Implementing Australia's International Obligations towards Refugees

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As a party to the 1951 Convention Relating to the Status of Refugees¹ (Refugee Convention), Australia is bound to protect from return (*refoulement*) to a place of persecution persons who are outside their countries of origin owing to a well-founded fear of persecution on the basis of race, religion, nationality, political opinion or membership of a particular social group.² Unfortunately, this form of protection — shelter in another state — cuts across a central principle of state sovereignty: the power to control immigration. As the number of refugees steadily increases, states are adopting many restrictive immigration strategies to fend off refugee flows. Australia has been an active participant in this trend, even though it does not face refugee flows of the size borne by other Western countries. The reported reference by the new Minister for Immigration and Multicultural Affairs (the Minister) to minimising judicial review in relation to Australia's 'Rolls-Royce refugee determination system' (Middleton, 1996) suggests that the Howard Government will continue the refugee policies of the Keating Government, which enjoyed bipartisan support. If this is the case, Australia is at risk of violating its international obligations.

This article examines four strategies that the Australian government currently uses to minimise the numbers of asylum seekers: first, decreasing the likelihood of claims for refugee status (in particular, by failing to inform asylum seekers of their rights); second, detaining asylum seekers; third, attempting to shift the burden of protecting refugees to other countries; and fourth, legislative interpretation of the Convention definition of a refugee.

Claims for Refugee Status

Australia has 'onshore' and 'offshore' refugee programs. Refugees from camps around the world are resettled in Australia through the 'offshore' program. Australia is generally under no obligation to maintain this program, although there are some exceptions, notably Australia's participation in the Comprehensive Plan of Action

¹ Done 28 July 1951, 189 UNTS 150, entry into force 21 April 1954.

² The definition of 'refugee' is contained in Article 1A(2) of the Convention, as amended by the 1967 Protocol Relating to the Status of Refugees, done 21 January 1967, 606 UNTS 267 (entry into force 4 October 1967). Article 33 of the Refugee Convention contains the cardinal obligation of *non-refoulement* or non-return.

(CPA)³ by which it undertakes to resettle a proportion of the predominantly Vietnamese refugees detained in camps throughout Southeast Asia. Australia may with some justification be proud of its generosity in the offshore program. The onshore program, meanwhile, applies to people already within Australian territory and it is to these people that Australia's obligations under the Refugee Convention are owed. It is generally with respect to the onshore program that Australia has taken restrictive measures.

As with most international treaties to which Australia is a party, the Refugee Convention does not confer justiciable rights on individuals within the Australian legal system unless the treaty has been implemented by legislation. The Convention has never been the subject of specific implementing legislation. Instead, claims for refugee status are heard through an administrative procedure under the Migration Act 1958 (Cth). At the primary stage, decisions are made by an officer of the Department of Immigration and Multicultural Affairs (the Department). Decisions are reviewable on the merits by the Refugee Review Tribunal. Judicial review is then available. Since the Refugee Convention does not specify how States Parties should implement their obligations, the lack of specific implementing legislation is not incompatible with the Refugee Convention, provided that a fair hearing is granted to asylum seekers. However, the chances of a fair hearing are adversely affected by particular provisions of the Migration Act which effectively place the onus on boat people to fill in the correct application form by not requiring the Department to inform the asylum seekers of the need to complete the form or of their rights to seek legal assistance.⁴ Chances of a fair hearing are also affected by provisions that exclude particular categories of asylum seekers from accessing the determination procedures and restrictions on judicial review.

The impact of these provisions is illustrated by a 1995 case involving a boat-load of Sino-Vietnamese asylum seekers. Some of the asylum seekers had stated that they had come to Australia because they did not have household registration, on which rights to work and housing depend; their only form of shelter — paper houses — had been demolished by the authorities; and the authorities were developing the area in which they lived. Serious violations of economic rights may found a claim for refugee status provided there is a nexus between the violations and one of the five grounds of race, religion, nationality, political opinion or membership of a social group. Nevertheless, departmental officers took the view that no member of the group had uttered 'key' or 'trigger' words, such as 'refugee status'. The officers did not advise the asylum seekers either that they would be required to fill in the standard form to commence the refugee-status determination procedure or that they had a right to seek legal advice,⁵ even though a lawyer from the Refugee Advice and Casework Service (Victoria)

³ UN doc. A/CONF.148/2, 26 April 1989; reproduced in *International Journal of Refugee Law*, Vol. 1, 1989.

