

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Submission to Inquiry into the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

December 2012

Dear Senate Committee

I am a teacher and grandmother and a regular visitor to Villawood. My first experience of an asylum seeker was when a twelve year old Iranian boy lay, twitching on the classroom floor. He was clearly intelligent, curious and apparently in good health physically. His problems were entirely different from our African refugee students who didn't know how to hold a pen, had been through dreadful experiences in their home countries but who settled in relatively calmly to their new learning situation. The difference, I found out, was mandatory detention.

From that day on I knew I would not rest until the unnecessary and punitive measures adopted against asylum seekers were replaced by welcoming and humanitarian policies that are entirely appropriate to a civilised and prosperous nation that has signed the Refugee Convention.

The Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 (the Amendment Bill) seeks to amend wording to the Migration Act to change the definition of certain types of boat arrivals from "*offshore entry persons*" to "*unauthorised entry persons*".

I don't agree with the proposed Amendment Bill, as the suggested wording changes a neutral term, *offshore entry persons*, to a pejorative term, thus institutionalising by stealth, without officially withdrawing from the Refugee Convention, the idea that boat asylum seekers arriving by boat are illegal.

Refugees are entitled to come across our borders. Borders should not be protected from refugees – that after all is the guiding principle of the Refugee Convention.

¹

As Attachment A, I have added some information and discussion points for the Committee's further consideration.

Fabia Claridge 11/12/1

¹ <http://refugeeactioncoalitionsydney.files.wordpress.com/2012/07/rac-nsw-submission-to-expert-panel-on-asylum-seekers.pdf>

The proposed changes to the Migration Bill

1. To change the definition of certain types of boat arrivals from “*offshore entry persons*” to “*unauthorised entry persons*”.
2. *The minister may, in writing, vary or revoke a determination made under subsection 1. if the minister thinks that this is in the public interest, whether or not that person has been assessed as being a refugee.*

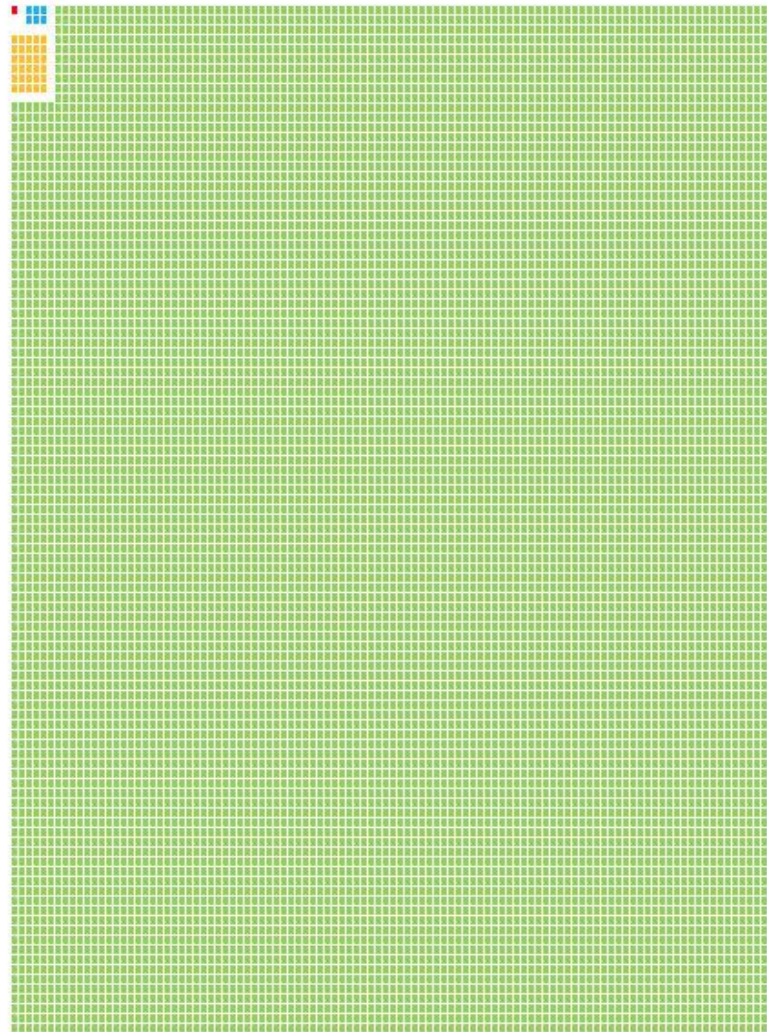
ATTACHMENT A

Included in attachment A are the following points:

1. The size of the problem – reality check
2. The context of deterrence and why deterrence is *not* in the national interest.
 - (1) Deterrence is immoral.
 - (2) Deterrence endangers and damages human life.
 - (3) Deterrence undermines democracy.
 - (4) Deterrence has a questionable mandate.
 - (5) Is deterrence racist?
 - (6) Deterrence costs the public purse.
 - (7) Beyond deterrence - an example
 - (8) Recommendations

1. THE SIZE OF THE PROBLEM – REALITY CHECK

This is what you are "anxious" about.



■ Refugees by boat
■ Other refugees
■ Other permanent migrants
■ Australia's population

Get over it.

Each unit represents approx 2000 people
Sources: Parliamentary Library; Immigration Dept

There are 10 million refugees in the world. We can be a lot more relaxed and generous, without having to sign up for the whole 10 million. Why? Because Australia is *not* and never has been a destination of choice. The majority of asylum seekers go to the US and Europe.

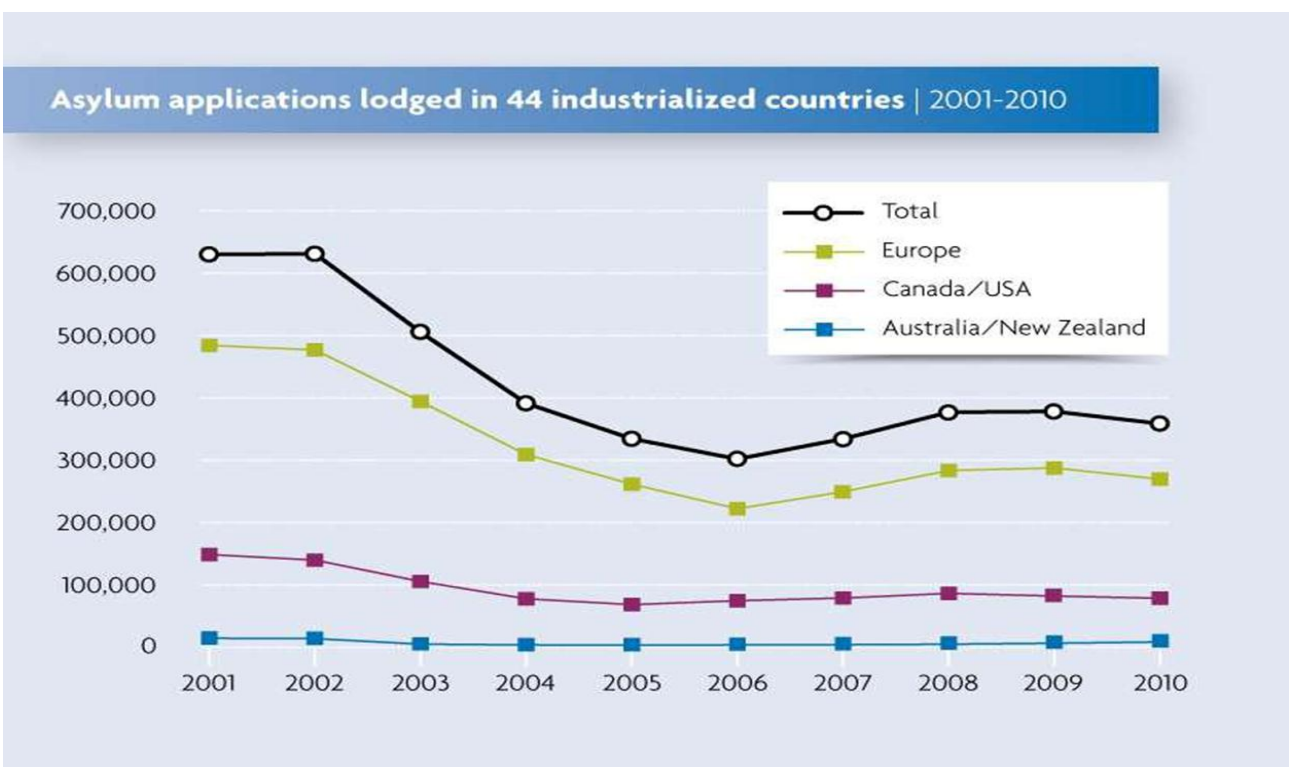
REALITY CHECK

How many refugees come here²?

