



# The Gazette



The Official Newsletter of the  
GAY AND LESBIAN IMMIGRATION TASK FORCE QUEENSLAND INC.  
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Trevor Robinson's  
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## GLITF

### Migration

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## Meetings

Second Thursday  
of month at  
Sportsman Hotel  
130 Leichardt St,  
Spring Hill starting  
at 7:30 PM

## Judge Blasts 'biased' Refugee Tribunal

18 Sept 2009: A Federal Court judge has denounced the Refugee Review Tribunal for its treatment of a gay Bangladesh couple, finding it twisted facts and ignored evidence as it heard their claim for asylum.

Justice John Spender said the tribunal's ruling that the men were not homosexual and would therefore not face persecution in their homeland was "not an exercise in honest fact finding".

The men even took DNA tests to disprove claims they were related, but the judge said the tribunal had "irrationally and indefensibly" found the results indicated they might be cousins.

The Tribunal also found the one man was not a credible witness because he refused to answer questions about whether they used lubricants during sex on the grounds such matters were personal. Justice Spender said the tribunal decision was "deliberately calculated" to get round problems caused by a High Court ruling and "not made in good faith".

"Such a finding is one that is not reached lightly, and y is one that is very rare." he added.

The case will now return to the tribunal for a fourth time, but barrister Bruce Levet doubts his clients will ever get a fair hearing. "On the last occasion, I was ashamed to be a lawyer and an officer of the court", he said.

The men arrived in Australian in 1999 and applied for protection visas. The first tribunal accepted they were homosexual but ruled they would not face persecution if they were "discreet about such matters".

The High Court said "the tribunal did not seriously consider the threat of physical harm, including bashings by police, and ordered a review of the decision. This time the tribunal found the men were not homosexual but close relatives who had been married to women. At one point the men became so desperate to prove their credibility, they offered to have sex in front of a witness nominated by the tribunal.

Mr Levet said his clients were "terrified at the thought of having to return to Bangladesh". they have bridging visas and are living in southwest Sydney.

"the only way the tribunal could find against them was if they stuck to the (second) finding that they were not gay, even though the first tribunal made an actual finding they were gays in a gay relationship." Justice Spender noted the "improbable" decision of the third tribunal was based on its opinion of the witness hich would normally make it immune from review.

But he said it was unfair to declare "J" not credible, simply because he failed to answer a question about lubricants which had been prefaced with "Now you may not want to answer this question".

He said that the material sought by the tribunal had "the flavour of interrogation" and that the treatment of the DNA tests had been "contrive determined result".

"The tribunal was guilty of bias, in the sense that it was predisposed to making its ultimate finding that the appellants were not in a homosexual relationship." Justice Spender said.

*\*\* Note: over the last 10 yrs I have published a number news items on these 2 guys.*

They came to Aust arriving on 19 Feb 1999, they sought protection visas on 4 March 1999 claiming they were homosexuals who had lived together as a couple since 1994. They met by chance in 1994 and lived exclusively with each

other in Bangladesh for 4 yrs until coming to Aust.

They were both born on 1 July: 1 July 1953 & 1 July 1973.

There were two aspects of the evidence which were relied upon by the Tribunal which lead his Honour to conclude the Tribunal was concerned, not to find the facts truly, but to arrive at predetermined conclusion, namely that the appellants were not homosexuals.

In the context of an application that has been before two previous Tribunals (the decision of the 1<sup>st</sup> Tribunal being overturned by the High Court and the decision of the 2<sup>nd</sup> Tribunal being overturned by consent by the Full Court of the Federal Court) the 3<sup>rd</sup> Tribunal's conduct to date does not look like that of a fair and impartial tribunal of fact. Rather it has all the hallmarks of a decision maker attempting to find some justification for a decision it has already decided to make.

I urge you to read the full 16 page Federal Court case notes, go to: [www.austlii.edu.au/au/cases/cth/federal\\_ct/2009/1056.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2009/1056.html)

### **Citizen Tests.**

The revamp of the Citizenship test which passed through Parliament on 17 Sept 2009, on the 60<sup>th</sup> Anniversary of Australian Citizenship. New Citizens will need to know more about “*mateship*” and what it means to get a “*fair go*”.

The Minister wants people applying for Australian Citizenship to know things such as under Australia's domestic law, domestic violence is illegal, that you're not entitled to hit women in Australia.

Before they pledge their oath of allegiance, prospective citizens will be able to learn about the Don, Dick Smith, Eddie Mabo and even lesser-known figures such as gynaecologist Catherine Hamlin in a “non-testable” section of the new citizenship book.

The book explains such helpful phrases as “mateship”-“When my car broke down, the other drivers helped to push it in the spirit of mateship” – and “try your luck” – “Every year, I try my luck and bet \$10 on a horse in the Melbourne Cup” – but skips Prime Ministerial favourites such as “fair shake of the sauce bottle”.