⁴ See particularly ss. 45-47, ss. 193(2), 198(4) and 256 of the Migration Act.

⁵ The facts as stated here are drawn from the judgment at first instance, *Wu Yu Fang and Ors v Minister for Immigration and Ethnic Affairs* (Federal Court, O'Loughlin J, unreported, 27 July 1995).

had written to the Department offering his services to the asylum seekers. Due to the passage of retrospective legislation concerning 'safe third countries', it then became impossible for these asylum seekers to apply for refugee status.

Judicial review of the Department's behaviour was sought on a number of grounds. The asylum seekers claimed that they had demonstrated a desire to be treated as applicants for refugee status sufficient to engage Australia's protection obligations under the Refugee Convention and that the Department had failed to accord the asylum seekers procedural fairness. Unsuccessful at first instance,⁶ the asylum seekers appealed to the Full Federal Court.⁷ Although the Full Court was clearly concerned by the effective denial of the asylum seekers' opportunity to access Australia's refugee-status determination procedures, the asylum seekers' appeal was dismissed.⁸ In the Full Court, Nicholson J, with whom Jenkinson J concurred, concluded that, although the asylum seekers had, in factual terms, made an implicit claim to refugee status, the legislative framework required the completion of the application form. He also found that the legislation precluded the application of common-law and international legal standards of procedural fairness.¹⁰ Carr J also held that the legislation required the completion of the application form. On the other hand, he found that the relevant legislative provisions did not oust the requirements of procedural fairness,¹¹ thus satisfying his concerns about the efficient but unfair treatment¹² of the asylum seekers. However, Carr J was in the minority on this point. Moreover, because of the application of the 'safe third country' legislation, his judgment was limited to making a declaration that procedural fairness had been denied, in the hope that the Minister would exercise his non-compellable discretion to allow the asylum seekers to apply for refugee status.¹³

Although the Department may legitimately argue that illegal arrivals should not be positively encouraged to apply for refugee status if there is no factual basis for such a claim, the Refugee Convention nevertheless places obligations on *Australia* to ensure that refugees are not returned. There is no mention of obligations on *asylum seekers* to apply for recognition as refugees. Indeed, the Convention makes no mention of national refugee-status determination systems at all. The accepted view is that determinations are merely declaratory of refugee status. This means that national determinations recognise that a person meets the definition, but the protection accorded by the Convention does not depend, as a matter of international law, on such determina-

⁶ *Wu Yu Fang* n. 5 above.

⁷ *Wu Yu Fang and Ors v The Minister for Immigration and Ethnic Affairs* (Full Court of the Federal Court, unreported, 28 February 1996).

⁸ *Ibid.*

⁹ *Ibid.*, per Nicholson J at paras 50-56.

¹⁰ *Ibid.*, per Nicholson J particularly para 122.

¹¹ *Ibid.*, per Carr J at paras 61-91.

¹² *Ibid.*, per Carr J at para 60.

¹³ *Ibid.*, per Carr J at paras 98-101. The Minister retains a discretion pursuant to s 91F(1).

tions. Moreover, it is difficult to see how a group of non-English-speaking boat people, detained and denied access to lawyers, would be able to take the refugee-status determination procedure any further without the assistance of the Department, a fact recognised by all members of the Full Federal Court.¹⁴

Detention of Boat People

The issue of the detention of Cambodian asylum seekers seems to have been the trigger for a series of legislative interventions made in response to the arrivals of particular boat-loads of asylum seekers and to particular judicial decisions, often while judicial proceedings were under way. Australia was involved in the peace plan for Cambodia under which the United Nations attempted to end the civil war in Cambodia and to reconstruct the country as a peaceful democracy in which respect for human rights was assured. The United Nations successfully conducted free elections in Cambodia which led to the formation of a new government and a significant reduction in hostilities. However, even in 1996, Cambodia is not yet stable.