Very few. It would take **20 years to fill the MCG** with the number of refugees who come to Australia. The United Nations Refugee Agency, the UNHCR, estimates that there were 10.4 million refugees worldwide at the start of 2011. In 2010–2011, Australia's refugee intake was just 13799 people, **less than 0.14%**. Australia was one of the only countries in the world to have **fewer** refugee claims in the first half of 2011. In those six months alone, the USA received **36 400** applications for asylum; France **26 100** and Germany **20 100**.

How does Australia's refugee intake compare to other countries?

Australia has **far fewer refugees** than other countries. **Pakistan** has **1 740 711** refugees, **Iran 1 070 488**, and **Syria 1 054 466**. Other Western countries take far more refugees per head of population than we do: the **UK** had **269 363** in 2010; **Germany** had more than half a million (**593 799**).



² Refugee Action Coalition Fact Sheet March 2012

<http://refugeeactioncoalitionsydney.files.wordpress.com/2012/04/rac-fact-sheet-march-2012.pdf>

2. WHY CHANGING MIGRATION LAW IN THIS WAY IS NOT IN THE NATIONAL INTEREST - THE CONTEXT OF DETERRENCE

The changes to the Migration Law are part of the Recommendations of the 'Expert Panel', ostensibly in order to prevent deaths at sea. However, the whole strategy behind the intended changes to the Migration Bill is founded on and embedded in **the misguided concept of deterrence**. Deterrence is linked to the false notion that the Australian public are the victims of an inflated concept of an “*invasion*” by asylum seekers, whereas in fact, the reality is the opposite. A very small number of people fleeing persecution are being subjected to punitive treatment by Australian officials for political reasons. In effect, we’re bullying the vulnerable. And in the process we are trashing time-honoured institutions, the courts, the principles of natural justice, the body politic, our international standing and the fabric of our society.

However people seeking asylum from persecution are not and should not be treated as an invading force but rather as we would treat the victims of a bushfire.



(1) Deterrence is immoral – the human cost

The measures taken to enforce the policy of deterrence involve Australia and its citizens in a quagmire of policies that cause abuses of human rights even to the point of being responsible for the deaths of some people. It is the creation of a program for compliance reasons not for protection reasons. It is wrong to use it on refugees who not only are vulnerable and in need of protection but also who have entitlements under the Convention.

Deterrence is a form of bullying. It’s **WRONG** to bully victims of persecution. Deterrence is **NOT** in the public interest.

Morality is not fashionable these days. However, a society without it is lost. We ignore moral considerations at our own peril.³ In Australia today we have a very worrying situation whereby leaders by their words and actions tacitly give permission for one group in society to be made scapegoats. Harsh punishment meted out for who you are not what you have done. This is *not* good for the society. It is not in the public interest. It is an extremely dangerous pathway for a country to take. In Rwanda they called them ‘cockroaches’ and that meant they were not fully

³ <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html>

human and therefore you should not feel guilty about killing them. We all know where this could lead. And always *denial* plays a part in it.

By Gregory H. Stanton, President, Genocide Watch

**Classification Symbolization Dehumanization Organization Polarization Preparation
Extermination Denial**

Genocide is a process that develops in eight stages that are predictable but not inexorable. At each stage, preventive measures can stop it. The process is not linear. Logically, later stages must be preceded by earlier stages. But all stages continue to operate throughout the process.

**What future Prime Minister will have to apologise for the injustices done to
asylum seekers in the name of deterrence or “no advantage”?**

Deterring Asylum Seekers

AUSTRALIAN OBSERVER July 22nd 2012⁴

Paul Barratt

Inherent in many of the policy approaches that has been adopted over the years has been an underlying approach that harsh treatment of asylum seekers who arrive by boat will discourage others from making the journey. The idea of treating people more harshly than they deserve in order to influence the behaviour of others is offensive in the extreme, and of dubious legality.

We are talking about deterrence here. The Australian Government has no direct means to prevent asylum seekers from embarking; what it wishes to do is to deter them from making that decision.

This raises an important threshold question about what place there is for “deterrence” in any policy framework that deals with the quest for asylum by people with “a well-founded fear of persecution”. The notion of deterring people from seeking asylum by whatever means they might have to hand seems to me to contradict the whole scheme and purpose of the United Nations Convention and Protocol on the Status of Refugees.

Paul Barratt AO has held positions with the Australian Government as the Secretary to the Department of Defence; Secretary to the Department of Primary Industries and Energy, and Executive Director of the Business Council of Australia. In 1999 Mr Barratt was made an Officer in the General Division of the Order of Australia.

(2) Deterrence endangers human life.



⁴ Paul Barratt; Deterring Asylum Seekers AUSTRALIAN OBSERVER July 22nd 2012

(a) Deterrence risks lives - The lives of asylum seekers

If we're worried about lives lost at sea, then we also need to be equally worried about lives lost by suicides in detention, lifelong ruination of mental health, deaths when deported to danger, destruction of boats on arrival, questions of tardy rescues at sea which are all consequence of a policy of deterrence.

Shattering the facade of kindness

Waleed Aly

The Age, November 2, 2012

If this is really all about saving people's lives, if this is really about preventing people from drowning at sea, then send a fleet of cruise liners to Indonesia to pick up the people who have been stuck there for up to a decade. It's much safer. Or if arrivals by plane are so superior, charter a bunch of Qantas flights to pick them up and bring them here for processing. That's much safer, too. People smuggling will disappear instantly. Surely we could provide a superior people smuggling service than some poor Indonesian kids with dodgy boats. Let's beat them at their own game. We're trying to save people's lives here, right?

I'll admit this suggestion is ridiculous if we all admit the inescapable truth that flows from it: that this must be about something other than saving lives. We're only interested in saving lives if it involves punitive forms of deterrence. We're not interested in doing it through increased generosity, for example, by seriously increasing our humanitarian intake and significantly speeding up our processing times. What we really want is for asylum seekers to stop being our problem.

That's why we're so selective about the lives we want to save. That's why there's no crying in Parliament, no hand-wringing, and no cross-party soul-searching when an asylum seeker is killed because we sent them back to the country they were fleeing. Those deaths don't matter. We don't count them. We don't ask tough questions about the quality of the information we're using to decide their home country is safe. And we certainly don't go through absurd policy contortions to prevent it happening again. Why not? Are those asylum seekers any less dead?⁵



⁵ Shattering the facade of kindness; November 2, 2012; Waleed Aly
www.theage.com.au/opinion/politics/shattering-the-facade-of-kindness-20121101-28mpv.html#ixzz2EKhciYrU

(b) Deterrence risks lives - The lives of working Australians

Deterrence traumatises working Australians

By establishing a punitive regime, the Government has forgotten the lessons of the recent past as outlined in the Palmer Report⁶. There is simply not enough evidence that deterrence works to justify the expense and potential harm of its implementation.⁷

Deterrence traumatises and damages not only the asylum seekers but also government workers, including navy personnel, Immigration officers, security guards and other citizens employed in the field of administration, border control and incarceration and processing of asylum seekers.

The Australian Government has faced litigation threats from dozens of ex-detention centre officers. University of NSW psychiatry expert Dr Zachary Steel said several such cases were pending in courts around the country. The cases, many worth hundreds of thousands of dollars, are being pursued against both the Federal Government and past and present private sector detention centre operators, including G4S and Serco. Dr Steel said the cases arose from workers' compensation claims and "the psychological damage that happened to them as a result of their experience in detention centres".⁸

Former Woomera detention centre GP Dr Simon Lockwood said he knew of several cases of former guards suing the Government. In a rare interview, Dr Lockwood - the longest-serving medical officer at Woomera - said some detention officers were conducting actions through Work Cover after suffering "post-traumatic stress disorder and other anxiety disorders".

Dr Lockwood's 2004 diary of Woomera incidents told of detainees who signed suicide notes in blood, and of children who tried to kill themselves.

