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## KIND OR CRUEL? LABOR'S BOAT PEOPLE POLICIES

### Adrienne Millbank

*Between 1992 and 2002 different Australian governments developed a set of increasingly tough policies to deter asylum-seekers, including boat people, from targeting Australia as a preferred country of destination. The Rudd Government has dismantled many of these policies and the number of boat arrivals has risen.*

*But at the same time as it has increased the welcome afforded to those asylum-seekers who manage to reach Australian waters or territory, the government has increased its efforts to prevent them from doing so. These efforts include spending more money on Australia's border protection agencies overseas, encouraging neighbouring countries to pass laws against people smuggling, and funding a 'border movement alert' in Indonesia. Thus at the same time as the welcome offered to boat people has increased so have the barriers to their actually taking advantage of it. The result has been both an increase in the numbers making the attempt and an increase in deaths at sea and other misfortunes.*

Labor's boat people policies were developed during a period when there were very few boat arrivals. Julia Gillard, now Deputy Prime Minister, has described the domestic political imperatives that drove the Party's policy thinking when she was shadow minister for immigration. Labor needed 'to close the deep divisions the issue had opened up on the progressive side of politics', and 'treat asylum-seekers and refugees humanely'. For the broader public, it needed to maintain the integrity of the immigration system.<sup>1</sup>

The Rudd Labor government on coming into office unwound onshore control and deterrent measures which refugee advocates claimed inflicted suffering and uncertainty on boat people and asylum seekers. At the same time, it wound up border protection measures, in the expectation, or hope, that a tough stance would suffice to prevent boat people from arriving.

Somewhat confusingly, the Rudd government has maintained that the 'management', that is the interdiction and prevention from leaving Indonesian waters, of those trying to get to Australia to seek our protection, is not inconsistent with 'the humane treatment of those who have come seeking our protection'. Tough

border control measures are justified, apparently, solely by the evil that resides in people smugglers, who deserve to be apprehended and jailed. The asylum seekers who are paying the people smugglers to get them to Australia, on the other hand, are deserving of our compassion and support—so long as they manipulate their way through the visa system, or make it into Australian or nearby international waters. The government has presented this contradictory two-sided approach, tough on border protection, compassionate towards asylum seekers as 'a better reflection of Australia's values'.<sup>2</sup>

With the onset of another influx of boat people (at the time of writing about 60 boats, carrying nearly 3000 asylum seekers, have made it into Australian waters since January 2009), the credibility of the government's policy position is clearly being strained. The very public playing out of the dramatic events on a number of boats, as asylum seekers try to get to Australia, is exposing not only the hypocrisy of the government's policies, but also the shallowness of its claims to moral superiority. It is also exposing very obvious flaws in the operation of the 1951 refugee convention and the international asylum system.

## **BOAT PEOPLE POLICIES UP TO 2008**

Australia's major political parties have always seen boat arrivals and onshore asylum seekers as representing a very public challenge in terms of government capacity to manage Australia's annual migrant and offshore humanitarian intakes. The number of boats arriving on Australia's shores has always been small compared with some European countries. However, successive governments have reacted by adopting whatever-it-takes measures to stop the boats, each building on foundations set down by the previous government.

When the first wave of boat arrivals, from Vietnam, arrived in the late 1970s, the Fraser Government helped organise an international response under which people fleeing Vietnam were held in camps in the region, in Thailand, Malaysia and Indonesia. Those determined to be refugees were later resettled in third countries, including Australia. In the late 1980s, following the second wave of mainly Cambodian boat people, most of whose claims for asylum were rejected, the Hawke Government began to focus on ways of controlling boat arrivals within the context of a more highly managed migration program. In 1992 the Keating Government introduced mandatory detention: boat arrivals had to be detained until they were either granted a visa or removed from the country. The justification was that mandatory detention allowed faster processing, cost less than maintaining asylum seekers in the community, and ensured the availability of failed protection visa applicants for removal at the end of their appeals processes. Detainees who were not granted refugee status were made liable for the costs associated with their detention, deportation or removal.

In 1995, in response to a wave of boat people from China, the Keating Government adopted policies of excluding from Australia's refugee determination system

people deemed to be secondary movers (including Sino-Vietnamese who had been resettled in China following the 1979 border war between China and Vietnam), and people claiming to fear persecution on the grounds of their government's population policies (including China's one-child policy). In 1996, the Keating Government signed a Memorandum of Understanding with the People's Republic of China, under which the Chinese government undertook to take back, and assist with the return, from Australian detention centres, of its boat-people nationals.