In 1989, when the first boat-loads of Cambodians began to arrive in Australia, the UN mission had not arrived and talks between the factions were threatened with failure. Thus it would appear *prima facie* that the Cambodians' claims of refugee status might meet the definition contained in the Refugee Convention or that they might be deserving of stay on humanitarian grounds pursuant to the Minister's discretion under s. 417. Nevertheless, the Cambodians were detained for the entire period of the refugee-status determination procedure. In 1992, a group of Cambodian asylum seekers succeeded in having decisions refusing them refugee status set aside by the Federal Court and moved to seek release from detention. The government passed legislation requiring mandatory detention of all 'designated persons' (read 'boat people') for the period of 273 days and any other time during which the application for refugee status was out of the Department's hands, including periods when the application was subject to court action.¹⁵

The legislation was subjected to a constitutional challenge in the High Court, but most of it was upheld as being consistent with Australia's right to control its borders and the need to make a decision regarding the 'designated person's' right to enter Australia as a refugee or pursuant to some other legal immigration status.¹⁶ The question of consistency with Australia's international human rights obligations was not considered because s. 54T of the legislation (now s. 186) provided that the new legislation overrode all laws other than the Constitution. The issue of consistency with international law is the subject of a communication to the Human Rights Committee, the body which supervises the International Covenant on Civil and Political Rights.¹⁷

¹⁴ *Ibid.*, per Carr J at paras 61-91; per Nicholson J at para 67.

¹⁵ Part 2, Division 6, Migration Act ss. 177, 178, 182.

¹⁶ *Chu Kheng Lim v Minister for Immigration and Ethnic Affairs* (1992) 110 ALR 97.

¹⁷ Adopted by GA Res. 2200A(XXI), 16 December 1966, entered into force 23 March 1976.

A number of arguments may be made against the policy of detaining asylum seekers (Mathew, 1994:87-99; Crock, 1993). These arguments still have force despite the passage of the Migration Reform Act 1992 (Cth), which introduced some positive reforms to the detention regime, including bridging visas permitting the release of some categories of detainees. Although states are permitted to control immigration, it is accepted that there is a right to seek asylum at international law (Article 14 Universal Declaration of Human Rights).¹⁸ The Refugee Convention provides in Article 31 that no penalties will be imposed on refugees entering a country illegally, and that only such restrictions on freedom of movement as are necessary will be imposed. In addition, Article 9 of the International Covenant on Civil and Political Rights prohibits arbitrary detention. Immigration authorities would argue that detention during the refugee-status determination procedure is not imposed as a penalty but as a protective safeguard against illegal entry, and that this restriction of freedom of movement is therefore necessary and far from arbitrary. However, while this argument might justify short periods of detention, it is questionable whether mandatory and prolonged detention is justified unless it is proven that the detainee is a threat to the country of refuge or likely to abscond. The Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) has issued a conclusion on detention of asylum seekers which states that detention for the duration of the refugee-status determination procedure is impermissible.¹⁹ While the conclusion is not strictly binding, States Parties to the Refugee Convention are obliged under Article 35 to cooperate with UNHCR and conclusions may be used as an aid in interpreting the Convention (Sztucki, 1989:287, 303-08). Moreover, the legislative history of the detention legislation indicates that the purpose of the legislation was not the legitimate one of preventing illegal entry to Australia, but the inhumane one of deterring further arrivals of asylum seekers.²⁰ However desirable it may be to deter illegal entrants, the detention policy is indiscriminate and affects Convention refugees and other people who are deserving of stay on humanitarian grounds. It also seeks to deter future arrivals by punishing those who are already present.

Although the High Court upheld the newly introduced detention legislation, it found that detention of the asylum seekers prior to the introduction of the legislation was invalid. The government's first response to this finding was to introduce retrospective legislation which limited compensation claims by the asylum seekers to a dollar per day of the period of illegal detention.²¹ In view of the likelihood of a successful constitutional challenge on the basis that the cap on compensation was an un-

¹⁸ GA Res 217A(III), 10 December 1948.

¹⁹ UNHCR Executive Committee Conclusion No. 44, *Report of the 37th Session of the Executive Committee of the UNHCR Program* (No 44), 41 UNGAOR Supp. (No 12A) at 31, UN Doc A/41/12 Add 1 (1986).

²⁰ See the statements of Mr Hand, House of Representatives, *Hansard*, 5 May 1992, at 2372, and Dr Theophanous, *ibid*, at 2388.