Seven years later, he still treats detention centre guards who suffered psychiatric harm; some who now make a 1200km round-trip to see him. Many "will never work again", he said.

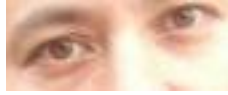
One of the problems he cites is poor staffing levels. He claimed the lack of the need under the detention centre contract for operators to provide a minimum number of staff: "In my time, Woomera was constantly understaffed."

⁶ The Inquiry into the Unlawful Detention of Cornelia Rau, by Mick Palmer, 2005.

⁷ Sharon Pickering, Professor of Criminology at Monash University; There's no evidence that asylum seeker deterrence policy works; theconversation.edu.au/theres-no-evidence-that-asylum-seeker-deterrence-policy-works-8367

⁸ Stressed ex guards seek refuge in court; Nick Tabakoff; The Daily Telegraph; June 06, 2011 11:30PM
www.adelaidenow.com.au/ipad/stressed-ex-guards-seek-refuge-in-court/story-fn6bqphm-1226070618729

He described some of the events officers encountered as horrific. "It was a toxic environment, not just for detainees. And it has a ripple effect. Lots of officers turn to alcohol, and take out their frustrations on families."



(c) Deterrence risks lives - The lives of those in offshore detention centres – Nauru and Manus

It appears that here we have learnt nothing from the recent past and are prepared to put peoples' lives at risk to prop up the obsession with deterrence.

Policy déjà vu will have a devastating effect on asylum seeker mental health

Dec 12th 2012

Louise Newman, Professor of Psychiatry

Asylum Seekers are at high risk of mental disorder

Watching the second version of "offshore processing" on Nauru and Manus Island has been frustrating and painful – not least for those of us involved in immigration detention issues for the past decade.

Nauru has previously been the scene of despair, protest and mental illness, with many broken individuals finding themselves in need of long-term psychological treatment when released. In my own clinical practice, I treat several former detainees who remain preoccupied with their experiences in detention and are constantly troubled by traumatic memories and anxiety. Their chronic post-traumatic stress conditions are persistent, difficult to treat, and severely limit their capacity to work, relate to others, or create.

These mental disorders are related, in large part, to experiences of prolonged detention, increasing hopelessness, lack of resolution of anxiety and feelings of abandonment. Coupled with previous trauma and the need to flee, the risk of mental disorder is high.

Strong evidence of Harm

Research over the past decade has clearly demonstrated the association between prolonged detention and mental deterioration. In 2004, Zachary Steel and colleagues the psychiatric status of a group of detainees in a remote mainland detention facility and found that all adults and children met diagnostic criteria for at least one psychiatric disorder.

Worryingly, children were found to have a tenfold increase in psychiatric disorder subsequent to

detention. Exposure to trauma in detention was common and most experienced intrusive traumatic images of these experiences and ongoing anxiety. The majority of parents felt they were unable to effectively care for and support their children.

The implications of these findings are clear – prolonged detention (in this study, more than two years) has damaging effects on mental health. This impact is likely to be increased in particularly vulnerable groups such as torture and trauma survivors, children and unaccompanied minors.

The post-traumatic stress that detainees face is persistent and difficult to treat. Commissioned by the Department of Immigration, [Jeanette Green and Kathy Eagar's 2010 study](#) found a similar relationship between the length of time in detention and health outcomes.

The authors noted that so-called “unauthorised arrivals” facing prolonged detention engaged in more self-harm and had more physical and psychological problems than other categories of detainees, such as “[foreign fishers](#)” or visa overstayers.

Again, mental disorder was seen to increase after 12 months in detention. While this relationship and risk is now accepted by government, it has been difficult to limit the period of time in detention and to facilitate community processing of asylum claims. Recently, overcrowding in centres and lack of offshore facilities have [contributed to](#) processing of asylum claims under community arrangements.

Poor conditions in immigration detention

Anecdotal reports of poor treatment in immigration detention are common, with individuals' autonomy and sense of control routinely eroded. Where the asylum seeker feels abandoned and powerless, unrealistic wishes about rapid processing and positive outcomes may compound the situation.

For survivors of torture and trauma, the risk of mental deterioration is exacerbated as the immigration system itself is experienced as tormenting and unsympathetic. Suicidal ideation is common and self-harming behaviour is simultaneously a form of protest and an expression of distress and despair.

Given past experiences in the detention environment and significant evidence of harm, it's alarming to see a re-enactment of the conditions known to result in behavioural and emotional breakdown.

Conditions on Nauru, as described in the recent [Amnesty International review](#), are harsh and demoralising. There has been rapid development of protest, increasing despair and associated self-harm, hunger striking and serious suicide attempts. Conditions on Nauru and Manus Island are harsh. The government has focused on maintaining a harsh regime to send a message of deterrence and is seemingly reluctant to negotiate or compromise.

Increasingly we're seeing a form of political sloganeering from both major parties which chooses to ignore human suffering and even accepts harm to asylum seekers as “collateral damage” necessary for the overall goal of deterrence. Harsh, inhumane and punitive treatment is tolerated in a morally unacceptable system.

The provision of health and mental health services in remote locations is also problematic. Staff face complex ethical dilemmas as they attempt to provide care and support within a traumatising environment to those without hope.

There are real limitations to “treatment” in a setting where recovery relates to resolution of a refugee determination process which may be delayed, halted or protracted. Under the so-called “[no advantage](#)” provision, individuals, including children, may spend several years in detention and their mental deterioration is predictable.

The situation on Nauru is best described as highly volatile and is likely to remain so. The cost of off-shore processing is high in both economic and moral terms and takes us to a place where it is not

possible to plead ignorance or lack of understanding.

Attempts to argue that this is acceptable on the grounds of deterrence or prevention of deaths are weak and ignore a decade's worth of evidence. Back to the future.

Louise Newman receives funding from the ARC. Louise is the past Chair of the Detention Health Advisory Group.

"Australia says it wants to save lives in the sea, but it will not save the lives on Nauru. It is better to finish this quickly. The camp is flooded, tents are leaking. This is Nauru hell. It is better to die," RAC was told.

The proposal to begin interviews follows the script outlined by Immigration Minister Chris Bowen last Wednesday, when he announced that Nauru asylum seekers will have initial interviews 'next week, but actual interviews for protection claims would not take place until early next year. "It is the Australian government and the Immigration Minister that is responsible for those it has condemned to Nauru and Manus Island. Omid is one day closer to dying, but all the Minister proposes are phony interviews and an indefinite sentence on Nauru," said Nick Riemer from **the Refugee Action Coalition**.

"It is the Australian government and the Immigration Minister that is responsible for those it has condemned to Nauru and Manus Island. Omid is one day closer to dying, but all the Minister proposes are phony interviews and an indefinite sentence on Nauru," said Nick Riemer from the Refugee Action Coalition. "The asylum seekers have called for Nauru to be closed. Amnesty International has called for Nauru to be closed."

¹⁰Once again Amnesty International reiterates that seeking asylum is a fundamental legal and human right. Any attempts to portray their arrival as illegal is grossly misleading.

Amnesty International has found a toxic mix of uncertainty, unlawful detention and inhumane conditions creating an increasingly volatile situation on Nauru, with the Australian Government spectacularly failing in its duty of care to asylum seekers.

Following a **three-day inspection of the facility**, Amnesty International researchers found the facility totally inappropriate and ill-equipped, with 387 men cramped into 5 rows of leaking tents, suffering from physical and mental ailments-creating a climate of anguish as the repressively hot monsoon season begins.

"The situation on Nauru is unacceptable. The unlawful and arbitrary detention of these men in such destitute conditions is cruel, inhumane and degrading," said Amnesty International's Refugee Expert Dr Graham Thom.

"The climate of uncertainty was debilitating with no information being provided to asylum seekers and clear evidence that this temporary holding facility has been erected in haste, with no consideration for the individuals languishing in such squalid conditions.

⁹ <http://refugeeactioncoalitionsydney.files.wordpress.com/2012/07/rac-nsw-submission-to-expert-panel-on-asylum-seekers.pdf>

¹⁰ <http://www.amnesty.org.au/news/comments/30533/>

“On our final day speaking with the detainees, the downpour was torrential, the site was flooded, tents were leaking – one man’s shoes drifted away as the current ran through the tent. We were also prevented from photographing conditions despite assurances we would be able to do so.”

