

BOATPEOPLE AND PUBLIC OPINION IN AUSTRALIA

Katharine Betts

Since 1976 there have been three waves of boatpeople travelling to Australia, the last beginning in 1999. Following the Tampa incident in August 2001 it has been Government policy to prevent boats carrying asylum-seekers from entering the Australian migration zone. Despite opposition from opinion leaders, the policy is popular with a majority of Australians. This is not surprising. Support for such a policy has been building throughout the 25 year period. This support is not based in racism as some critics allege; rather it reflects the importance of borders in maintaining a strong sense of national community.

A new word has bedded down in Australia's political vocabulary over the last 25 years: boatpeople. A boatperson is someone who arrives by sea, unannounced, without a visa and with the intention of seeking political asylum. They have been dominating the news since late August this year, but we have had intermittent experience of them for a long time. The first were five young men who arrived in Darwin from Vietnam in a small wooden boat in April 1976. They had been two months at sea, travelled 3500 kilometres, and had found their way to us with the aid of a page torn from a school atlas.¹ But they were not the harbingers of a steady influx; rather boat arrivals since 1976 have come in three distinct waves: the first from 1976 to 1981; the second, from 1989 to 1998; and the third, and largest, from 1999 to the present.

THE FIRST WAVE

They took a little while to arrive but people seeking to leave Vietnam after the fall of Saigon in April 1975 constituted the first wave. Two more boats reached Darwin late in 1976 and, by November and December 1977, boats were appearing almost daily. But by the end of 1981, this particular flow had ceased and the number of boatpeople arriving during this

first six-year period was not large: 2059 (and there were none in 1980 and only 30 in 1981).² See Table 1.

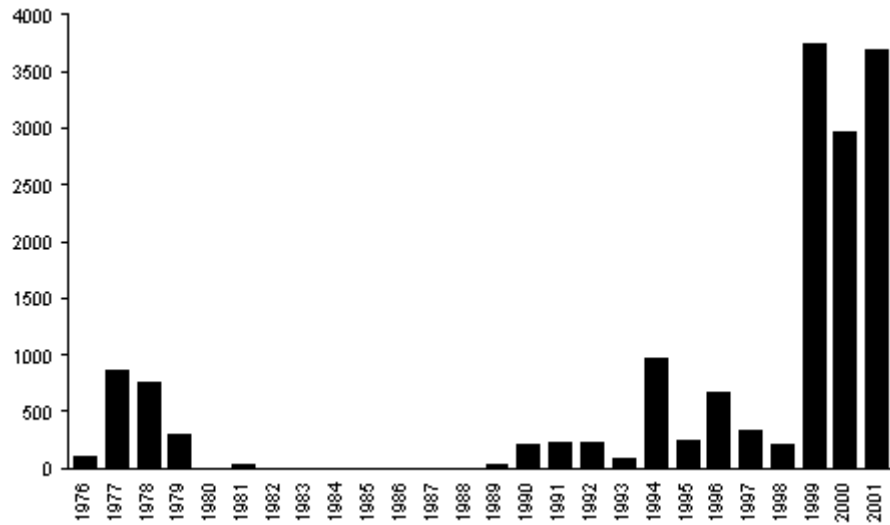
Despite their relatively small numbers, the first wave had a considerable political impact. A Federal election was due on 10 December 1977 and the boat arrivals dominated the news. The situation was unexpected, aggravated deep emotions and received saturation news coverage. Claims that Australia was losing control of migrant selection were widespread³ and, with the election looming, the then

Table 1: Boatpeople, arrivals 1976 to August 2001

Year	Arrivals	Year	Arrivals
1976	111	1989	28
1977	868	1990	216
1978	746	1991	225
1979	304	1992	220
1980	-	1993	86
1981	30	1994	977
1982	-	1995	242
1983	-	1996	661
1984	-	1997	340
1985	-	1998	200
1986	-	1999	3740
1987	-	2000	2961
1988	-	2001 to Aug.	3694

Sources: 1976-1981, N. Viviani, *The Long Journey* Melbourne University Press, Melbourne, 1984, p. 85; 1989-2001, Department of Immigration and Multicultural Affairs (DIMA) *Fact Sheet 81: Unauthorised arrivals by air and sea* (27 August 2001)

Figure 1: Boatpeople, arrivals 1976 to August 2001



Source: Table 1

Note: Figures for 2001 are January to August

Fraser Coalition Government moved to stem the influx. They eventually achieved this by two main strategies. First, they

Table 2: Boatpeople, November 1989 to August 2001, arrivals, boats and arrivals per boat