²¹ Immigration Amendment Act (No 4) 1992 (Cth), inserting s. 54RA into the Migration Act. Section 54RA from 1 September 1994 appeared as s. 184, but has now been repealed.

just appropriation of property, the government's second response was to attempt retrospectively to ensure that the original detention was valid, despite the contrary ruling of the High Court.²² The government reasoned that compensation in these circumstances is a 'windfall',²³ and that asylum seekers could not seek to benefit from their own actions of arrival without a valid entry visa, which actions have required their detention. Once again, this seeks to lay the blame for detention at the feet of the asylum seekers, punishing them for exercising their right to seek asylum from an intolerable home situation.

'Countries of First Asylum' and 'Safe Third Countries'

Whereas detention of asylum seekers is a form of deterrence, the principle that an asylum seeker may claim asylum only in the first port of call (the country of 'first asylum') seeks to pass the burden of protecting refugees to other countries. Australia is effectively relying on those countries' refugee-status determination systems to protect the refugee from return to the place of persecution. In legal terms, the principle of the country of first asylum rests on the fact that, although the Refugee Convention forbids *refoulement*, it does not allocate responsibility for determination of refugee status to any particular state. Article 31 of the Refugee Convention provides that illegal entry will not be penalised where the asylum seeker has come *directly* from the territory of persecution, and Article 32 provides that expulsion to non-persecutory places is prohibited only in the case of lawful entrants. This suggests that unauthorised arrivals may be returned to their first port of call for a determination of refugee status. Nevertheless, the principle of *non-refoulement* is of over-riding importance and requires that states should defer consideration of refugee status only if the country of first asylum is obliged to accept the asylum seeker (Stenberg, 1989:121-30) or will respect the principle of *non-refoulement* (Hathaway, 1991:46). Thus, the adoption of the principles of country of first asylum and safe third country in Europe has been criticised because of the lack of standardised refugee-status determination systems and the resulting risk of *refoulement* (Melander, 1992:104-05; Gamrasni-Ahlen, 1992:123; Achermann & Gattiker, 1995:35-7).

The principle of 'country of first asylum' has also been criticised on the grounds that it places the refugee burden on states close to the refugee flow. These are often developing countries which should not be expected to bear this burden (Hathaway, 1991:47, citing Hull, 1983). It is perhaps ironic, therefore, that Australia has adopted the principle of country of first asylum²⁴ in relation to asylum seekers who are en-

²² Migration Amendment Act (No 6) of 1995 amended the original provision thought to permit detention (s. 36 prior to 1989) to ensure that it operated as understood by the Department prior to the decision in *Lim*, n. 16 above.

²³ Report by the Senate Standing Committee on Legal and Constitutional Affairs, Migration Legislation Amendment Bill (No 2) 1994, at 5.

²⁴ The principle of 'first asylum' was introduced by Migration Legislation Amendment Act (No. 4) 1994 (inserting s. 91A-F into the Migration Act).

compassed by the CPA, an arrangement which is designed to share the burden of refugees between the developing states of South East Asia and the developed Western immigration states. The rationale was concern that the CPA would be undermined if asylum seekers could 'double dip' or 'forum shop'.²⁵ The validity of this rationale depends on the standard of determination procedures under the CPA, which have been subjected to serious criticism (Hathaway, 1993:696-8; Lawyers' Committee for Human Rights, 1989:21-6). The granting of refugee status to some asylum seekers by Australia after they had been rejected in Indonesia illustrates the possibility that some genuine refugees are indeed being excluded under the CPA determination procedures.

Of equal concern is the inclusion within the legislative amendments adopting the principle of country of first asylum of provisions precluding access to the Australian refugee-status determination procedures for asylum seekers resettled in 'safe third countries'²⁶ and the hurried, retrospective application of these provisions to Sino-Vietnamese asylum seekers fleeing from the Bei Hai region in China.²⁷ Some commentators argue that the concept of a safe third country is a necessary adjunct to fair and efficient refugee-status determination procedures (Hailbronner, 1993:32-5). Yet serious questions remain concerning the procedure for deciding whether particular countries are generally safe and the availability of review of such decisions, as well as the legality of effectively denying individual determinations of refugee status.