The new laws will also mean children have to become permanent residents before becoming eligible for citizenship. And in a blatant grab for medals the rules have been relaxed from 4 yrs to 2yrs to make it easier for elite athletes who spend a lot of time outside the country to become citizens. To “tart” up the changes and make it look less discriminatory & such a blatant grab for Gold, Silver & Bronze medals they added pilots & cruise ship crews.

The new citizenship test, effective from 19 Oct 2009 will contain 20 multiple-choice questions. The pass mark will rise from 60% to 75%.

The test is also designed to check whether immigrants have a basic knowledge of English.

The Govt has not released the new test, but has published practice questions.

### **How well do you know Australia?**

1. What do we remember on Anzac Day?

- a) The landing of the Australian and New Zealand Army Corps at Gallipoli
- b) The arrival of the first free settlers from Britain
- c) The landing of the First Fleet at Sydney Cove.

2. Which of these is an example of freedom of speech?

- a) Newspapers can write about any topic
- b) Men and women are treated equally in a court of law
- c) Australians are free to not follow a religion.

3. Which of these statements about Australia's system Govt is correct?

- a) The Queen of Australia chooses people to form the Australian Parliament
- b) The Govt is ejected by the people
- c) The Prime Minister chooses our Members of Parliament.

4. What are the colours of the Australian Aboriginal flag?

- a) Black, red and yellow
- b) Green, white and black
- c) Blue, white and green

5. What happened in Australia on 1 January 1901?

- a) The Australian Constitution was changed by a referendum
- b) The Australian Constitution came into effect
- c) The Australian and New Zealand Army Corps was formed.

6. What is the name of a proposal to make a law in Parliament?

- a) Royal Assent
- b) Bill
- c) Debate

**7. What is the name of the legal document that sets out the rules for the Govt of Australia?**

- a) The Australian Federation
- b) The Australian Commonwealth
- c) The Australian Constitution

**8 Which arm of Govt has the power to interpret and apply laws?**

- a) Legislative
- b) Executive
- c) Judicial

**New Boatload has ‘No vacancy’ sign up at Christmas Island.**

During the last week of Sept a boatload of 100 asylum seekers arrived on Christmas Island after HMAS Glenelg discovered them.

More than 1200 asylum seekers intercepted so far this year.

- Jan 19<sup>th</sup> -a group of 20 taken to Christmas Island
- March 16<sup>th</sup> The navy intercepts a boat load of 54 Afghans near Cobourg Peninsular
- April 2<sup>nd</sup> 53 people found on a boat that runs aground on an island in the Torres Strait
- April 6<sup>th</sup> 63 asylum seekers in a boat off West Aust Northern Coast
- April 8<sup>th</sup> A wooden boat carrying 38 asylum seekers & one crew member undetected until it arrives at Christmas Island
- April 15<sup>th</sup> A boat load carrying 47 asylum seekers and 2 crew intercepted near Ashmore reef
- April 16<sup>th</sup> an explosion occurs on board a boat killing five
- May 24<sup>th</sup> 77 arrive at Ashmore Reef
- June 10<sup>th</sup> Two passengers and 2 crew 1 nautical mile Nth of Ashmore Island
- June 23<sup>rd</sup> 50 passengers & four crew 3nm southeast of Ashmore Island
- June 28<sup>th</sup> 193 passengers 19nm northwest of Christmas Island
- July 11<sup>th</sup> 73 passengers 19nm northwest of Christmas Island
- Aug 13<sup>th</sup> 77 passengers 21nm north of Christmas Island
- Aug 29<sup>th</sup> 52 passengers and 3 crew near Ashmore Island
- Sept 7<sup>th</sup> Seven passengers & one crew on approach to Ashmore Island
- Sept 12<sup>th</sup> 83 passengers & 4 crew apprehended 82nm south of Ashmore Island  
65 passengers & 3 crew apprehended 3nm Nth west of Ashmore Island
- Sept 15<sup>th</sup> 58 passengers & 4 crew found 230nm Nth of Broome
- Sept 17<sup>th</sup> 48 passengers & 4 crew apprehended 78nm west of Darwin
- Sept 20<sup>th</sup> 54 passengers & no crew found 550nm off Cocos (Keeling) Islands
- Sept 25<sup>th</sup> 100 passengers & no crew found in the contiguous zone Nth west of Christmas Island.

Perhaps an investigative journalist could find out what happened after the sinking of an Australian bound boat off Flores Island in Indonesia in July?

News of the sinking was conveyed to authorities in Canberra after 19? passengers swam ashore, we still haven't been advised how many of approx 74 on board were saved? Passengers on board that managed to reach land made contact with Australian refugee advocate, Ian Tintoul.