

artwork description

in.definite explores the relationship between the human right to liberty and fair trial and the laws regulating the treatment of asylum seekers and refugees in Australia. The work contrasts Article 10 of the Universal Declaration of Human Rights (UDHR) with Al-Kateb v Godwin, a High Court case which decided that indefinite detention of a stateless person was lawful under the Australian Constitution.

The decision is regarded as controversial . edgy . split ... 4 of the debating law people argued yes it is lawful ... 3 others disagreed.

Ahmed Al-Kateb arrived in Australia without a visa ... he applied for a temporary visa ... was not granted the visa ... then he asked to be removed from Australia. Australian authorities tried to remove him from Australia ... until then he was put in mandatory detention. Being stateless (having no citizenship and belonging to no country), and without international co-operation, there was no where to send him ... no solution ... no where to go.

On my read, the Migration Act 1958 hadn't considered what to do with a stateless person ... Section 196 doesn't seem to offer an out ... just a test he couldn't pass ... can he be removed, deported or granted a visa ... no? ... so we must detain him? ... until he can tick an impossible box? ... can he be removed, deported or granted a visa ... no? ... and so Al-Kateb . stuck in detention ... in the migration zone ... no end . no relief . in sight.

update: in November 2023, nearly twenty years after the precedent set by the Al-Kateb case, and after a concerted effort by the human rights law folk, a High Court Challenge saw indefinite detention ruled unlawful.