



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### MOHAMMAD ARIF RUHANI v DIRECTOR OF POLICE (THROUGH THE SECRETARY OF JUSTICE AS DIRECTOR OF PUBLIC PROSECUTOR)

The High Court of Australia today published its reasons for holding that it has the jurisdiction to hear appeals from the Supreme Court of Nauru.

Mr Ruhani was one of a number of asylum seekers brought to Nauru by Australian sea transport on 21 December 2001 and housed in two camps, Topside and Former State House. Mr Ruhani instituted habeas corpus proceedings in the Supreme Court of Nauru in April 2004, alleging he was held at Topside against his will by or on behalf of the Director of Police, but was unsuccessful. Mr Ruhani appealed to the High Court of Australia. As a preliminary issue, the Director of Police contended that the High Court lacks jurisdiction to hear the appeal because the *Nauru (High Court Appeals) Act* is not a valid law of the Commonwealth. The High Court, by a 5-2 majority, disallowed the Director's objection to competency last December and today released its written reasons.

From 1965 until Nauru became independent in 1968 the High Court, by leave, heard appeals from Nauru. In 1976 the governments of Nauru and Australia agreed that the High Court would again hear certain appeals from the Supreme Court of Nauru in respect of both the Supreme Court's original and appellate jurisdiction and the Commonwealth Parliament passed the *Nauru (High Court Appeals) Act*. Mr Ruhani submitted that the provisions of the Act are laws made by the Parliament in exercise of its authority under section 76(ii) of the Constitution to make laws conferring original jurisdiction on the High Court in any matter arising under any laws made by the Parliament. He also submitted that the Act is also an exercise of Parliament's powers to make laws with respect to external affairs (section 51(xxix)) and the relations of the Commonwealth with Pacific islands (section 51(xxx)).

The majority of the High Court accepted that the Commonwealth legislation was constitutionally valid.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*