

Australia's Asylum Politics: Localised, Globalised

Written by Linda Briskman

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LINDA BRISKMAN, JUL 26 2017

The Geneva-based research centre, the Global Detention Project (GDP) articulates the problematic nature of Australia's immigration detention system: "Australia arguably has the most restrictive immigration control regime in the world, making widespread use of offshore detention facilities, imposing mandatory detention measures, and working closely with other countries in the region to boost their detention capacities. All of the country's detention facilities are operated by private contractors, including offshore facilities, which have been the subject of growing criticism because of the abuses suffered by detainees at some of these facilities."

Indeed Australia, a relatively minuscule asylum seeker receiving country, reaps international condemnation from human rights groups for policies and politics that stem from mandatory detention legislation of 1992. Grafted onto this base, is an assemblage of practices that defy morality and humanity.

Over time, these have included practices that have put Australia under the human rights spotlight. They include excising parts of Australia from the migration zone, where a person arriving without 'lawful authority' could still make a valid visa application. The boundaries of the migration zone began to shift after what is known as the Tampa affair of 2001, when Australian Prime Minister, John Howard refused entry to a Norwegian cargo vessel, MV Tampa, that had rescued 433 mainly Afghan asylum seekers from their floundering boat. A hasty amendment to migration legislation meant that the Tampa asylum seekers who had reached Australian territory were no longer in the migration zone, and subsequently removed to offshore detention centres (Phillips 2015).

An ongoing practice conducted in secrecy, concerns militarised efforts to deter and deny. Operation Relex (2001-2006) deployed surveillance naval vessels and military aircraft to prevent entry into Australia, transporting asylum seekers from Australian waters to immigration detention when return to the departure country of Indonesia was thwarted (Briskman, Latham and Goddard 2008). Operation Sovereign Borders was put in place in 2013 with the stated aim of combating maritime people smuggling and protecting Australia's borders (DIBP nd). A strategy that ended soon after it commenced was the purchase of orange lifeboats to return asylum seekers to Indonesia, a practice that an Indonesian expert suggested 'violated international law and infringed on Indonesia's territorial sovereignty' (Juwana 2014).

For asylum seekers who have been allowed to reside in the community while awaiting refugee determination processes, many live in a state of destitution below the poverty line, including in poor housing conditions and with reliance on support by charities. Combined with the plunge into poverty is the psychological deterioration during the long period of waiting (Jesuit Social Services 2015).

Despite the critiques of such practices as those outlined above, it is immigration detention, as the GDP has noted above, that is particularly problematic, and is a source of shame for those in the Australian and international communities who advocate for human security rather than border security.

The Blight of Immigration Detention

Concerns about inconsistency between detention practices and Australia's human rights obligations include the prohibition of arbitrary detention enshrined in the *International Covenant on Civil and Political Rights* and the

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imposition of practices that violate the *Convention Against Torture* and the *Convention on the Rights of the Child* (Penovic 2014).

The most criticised practice has been detention in 'offshore' sites, namely Nauru and Papua New Guinea (Manus Island) under the 'Pacific Solution', described by Human Right Watch (2017) as 'draconian policy'. In acts of colonial mastery, asylum seekers have been transported and warehoused and told they will never settle in Australia. Despite well documented claims of suffering (including self-harm, deaths, violence and medical negligence), there has been bipartisan support for keeping populations deemed 'surplus' away from the Australian mainstream. In a bizarre twist, a trading deal with the United States will see some of those assessed to be refugees settled there, while the US, similarly abrogating its own responsibilities, has forged a deal to send people held in limbo in Costa Rica to Australia.

Secrecy has been a hallmark of privatised detention facilities but this lack of transparency has been overcome through public and media statements by people who work in immigration detention and by detained asylum seekers. Health and welfare workers tasked with care of 'transferees' as they are known, were subject to legal silencing, following speaking out publicly about witnessing human rights violations in offshore detention. In 2015, the *Border Force Act* made it a crime, punishable by two years imprisonment, for anyone who engages in work for the Department of Immigration to disclose any information obtained by them while doing that work (Bradley 2015). The following year, I published an article with a silenced social worker, calling herself Jane Doe for protection, as she wished for her experiences on Nauru to be recounted in the public domain (Briskman and Doe 2016).