Year	Arrivals	Boats	Average arrivals per boat
1989 (from Nov.)	28	1	28
1990	216	2	99
1991	225	6	36
1992	220	6	36
1993	86	3	27
1994	977	18	53
1995	242	7	34
1996	661	19	35
1997	340	11	31
1998	200	17	12
1999	3740	86	43
2000	2961	51	58
2001 (to Aug.)	3694	32	115

Source: Derived from DIMA *Fact Sheet 81: Unauthorised arrivals by air and sea*, (27 August 2001)

tried to deter asylum-seekers from sailing directly to Australia by instituting a substantial intake of Indo-Chinese people from the camps overseas. Second, they establishing boat-holding arrangements with Indonesia and other countries to the North. These strategies worked. The boats stopped coming but they also meant that, by default, Australia had embarked on a significant Indochinese intake.⁴

Up until late 1977 the Fraser Government had resisted this. The Government had embarked on a determined effort to recruit more immigrants during 1976 and 1977 but, even though more than 117,000 Vietnamese had reached countries of first asylum by the end of 1976⁵ and most were anxious to resettle in the West, recruitment efforts concentrated on Europe and Britain.⁶ (Recently the Fraser Government of 1975-1983 has been much praised for its open response to the needs

of the Vietnamese; in fact they responded reluctantly⁷ and only later made a virtue of necessity.)⁸

THE SECOND WAVE

As Table 1 and Figure 1 show, there were no boat arrivals from 1982 to 1988. But in November 1989, 27 Chinese and Vietnamese asylum-seekers landed in Broome, starting a second wave of arrivals which lasted from 1989 to 1998. Numbers averaged around 170 per annum in the early 1990s but over the 10 year period were around 300 per annum. Initially many were from Cambodia; in the latter part of the second wave they were often from Southern China. The Vietnamese boatpeople had been granted refugee status and permanent residence almost automatically. The second-wave

arrivals were treated differently. They were held in detention while their claims for refugee status were processed, each person was assessed on a case by case basis and, as Table 3 shows, a large proportion (around 70 per cent overall) eventually left Australia.

Part of the reason for this tougher treatment was that the context had changed. In the late 1980s and early 1990s boatpeople were not the only foreigners trying to obtain permanent visas after arriving in Australia; indeed they formed a small minority of such cases. During the 1980s more and more people who had arrived quite legally on temporary visas began to apply for permanent residence to the Immigration Department on-shore, many on the grounds that they were refugees.⁹ A number were

Table 3: Boatpeople, arrivals from November 1989 to August 2001, by outcome

Year	Arrivals	Numbers			Per cent			
		Allowed to stay, granted visas ¹	Departures	In detention as of 27/08/01 ²	Allowed to stay, granted visas	Departures	In detention as of 27/08/01	Total
1989 (from Nov.)	27	21	6	0	78	22	0	100
1990	216	89	127	0	41	59	0	100
1991	225	167	61	0	74	27	0	100
1992	220	29	188	0	13	85	0	100
1993	86	73	12	0	85	14	0	100
1994	977	135	876	0	14	90	0	100
1995	242	14	210	0	6	87	0	100
1996	661	54	607	0	8	92	0	100
1997	340	65	274	1	19	81	0.3	100
1998	200	38	160	2	19	80	1	100
1999	3740	2841	722	163	76	19	4	100
2000	2961	1480	105	1364	50	4	46	100
2001 (to Aug.)	3694	366	2	3321	10	0	90	100

Source: Derived from DIMA *Fact Sheet 81: Unauthorised arrivals by air and sea* (27 August 2001)

Note: The outcomes refer to eventual outcomes. In many cases these did not occur in the same year as the arrivals.

¹ The visas are mostly refugee (protection) visas or, post-August 1999, temporary protection visas. A number are humanitarian visas, and some applicants were given entry on other grounds. (People given bridging visas and escapees — both very few — are not shown. But because of this percentages may not add to 100.)

² The proportions in detention for recent arrivals are not directly comparable with those for earlier arrivals because there has not yet been time for many of the recent arrivals to have been fully processed.

successful; others were not. Some of the latter challenged the Department's decision in the Federal Court. The fact that they were on Australian soil allowed them to do this and developments in Australian law in the late 1970s and early 1980s (known collectively as the New Administrative Law) made it worth their while to try.¹⁰

Detention

Under the Migration Act of 1958 it was always policy to detain people who arrived in Australia without visas, or with inappropriate or fraudulent visas, while their circumstances were determined, but up until 1989 the period of detention was usually brief and the practice was only policy, not law.