In 1997, the Howard Coalition Government introduced the 45-day rule, under which asylum seekers who had entered on tourist or other temporary visas were required to submit their claim for asylum within 45 days of their arrival in Australia. Otherwise they were denied work rights, and thus had no access to Medicare, while their claim for refugee status was determined and subsequent appeals heard. In 1999, it introduced temporary protection visas (TPVs), three-year visas for boat people deemed secondary movers because they had moved from or through countries where they were not at risk of persecution, in order to settle in Australia. TPV holders were able to access mainstream welfare and health services, but were denied access to special settlement assistance such as English language tuition, and they were not able to sponsor family members to join them.

In 2001 the Howard Government established its Pacific solution, after refusing to allow the Norwegian ship, the *Tampa*, to bring to Australia the 450 boat people it had picked up in international waters. Australia's northern islands, including the common landing spots of Christmas Island and Ashmore Reef, were excised for migration purposes, meaning that no-one landing there could apply for a visa. Boat people who reached these excised places, or who were intercepted in Australian wa-

ters, were taken to Nauru or Manus Island in Papua New Guinea, where their asylum claims were processed in accordance with UNHCR, not Australian, practices. (Failed asylum seekers thus had no recourse to judicial review in Australian courts of law.) For those determined to be refugees, there was no guarantee of resettlement in Australia: efforts were made to find places in other countries.<sup>3</sup> In 2002, the government initiated construction of a purpose-built detention centre for boat people on Christmas Island.

### **THE HOWARD AND RUDD GOVERNMENTS AND THE 1951 UN REFUGEE CONVENTION<sup>4</sup>**

The Howard Government had begun, after the boats stopped coming, and following the revolt of a group of Liberal parliamentarians, to dismantle some of the tougher aspects of its control and deterrent measures. Women and children and some long-term detainees had been released from mainland detention centres and moved to community housing, and temporary protection visa holders had been encouraged to apply for permanent visas. On coming to government Labor nevertheless presented its asylum and boat people policies as a strong break with and repudiation of former prime minister John Howard and former immigration minister Philip Ruddock's 'punitive' and 'dehumanising' regime, which it claimed had brought 'great shame' on Australia. It was particularly critical of the Pacific solution, claiming that it 'was not in accordance with the object and purpose of the Refugees Convention', and that it therefore undermined the system of international protection.<sup>5</sup>

Philip Ruddock, as immigration minister, had criticised the refugee convention, declaring in international forums that it was failing refugees, was inadequate in a vastly different world of easy international movements and instant communications,

and needed reform.<sup>6</sup> Unlike the then leader of the Conservative party in the UK, the Howard Government did not publicly propose withdrawing from the convention.<sup>7</sup> Nor did it, like the Blair Labour government, call for the convention to be completely revised and rewritten.<sup>8</sup> Ruddock did, however, point to serious flaws in the convention-based asylum system: it offered protection to very few refugees, at enormous expense; it encouraged the use of people smugglers; it perpetuated incentives for illegal economic migration; it was near impossible to administer; and it deflected attention and resources away from the world's most needy refugees. Ruddock also criticised the UNHCR for lacking the leadership to address the system's obvious flaws, and for failing to address the concerns of governments.<sup>9</sup>

The Rudd Labor Government, in contrast, has committed to supporting the UN and its human rights agencies, machinery and processes. Kevin Rudd has declared himself 'a passionate supporter of the convention', describing it as 'the incorporation of global humanitarian spirit'.<sup>10</sup> Before the 2007 election Kevin Rudd set out in an essay in *The Monthly* the Christian underpinnings of the values he would bring to the policy area of asylum seekers and boat people: 'The biblical injunction to care for the stranger in our midst is clear. The parable of the Good Samaritan is but one of many which deal with the matter of how we should respond to a vulnerable stranger in our midst'. That is why, he argued, 'the Pacific solution should be the cause of great ethical concern to all the Christian churches'.<sup>11</sup>

### **LABOR'S ASYLUM AND BOAT PEOPLE POLICY CHANGES**

The Rudd Labor Government has in fact not only distanced itself from the policies and position of the Howard Government, but from policies and measures that had

been incrementally built up over 20 years, to discourage irregular boat arrivals and asylum seeking. Support and entitlements for asylum seekers and boat people have dramatically increased over the last two years. Australia has gone from being one of the least to one of the most welcoming of countries in terms of its treatment of asylum seekers in Australia.