Asylum seekers have found creative ways to overcome Immigration Department secrecy through publishing about their plight in sympathetic media outlets and, most recently, in a film produced on Manus Island by detainee Behrouz Boochani. *Chauka – Please tell us the time* evolved from a collaboration with an Iranian-Dutch filmmaker through mobile phone footage from Manus Island. Through this film Australian audiences experienced firsthand the plight of those detained offshore.

Internationalising Inhumanity

Immediately preceding the United Nations 2016 summit on refugees in New York, Australian Prime Minister, Malcolm Turnbull, proclaimed that Australia's protection policy was the best in the world (Karp 2016). At the same time, hardliner Immigration Minister, Peter Dutton, pointed out that Australia's response was different to Europe's as Australia is not landlocked and is without porous borders. As Dutton noted, water surrounding the island constitute a 'natural defense' (Karp 2016).

Turnbull's international baying and Dutton's hesitation raises questions of whether Australia is 'inspiring' other nations to deny and deter or whether context is the most important factor in the creation of policies. It is arguably a bit of both.

Ideas cross borders. The use of islands for holding purposes (Mountz and Briskman 2012) is one example of keeping those seeking protection at a distance by situating them in precarious sites, with minimal human rights monitoring. The globalised nature of detention islands has been evident in such far-flung locations as Christmas Island, Guam and Lampedusa. The relationship of the islands to the receiving nation state varies across and within countries. Christmas Island, which until recently housed vast numbers of asylum seekers in a maximum security facility, is an Indian Ocean Territory governed by Australia whereas Nauru and Manus Island are independent countries where Australia's financial backing to economically challenged nations has opened the way for coercion. Through a commodification process, exporting unauthorised arrivals obfuscates their humanity, denies liberty and allows discourses of criminalisation to take hold.

Whether Australia is at least partially responsible for transmitting its policy architecture to equally hostile nations, is a moot point. Immigration detention is not a recent fad, but rather a practice that has grown significantly in both scope and scale across the globe (Wilsher 2011). The United Nations High Commissioner for Refugees (UNHCR) is among international organisations expressing concern about the growing use of immigration detention, particularly for children. It notes that placing people in detention facilities has become routine, rather than exceptional (UNHCR

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2014).

In Australia, mandatory immigration detention was introduced in 1992 by a Labor government and with bi-partisan support in response to a small number of Indo-Chinese boat arrivals. Since that time the target of asylum seeker detention has been those who arrive without authorisation and usually by boat. The punitive nature of immigration detention violates Article 31 of the 1951 Refugee Convention which prohibits discrimination against refugees based on their method of arrival in a host country and whether they have proper documentation (valid passport and visa) or not.

In the past few years, deterrence practices have intensified in response to increased forced migration flows and negative community reaction. Walls, fences and privatised security supplement detention and are common practice, especially in European countries where militarised solutions are also lauded (Lowenstein 2016). Even when not directly referring to Australia, methods adopted by Western countries for keeping asylum seekers out 'sound very Australian', including Britain's call to control borders and Spain's system of border externalisation (Jakubowicz 2016). Expressed more overtly, the Austrian Foreign Minister believes that Australia's policies are worthy of emulation (cited in Meiritz 2016).

Outspoken former conservative Prime Minister, Tony Abbott, is known for giving unsolicited advice. In delivering the Margaret Thatcher lecture in London, he urged Europe to emulate Australia's border security policies, arguing that Western nations ought to 'stand up for ourselves' (Chan 2015). Provocatively, Abbott, a professed Christian, told the gathering that the Christian tenet of Love Thy Neighbour did not apply to asylum seekers.

Closer to home in Indonesia, Australia has leveraged influence. Indonesia, a staging post for asylum seekers awaiting boat journeys into Australian waters, particularly before the 'Pacific Solution', has a network of detention centres, but most commonly only detains asylum seekers intercepted while attempting to cross a border without authorisation. In an interview I conducted in 2013 with an international organisation official based in Indonesia, it was expressed that: 'there's not the appetite for detention here'. To reinforce its own border control interests, Australia works closely with Indonesia, a nation that has been fairly tolerant toward asylum seekers.

