

Rough Guide to being a Refugee in Australia¹

(by a couple of ordinary Australians who tried to figure out the Australian refugee detention system)

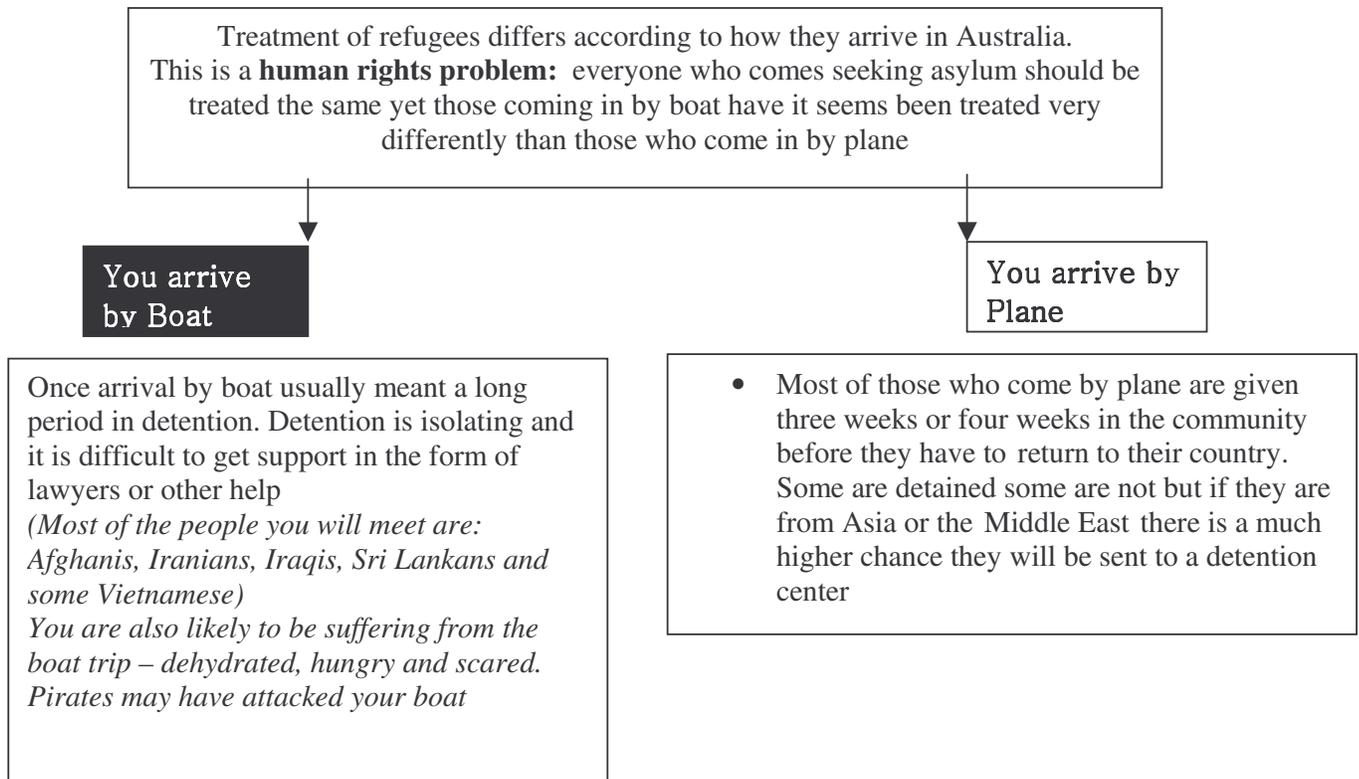
Imagine you have had to run from the country you were born. You go as far as you can, you head for what you believe to be a safe shore.

You make it

It is important that any application for Asylum occurs within seven days after arrival into Australia, if you do not then almost certainly you face detention or deportation.

Step One: The screening interview: Questions usually asked are what is your name, where are you from, and why did you come. This interview to decides if you are an asylum seeker. To seek asylum you must **1.** Verbalize a request for asylum **2.** You have come to Australia to escape persecution of some kind.

You can be deported from this point or placed into detention. You may be asked to leave voluntarily.



If you claim **Asylum**

(Under the Geneva Convention there are ways you should be treated, Australia generally fails to uphold these conventions.)

Little known fact:

- **If you enter a country and claim Asylum – you have not broken the law and are not illegal. Only if you have lied about why you are entering the country do you break the law and are illegally in Australia.**

The Words: *"I request asylum. I need protection I will be persecuted if I go back."* If you do not **say** you want Asylum then you can be, despite evidence to the contrary, deemed as not being an asylum seeker and deported.

