTHER IN MID FORTIES. BOTH RECEIVED CPR FOR ABOUT 30MINS BEFORE BEING DECLARED DECEASED ON MEDICAL ADVICE BY COMMANDING OFFICER OF HMAS WOLLONGONG. BOTH WORE LIFE JACKETS. IT IS ASSESSED THAT THE WOMEN HAD BEEN IN THE WATER FOR ABOUT 20MINS.

3. CHILDREN: THERE ARE 30 CHILDREN IN THE PARTY. ALL ARE SAFE. ON ENTERING THE WATER THEY APPEARED TO REMAIN IN FAMILY GROUPS. SOME WERE SEPARATED FROM PARENTS ON RESCUE BUT ARE NOW REUNITED WITH THEIR PARENTS.

4. LIFE JACKETS: AT THE TIME OF THE INCIDENT 95 PERCENT OF PII WORE ORANGE LIFE JACKETS OTHERS UTILISED FLOTATION DEVICES.

5. PII Demeanor: PII PANICKED AND WERE HYSTERICAL WHEN THE VESSEL ERUPTED IN FIRE CAUSING THE VESSEL TO LIST. THEY ARE NOW CALM AND COMPLIANT.

6. IS ANYONE MISSING? AT THIS STAGE NO ONE IS REPORTED MISSING. AS THE PII ARE SPLIT INTO GROUPS ON DIFFERENT VESSELS CONFIRMATION WILL NOT BE POSSIBLE UNTIL LATER FRIDAY. A THOROUGH SEA AND AIR SEARCH WAS CONDUCTED AND IT IS BELIEVED THAT NO ONE WAS MISSED. IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER ANYONE WAS TRAPPED IN THE BURNING VESSEL. THE PII REPORTED THAT THEY HAD 156 PII AND FOUR CREW. A TOTAL OF 160 PERSONS. WOLLONGONG HAS ACCOUNTED FOR A TOTAL OF 162 PERSONS, COMPRISING 108 MALES, 24 FEMALES, 30 CHILDREN.

7. CJTF 639'S ASSESSMENT: THE PII WERE AWARE OF THE AUSTRALIAN GOVT POLICY TO RETURN SIEV'S ARRIVING IN THE AS CONTIGUOUS ZONE, TO INDONESIA. THEY HAD PREPARED THEIR VESSEL TO OBSTRUCT RAN BOARDING PARTIES AND HAD SET ABOUT DELIBERATELY DESTROYING THEIR VESSEL IN ORDER TO AVOID THEIR RETURN TO INDONESIA. THE FIRE WAS DELIBERATELY LIT AND THE EXPLODING DRUM IS INDICATIVE OF AN ATTEMPT TO PREVENT THE BOARDING PARTY FROM EXTINGUISHING THE FIRE. THAT THIS WAS A DELIBERATE ACTION BY THE PII IS REINFORCED BY THE FACT THEY ALL WORE LIFEJACKETS. WHILE NOT CONFIRMED, THE TWO DECEASED WOMEN APPEAR TO HAVE DROWNED.

8. THIS IS AN INTERIM REPORT SUBJECT TO CORRECTION FOLLOWING MORE DETAILED INVESTIGATION.

BT

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