“The news that five years could be the wait time for these men under the Government’s ‘no advantage’ policy added insult to injury, with one man attempting to take his life on Wednesday night,” said Dr Thom.

Amnesty International is calling on the Australian Government to immediately cease transfers to Nauru as the human rights organisation can see no purpose in holding asylum seekers on Nauru other than penalising them for seeking asylum.

“For those already on Nauru, processing must start immediately, with freedom of movement allowed as envisaged by the Expert Panel so that at least some uncertainty is addressed and these men can live some semblance of a normal life.

“Offshore processing on Nauru and Manus Island will only serve to break vulnerable people in these these ill-conceived limbo camps, who have fled unimaginable circumstances,” said Dr Thom.

Amnesty International is also gravely concerned by the Coalition’s proposal to cut the increased humanitarian intake. The human rights organisation believes the only way of preventing asylum seekers from taking dangerous boat journeys to Australia is to provide them with viable alternatives. This includes building the capacity of Australia’s neighboring countries to respect refugee rights as well as Australia increasing its humanitarian intake.

Deterrence risks lives - Warehousing refugees in Indonesia

Currently there is a bottleneck of asylum seekers and refugees in Indonesia. Successive governments have refused to systemically resettle refugees from Indonesia. Many of these people are held in detention centres, (some Australian funded) waiting in limbo at extreme risk. At least one young person has been bashed to death by brutal guards for trying to escape and another was pegged down over an ants’ nest in the hot sun for hours. Being associated with this, even indirectly, is clearly not moral and is not in any way in the public interest of Australians.

Unless there are alternative routes to permanent resettlement in Australia, asylum seekers will have no option but to take boats from Indonesia to Australia. However, while Australia uses Indonesia to punitively warehouse asylum seekers, it is effectively creating a camp in Indonesia.

¹¹Between 2001 and 2009 Australia accepted just 532 people – an average of less

¹¹ Senate Legal and Constitutional Committee Estimates Hearings May 21, 2012

than 60 a year.¹ In the financial year 2010-11, as part of a deal with Indonesia the government accepted about 500 people. However, just 97 people were accepted between July 1, 2011 and April 30, 2012

Considering the discrepancies between Indonesia and Australia, is it entirely appropriate for Australia to be asking Indonesia to accept this warehousing burden?

Indonesia	Population	242 325 638	GDP per capita	4700
Australia	Population	22 738 432	GDP per capita	40800

12



(d) Deterrence risks lives - The lives of those deported to danger

Now in 2012, many asylum seekers have been deported to possible danger by the screening out process and many others face imminent deportation. It seems that we have learnt nothing from the experiences of the recent past. By 2012 evidently all but one of deportees to Afghanistan have been killed. How is this in the public interest of our society? How is this the fair and correct thing to do?

Deported To Danger

An investigation into the fate of deported people conducted by **Phil Glendenning of The Edmund Rice Centre**

Reports of death, disappearance, imprisonment and torture, of fear-filled lives spent in hiding, privation and despair have filtered back to Australia about some people Australia has removed after disallowing their claims for protection on refugee or humanitarian grounds.

Disquiet about this situation was expressed to the 2000 Senate Committee by bodies such as HREOC (Human Rights and Equal Opportunity Commission), Amnesty International, the Australian Refugee Council and various legal aid and trauma treatment organisations.

In 2002 a coalition of religious groups, COPAS, including leaders from the major Christian denominations, Jewish, Moslem and Buddhist groups, petitioned the

¹² Source: www.indexmundi.com/g/r.aspx?v=67

Federal Government to heed the reports of terrible things happening to some deportees and cease sending people to countries where protection of their safety and rights is very problematic. The study reported here was designed to clarify the situation behind this widespread disquiet.

Following significant disquiet expressed by a range of organisations at a 2000 Senate Inquiry, the Edmund Rice Centre's Phil Glendenning, along with Sr Carmel Leavey, Mrs Margaret Hetherton and Dr Tony Morris from the Australian Catholic University commenced an investigation into the fate of asylum seekers deported from Australia.

The results have been disturbing with evidence of false documentation and asylum seekers left in unsafe environments, often outside the law of the country they are returned to. The information uncovered by this research has led to the publication of several reports; submissions and testimony given to Federal parliamentary enquiries; public meetings; investigations by Federal police into allegations of illegal actions by immigration officials; extensive media coverage; and most recently production of a documentary film

13



(e) Deterrence Kills – The lives of those denied asylum.

People smuggling disruption programs are a very non-transparent and murky

13

http://www.erc.org.au/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=76&MMN_position=79:79

14

area. The morality of these activities is highly questionable and involves Australian authorities in working with corrupt and violent groups and governments that international human rights groups have accused of war crimes.

I find the following account extremely disturbing and if you find it quite alright and entirely appropriate, then God help Australia.



The face of an assassinated asylum seeker: Ali Shah tried to escape Pakistan's sectarian violence and come to Australia, but he was murdered en route.

Australia's Deadly Game

By [Aubrey Belford](#) December 12, 2012

The Global Mail investigates how Australian authorities are co-operating with corrupt local authorities who bend the law to keep would-be refugees trapped in a country that they desperately want to escape.

Ali Shah was not meant to die in Pakistan. He should have already been out of the country, somewhere on the long smugglers' route to safety in Australia.

But a bullet got to him first.

Shah was a 28-year-old from Quetta, a restive city near the Afghan border, haunted by Sunni Muslim death squads that are allied to the Taliban and [which kill with near total impunity](#). As a Shia and a policeman, Shah was automatically in danger. As a Hazara — a Shia minority with east-Asian features distinct from surrounding ethnic groups — his face betrayed him.

Early this year, Shah paid \$6,000 to smugglers, who would fly him legally to Thailand and then smuggle him over land and sea to Indonesia; once there he would search for another smuggler with a boat to Australia.

“Definitely they do have a profiling... There's no strictly legal regime

for this.”

– AZAD KHAN, PAKISTAN’S FEDERAL INVESTIGATION AGENCY

He travelled first to the Pakistani capital of Islamabad and waited with five other Hazara men for a flight to Bangkok. But this plan was foiled when the smuggler returned to the men who were waiting in Islamabad, and told them the way would be blocked: airport officers would not let the men board unless they paid a hefty extra bribe to pass through. The smuggler suggested the men travel by train to Karachi, Pakistan’s biggest city, where a cheaper pay-off at the airport could be arranged.

At about 1.30am on April 4, the Hazara group arrived by rail in Karachi, and began to wander the streets in search of a hotel. Suddenly two men, their faces covered, pulled up on a motorbike and opened fire. Shah dropped to the ground, mortally wounded. Another man, Ismat Ullah, was shot through the leg. Ullah watched as the men rifled through Shah’s clothes, stealing money and a phone. As they sped off, Ullah recalls, the attackers gave a clue to their motivations, yelling out “Shia are infidels!”

Months later Ullah, 25, is back in Quetta and still injured. But he says he wants to try the trip to Australia again.

“Just only one thing,” he says. “We are safe there, that’s why. We are not safe here.”

THE DEATH OF ALI SHAH sheds light on a largely under-reported front in Australia’s war to stop an increasing number of boats bringing asylum seekers from the trouble spots of Asia and the Middle East. For more than a decade, government agencies have focussed their efforts on what are termed “disruption” activities overseas. This means working with foreign governments to arrest people smugglers and cut off their funding, as well as stopping asylum-seeker boats in transit countries like Indonesia before they leave port. But in recent years, Australian authorities have increasingly turned to a strategy some find disturbing: they are taking their mission directly to countries such as Pakistan that are sources of refugees, rather than concentrating on the transit points. And in collaborating with local authorities, their efforts have gone beyond targeting people smugglers — they’re also using the powers they gain locally to directly stop the escape of asylum seekers themselves.

From a human rights perspective, Australia’s actions in Pakistan arguably cross a dangerous new line.

Australia has long thumbed its nose at its international legal obligation to provide shelter to the world’s persecuted, argues Mustafa Qadri, an Australian human-rights advocate who covers Pakistan for Amnesty International. But using local authorities to keep threatened people such as the Hazaras bottled up in Pakistan’s borders takes things much further.

