



Refugee Council
of Australia

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CONTROVERSY HIGHLIGHTS NEED TO REFORM REFUGEE DETERMINATION SYSTEM

The controversy over the Immigration Minister's decision not to intervene to prevent some failed asylum seekers from being deported highlights the need for reform of Australia's refugee status determination system, the Refugee Council of Australia (RCOA) says.

RCOA chief executive officer Paul Power said that its member agencies were reporting that cases rejected in the Ministerial intervention process included people who had suffered torture, violence, trafficking and mental illness.

"In February, the Minister for Immigration and Citizenship, Senator Chris Evans, stated his view that the current system of Ministerial intervention needs to be reviewed, a view shared by RCOA and its member agencies," Mr Power said.

"Such a review should be part of a longer term overhaul of Australia's refugee determination system. RCOA has been encouraging the Minister to draw together an NGO working group to work with the Government on examining reform options.

"One long-held concern has been for people who have humanitarian protection needs which are covered by international conventions other than the Refugee Convention.

"Currently, the Department of Immigration and the Refugee Review Tribunal do not have the power to act on such cases, even when a person's need for protection is apparent. An appeal to the Minister after a person's case has been rejected at least twice is often the only option available."

Mr Power said some of the current cases recently rejected by the Minister appeared to be cases where humanitarian protection concerns applied. He also noted that the Minister had intervened to issue a visa in about 15% to 20% of cases referred to him.

"However, Ministerial intervention is a closed process where the applicant does not know all the information has been presented to the Minister or the grounds for refusal," he said.

"We have written to the Minister, asking for more open dialogue about how the process currently works pending a reform of the process and for more discussion about his plans for review.

"We are seeking information from Senator Evans about the approach he has adopted to the Ministerial intervention process, including his views on the exceptional cases which require intervention and information on the circumstances in which he is willing to intervene. We are also asking what safeguards are in place to ensure refoulement does not occur."

Mr Power said the Ministerial intervention process remained one of the most fraught aspects of immigration policy, involving many difficult decisions about the merits of individual claims.

"Many of the cases which the current system has failed to deal with adequately end up on the Minister's desk," Mr Power said.

"The fact that the Minister receives so many appeals for intervention highlights the need for the system to be changed. In the meantime, Australians need information that assures them that those with genuine protection needs are being dealt with fairly despite the current system's flaws."