

Disabled? Sorry We Can't Afford it

Australia's position on refugees and migrants with disabilities

By Kylie Young and Eloise Finlay

The recent case of Sharaz Kayani and his family has highlighted the discriminatory nature of Australia's migration policy.

A former Pakistani asylum seeker, now Australian citizen, Sharaz Kayani set himself alight outside Parliament House in Canberra as a protest at the rejection of his application to have his family join him in Australia.

Mr. Kayani came to Australia in 1996 as an asylum seeker fleeing persecution in Pakistan, where he feared for his family's safety because of his friendship with members of Pakistan's Ahmedi religious minority.

Two applications for his family to join him in Australia under the "split family" provisions of the humanitarian programme have been rejected on the ground that one of his daughters has a disability, cerebral palsy.

"The World Conference on Human Rights reaffirmed that all human rights and fundamental freedoms are universal and thus unreservedly include persons with disabilities. Every person is born equal and has the same rights to life and welfare, education and work, living independently and active participation in all aspects of society. Any direct discrimination or other negative discriminatory treatment of a disabled person is therefore a violation of his or her rights. The Conference called on Governments where necessary to adopt or adjust legis-

lation to ensure access to these and other rights for disabled persons."¹

The Australian Disability Discrimination Act aims to ensure that people are not discriminated against on the grounds of disability. However, the Social Security Act and the Migration Act are exempt from incorporating these guidelines into their policies and practices. This exemption allows the government to legally discriminate against people with a disability who wish to migrate or seek asylum in the country. This is despite the Australian Government being signatory to many of the United Nations Conventions which all aim to provide protection for people with disabilities.

As part of its humanitarian programme, the Australian Department of Immigration and Multicultural Affairs has policies designed to reunite families where one or more family members have already migrated to Australia, and to provide asylum to those who need it.

However regardless of family relationship or individual circumstance applicants must also undergo comprehensive and stringent health checks to assess their suitability as migrants or asylum seekers. These regulations are designed in such a way that often, people with disabilities are rejected on health grounds. According to the Department of Immigration and Multicultural Affairs, these requirements ensure that risks to public health are minimised and that public expenditure on health and community services is contained.²

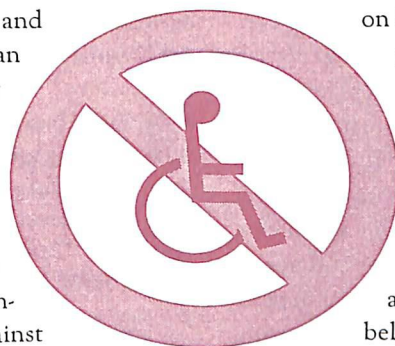
Any person wishing to enter Australia whether as a migrant or refugee seeking asylum must undergo an examination by a Medical Officer of the Commonwealth who carries out medical and radiological examinations.

These stringent tests categorise people according to their health status without taking into consideration many of the reasons why they seek to come to Australia. People are not seen within the context of their experience, and no attention is paid to the uniqueness and the contribution each one can make to a society. Instead they are judged on the grounds of cost and perceived burden on our health systems.

The Australian Government ensures that people continue to be discriminated against and have their human rights abused under the guise of protecting Australia. The Government is therefore failing in their humanitarian obligations to provide asylum to those who require it.

By continuing to be medicalised these people are treated as different from the norm, and therefore do not enjoy the same rights as others. They are divided into various diagnostic groups, in effect locating the disability "problem" within the individual. In this way the government is able to justify the discriminatory attitudes and structures within its policy. Refugees seeking asylum are particularly affected.

The reasons given to Mr. Kayani and others with disabilities seeking admission to Australia are based on cost and the perceived burden that an individual will place on society, rather than seeing them as people who have rights regardless of the labels placed by Government.