“You’re looking at a population that is persecuted in the worst kind of way, and the Australian authorities appear to be effectively trying to stop them from trying to go somewhere where they will be safer. It’s pretty shocking,” Qadri says.

In Pakistan, this campaign has gone ahead with little fanfare. Since 2009, officers of the Australian Federal Police (AFP) and Australian intelligence agents have been part of an increased effort to stem the movement of asylum seekers, according to interviews with Pakistani law-enforcement officers, publicly available Australian Senate records, and annual reports of the AFP. A large part of this has involved co-operation with Pakistan’s civilian [Federal Investigation Agency](#) (FIA), which investigates crime and also manages immigration at Pakistan’s borders and ports.

In part, this co-operation — which has involved intelligence sharing, technical help and training — has been focussed on catching people smugglers. But increasingly the pressure applied by Australian authorities has resulted in Pakistan using ethnic profiling to try to seal off its borders to Hazaras trying to escape.

In the same way that Hazaras’ features make them a target of jihadi killers, their ethnicity now inhibits their travel — at Australia’s apparent urging. And at the same time as Australia co-operates with Pakistani authorities, Pakistan’s powerful military is accused by locals and some security analysts of, at best, doing little to stop the killing of more than 100 Hazaras by hardline Sunni militants in Quetta this year. At worst, some elements of Pakistan’s military may be linked to extremists.

Australia’s foray into overseas disruption of people smuggling began in 2000. The Coalition government of then Prime Minister John Howard implemented [a multi-agency approach](#) to try to stop the arrival of asylum-seeker boats. It included advertising campaigns in source and transit countries, aimed at discouraging people from taking the journey. But at that time the main focus of the Coalition was on deterring arrivals via the extended detention of asylum seekers, and the [“Pacific Solution”](#) of offshore detention.

Relatives mourn the death of eight people, including seven Hazaras, after a series of targeted sectarian killings in April 2012. More than 100 Hazaras were murdered in Quetta this year.

All this changed with the election of Kevin Rudd’s Labor government in 2007. Having rejected the Howard government’s detention policy, Labor was left with few deterrent options when a surge of boats began arriving in late 2008. One remaining strategy was to ramp up disruption efforts overseas. In 2009, more than \$41.5 million was pledged over four years to combat people smuggling, and the AFP [sent specialist officers to transit countries](#) Indonesia, Thailand and Malaysia. Sri Lanka and Pakistan, both source countries of refugees, also received more officers.

In 2000, there were [just 10 federal police officers](#) working solely on people smuggling. By 2011, there were 99 based in Australia, plus 10 posted overseas: [six in Indonesia](#), and [one in each of the other countries](#). There are also officers based overseas and within Australia who periodically work on people-smuggling issues. Since September 2008, 317 people have been convicted of people smuggling offences, both in Australia and overseas, according to Customs and Border Protection. Of these, 311 were boat crew members; six were organisers.

In Sri Lanka, authorities have during recent years been involved in a well-documented campaign to intercept and turn back boatloads of people trying to leave their waters. The Australian government argues that many of the people fleeing Sri Lanka are economic migrants, but refugee advocates argue that people blocked at sea or deported from Australian detention centres face the risk of torture or abduction on their return to Sri Lankan territory.

In Pakistan, the approach to preventing people from leaving to seek asylum is less well known — and appears to go a step further. On the ground in Pakistan, Australia's footprint is far larger than the limited number of officers in service suggests. The Federal Police regularly supply intelligence on alleged people smugglers to Pakistan's FIA, as well as providing the organisation with training and technical support, according to Azad Khan, the head of the agency's anti-people-smuggling unit in Karachi.

More controversially, Australia has in recent years also urged the FIA to block Hazaras from travelling if it suspects they intend to seek protection overseas, Khan says. In effect, this is a policy of ethnic profiling, aimed at a community that makes up a large share of asylum seekers, and who are unusually easy to pick out of a crowd.

"Definitely they do have a profiling. Anybody who thinks that he or she doesn't have a reasonable answer that they are going to southeast Asia, they do stop them and in some cases they offload them [at airports]," Khan says, adding that [the emphasis of co-operation with Australia](#) is "on stopping" asylum seekers from departing.

Khan concedes that the policy is both morally and legally debatable. "If [asylum seekers] approach us through a court of law then we will have a problem. If you look at it from a human rights standpoint, they have a right to go anywhere," he says.

"There's no strictly legal regime for this."

KARACHI IS A MAJOR DEPARTURE POINT for both Pakistani asylum seekers and Afghans — many of them also ethnic Hazaras — who have slipped across the border, often via Quetta, and obtained false Pakistani documents. To combat this flow, the AFP has been instrumental in installing a computerised system known as EDISON in Pakistani airports, which enables detection of fake passports, Khan says.

Much of the intelligence Australia supplies is gleaned from interviews with asylum seekers in Australian-run detention centres and in Indonesia, according to Khan.

Australia also relays information from investigations conducted by the Indonesian National Police. While this intelligence is used to pursue people smugglers, it also has been channeled into an immigration blacklist, which effectively bars travel to suspected asylum seekers and, in some cases, to regular asylum seekers who have been detained in Indonesia.

This sort of co-operation also stretches beyond major cities such as Karachi, and into some of Pakistan's most dangerous areas. In Quetta, the Federal Police, the Australian Secret Intelligence Service and other officials from the Australian High Commission are in regular contact with local authorities to crack down on people smuggling, according to one senior Pakistani law-enforcement officer in Balochistan province, where Quetta is

located. The officer, speaking on the condition of anonymity, also confirms the existence of the profiling policy.

“Profiling in the sense that this Hazara community, they have these, you know, salient Mongolian features if you just look at them,” he says.

There is no suggestion that the FIA is linked to the Sunni extremists who are targeting Shias. But other elements of the Pakistani state, including the powerful Inter Services Intelligence (ISI), are widely thought to have links to militants. Pakistan’s government has done little to curb the violence in Quetta. And for Amnesty International’s Qadri, this simply makes it clearer Australia is in violation of its international legal obligations by working with them to block the escape of asylum seekers.

“I think that makes Australia actually extremely complicit [in the persecution of Hazaras],” he says.

The Global Mail submitted a list of written questions to Australian Customs and Border Protection, which takes a lead role in overseeing Australia’s whole-of-government approach to foreign people-smuggler-disruption efforts, including those of the AFP. The responses by Customs affirmed Australia’s general policy of disrupting people smuggling overseas, but did not specifically address questions relating to intelligence sharing, technical assistance or efforts by foreign authorities to block asylum seekers from leaving either transit countries or their country of origin ([see the questions and responses here](#)).

A separate request for comment from the AFP was referred back to Customs.

“I think that makes Australia actually extremely complicit [in the persecution of Hazaras].”

– MUSTAFA QADRI, HUMAN-RIGHTS ADVOCATE

FOR ALL AUSTRALIA’S EFFORTS in Pakistan there appears to be no change to the flow of asylum seekers leaving the country. And despite regular contacts and intelligence sharing, there have been few tangible successes.

Asylum seekers in Pakistan and Indonesia — as well as two people smugglers contacted in Quetta — describe a crackdown that has simply opened up further opportunities for bribe taking by Pakistani authorities, making the cost of seeking asylum in Australia more expensive.

One of the few successes of Australian efforts, being touted in Pakistan at the moment, is the trial in Quetta of Haji Ali Zafar, an alleged people smuggler. But one such conviction would be only a drop in the bucket in this city, which is an international hub for the smuggling of illicit goods ranging from people to weapons and narcotics.

FIA agents frequently arrest suspected people smugglers in Quetta, but release is routinely secured in return for payment, says Mustafa, a smuggler operating in the city, who asked to be identified by only his first name. “About 200,000 or maybe 300,000 [Pakistani rupees, about \$2,000-\$3,000] and they release them on the spot,” he says. After expenses, Mustafa estimates he makes about \$50,000 profit a year. “[It’s] not too much, because I’m spending all of them on the other ways,” he says, in broken English.

“Like gambling, like spending them on the girls. Drinking them, drinking some Jim Beam.” Mustafa estimates there are about 50 people smugglers operating in Quetta, who are part of networks that arrange passage as far as Indonesia. Part of the job of local

smugglers is to co-ordinate ahead with the FIA, bribing them in order to allow asylum seekers through. The cost of the bribe needed to pass through Karachi's airport has recently risen dramatically. Early this year, the average bribe cost somewhere between \$300-\$400; it is now \$700-\$1,000, he says.