In February 2008, soon after taking office, the Rudd Labor Government formally ended the Pacific solution. This had been a radical and contentious policy, because it had challenged the way the international asylum system operated. It had stopped the boats by foiling the people-smuggling market: it had removed the link between rescuing people at sea and processing refugee claims, under international treaty obligations, and an intended outcome of permanent residence in Australia.

Contrary to an election commitment, the Rudd Government has maintained the excision of all Australia's northern islands for migration purposes. However it has rendered this rather pointless. As promised, it has maintained Christmas Island as an excised processing centre, but it has dispensed with the stringent two-officer UNHCR-type processing of refugee claims that was part of offshore processing under the Pacific Solution.<sup>12</sup> And it has dispensed with any pretence that asylum seekers processed on this excised island will have to wait for an offer of a resettlement place, possibly in another country. Nearly all the boat people processed on Christmas Island (over 90 per cent) are being granted Australian permanent residence visas after fast-track (under 90 days) processing.

Apart from overcrowding, asylum seekers on Christmas Island are welcomed humanely. They now have access to legal advice and assistance, and an independent panel for independent merits review of their claim should they need it. While waiting to be processed, they have access to recreation

and health services, including dental services, and English lessons, as well as access to mobile phones and the internet. Women, children and family groups are housed apart from the main centre. According to a report by Glen Milne in *The Daily Telegraph*, asylum seekers on Christmas Island also have access to 'yoga, fitness and art classes', and 'a vegetarian option on their menu'.<sup>13</sup>

Temporary protection visas were abolished in July 2008. They were described by the Rudd Government as one of the worst aspects of the Howard Government's 'punitive' regime, because of the psychological damage inflicted on refugees through the 'uncertainty' of their status and future. Successful asylum seekers, including those who arrive by boat, regardless of whether they are 'secondary movers', are now granted permanent protection visas. They all now have immediate access to special refugee settlement assistance, including English language tuition, as well as Centrelink labour market and welfare benefits and Medicare. As permanent residents, they can sponsor family members under family reunion provisions.

In July 2008 immigration minister Chris Evans announced the Rudd Government's 'new detention values', in effect ending Australia's system of mandatory detention. 'Irregular maritime arrivals' are now detained only for initial health, identity and security screening. People in the community without visas, or in breach of visa conditions, may be detained for 'compliance' purposes but only as a last resort, and for the shortest possible time. Any decision to detain, for example on the grounds that someone poses a risk to the community, must be justified by the immigration department.

In 2009, the government abolished the 45-day rule, brought in ten years earlier to discourage frivolous claims lodged to prolong stay and get work rights and health care in Australia. The government

also abolished the detention debt. Rarely collected, this debt was viewed as a disincentive for failed asylum seekers to re-enter the country. (They had to clear their debt to the Australian commonwealth to be eligible for a visa.) The government also introduced ‘complementary protection’ legislation, to provide a pathway to residence for people who do not meet refugee convention criteria but who have claims, on humanitarian grounds, to stay. The aim is to reduce the number of people who have to appeal to the minister to use his powers of discretion to grant a visa.<sup>14</sup>