In one sense, the decision to nominate China as a safe *third* country is disingenuous, as the asylum seekers were complaining about China's treatment of them. Moreover, based on UNHCR Executive Committee conclusion 58 (1989), Kjaerum (1992) suggests that, in cases of refugees who have been resettled in a third country, the standard by which to assess whether the refugees should be permitted spontaneously to seek asylum elsewhere is lower than that relating to asylum seekers complaining about treatment in their countries of origin. The standard in relation to so-called safe third countries (which Kjaerum calls 'countries of first asylum' and which may also be referred to as 'safe host countries'²⁸) is that of protection in terms of general human rights standards:

The refugee must as a minimum be provided with shelter and have access to gainful employment and relief until work is found. If refugees risk living below a certain subsistence level in the [safe third country], then it cannot be concluded that they have obtained protection in the country concerned. (Kjaerum, 1992:519)

²⁵ See, for example, Senator Crowley, Second Reading Speech, Senate, *Hansard*, 21 September 1994, at 1066; Senator Short, Senate, *Hansard*, 18 October 1994, at 1904; Mrs Crosio, Second Reading Speech, House of Representatives, *Hansard*, 8 November 1994, at 2830.

²⁶ Migration Act, s. 91A-F (inserted by Migration Legislation Amendment Act (No. 4) 1994 (Cth).

²⁷ Migration Legislation Amendment Act (No. 2) 1995, inserting s. 91G into the Migration Act.

²⁸ United Kingdom Delegation to Geneva, 'Opinion: Sending Asylum Seekers to Safe Third Countries', *International Journal of Refugee Law*, Vol. 7, 1995, p. 120.

The rationale for the different standard appears to be that the suffering of those who have already had to flee once should not be exacerbated through subjection to sub-standard treatment in the country of refuge. Although the UNHCR regional representative gave evidence to the Senate Standing Committee on Legal and Constitutional Legislation to the effect that the Bei Hai region posed no real protection problems for Sino-Vietnamese resettled there,²⁹ the asylum seekers had complained of lack of shelter and employment. China's general human rights record lends support to the asylum seekers' claims that their treatment was substandard.

Coercive Population Control in China

A fourth strategy for reducing the numbers of asylum seekers arriving in Australia is to exclude them through legislative interpretation of the Convention definition of a refugee. In 1995 the Federal Court decided ('the Sackville decision') that couples fearing forced sterilisations or abortion for the woman partner were persecuted on the basis of membership of a particular social group.³⁰ In response, the government introduced a Bill providing that the fertility control policies of any government are to be disregarded in determining whether a person is a member of a social group.³¹ The government reasoned that the one-child policy is of general application, and that human rights violations committed in the name of the policy are not aimed at people because they are members of a social group, but rather are designed to advance the aims of the policy. The government claimed that discriminatory enforcement of the one-child policy — for example, in relation to minorities — would still be encompassed by the definition of a refugee as applied in Australia.

The government's interpretation of the Convention definition is not without force and, indeed, was accepted by the Full Federal Court on appeal.³² Thus, the Bill became unnecessary. However, in his decision Sackville J appears to take the view that governmental policy may identify particular social groups, whereas in the leading case of *Morato*³³ the test adopted turned on whether society as a whole views a group as identifiable as such. As Taylor (1993:319-20) has pointed out, some social groups may become identifiable as such because they are viewed by their persecutors as threats to the social or political order: for example, the Khmer Rouge divided the Cambodian populace into 'new people' and 'old people', groups which previously had no social significance.

²⁹ Report by the Senate Legal and Constitutional Legislation Committee on Migration Legislation Amendment Bill (No. 2) 1995, February 1995 at 11.

³⁰ *Minister for Immigration and Ethnic Affairs v Respondent A and Others* (1995) 127 ALR 383.

³¹ Migration Legislation Amendment Bill (No. 4) 1995.

³² *Minister for Immigration and Ethnic Affairs v Respondent A and Others* (1995) 130 ALR 48 (Beaumont, Hill and Heery JJ). The matter is now pending appeal to the High Court.

³³ *Morato v Minister for Immigration, Local Government and Ethnic Affairs* (1992) 38 FCR 401; 111 ALR 417.

The question is whether it is completely circular or 'stretching' the Convention to view people disobeying the one-child policy as engaging in a form of civil disobedience or dissidence, and, on that basis, attracting particularly harsh enforcement measures which would not apply to persons content to adopt the model of citizenship imposed by the authorities. To put it another way: is it a case of persecution despite, rather than because of, political opinion or membership in a social group? If so, one suggested solution is to recognise a conscientious objector exception (Tobin Shiers, 1990:1029-37).

