

Submission to the Inquiry into Matters Related to Protection Visas and Deportation

My name is Klaus Neumann. I am a professional historian. I hold a PhD in history from the Australian National University. I work part-time as a Senior Research Fellow at the Institute for Social Research, Swinburne University of Technology. I am the author of four books, including *Refuge Australia: Australia's Humanitarian Record* (UNSW Press, 2004).

In the following, I will provide some background information about the evolution of the institution of political asylum in Australia.

According to the *Age* of 24 June 2005, Prime Minister John Howard told the Coalition party room “that asylum has been granted only twice, in the Petrov affair of the 1950s and for Russian Lillian Gasinskaya, the so-called Red Bikini Girl, in the 1970s”. Similarly, Foreign Minister Alexander Downer said in an interview with the ABC on 7 June 2005 that “there have been only been two cases as far as I know in Australian history where asylum of that kind – political asylum – has been given – in the Petrov case, and I think there was one other case, a very long time ago.”

It is correct that Vladimir Petrov and Evdokia Petrova were granted political asylum in April 1954. They were offered political asylum by the Australian authorities after Vladimir Petrov, then the Third Secretary at the Canberra embassy of the Soviet Union, defected and agreed to reveal details about his country's intelligence network in Australia.

In January 1954, Australia had acceded to the Convention Relating to the Status of Refugees. It had done so subject to a declaration and certain reservations, which meant, inter alia, that Australia considered the Convention to apply only to people who had become refugees as a result of events occurring before 1951 in Europe. Arguably, under the Convention, Australia had no international legal obligation with regard to Petrov's asylum claim.

In 1956, the Australian government became concerned that citizens of Eastern Bloc countries who were to visit Australia to take part in the Melbourne Olympics would apply for political asylum. In anticipation of such requests, on 16 October 1956 Cabinet “approved of the principle that political asylum and refuge should be available in appropriate instances to various categories of aliens namely Olympic Games visitors, members of visiting trade and other delegations, members of diplomatic and consular missions in Australia, certain other defectors and Asian leaders”.

The policy was applied when several Eastern European athletes (mainly from Hungary) sought to stay in Australia after the conclusion of the 1956 Olympic Games.

I refer the Committee to chapter 4, “Asylum Seekers”, of my book, *Refuge Australia*, in which I discuss at length the origins and administration of the asylum seeker policy in the 1950s and 1960s.

I believe that in this context two issues may be relevant to the Committee's investigations. *First*, the Committee may want to ascertain whether – and if so, when and under what circumstances – the 1956 policy was ever superseded by another policy. It may be that the establishment of the Determination of Refugee Status Committee in 1978 was meant to replace previous arrangements under the 1956 policy. If the Prime Minister's reference to the “Red Bikini Girl”, who was allowed to remain in Australia by the Fraser government in January 1979, were

correct, then the government would have followed either of two overlapping policies at the time.

Second, it is worth looking at how the Australian government dealt with requests for political asylum at a time when the 1956 Cabinet decision was undisputably the only policy guiding the government's approach. My research suggests that Australia's relations with other nations determined the procedure used to deal with requests for political asylum, but they did not determine the effective outcome of such requests.

Requests for political asylum by citizens of Eastern Bloc countries were usually either strongly discouraged in the first place, or declined. But in most instances, the applicants were then allowed to apply for permanent residence, and permitted to remain in Australia. Likewise, in the famous case of the three Portuguese naval ratings who applied for political asylum in 1961, the government declined their request but later granted them permanent residence. (I refer the Committee to my article "'Stayputs' and Asylum Seekers in Darwin, 1961–1962" in the *Journal of Northern Territory History*, no. 16 (2005), in which I discuss the case of the Portuguese asylum seekers at length.) Similarly, West Papuans who sought political asylum in Papua and New Guinea between 1963 and 1973 were granted temporary permissive residence rather than asylum, because the Australian government was anxious not to embarrass the Indonesian government.

In 1961, Dr Ryszard Stanislaw Zielinski, the Commercial Consul at the Polish Consulate-General in Sydney, applied for political asylum for himself, his wife and their two daughters. On 14 January 1961, the Prime Minister announced that Zielinski's request had been granted. This was the first time since the Petrov affair that Australia had granted political asylum to a foreign diplomat or consular official.

Four years later, the Burmese Services Attache in Canberra, Colonel Thomas Barrington, was dissuaded from similarly applying for political asylum and instead was treated as an applicant for residence. While the Burmese embassy subsequently complained that Barrington's application for residence had been "granted to him covertly and in haste", the Department of External Affairs had arguably been able to largely defuse the situation by ostensibly treating Barrington's request to remain in Australia as if he had merely decided to retire here.

While Australia granted political asylum on a few occasions in the 1950s, 1960s and 1970s, it was more common at the time to treat asylum seekers as if they were prospective immigrants in order to avoid embarrassment to foreign governments. In all these cases, the Department of External Affairs was prominently involved in the decision making process. This was in accordance with the 1956 Cabinet decision.

Contrary to what the Prime Minister and the Minister for Foreign Affairs have said in relation to the defection of Chen Yonglin, requests for political asylum were granted in several instances in the past. In other instances, applicants were persuaded to apply for residence in the understanding that their requests would be considered favourably. Colonel Barrington, for example, agreed in a meeting with Sir James Plimsoll of the Department of External Affairs that "he would apply for permanent residence in the normal way (having been assured that his case would certainly receive sympathetic and prompt attention)".

It seems that the Australian government could have similarly tried to dissuade Chen Yonglin from either publicly seeking political asylum or lodging an application for a protection visa, and instead offered him the opportunity to apply for permanent residence. Thereby it would

have avoided embarrassing the Chinese government as much as that would have been possible under the circumstances.

In the case of Chen Yonglin, the Department of Foreign Affairs may have taken a different approach, if the decision makers had been more fully aware of the relevant historical precedents. In 2002, after offering a research paper about the history of Australia's asylum seeker policies to the Department of the Parliamentary Library, I was told that my topic was 'not relevant to client's needs', and that the 'historical analysis of policy surrounding asylum seekers . . . does not bear significant impact on asylum seeker issues today'. I hope to have demonstrated that such analysis could usefully inform policy today.

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