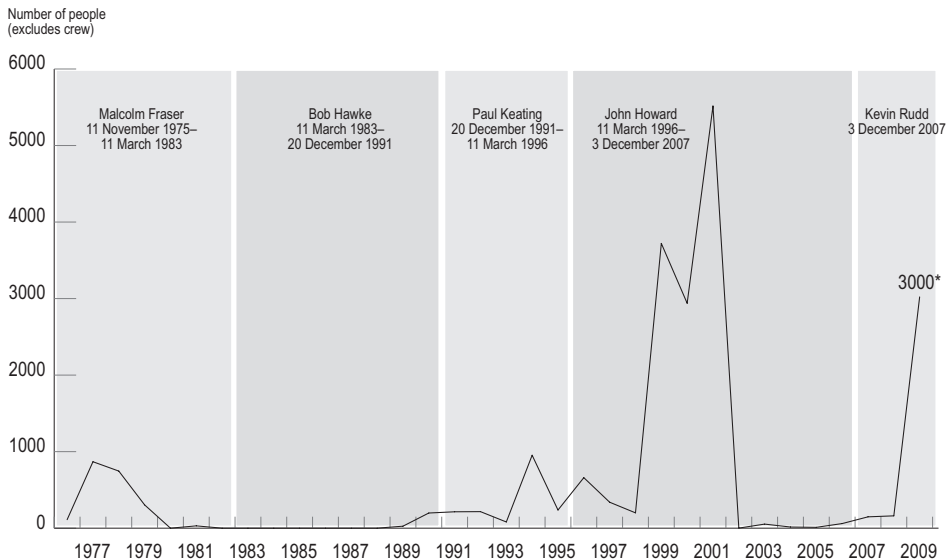
### BORDER PROTECTION

At the same time that it has been demonstrating its greater humanity and compassion towards asylum seekers by abolishing onshore control and deterrent measures, the Rudd government has maintained a commitment to tough ‘border protection’. ‘Risk factors’ are still

applied to applicants for tourist, student or temporary work visas in overseas countries to prevent potential asylum seekers from arriving legally. Potential asylum seekers who arrive at an Australian airport with no documents, or documents that are determined to be fraudulent, are put on the next return flight out. The Rudd Labor government has scrapped the former government’s term ‘illegal immigrants’ for boat people, but increased funding beyond any previous level for the purpose of stopping ‘irregular maritime arrivals’.

In the 2009–10 Budget, the government allocated \$654 million, over four years, ‘to combat people smuggling and strengthen engagement with our regional neighbours and international organisations’. This included funding for: Australian customs and border protection service posts in Colombo, Kuala Lumpur and Jakarta; ‘technical and legal assistance’ for neighbouring countries to enact laws

**Figure 1: Boat arrivals in Australia 1976 to 10 December 2009**



Source: Department of Immigration and Citizenship, 2009.

Notes: \* Number of arrivals to 5 January 2010



against people smuggling; ‘expansion of immigration offices’ in Hanoi, Colombo, Kuala Lumpur and Jakarta to prevent illegal immigration to Australia; and a ‘joint border movement alert computerisation project’ at five major ports in Indonesia.

This financial year, nearly \$225 million has been allocated to the immigration department alone, to combat people smuggling, particularly in Indonesia, and to manage unauthorised arrivals.<sup>15</sup>

### **THE INDONESIAN SOLUTION**

The Australian government has provided funding for: the boats that Indonesian authorities use to intercept boat people; the construction of immigration detention centres in Indonesia; the International Organisation for Migration to manage these centres; and the UNHCR to manage and stabilise refugee populations in Indonesia.

The objective of the Rudd government’s ‘border protection’ policies in Indonesia is that asylum seekers heading for Australia will be stopped, and their movement to Australia prevented. Boat people heading for Australia are now likely to be intercepted in Indonesian waters, and returned to Indonesia, a country that is not a signatory to the refugee convention, is no wealthier than the one they have left, and where they have no work rights. They face immigration detention (women and children included); a long wait for assessment, by the UNHCR, of their refugee claims; a longer wait in a queue for a resettlement place if successful; and enforced return to their country of origin if they are not.

Boat people who make it a few extra nautical miles into international or Australian waters are likely to be escorted or picked up by an Australian navy or customs vessel, taken to Christmas Island, and, after a short period transferred on to permanent settlement in Australia.

### **THE INCONVENIENT ARRIVAL OF BOAT PEOPLE**

According to the UNHCR, at the beginning of 2009, the number of refugees worldwide was 10.5 million, down eight per cent from a year earlier. They live in ‘widely varying conditions, from well-established camps to collective centres to makeshift shelters or living in the open’. The three solutions that they face, in order of probability, are: repatriation, local integration, or resettlement.<sup>16</sup> This financial year, Australia’s core contribution to the UNHCR, to assist it to care for its 10.5 million ‘refugees of concern’, was \$14.4 million.