The Department of Immigration and Multicultural Affairs and the minister Phillip Ruddock have been quoted on various occasions as estimating that it will cost Australian taxpayers \$750,000 (US\$383,925) to provide the necessary care and medical treatment for Mr. Kayani's 10-year-old daughter Annum who has cerebral palsy. But although Mr. Kayani has written the Australian government pledging not to expect "one cent" from the authorities for care for his daughter, this had no impact on his application, which has been pending since September 2000.³

This constant reference to the economic burden Annum will place on Australian society highlights the "implicit assumption that the (government believes) costs outweigh the benefits."⁴ This economic discourse does not acknowledge that people with disabilities have much to offer. The question is: does that implicit assumption apply also to people with disabilities who are Australian citizens? Will we be returning to the forced sterilisation of women with disabilities?

Among the numerous reasons why people seek asylum, it is impossible to ignore that many of them are fleeing their homelands as victims of war and violence or because of the threat of such. The nature of war leaves many persons severely maimed or injured. War remains a major cause of disability all over the world. It dislocates millions of people who then become refugees, the majority being women and children. In Cambodia alone there are 35,000 amputees who had been injured by landmines. Other countries where landmines are a daily threat are Afghanistan, Angola, Bosnia, Chechnya, Croatia, Iraq, Mozambique, Nicaragua, Somalia and dozens more.⁵

Once injured these disabled war victims enter the category of persons deemed too expensive to be given refuge by the Western countries, which profited from their injuries.⁶ Through mechanisms such as health assessments, countries like Australia are able to render them invisible instead of giving them the compassion, care and assistance that they need.

The search for the "ideal citizen" has been going on in Australia for many years, starting with the attempts to wipe out the country's Indigenous population. In the 1940s the Jewish refugees were not considered fit to be citizens for Australia because of the torture and trauma they had suffered.⁷ After World War II, the "White Australia" policy that was used sought to select people who would be most fit for reproducing and be able to adapt to the cultures and norms of society. These practices are no longer in place but the Migration Act demonstrates the continuing prevalence of eugenics ideology that influenced earlier discriminatory practices.

Eugenics is a concept originated in 1880 by Francis Galton, a cousin of Charles Darwin, which encouraged the application of the natural selection principle of evolutionary theory to produce more ideal or improved populations.⁸ The eugenics ideology is behind such practices as ethnic cleansing which attempt to wipe out entire races, and is thus directly responsible for the injuries, disabilities and dislocation suffered by many people who then need to seek asylum elsewhere.

Annum Kayani's father was forced to flee his home due to the risk his religious beliefs posed on his family, only to have the Australian Government reject the girl for citizenship as her disability makes her a costly and undesirable applicant. It is clear that eugenics ideology is not only evident in extremist regimes carrying out genocide, it is also insidiously present in the policies

and practices of democratic countries such as Australia.

Mr. Kayani's shocking protest action in setting himself alight dramatically highlighted his frustration at a policy that clearly refuses to welcome people with disabilities. Whilst he has been given an opportunity by the Ombudsmen to make a new application, which he lodged in September 2000, no decision has been made. As long as the Australian Government continues to discriminate against those with disabilities, it is not likely that the Kayani family will be reunited very soon. ♡

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Footnotes:

¹ Meekosha, H. (1999), "Disability and Human Rights," conference paper presented at The Attorney General's NGO Forum on Domestic Human Rights, Canberra, 11 March 1999.

² Department of Immigration and Multicultural Affairs Fact Sheet - The Health requirement. Website: <http://www.dima.gov.au/facts/22health.htm>

³ *Sydney Morning Herald*, 5 April 2001.

⁴ Meekosha, H. (2000), "Changing Discourses of Disability and Human Rights in Australia," conference paper presented at Transitions in Asia Pacific Societies conference of the Asia Pacific Sociological Association, 14-16 September 2000

⁵ International Campaign to Ban Landmines. Website: <http://www.icbl.org>

⁶ Dowse, L., Meekosha, H. (1997), "Enabling Citizenship: Gender, Disability and Citizenship in Australia," *Feminist Review* No 57 (Autumn), p.59.

⁷ Jones, J. (2001), *World Conference Against Racism*, Canberra, May 2001

⁸ Perry, D. and Whiteside, R.K. (2000), "Women, Gender and 'Disability'—Historical and Contemporary Intersections of 'Otherness,'" conference paper presented at the Abilitympics International Conference, September 1995.