"When we are paying them money, they never stop them. And when we are not paying them money as they required, they are sending back, even sometimes they are taking them to jail." This information is corroborated by another people smuggler, as well as by the experience of asylum seekers interviewed by *The Global Mail*. One Afghan in Indonesia, who travelled via Pakistan on false documents obtained in Quetta, says he and two other Hazara asylum seekers were blocked from travelling at Karachi airport in July. The asylum seeker says he was instructed by an FIA officer at the airport to return to his smuggling agent, and to wait while a price was negotiated. No one appeared to have noticed his fake passport, and within a few days the bribe was settled. The people smuggler informed him it was time to start his long journey to Australia.

"They just give me the name of the counter: 'You should just go to counter five. My guy is sitting there,'" the Afghan man says.

(3) Deterrence undermines the democratic process

Morality extends to the political process. The proposed changes to The Migration Bill undermine a tried and true process that has been adequate practice for all the refugees from the Second World War and from the Vietnam War. The second change allows for even more powers to be vested in the Minister for Immigration.

'The minister may, in writing, vary or revoke a determination made under subsection 1 if the minister thinks that this is in the public interest, whether or not that person has been assessed as being a refugee.'

This change raises questions about checks and balances, transparency and undue concentration of power.

Why are politicians not listening to experts in the field, to the concerned public?

The immorality of a type of '*deterrence group think*' has developed and is already undermining the integrity of politicians and of our democracy in an "*emperor's new clothes*" situation, which is a moral failure, a failure of leadership, a breach of public trust and is devoid of creative options. Politicians acting without moral courage are not acting in the public interest.



The politicians who have stood ground and refused to vote for expensive, ineffective and inhumane policies.



Politicians of many backgrounds have expressed their concerns about the damaging consequences of deterrence.

(4) Deterrence has a questionable mandate

(a) The Labor Party

The lack of moral courage extends to the undermining of Labor Party traditions and principles for political expedience. Behaviour such as this is not in the public interest and has no place in a democratic society. The deterrence policy is an example of a small power base in the Labor Party overriding its own platform and policies. Members of *Labor for Refugees*, such as Linda Scott made this point at the Labor Party Conference. And many others within Labor, such as Shane Prince have called for a change of approach.

Were their voices heard when you called for an expert panel?

Labor for Refugees' concern¹⁴ that the lack of statesmanship from both major parties drives an overheated public discourse and politicisation of refugee and asylum seekers policy and is extremely damaging, undermining the status of refugees and asylum seekers in the community, and harming their chances for successful settlement. It also damages the prospect of balanced

¹⁴ Submission to Expert Panel on Asylum Seekers, Labor for Refugees.

decision-making on policy, distorting public perceptions about the numbers of people seeking asylum.

Australia's geographic isolation means that relatively few asylum seekers will actually make it to Australian shores. The most recent UNHCR statistics for 2011 show that Australia recognised 5,726 asylum seekers as refugees in 2001, just 0.56% of all individuals and groups recognised as refugees globally. The vast majority of refugees and asylum seekers continue to be hosted by developing countries.



Why Labor will soon be excised from the voting zone.

(b) The Greens still hold the balance of power at the time of writing.

By mimicking the Howard government policies, Labor is further alienating its membership. At the Tampa election, when Kim Beasley supported the Howard Government's rhetoric, he lost a large portion of voters who went to the Greens, who were opposing the anti-asylum seeker policies that both governments were spouting.

When Rudd was elected in 2007, his reforms to harsh treatment of asylum seekers were greeted with relief by long term Labor voters, many of whom returned to Labor. Under the recent Gillard Government, a significant portion of voters showed their ongoing concern about environmental and social justice issues by voting Green. While the Greens are still propping up a minority Labor Government, it's clear there is not yet a mandate to return to harsh treatment of asylum seekers.

Why Australia will soon be excised from the migration zone¹⁵.

¹⁵ www.mamamia.com.au/news/labor-can-only-blame-itself-for-its-immigration-mess/

Senator Sarah Hanson-Young
Friday 2 November

Excising the entire continent of Australia from the migration zone sounds extreme, and it is. It is basically a move designed to withhold the international right to claim refuge in Australia from the handful of people who manage to make a perilous journey by boat all the way to our shores.

By making this change, the Government will be able to exile anyone who makes it to Australia to indefinite detention on Nauru and Papua New Guinea.

The only way to reduce the number of people who come to our shores by boat is to offer them safer pathways to seeking asylum in Australia.

We need to bring refugees directly from Indonesia and Malaysia; we need to actually enact the recently announced increase in Australia's humanitarian intake that the Greens fought so hard for.

Over the last six months the Government has brought only 51 refugees from Indonesia to Australia, despite the fact that there are thousands of people waiting to be resettled who currently see a boat journey as their only option.

How many more boats of desperate refugees, fleeing war and persecution, will have to arrive before the Government admits it got this wrong?

(a) Advice from bodies with expertise in the area, has been ignored by the Expert Panel

This has been a case of 'Never appoint a committee to investigate unless you are sure of the outcome.'

The Refugee Council of Australia

CURRENT POLICY OPTIONS WILL NOT WORK

We do not support any of the policy options currently before Parliament. This is because we believe they are harsh, unjust and contrary to our international obligations. Furthermore, the current policy approaches, outlined below, will not achieve their stated aim to reduce asylum seekers seeking out people smugglers and travelling to Australia by boat.¹⁶

(5) Is deterrence racist?

¹⁶ <http://staging.refugeecouncil.org.au/r/sub/sub-ep/1207-Joint.pdf>

If deterrence is not really about saving human lives, why ARE we doing it?



Paul Keating slams racist tone of asylum debate

Paul Maley, The Australian, March 23rd 2012

FORMER Labor prime minister, Paul Keating has savaged the tone of the asylum-seeker debate, saying policies over boatpeople are built "on race" and are hurting Australia's standing in Asia.

In a swipe at his political successors, Mr Keating said there were "racial undertones" to the debate. "I often used to say as prime minister, when they were handing out continents, not many people got one, but we did and there's only 20 million of us," Mr Keating told the Asia Society in Sydney on Wednesday night.

"And yet we're complaining about 6000 people coming by boat and we want to push all of them away."

Mr Keating, who is known for his bombast as well as his Asia-centric view on foreign policy, said Australians demonstrated no "generosity of spirit" when it came to asylum-seekers.

Instead, they complained about the negative social effects asylum-seekers supposedly brought with them. This, Mr Keating said, was damaging Australia's reputation in Asia at a time when economic and military weight was shifting from the West to the East.

"Racism is a form of sickness and when a country starts building policies on race, or racial undertones, then you know you don't have much of a future, especially when you've got three billion Asians around you and we're 20 million," Mr Keating said. "You wouldn't think it was a winning policy, but some people in this country do."

Mr Keating said mandatory detention of non-citizens was conceived as a way of checking the bona fide of non-citizens and for performing basic health and security checks.

"It was sort of a way station," Mr Keating said.

"What Howard did was turn it into essentially a quasi-penal structure. This was never our intention and we never did it." Mr Keating, who has long advocated a deeper engagement with Asia, said he favoured onshore processing of refugees.



Moving backwards. Not moving forward

Immigration Nation: Probing Australia's racist roots

March, 2011

Mark Goudkamp takes a look at the SBS series *Immigration Nation* and its history of the White Australia policy

SBS's *Immigration Nation* is an informative and timely three-part documentary that examines the founding of White Australia, and how Australia has become a multicultural nation despite its deeply racist origins.

It dissects a paradox fundamental to the creation of the Australian nation. While our "founding fathers" trumpeted their "idealism" in setting up a "working man's paradise", this "utopia" explicitly excluded the overwhelming majority of the world's population on the basis of race.

Racist beginnings

The first episode starts with Federation in 1901, and the very first act of the federal parliament, the Immigration Restriction Act. Commonly known as the White Australia Policy (WAP), it discriminated against both new entrants and non-Europeans already living in Australia.

The ALP opposition wanted to ban all non-whites from even entering the country. Britain opposed the measure saying it would offend the British Empire's non-white subjects, yet Labor's more racist amendment was only defeated by five votes.