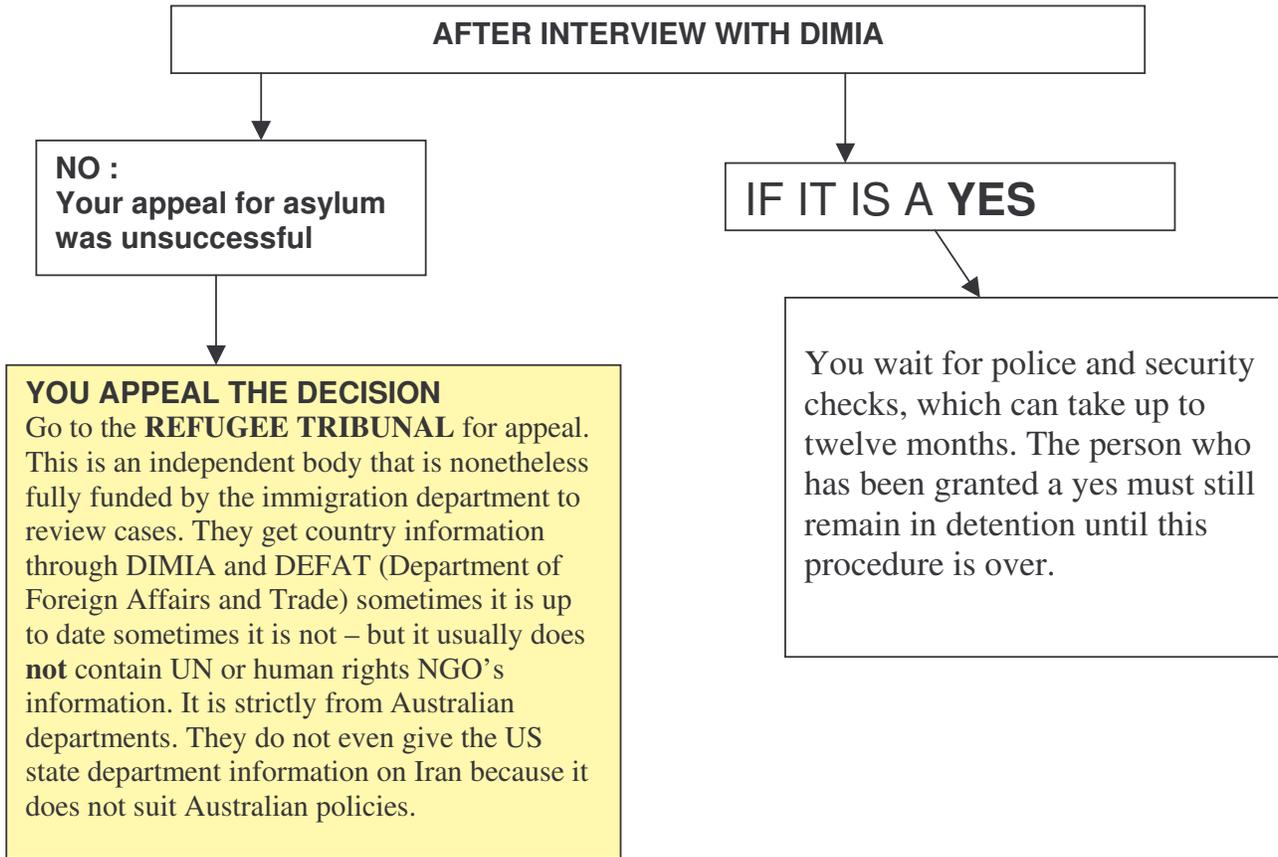
Get Immigration Agent

INTERVIEW WITH DIMIA

(Australian Department of Immigration and Multicultural and Indigenous Affairs)
This is the first formal interview for application for asylum

This Interview is critical but:

- It takes place in a stressed situation. Your physical and psychological condition is not good.
- You can be feeling intimidated, upset, confused and you may be suffering from posttraumatic stress.
- You don't know whom to trust – whether it is the officials or the interpreters who are usually from a country where the government was hostile against you. So, you are tempted not to tell your whole story. You are also limited in what you can say as there are set questions and your answers must address those questions. You are not allowed to tell your story in your own way. Sometimes the right questions are not asked.
- People smugglers will often tell you what to say and what not to say: You are tempted to listen - you don't know they are often wrong.
- If you say something that is, or could be, construed as a lie. You can be turned down on grounds of lack of credibility.



If the Tribunal Officer follows all the rules and they state that a situation has been ‘considered’. This can be as little as a note on the file that you were crying, appeared stressed or seemed sick. It is difficult then to appeal.

The critical point about this appeal is that a Tribunal Officer can say I don’t believe you and no court can overturn it, as long as the officer has stated they have considered the case.

THE REFUGEE TRIBUNAL
Immigration agents for the Refugee Tribunal do not have to have any specific qualifications, for example a law degree; they are not required to have background knowledge of any refugee’s country’s culture or society.
For example many Afghanis have been troubled by the fact that officers will ask why should you be in trouble for what your father did. This shows a lack of understanding that in Afghanistan the descendants are held responsible for their elder’s actions. For example if someone’s father belonged to the wrong political group could mean that his children are persecuted whether or not they are part of that organization. Many asylum seekers say it is the luck of the draw. If you get a good agent then you have a chance if you don’t then you maybe in trouble.