The Rudd Labor Government’s asylum and boat people policies would appear to be crafted to meet the expectations of its domestic political constituencies, rather than the needs of the world’s refugees. The onset of another wave of boat people and the playing-out of dramas at sea (and on evening television) have focussed attention on the government’s policy changes, and exposed its assertions and actions to scrutiny. It has provided demonstrations of the tactics used by boat people—sabotage of boats, threats of self-harm, refusal to leave boats—and the lengths and expense to which the government is prepared to go to in its efforts to prevent the entry of these asylum seekers:

- On April 16, a boat carrying about 50 people caught fire and exploded, apparently sabotaged order to create a rescue at sea situation, after asylum seekers on board feared they could be towed back to Indonesia. Five people died; 42 surviving asylum seekers were subsequently granted protection visas.<sup>17</sup>
- Twelve people drowned on 1 November, when a boat carrying 39 asylum seekers sank in rough seas off Cocos Island, reportedly in sight of rescue boats sent to save them. The surviving asylum seekers were taken to Christmas Island for processing.<sup>18</sup>

- On November 15, ABC News Radio reported that an Australian-supplied Indonesian coastguard vessel had successfully intercepted, in Indonesian waters, a boat carrying 61 Afghan asylum seekers. The interception ‘led to two men being shot’. Neither died; both were asylum seekers, one was 17 years old.<sup>19</sup>
- A protracted four-week stand-off with 78 asylum-seekers refusing to leave the Australian *Oceanic Viking* to go into detention in Indonesia was ended only through a special deal offering fast-tracked processing and resettlement in Australia. The boat people had been rescued at sea, in the Indonesian search and rescue zone, at Indonesia’s request. According to newspaper reports, Indonesian officials nevertheless have become exasperated and frustrated with the Australian government over its handling of the issue and related demands.<sup>20</sup>
- The ‘white elephant’ detention centre on Christmas Island that the Rudd government inherited so reluctantly is now filled to overflowing. Its original capacity of 800 has been increased nearly three-fold, to 2200. Mainland options are being explored.
- The Indonesian rather than Australian military was summoned following a personal appeal by Kevin Rudd to Indonesian President Yudhoyono, on the weekend 10–11 October, to interdict 255 asylum seekers heading for Australia. At the time of writing they remained on their boat, in the Indonesian port of Merak. They are demanding the same deal that was given to the asylum seekers on the *Oceanic Viking*.

### PLATITUDES, SLOGANS AND SPIN<sup>21</sup>

When the boats started to arrive, the Rudd Labor government crafted a set of messages to reassure and instruct the public in

the correct thinking on its policy changes. ‘External factors’, conflicts and natural disasters, it advised, determine the number and frequency of boat arrivals; these have nothing to do with how accommodating Australia is to people once they arrive. There is ‘no evidence’ to suggest that previous policies of mandatory detention, offshore processing under the Pacific solution, or temporary protection visas, acted as a deterrent. The majority of asylum seekers come by plane, and have never been subject to such penalties. Australia in any event receives only a ‘minuscule’ number of asylum seekers: in other Western countries it is ‘normal’ to receive ‘tens of thousands’. That boats are being detected at sea, and people ‘escorted’ to Christmas Island for ‘proper processing’, shows how the government’s border protection policies are ‘working’.

As the boats have kept coming, media coverage and commentary has intensified. Newspolls indicate a hardening of attitudes. Asked over the weekend 17–18 April whether the government was doing a good or bad job of managing the issue of asylum seekers arriving in Australia, 37 per cent of respondents said good, and 40 per cent said bad. In response to the same question 6–8 November, 32 per cent said good, and 53 per cent said bad. Asked whether the government has been too hard or too soft or about right on asylum seekers, on 6–8 November 25 per cent said too hard, compared with 63 per cent who said too soft. Only eight per cent said the government had got it about right.<sup>22</sup>

At 21 September, there were about 2500 asylum seekers and refugees registered with the UNHCR in Indonesia. Most of them had used agents, including people smugglers, to get to Indonesia, and their intended destination was Australia. Obviously, despite the government’s heavy investment in border protection, and its jihad against people smugglers, asylum seekers are prepared to



pay the price and risk the journey. Obviously, for those who dare, and win, the reward is significant: permanent residence, work rights, family reunion and settlement assistance, in a wealthy Western country. In the face of evidence to the contrary, and as public debate has become more informed, the Rudd Government's spin has appeared increasingly inadequate.<sup>23</sup>

### **SOME FACTS AND FIGURES**

In 2001, 621,100 asylum applications were lodged in European and other industrialised countries, compared with 383,000 in 2008, and 341,400 in 2007. According to the UNHCR, the significant drop in asylum seeker numbers after 2001 was caused by two factors: the resolution of some major conflicts, and the introduction of stricter asylum policies in receiving countries. Where there had been a significant drop in a particular country, this was attributable to new asylum policies. For example claims dropped 67 per cent in Sweden in 2007–08, after it stopped accepting Iraqi asylum-seekers.<sup>24</sup>