In 2010, former Immigration Secretary Andrew Metcalfe asserted that Indonesian law enforcement authorities assist in identifying and intercepting asylum seeker boats bound for Australia. Funding has since been provided to help Indonesia prevent, detect and hold people so that they are processed in Indonesia, preventing them from ever reaching Australia (cited in Nethery et al. 2013). Australia claims that it does not *directly* fund immigration detention in Indonesia and other countries. Rather, it earmarks funds with the justification of providing care and maintenance to intercepted irregular migrants (Global Detention Project nd2).

Rhetorical Devices

Cunningly crafted rhetorical devices convince dominant populations of the worth of detention policies. Still hovering beneath the surface are the words of former Australian conservative Prime Minister John Howard, 'we will decide who comes to this country and under what circumstances' (Howard 2001). This signals both control and punishment as further steps in the trajectory of socially engineered immigration policies that have been a feature of post-colonial Australia.

An ongoing technique of political trickery is instilling belief that Australia is one of the most generous refugee settlement countries and that it is asylum seeking boat people that disrupt priority to 'the deserving'; this presents a false narrative that seeking asylum is unlawful, a message that defies international norms. The generosity argument is readily debunked when numbers and proportions are compared with non-Western countries that host large numbers of fleeing people. I have made numerous visits to Iran and observe that several million Afghans are accommodated without detention, despite Iran being economically burdened by the scourge of international sanctions. Although statistics in these countries are under-counted as they may only refer to those who have officially registered, they are compelling in the contrast to Western nations' intake. In 2015, the top host countries were Turkey with 2.5 million, Pakistan with 1.6 million, Lebanon with 1.1 million, followed by Iran, Ethiopia and Jordan (UNHCR

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2015).

The justification for detention policies in Australia shifts its emphasis over time. This includes calls to 'stop the boats', the privileging of national security over human security and arguing that a 'clash of values' is putting the nation-state at risk. Most deceptive is the so-called drownings argument (Rothfield (2014), which posits that offshore detention is needed to stop deaths at sea. Increasingly national security and 'values' have become centre stage in many nations, particularly after terrorist attacks in Europe where anger has subsequently been directed at Muslim refugee populations.

On a global scale, immigration detention and other barriers adopt flawed logic to justify their existence, as the examples above illustrate. Highly charged politics produce fear that in turn justifies messaging about who is worthy of inclusion in the nation-state and who is to be banished. Sections of the media and right-wing groups collude in this messaging that portrays multiculturalism as divisive. Although exclusion for those deemed unworthy and 'illegal' can appear in many guises, it is immigration detention that is most critiqued by civil society groups, even though practices are often shrouded in secrecy.

Detention, walls and fences are physical in nature. Banishment can be a subtler yet equally divisive presence making it difficult for those seeking protection to feel settled. One such example is the intention of proposed new citizenship laws in Australia that will increase the time of eligibility for citizenship, raise the English language bar to almost unachievable levels and ask migrants to answer 'values questions' that are laden with stereotypes and racism. In the United States, President Trump's attempt to halt immigration from a number of Muslim majority countries creates insecurity. Before losing her majority position in the recent United Kingdom election, Theresa May had signalled weakening human rights legislation to deal with undesirable immigrants.

Globalising Human Responses

In 2008, I co-published a book arising from the People's Inquiry into Detention (Briskman, Latham and Goddard 2008), an activist endeavour to counter immigration detention and policies and practices. If indeed global export might be a reality, human rights activists can adopt similar approaches to nation-states by working in solidarity to generate policy alternatives. In the first instance this will require contesting localised and global deterrence, arbitrary detention and the repertoire of punishment measures currently in use. Recently, the UN Special Rapporteur on the Human Rights of Migrants, Francois Crepeau, released a report on his visit to Australia, stating that Australia's human rights record is tarnished by its abusive offshore detention system that cannot be salvaged (cited in Doherty 2017). In the past, Australia has been dismissive of UN reports but with increasing exposure through sources leaked to the media, it is indefensible for denial to continue.

Global solidarity may serve to halt the globalised practices discussed in this article and counter the ideologies and opportunism that enables them to thrive. Through activist collaboration it may be possible to resurrect norms of decency and humanity. To be told that one's own country, whether by birth or adoption, violates the Convention Against Torture as Crepeau has said of Australia, creates agonising shame for people who care for both those rendered vulnerable and for the integrity of countries that fraudulently declare that they are human rights-respecting. The cruel blow to humanity delivered by experts such as Crepeau, may be impossible to repair without international cooperation that transcends borders.

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