The WAP resulted in immediate moves to deport Melanesians who'd been "blackbirded" as cheap labour for Queensland's sugar plantations (although many who'd arrived before the 1885 act which changed their status could stay legally, while others went into hiding).

Australia's significant Asian communities were also hit hard. While many Asian-Australians were enthusiastic about the official Federation celebrations, the Chinese community was soon "strangled" by the WAP. By the 1920s, Australia's pre-Federation Chinese population of 50,000 had halved, plummeting to just over 9000 by 1940. It wasn't until the late 1980s that pre-Federation numbers were reached.

Whose interests did the WAP serve?

Unfortunately, *Immigration Nation* tends to recite the commonly held idea that the introduction of White Australia was in the interests of, and driven by, the organised Australian working class.

On the contrary, as Phil Griffiths argues in his recent PhD thesis, the WAP developed, "as a ruling class attempt to secure three major objectives: Anglo-Australian colonisation of the continent; a modern rather than indentured labour economy, across the whole continent; and a 'homogenous' population". Key figures in the colonial bourgeoisie fought for this agenda from 1876, and the first WAP, agreed at the Intercolonial Conference of 1888, prevented Chinese immigration and severely constrained the employment of non-waged Pacific Islanders in Queensland. Griffiths adds that, "The laws adopted in 1901...represented a broadening and consolidation of the principles established in 1888."³ Griffiths also points out that every anti-Chinese law passed prior to 1890 was passed by parliaments dominated by squatters, rich lawyers, merchants, wealthy manufacturers, and newspaper owners. Those parliaments never had more than two people who'd been tradespeople or working class when elected.

The documentary itself acknowledges that it was a book by Charles Pearson, *National Life and Character: a Forecast*, published in 1893, which provided the intellectual basis for White Australia. Pearson, who had been Education Minister in Victoria and headmaster at Pymble Ladies College, and who was described as an “outstanding intellectual of the Australian colonies”, promoted the idea that the white man was under siege, arguing that the “Black and Yellow” races were ascendant, powered by population increase and industrial capacity.

The documentary should have interviewed academic Verity Bergmann who, in a groundbreaking collection of essays on working class racism, explained how the lack of class consciousness caused by the “method of settlement and economic development in Australia in the 19th century led trade unions to support campaigns of hostility to selected immigrant scapegoats”.

The documentary asks, “but was the WAP really buried? It’s suggested that, like Kevin Rudd 35 years later, Whitlam was big on symbolic acts, without driving fundamental change. The arrival of Vietnamese boat people put Whitlam’s government to the test.

The mass movement against the Vietnam War and TV images of Vietnamese people suffering had further shifted attitudes towards Asian people. Yet Whitlam announced that Australia would take just 1000 Vietnamese refugees, fearing that supposed “anti-communist” Vietnamese refugees would never vote Labor.

While Whitlam passed the Racial Discrimination Act in 1975, praise is heaped on his Liberal successor Malcolm Fraser for welcoming refugees from South East Asia. But that is not the whole story. The Fraser government demanded boat arrivals be kept low key—for example, there was little mention of a boat that sailed right into Darwin harbour on Anzac Day 1976 (the crew had only a school atlas to guide them!). Immigration Nation notes Fraser’s role in setting up refugee camps in Malaysia and Indonesia, but omits the more telling side of Fraser’s policy.

An immigration officer of the time, Greg Humphries, has revealed:

“We located many a boat coming down the Malaysian peninsula. We encouraged the Malaysians to land them, put them in the camps so that they could be processed. There were still a percentage of the boats, eh, people themselves, who were determined to push on to Australia. Well, we took a pretty broad interpretation of the terms of reference to stop these boats we did...we had some very capable fellows with their screwdrivers and brace and bit. We bored holes in the bottom of the ships...and they sank overnight...we were very successful in stopping many of the boats, by one way or another.” Nonetheless, Fraser’s acceptance of 70,000 Vietnamese refugees is a sharp contrast with the stance of both Labor and Liberal governments since Labor’s Paul Keating introduced mandatory detention in 1992.

At the end of the final episode, John Howard’s infamous 2001 election speech (“We will decide who comes to this country, and the circumstances in which they come”), is neatly juxtaposed with what Julia Gillard said upon ousting Kevin Rudd (“Australians are concerned when they see boats on our horizon and they wanna (sic) make sure that the government is actively managing to protect our borders.”

Given what has happened with multiculturalism and asylum seekers over the past 30 years, Immigration Nation really needs a fourth episode. It will be up to us to ensure it has a better ending.

The Cost of Deterrence

I am not the Treasurer nor the Shadow Treasurer and I do not have a department at my disposal but I do note that costs associated with punitive deterrence and the obsession with border control are enormous and mounting daily and they are quarantined from budget deficit discussions. It is my view that this is a waste of public money and not in the public interest. The proposed changes to The Migration Bill ratchet up the notion of criminalising asylum seekers and thereby seek to justify

a war-time footing/‘no expense spared’ program.

- The cost of offshore processing
- The cost of mandatory detention
- Added cost of extensions to Villawood \$180,000,000
- The added cost of running remote onshore locations such as Curtin and Scherger detention centres
- The cost of fighting appeals up to the High Court instead of giving asylum seekers the benefit of the doubt
- The cost of border patrols
- The cost of moving detained asylum seekers to different facilities all over the country
- The cost to the taxpayer of paying SERCO and other providers enough to make a profit of at least \$29 million in 2010 - 2011
- The cost of compensation cases for damages suffered by asylum seekers whilst in detention, such as from mental illness as well as injuries from bashings and other treatment carried out by inadequately trained guards, being asked to do untenable and immoral things.
- Cost of ware housing asylum seekers in Indonesian detention centres funded by Australia
- Cost of people smuggling disruption programs and funding of AFP personnel in Indonesia
- Paying politicians to read reports

It doesn't have to be this way. Immediate measures, such as further increasing the intake of asylum seekers, to clear the bottle neck in Indonesia, humanitarian airlifts, community processing (Tick), separating the informal intake from the official humanitarian program are cheaper than the financial burden of deterrence.



¹⁷ SAVING MONEY – SAVING LIVES

Community processing is cost effective – we'll save money.

Placing people in community is 90% cheaper than in immigration detention.

Community Processing = \$11,248. Detention = \$137,317 per person, per year

¹⁷ http://www.asrc.org.au/media/documents/community-processing-fact-sheet_.pdf

SAVING MONEY - SAVING LIVES

It is clear that these measures cost far less than the present system where Australia pays for the costs of imprisoning asylum seekers and refugees in Indonesia, anti-people smuggling and "border protection" measures as well as the costs of mandatory detention and offshore processing. Most importantly they would come at far less cost to the lives and welfare of asylum seekers. The money **saved** from ending mandatory detention, which will cost almost \$1.1 billion in 2012-13¹⁸ and the unnecessary border policing measures, costing another \$1.2 billion, could be used to fund humanitarian policies.¹⁹



BEYOND DETERRENCE. Australians are capable of great compassion and pragmatism. I witness enormous goodwill in the community, from many different sections. With enlightened leadership this can be fostered. Was the input of these many thousands of concerned Australians, heeded by the Expert Panel?

We have all learned to eat noodles, 'put it in the bin' and that single mums are not *fallen women*. With enlightened leadership, we are quite capable of learning new attitudes here in Australia.



Concerned Australians. One of thousands.
An example.



Jaffar (in 2012)

Jessie Taylor

Jessie Taylor at 27 fostered a 14 year old asylum seeker
Julie Ulbricht Tuesday 17 July 2012

Last night's Australian Story focused on the amazing story of Jessie Taylor, a young woman who fostered an Afghan refugee before she had even turned 30.

When 27-year-old human rights lawyer Jessie Taylor, travelled to Indonesia to research the state of [detention centres](#) for a documentary in July 2009, she came across [countless stories of desperation and persecution](#). But nothing could compare to a chance encounter with a 14 year old young man named Jaffar in an Indonesian jail. Jessie recalls how he looked straight at her and begged, "Can you help me?" but she knew, sadly, there was nothing she could do. Yet, in one of those beautiful moments of compassion and human connection, she scribbled down her phone number on a piece of paper and said, "If you make it to Australia, call me and I'll look after you."