According to the UNHCR, large variations in the number of claims lodged in different countries are the result of pull factors that, at different times, make some countries more attractive than others. Pull factors identified in the refugee literature include: economic conditions; distance; the number of former asylum-seeker migrants already settled; colonial or language ties; policies on assessment of claims; the policing of borders; treatment after arrival; and reputation for toughness. Economic academic Tim Hatton has attributed over half of the decline in asylum claims lodged in Australia after 2001 to the effects of the Howard government's *Tampa* and Pacific solution. Without endorsing these widely publicised measures, he noted the effectiveness of the message and reputation for toughness that they sent around the world. He has also argued that, if the aim of governments is to stop illegal entry and asylum

seeking, they are better off introducing—or maintaining—deterrent measures while numbers are low. Much more draconian measures are required when numbers are high.<sup>25</sup>

In the UK, asylum claims declined from over 100,000 in 2002 to 28,300 in 2007, and increased to 30,545 in 2008. It is normal for the asylum issue to be at the top of the political agenda in the UK, and for the government to be judged harshly for its perceived inability to craft an effective response to the asylum problem. The UK government has proudly described how it has, over its 12 years in office, introduced ever tougher asylum seeker policies, including exclusion from appeals, exclusion from mainstream welfare services, greater use of detention, and the determined pursuit of removal quotas. Prime Minister Gordon Brown, in a speech on 12 November, took credit for the drop in the number of claims after 2002, proclaiming that the Labour government had 'reformed the asylum system to bring the numbers down'.<sup>26</sup>

The highest numbers of claims lodged in Australia were 14,041 in 1990–91; 12,713 in 1999–2000; and 13,015 in 2000–01. The numbers lodged declined from 8670 in 2001–02 to 4990 in 2002–03. In subsequent years they declined to the low-to-mid 3000s. Onshore claims for asylum have increased over the last two financial years, from 3743 in 2006–07; to 3987 in 2007–08; and to 5308 in 2008–09.<sup>27</sup>

### **BOAT PEOPLE POLICIES AND THE MORAL ISSUE**

Asylum policies introduced by the governments of 'European and other (developed) countries' over the last 20 years have been described in the refugee literature as a form of 'organised hypocrisy'. Few governments, over the last 20 years, have praised the international asylum system. Most signatory states have, however, confirmed their commitment to meeting their refugee

convention obligations, lacking the courage to withdraw from it. At the same time they have introduced ever tougher measures to keep asylum seekers out, and to make their countries less attractive destinations than each other's.

From this perspective, there is almost a cruelty in the Rudd Labor Government's pro-convention rhetoric and its humane-towards-asylum-seeker policy changes. It is offering a warm welcome with full economic and social inclusion for asylum seekers, and very high rates of acceptance for boat people. At the same time it is spending large sums of money on efforts to stop boat people from leaving Indonesia, or other points of embarkation in our region. It is also spending large sums of money on efforts to stop the people smugglers who provide the boat people's only means of getting here.

The problems and stresses in the international asylum system have become increasingly obvious over the last 20 years. The 1951 refugee convention has been discredited both by people using it to gain residence in a wealthier country, and by governments determined to prevent their entry. There are fundamental moral contradictions at the heart of the international asylum system. The Australian public deserves more from the government than moral posturing, or the excuse, in light of the apparent failure of its boat people policies, that the asylum issue is 'complex'. The Rudd Labor Government should pay the public the respect of exploring with it the problems that are thrown up, particularly for Australia, by a refugee convention that would appear to be well past its use-by date.

