

A CASE FOR COMPASSION

Several members have contacted me expressing their deep concern following a program on the ABC Australian Story about the Murugappan family (often referred to as the Biloela family). It is heartbreaking to see children caught up in a situation like this.

The family were living in the Queensland town of Biloela before Priya and Nades' bridging visas expired, after which the family was taken into detention during a night raid in 2018. Nades and Priya have said they face persecution if deported to Sri Lanka. Both Tamils, they fled their homeland after the country's civil war and came separately by boat to Australia. They had been kept in Australia's immigration detention system for more than three years, appealing against attempts to deport them. Their fight against deportation is ongoing. The government has repeatedly said the family is not eligible to settle in Australia. The cause of the couple and their children has been supported by some residents of Biloela as well as asylum-seeker advocates.

Community polls indicate the majority of Australians believe asylum seekers arriving by boat deemed not to be genuine refugees should be deported. The Liberal National Federal Government Ministers and spokespersons refer to a poll which showed 64% of those surveyed support this policy.

HISTORY

During and after the Sri Lankan civil war, Nades travelled via Sri Lanka for work on three occasions on a Sri Lankan passport, on temporary work visas issued by the Sri Lankan government, to Qatar in 2004, Kuwait in 2008 and Qatar again in 2010. The Australian government claimed that Nades was not of concern to Sri Lankan authorities; this has been accepted in a number of subsequent reviews and court proceedings.

Priya left Sri Lanka in 2001 and went to Tamil Nadu, India, claiming she was being targeted due to her brother's supposed links to the LTTE. She arrived at Cocos Islands on a people smuggler boat in 2013. Tamil Nadu, India was a safe haven for Tamil people fleeing Sri Lanka during the civil war and was unaffected by the civil war.

At least 2600 Sri Lankan asylum seekers who have been returned to their own country have since been found to be living safely and successfully in Sri Lanka after their welfare was checked. An experienced immigration lawyer, Simon Jeans also found the couple had not been truthful in visa applications, and evidence suggested they came to Australia as economic refugees.

In June 2018, the Federal Court of Australia found that Priya was not eligible to stay in Australia, while Nades' rights of appeal were already extinguished. In the judgment, the judge noted that the civil war had ended in 2009, Nades had returned to Sri Lanka on three occasions during the civil war and found that there was "no evidence to suggest [Nades'] family still living in Sri Lanka was at risk from authorities". Priya's appeal to the Administrative Appeals Tribunal was dismissed in December 2018. A further application by the couple to seek special leave to High Court of Australia to hear an appeal of the Federal Court decision was refused in May 2019. The family had their asylum appeals to stay reviewed and rejected seven times through seven court and tribunal sessions.

That's a bit of history about why the parents are not considered to be refugees. Although the girls have no connection to Sri Lanka and were born and raised in Australia, under current Australian laws they can't obtain Australian citizenship as they are children of "unauthorised maritime arrivals".

However there is no doubt the family are well liked in Biloela, did fit in to the community well and would be welcomed back. We read of the life they have been subjected to and the affect this is having on their health. It is almost unbelievable that the Australian government would spend so much money detaining this family. And yet we are told that it is done because this is what the majority of Australians

want and there is no room for compassion in a immigration system.

On 12 August 2021, the High Court rejected the younger daughter's bid for the court to hear her visa case. The matter is now in the hands of Immigration Minister Alex Hawke. On 23 September 2021, three of the family members were granted temporary 12 month visas, which will allow the family to remain in Perth for the time being.

POLITICAL COMMENTS

Prime Minister Scott Morrison refused calls to intervene, stating "they didn't come to the country in the appropriate way. They have not been found to have an asylum claim" and "to exercise intervention powers on this would be to send exactly the wrong message to those who are looking to sell tickets to vulnerable people looking to get on boats ..."

Anthony Albanese, leader of the opposition has supported granting permanent residency to the family stating "These people should be settled here in Australia. It won't undermine the government's migration policies. It will say this is a government that is prepared to listen to what the community are saying and saying so strongly". Albanese accepted that the courts had found the family are not genuine refugees but called on the immigration minister to use his discretionary power to intervene.

Assistant Minister for Women Amanda Stoker says the Biloea Tamil family "knew the terms" of the arrangement with Australia. Ms Stoker told Sky News it is a "tough situation" and that it's "really important that this little girl gets the medical care she needs and deserves". However, Ms Stoker said, "they've known from the outset that people who arrive in Australia to whom we don't owe protection obligations, who are not refugees under law, don't get to stay here if they arrive illegally. It's a shame that they, particularly the children, are being put through this process but let's also be clear, those parents who are not found to be refugees have the option of going back to Sri Lanka. And giving their children a free and unrestricted life, if that's what they wish." (Amanda Stoker identifies as Christian and attends an Anglican Church in inner Brisbane.)

The Immigration Minister Alex Hawke has said he believes allowing the Tamil family to resettle in Australia permanently would lead to more people trying to illegally get to the mainland by boat. Hawke has intervened to allow the Murugappan family to live in Perth while Tharnicaa undergoes treatment in hospital, but said the government's position on permanent resettlement was clear. "We do not believe anyone who has come by boat should be allowed to be permanently resettled in Australia. That's been tested at several elections. Our advice regularly from agencies that the trade in human misery that is people smuggling can restart at any moment. The people smugglers are there, they watch developments closely, they take account of any decisions we make. We have to make a tough decision to continue our border protection, but it is the right decision, because the trade in human misery means lost life, it means more expense and a loss of social cohesion." He said it did not matter whether a case came to the public's attention or not, the government's stance would not change.

Many more comments can be found in the media.

ACTION TO DATE

Several communications have been sent to relevant politicians and local members to ask for the minister to use discretion to let the family stay but the replies are not encouraging. Some of our members have supported vigils and petitions. There has been a lot of support from the community and church leaders have spoken in favour of compassion for the family.

WHAT MORE CAN WE DO?

Please continue to pray for the family, especially the children. If you support this family's fight to stay in Australia, you can continue to write to our political leaders urging them to show compassion. Under Australian Law and in the current political climate, this is the only avenue which could lead to the family being allowed to stay.

Susan Skowronski
Social Issues and Action