I. INTRODUCTION

Australia is a party to the United Nations Convention relating to the Status of Refugees (‘Refugee Convention’) and the Protocol Relating to the Status of Refugees (‘Refugees Protocol’) and, considers itself a good international citizen in upholding these treaties. Treatment of people arriving in Australia as asylum seekers, in particular by boat, does not comply with obligations under the Refugee Convention and its Protocol. At present, all asylum seekers who arrive by boat, who are termed as ‘Illegal Maritime Arrivals’ (‘IMAs’), are compulsorily detained, violating the obligations under Article 9 of the International Covenant on Civil and Political Rights (‘ICCPR’) and the Refugee Convention and the Protocol. Current Australian immigration policies provide an extensive discretion to Department of Immigration and Border protection (DIBP) visa officials, in dealing with asylum and refugee applications. Hence, DIBP organisational culture and governance have the potential to affect the extent to which asylum seekers and refugees are afforded procedural fairness, and ultimately can impact on the overall of their claims. This research focuses on DIBP’s organisational culture and its governance and how organisational culture and governance influence its adherence to procedural fairness of DIBP decision-making. This will have a significant impact on asylum seekers and refugees. However, this is yet to be tested through empirical evidence, and the researcher attempts to contribute to filling this gap.

II. RESEARCH QUESTIONS

Main research question
How organizational culture and governance within Australia’s Department of Immigration and Border Protection (DIBP) affects compliance with the Refugee Convention: case study of Sri Lanka

Sub-research questions
What is the decision making-process of the DIBP?
How does its organisational culture and governance influence its adherence to procedural fairness of DIBP migration decisions?
How do DIBP decisions relate to, support and/or hinder the implementation of the Refugee Convention?

III. METHOD

The data collection consists ethnographic participatory observations, observe refugee hearings and interviews of DIBP official and/or Migration agents/lawyers. The researcher also wishes to carry out a few interviews with key policy makers and/or key DIBP officials directly linked to the policy-makings. Besides this, another important part of the fieldwork consists of gathering information about the people who were deported and detained in Sri Lanka.

The Researcher’s Own Experience in Refugee Cases
In this section, the researcher discusses his research design which is slightly different to many previous
studies. That means, he will include his own deeper and personal understandings as a migration lawyer about the social dynamics of the decision-making process of the DIBP in dealing with refugee/asylum applications. This part of the methodology essentially involves an examination of DIBP’s decision-making process through an ethnographic analysis. In including this part into the methodology, the researcher tries to provide an additional explanation/insight into evaluating the DIBP decision-making process. The ethnography he is going to use in this research is a bit complex attempt. The socio-legal study about examination of adoptability of procedural fairness of the decision-making process of the DIBP with respect to refugee convention stemmed from his past five years’ experience who dealt with more than 50 refugee/asylum seeker cases as a migration lawyer and in particular, last year’s participatory observations of more than 15 cases in the same field.

Observe Refugee Hearings

The researcher will observe refugee hearings at AAT/FCC/FC. In this section, the researcher expects to conduct a quantitative analysis of relevant AAT, FCC and FC cases through a documentary analysis and then select a random sample of subset of cases completed during last year. This will be followed by a qualitative analysis including in-depth interviews with parties; AAT members, Judges, and Lawyers involved in those cases.

Interview a Sample of Key DIBP Visa Officials

The researcher also expects to interview a sample of key DIBP visa officials involved in the process of determining asylum seeker/refugee applications in Australia. Interview subjects will be selected using a snowballing/chain-referral process approach as this method may be suited for obtaining information about controversial specific processes involving senior decision-makers and policy-makers. The method draws a purposive sample that includes the most important players who will participate in the decision–making process of the DIBP. At interviews, the researcher will specifically question relevant visa officials during the study period, who are involved in asylum and refugee visa decisions.

Case Studies in Sri Lanka

In support of the research argument, the researcher will use Sri Lankan case studies. The aim of this component is to identify the ground situation of arrests at the Colombo International Airport, detention and ill treatments for those who return as asylum seekers from Australia and to understand whereabouts of those people. This will allow the researcher to assess whether these people are safe or not. Were they subjecting to any ongoing victimization effects?

The researcher’s Sri Lankan case studies centred on:

1. Identify policy concerning arrived asylum seekers in Sri Lanka;
2. Identify applicable law in Sri Lanka as the receiving country;
3. Search for physical evidence of the arrived people;
4. Carry out interviews with key agents involved in this process in Sri Lanka.

In doing so, following questions are proposed:

1. What are the screening processes used at the Colombo airport?
2. Are the people who arrive from Australia safe?
3. What are the Sri Lanka policy and/or legal frameworks relevant to this procedure?
4. How does the arrest and detention framework operate? What is the after-arrest procedure applicable to them? Are they transferred to detention centres in other parts of Sri Lanka?
5. Where are they now?

His analysis will be undertaken with reference to both documentary evidence on the public record, and interviews. He will carry out interviews with decision-makers in Australia and Sri Lanka.

REFERENCES

How Organisational Culture and Governance within Australia’s Department of Immigration and Border Protection (DIBP) Affects Compliance with the Refugee Convention: Case Study of Sri Lanka


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