## References

- <sup>1</sup> J. Gillard, 'Paul Kelly puts truth back on deck', *The Australian*, 12 November 2009
- <sup>2</sup> Immigration minister Chris Evans, delivering the keynote address to the Federation of Ethnic Councils of Australia (FECCA) conference, 'Strengthening multiculturalism and building social inclusion', Shepparton, 30 October 2009 <[www.chrisevans.alp.org.au/news/1009/immispeeches30-01.php](http://www.chrisevans.alp.org.au/news/1009/immispeeches30-01.php)>
- <sup>3</sup> While the intention was to find resettlement places elsewhere, most of those determined to be refugees ended up in Australia.
- <sup>4</sup> The 1951 UN refugee convention defines as a refugee a person who has a credible fear of persecution on the grounds of their race, religion, nationality, membership of a particular social group, or political opinion, and who is outside of their country of nationality. The main obligation of signatory states is not to refole (return) a refugee back into a situation of persecution.
- <sup>5</sup> Immigration minister, 2009, op. cit.
- <sup>6</sup> For example, his speech at a UNHCR conference on refugees 11 December 2001. This was widely reported, including by Lenore Taylor, in 'Out on a limb', *Australian Financial Review*, 11 December 2001.
- <sup>7</sup> UK Conservative party leader Michael Howard undertook, prior to the 2005 election, to withdraw from the 1951 UN refugee convention.
- <sup>8</sup> Blair government ministers, including the prime minister, were calling at this time for a complete re-write or revision of the convention. See for example, then UK home secretary Jack Straw's speech to the IPPR, 'An effective protection regime for the 21st Century', 6 February 2001, reprinted in full in *The Guardian*, 6 February 2001.
- <sup>9</sup> The problems that have been identified with the operation of the refugee convention, and the particular challenges these pose for Australia, are described by the author in previous articles. See A. Millbank, 'World's worst or world's best practice: European reactions to Australia's refugee policy', *People and Place*, vol. 12, no. 4, 2004, pp. 28–3; A. Millbank, 'Dark victory or circuit breaker: Australia and the international refugee system post Tampa', *People and Place*, vol. 11, no. 2, 2003, pp. 24–33; A. Millbank, 'Australia and the 1951 refugee convention', *People and Place*, vol. 9, no. 2, 2001, pp. 1–13.
- <sup>10</sup> Interview with Kerry O'Brien, 7.30 Report, *ABC TV*, 21 October 2007
- <sup>11</sup> K. Rudd, 'Faith in politics', *The Monthly*, October 2006

- <sup>12</sup> Under UNHC refugee assessment, one UNHCR officer hears a claim. If it is rejected, another UNHCR will hear an appeal. There is no independent merits review, no legal assistance, and no access to any country's judiciary.
- <sup>13</sup> G. Milne, 'Christmas every day for detainees', *Sunday Telegraph*, 15 November 2009, p. 13
- <sup>14</sup> The non-compellable power of the immigration minister to grant a visa on humanitarian or national interest grounds was included in the *Migration Reform Act 1992*, at the insistence of then opposition spokesman Philip Ruddock.
- <sup>15</sup> Senate Budget Estimates Hearing, Immigration and Citizenship Portfolio, 27 May 2009
- <sup>16</sup> UNHCR Refugee Figures <[www.unhcr.org/pages/49c3646c1d.html](http://www.unhcr.org/pages/49c3646c1d.html)>
- <sup>17</sup> P. Maley and P. Toohey, 'Deaths raise boatpeople stakes', *The Australian*, 17 April 2009. See also G. Sheridan, 'Soft line fosters people-smuggling', *The Australian*, 17 April 2009.
- <sup>18</sup> *ABC News Radio*, 'Boat survivors expected at Christmas Island', 6 November 2009
- <sup>19</sup> *ABC News Radio*, 'Australian boat used in asylum seeker shooting', 16 November 2009
- <sup>20</sup> See for example A. Gartrell, 'Twenty-two Sri Lankans leave Oceanic Viking', AAP article in *PerthNow*, 13 November 2009.
- <sup>21</sup> Laurie Oakes expressing his frustration at the Prime Minister's non-answers to questions, in L. Oakes, 'Poll stats don't add up for Prime Minister Kevin Rudd', *Herald Sun*, 6 November 2009.
- <sup>22</sup> The Australian Newspolls, <[www.newspoll.com.au/index.pl?action=adv\\_search](http://www.newspoll.com.au/index.pl?action=adv_search)>
- <sup>23</sup> In an online poll (of 1122 people) conducted by consultants Essential Research, over the week October 27 to November 1, a majority indicated they believed the Rudd Government's dismantling of the Coalition's border protection regime was to blame for the surge in asylum seekers heading for Australia.
- <sup>24</sup> See UNHCR statistical publications, especially Asylum Levels and Trends in Industrialised Countries 2008 <[www.unhcr.org/cgi-bin/texis/vtx/home](http://www.unhcr.org/cgi-bin/texis/vtx/home)>.
- <sup>25</sup> T. Hatton, 'The rise and fall of asylum: what happened and why', *Discussion paper no. 577*, ANU Centre for Economic Policy Research, March 2008. See also M. Davis, 'The real reasons for asylum seeker arrivals', *Brisbanetimes.com.au*, 6 November 2009.