Well, Jaffar managed to escape and find his way to a people smuggler who put him onto a boat with some 80 other men, women and children, making the [dangerous 10 day journey across the seas](#). And, as hundreds of rickety boats before this one, the small, unsound vessel made it to Australian waters. In a military style operation, Australian border protection staff boarded the boat and allocated each of the passengers a three digit identifying code before escorting them to an Australian Maritime vessel. Welcome to Australia! Take a number.

Jaffar, just like the hundreds of "boat people" who arrive each year, would have been sick, vomiting, dehydrated, cold and exhausted. Not to mention suffering tremendous psychological damage that comes with crossing risky borders, and being thousands of miles from his parents and two younger brothers.

On Christmas Island, he was taken into a room. The door closed and two Australian Federal Police officers began the interrogation. They had searched him and discovered the crumpled note with a name and a phone number. "Where did you get this?" Jaffar was so scared that he would get Jessie into trouble. He had no understanding of the laws in this foreign country. Not that he hadn't seen jails or detention before. They had become a part of his life now in his bid for survival.

But one thing that was certain, is that Jaffar would have had little comprehension of the idea of justice, having been raised in Afghanistan where, several years earlier, the Taliban had shot dead his older brother and sister on the doorstep of his house. In front of his parents. His father, desperate and in immense pain that only a grieving parent knows, said, "I cannot bear to see another one of my children die." He gave Jaffar all the money he had and said, "Go. Try and find safety. One day we may see you again." See, Jaffar had reached puberty – a very risky time especially for males in war-ridden Afghanistan. Once these boys reach fighting age, they live with

the threat of being killed or recruited to fight for the Taliban. So Jaffar kissed his parents goodbye and made the journey to Indonesia, and ended up in the jail where he had met Jessie.

For years Jessie had defended the plight of those who have been persecuted, and who had fled in fear of their lives. Defending them in court. To her friends. Even to her mother where stand up shouting matches had become the norm when it came to discussing “boat people.” I picked him up at the airport and we drove to mum’s house. . . she visibly melted. When she said goodbye to him, he kissed her on the cheek and she burst into tears. From that moment on, she can’t stop asking all her mates, ‘Have I told you about my Afghan foster grandson?’

THE PLIGHT OF UNACCOMPANIED MINORS

Jaffar came to live with Jessie in February 2010. While he is safe and adored by Jessie, his plight as a 14 year old boy meant he had made the journey alone from Afghanistan to Pakistan to Malaysia to Indonesia to Christmas Island to Melbourne. Daring to trust strangers. Pining for the life he would never share with his now deceased older brother and sister. Pining for his parents and his two younger brothers. But determined to live. Jaffar’s story is just one of many.

Up to 2,000 unaccompanied minors have travelled to Australia just like Jaffar. The vast majority are male. Every one of them comes here by boat because they have no documentation. Every one of them gets put into Christmas Island. Many of them are interrogated by the police. Every one of them is grilled by immigration officials. Most of them have done time in Indonesian and Malaysian detention centres. And every one of them is desperate for survival and long to be one day reunited with their families. Yet if they do not have adequate living conditions when they arrive, the repercussions are huge.

Once they have arrived in Australia, they are under the guardianship of the Minister for Immigration who delegates their care to the Department of Human Services. The DHS then interview carers to foster these young people out to. Many don’t find carers, so need to live in group houses or community detention. In fact, around 1,000 young people are in extremely insecure living environments in Australia. In one case, four 17-year-old boys had no choice but to live under the care of an 18 year old.

Some do time in community detention where many self harm or attempt suicide. But some, like Jaffar, are fortunate to be fostered out to wonderful parents – like Jessie – who is a single mother to Behrang. Together, Jessie and Jaffar have made progress in contacting Jaffar’s family and are fighting the clock in order to get them safely to Australia and reunited with their son.

Unaccompanied minors only have until their 18th birthdays to try and get their family reunion applications approved so their families can come here – a process that currently takes 2-3 years. “If someone arrives at 16, they have practically zero chance of connecting with their families again,” says Jessie.

Jessie Taylor is a Melbourne lawyer and refugee advocate. She produced the documentary ‘[Between the Devil and the Deep Blue Sea](#)’ and wrote and produced ‘We Will Be Remembered For This’ which explored the government’s mandatory immigration detention policy. Julie Cowdroy is an ambassador for the Global Poverty Project and Opportunity International Australia. She is also a freelance writer

Recommendations

1. Do NOT change the wording of the Migration Bill. Such changes would only further institutionalise the unwarranted criminalisation of asylum seekers.
2. Dismantle the 20 year policy of deterrence that has shown only too clearly that it has failed. To achieve this DIAC must be well and truly cleaned out and staff either retrained or let go where they refuse to be. Politicians on both sides must stop using asylum seekers and boats as a political football and show real leadership and bi-partisanship based on human rights not racism. Mandatory detention must end. People smuggling must be decriminalised. People smuggling disruption activities must be ended. Deportation to danger must be taken seriously. In short Australia must uphold the terms of international conventions that it has signed.
3. Greatly increase the refugee intake so that people know they have a real chance of settlement if they wait in Indonesia or Malaysia without having to get on a boat. The recently announced figure of 600 to be settled from Indonesia is a step in the right direction but remains grossly inadequate. In addition the increased overall intake of 20 000 even 27 000 is simply not generous enough. Look at the capacity of this country, demonstrated by the massive squandering of resources on the deterrence model. Ask yourselves how far that could go on simply resettling even larger numbers, without the enormous costs of deterrence outlined above. Australia currently accepts around 180 000 migrants per year. It would be possible to make this say, 80 000 refugees and asylum seekers and 100 000 migrants. Large numbers have been settled before and the sky did not fall in. On the contrary the refugees have proven to be an asset, a human resource for Australia. As an initial measure, to bring all UNHCR mandated and registered refugees from Indonesia to Australia, which included 1180 people with refugee status and another 4552 registered with the UNHCR at the end of May⁵. Into the future, establish sufficiently-resourced asylum seeker community processing in Indonesia and guarantee resettlement of those found to be refugees in Australia; times for processing and determination should be no longer than would apply in Australia.
4. Give people a genuine option of achieving safety and resettlement Australia must urgently establish properly resourced arrangements for the timely processing of asylum seekers in Indonesia and the guaranteed resettlement in Australia of those found to be refugees. To save lives at sea and 'break the people smugglers' business model' humanitarian airlifts are possible and cheap. It is much cheaper to use empty seats on planes than to manage all the surveillance, disruption of boats and sea interceptions involved in deterrence.
5. Foster safe passage. It must also be recognised that regardless of alternative measures put in place, there are circumstances in which asylum boats will continue to need to travel to Australia. For example boats also travel from Sri Lanka directly to Australia. Therefore policy must focus on providing safe passage – both authorised and unauthorised – for asylum seekers and refugees travelling to Australia. Implement measures to ensure the safest possible passage of boats to Australia. This could include a system of notification of asylum boat departures and the possible provision of escort arrangements by appropriately equipped Australian government supported ships. Australia needs to take responsibility for all distress calls from asylum boats and for rescue operations in safety of life at sea (SOLAS) situations, including those that occur in Indonesian waters.
6. De-link the offshore refugee intake from the special humanitarian quota. The result of this

is that in years where more refugees arrive by boat there are fewer places under the special humanitarian program. The deliberate linking of these two programs was introduced by the Howard government as a punitive measure directed against refugee and migrant communities. No other country in the world has such a punitive measure. There are now strong indications that the relatives of refugees living in Australia are being forced to travel by boat because government policy has cut off other avenues of family reunion. This policy in the present circumstances risks repeating the same pressure caused by Temporary Protection Visas (TPVs) that prevented family reunion that created the tragedy of the SIEV X, costing the lives of 353 people, mostly women and children. At present there is no quota on the processing of boat arrivals. An increased official refugee intake must not be used to administratively exclude resettling refugees from Indonesia

7. End mandatory detention and ensure that all boat arrivals in Australia are welcomed and are properly and speedily processed on bridging visas which allow them to live, work and study, access Medicare, Centrelink, etc, in the community
8. Fund an adequate community education program in Australia to develop a positive public perception regarding asylum seekers. This is the opposite of the negative campaign that is being run now. Attitudes can be changed with the right leadership. We learned to 'put it in the bin' and we learned that 'smoking kills'. We can just as easily learn that 'deterrence kills' and to 'welcome asylum seekers'.