In this context, it is relevant that women are bearing the brunt of the one-child policy, not only because they are the biological child-bearers, but because of traditional views about who should bear responsibility for birth control, as well as male dominance of policy-making (Human Rights in China, 1995:42-3). The Australian government's strict approach would seem to rule out 'disparate impact' analysis, whereby only the disproportionate impact of the policy on women would be examined in order to establish whether any nexus existed between persecution and this particular social group. Rather, it would be necessary to demonstrate the existence of a clearly discriminatory policy whereby no man was ever subjected to harsh enforcement measures. But, as noted by the Australian Law Reform Commission, women often face indirect and informal forms of discrimination. The upshot is that women asylum seekers can face severe problems in presenting claims for refugee status in Australia (Australian Law Reform Commission, 1994:242-3).

It is also of concern that the government intervened with a Bill before the courts had finished dealing with the issue, which action suggests that the government has little faith in the courts and is less concerned with the independence of refugee-status decision-making than with deterring potential asylum seekers. It is true that the principles adopted in the Sackville decision could arguably be extended to a vast array of situations, rendering redundant the requirement of a nexus between persecution and the five grounds of persecution.³⁴ Nevertheless, the immediate impact of the Sackville decision has perhaps been exaggerated. The class of people eligible for refugee status was limited by the terms of the judgment to those facing the harshest enforcement measures; and the evidence suggests that these measures are limited to small areas of China. Apprehension that opposition to *any* government policy would provide a basis for refugee status after the Sackville decision is also unfounded, since it is still required that the policy concerned involves persecution or the violation of human rights: mere opposition to taxation policy, for example, would not found a claim for refugee status. Finally, even if legislative intervention was necessary, it would have been more appropriate to legislate for a new class of humanitarian migration. Such a response would have the advantage of making clear that Australia does not support coercive population control. As it is, the government overlooked the potential of the Bill to encour-

³⁴ Compare Helton's (1983:45) argument that the category of social group was meant to be a 'catch all' residual category with Hathaway's (1991:159) view that such a liberal interpretation effectively disregards the nexus requirement.

age coercive population control in China, possibly contributing to further refugee flows (Mathew, 1995:160).

Conclusion

It is increasingly difficult to challenge the treatment of asylum seekers in Australian courts. The Federal Court may no longer review decisions on the ground of natural justice³⁵ or the ground that a decision involves an exercise of power so unreasonable that no reasonable person would have exercised it.³⁶ Moreover, successful challenges are likely to be met with reactive legislative action. However, there is potential for review by human rights treaty bodies such as the Human Rights Committee and the Committee Against Torture.³⁷ The latter supervises the Convention Against Torture, which provides in Article 3 for the *non-refoulement* of victims of torture.

It has always appeared odd that Australia should have accepted mechanisms for international scrutiny of its human rights record, while neglecting to implement its obligations properly in the domestic legal arena (Charlesworth, 1995:129-30). With the proviso that national interpretation of international human rights standards should be *at least* consistent with interpretations adopted by international bodies, the doctrine of the separation of powers suggests that the judiciary is the appropriate national institution with which to entrust the interpretation of Australia's human rights obligations.

Perhaps the government takes the view that it should exclude the courts from the task of interpretation of the Refugee Convention on the grounds that a plenary legislative power, with ramifications for foreign policy, is involved. Yet it is precisely where considerations, such as foreign policy, arise which are extraneous to the international legal obligations at stake that independent decision-making is most necessary. Furthermore, the Convention definition of a refugee is precisely that: a definition. It is not a magic wand that can prevent asylum seekers from arriving. The government would make better use of its powers if it left the question of interpretation to the Refugee Review Tribunal and the courts, and adopted stronger measures in its foreign relations to deal with the causes of refugee flows. This could require abandoning the quiet diplomacy that has characterised Australia's past stance on human rights in neighbouring countries (cf. Burchill, 1995:123-5; Salla, 1995:219-22).

³⁵ S. 476(2)(a) Migration Act.

³⁶ S. 476(2)(b), Migration Act. For an analysis of whether the restrictions on judicial review have in fact deterred applications to the Courts, see Crock (1996).

³⁷ Committee Against Torture established pursuant to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) GA Res 39/46, 39 UN GAOR, Supp. (No. 51), UN Doc. A/39/51.

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