IF IT IS STILL NO

You appeal to the **Courts**. Any Courts waiting lists can be as long as **eighteen months** before you get a chance for your case to be heard (which you spend in detention). When you get to the Court the judge can only look at: **Did the Refugee Tribunal officer follow the rules?** They cannot take into consideration what age, sex or background you are, or what you have survived. The *only* considerations are: if there has been a bureaucratic error in your processing and if the RIT process was procedurally consistent and fair.

IF IT IS YES

If you win in the Federal court you go back to the Refugee Tribunal again. *Back to the yellow shaded boxes and start again.* (You are still in detention). When you return to the Refugee Tribunal you may get someone impartial or you may get a friend of the first officer that turned you down. Also the Minister can appeal against your “yes”

The Courts:
Federal
To
Full Federal
To
High Court

(few cases ever win in the High Court and can be as long as two years before a case is brought before the High Court)

If you go back through the **Refugee Tribunal** and they turn you down again you can appeal (again) to a higher court. All the Court can do is give you another chance of going through the process again – it cannot grant you a visa. (You are probably still in detention)

APPEALS TO THE MINISTER
At anytime you are on the waiting list to be heard in the courts you can withdraw your appeal and place an appeal directly to the Minister. If there is new information since you went to the Refugee Tribunal: For example the situation in your country has worsened. You can write to the minister and state: *I appeal on Section 417 of the Migration Act to give me the chance to return to the Refugee Tribunal process again because I have new information which was not available when I was last in process.* If the appeal is accepted you go back to the Tribunal – if that is successful- (got to police and security checks) and get a visa. If it is not accepted you can appeal to the **Refugee Tribunal** again and the whole process starts again (and you may be still in detention)

**While you are in the process of court hearings you can apply for a
BRIDGING VISA**

Bridging visas came about because of the sheer amount of evidence of the harm detention does to people, especially to children. When they were first introduced no-one who applied was successful. Now there are possibilities you will get a bridging visa while your case is pending, especially if you are a family. A bridging visa allows you to live in the community, outside the detention centers.... There are *some* conditions:

Conditions vary according to the time of issue and with each visa issued

- **You often may be required to report every week – and your visa can be cancelled at anytime**
 - **You cannot work, not even voluntary work (as work is defined as anything that you could be paid for)**
 - **Upon application you must prove that the community is willing to support you**
 - **That means food, clothing, medical, dental, education and all other considerations.**
 - **You are not eligible for medicare or any other kind of welfare: unemployment, disabled, single parent, old age pension or otherwise: the community has to provide for all your needs.**
- (it seems now you can apply for a bridging visa at any point in the process excluding security checks)**

...and meanwhile on NARU

There seems to be no standard process or access to legal aid or support.

Other Things to Think About²

There is no queue to jump.

Australia has no embassy in Iraq or Afghanistan for people to apply to for a visa. In overseas refugee camps there is frequently no resettlement process available. Where one exists it is often ad hoc, agonizingly slow and corrupt.

Australia receives very few asylum seekers compared to other countries.

The number of unauthorized arrivals has never been much more than 4000 in any one year. Sweden, with about half our population, receives a similar number. Iran and Pakistan, two of the world's poorest countries, each host over a million Afghan refugees.

No other country has non-reviewable mandatory detention of asylum seekers.

In Australia they are placed indefinitely in detention camps with limited access to services; in most other Western countries they live in the community while their applications are being processed. For example, in Sweden they are allowed out of detention as soon as they have gone through identification and criminal screening.

Australia's annual quota of refugees is only 12,000.

And most years we don't even manage to fill that. This is minuscule compared with the numbers other countries take.

Under current Australian law innocent kids can be imprisoned

Children are not exempt from mandatory detention in Australia. Some have been imprisoned for years. In Sweden the maximum time a child is kept in custody is six days.

60% of refugees are victims of torture or severe trauma.

But in Australia they are treated like criminals rather than ordinary people fleeing persecution.

Anyone can be a refugee

Boat people are ordinary men and women, many of them urban professionals, who are fleeing their countries because of war or persecution.

Most asylum seekers from Afghanistan and Iraq are legitimate

93% of Afghans and 97% of Iraqis are found to be genuine refugees.

Boat people are not illegal.

Under the UN Refugee Convention, which has applied for fifty years, Australia has an obligation to take in asylum seekers and assess their claims. They are in a totally different category from immigrants. The real 'illegals' are the 14,000 Britons or Americans caught each year for overstaying their visas.

About the Authors

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The rough guide emerged from as an idea from an interview with Jane Keogh and discussions between Jane Keogh, Jennifer Badstuebner and Tessa Morris-Suzuki

¹ This is meant as a rough guide only, it is not intended as a formal or legally binding document. Australian Government policy changes rapidly and there can be considerable differences from case to case; this makes the whole process complex and difficult to negotiate.

² Drawn from the Rural Australians for Refugees website found at <http://www.ruralaustraliansforrefugees.org/>