Most of the early second-wave arrivals were detained, some for long periods as they and their lawyers pressed on with lengthy appeals. By the early 1990s a number of asylum-seekers had been in detention for two or more years and the policy began to attract considerable criticism.¹¹ Nonetheless, the Keating Labor Government passed the Migration Amendment Act in 1992. This had the effect of making detention mandatory for people who had arrived without visas, including, of course, boatpeople claiming refugee status.¹² The new Act received bipartisan support and was not repealed by the Howard Coalition Government after its victory in 1996.

Detention remained controversial until the problem of the Cambodians was resolved (by giving the people involved a quasi amnesty) and the controversy served to keep the question of boat arrivals in the news. The media could easily comprehend and publicise the fact of detention but the more arcane questions of the new administrative law and the use made of it by asylum-seekers and their Australian

lawyers was probably less well understood.

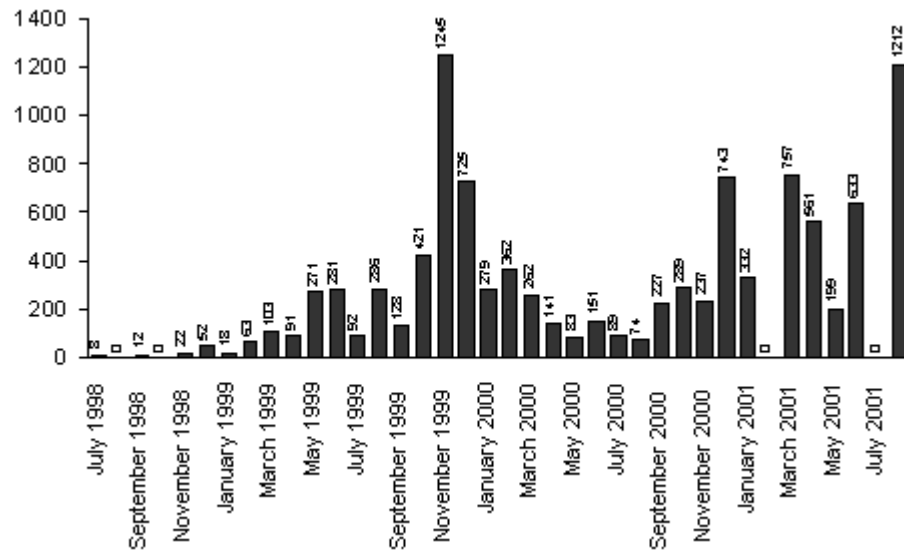
The Government of the day had struggled to find effective policies to manage the early arrivals in the second wave and the conflict between the executive and the judiciary over asylum-seekers was bitter. And, as Table 3 shows, a high proportion of this group was eventually granted visas. But as the 1990s wore on the nature of the flow shifted — people of Sino-Vietnamese or Chinese origin from Southern China became the dominant groups. Despite the fact that larger numbers were arriving and that people smugglers were now clearly involved, the Government was able to send the majority of these people back, detention periods were brief, and the question of boatpeople (and detention) dropped out of the news.

THE THIRD WAVE

After 1998 boatpeople became newsworthy again because the pattern of arrivals changed. Numbers were now much larger, as were numbers per boat, and the role of people smugglers in the influx was clear. The asylum-seekers places of origin changed too. They were now more often from the Middle East and Afghanistan,¹³ and departure rates were much lower. Figure 2 illustrates the build up of the third wave on a month-by-month basis showing that it was only by the November 1999 that the volume of new arrivals began to increase sharply.

There has, of course, been less time for the claims of this group to be assessed and departure rates may rise. However, as Table 3 shows, over three quarters of the 1999 arrivals had been given visas as of 27 August 2001 and recent experience has shown that the overwhelming majority of asylum-seekers who can establish that they are from Afghanistan and Iraq

Figure 2: Boatpeople, arrivals by month July 1998 to August 2001



Source: Background paper on unauthorised arrivals strategy, Minister for Immigration and Multicultural Affairs, http://www.minister.inmi.gov.au/media_releases01/r01131_tables.htm

are eventually successful in their application for protection visas.¹⁴ This is not because the new arrivals have conclusively shown that they are indeed refugees. As most have no papers, often because they themselves have destroyed them, this would be difficult. Rather, decision makers are giving them the benefit of the doubt.¹⁵ It is also the case that the Australian courts have, in practice, expanded the definition of a refugee as set out in the 1951 Geneva Convention in such a way that asylum-seekers in Australia are very much more likely to be given refugee status than similar people being assessed by the UNHCR overseas.¹⁶

The larger numbers swelled the detention camps. From late 1999 detention once again became controversial and was bitterly opposed by some of the Government's critics.¹⁷ The detainees too

were clearly unhappy. The period has been marked by protests within the camps (including riots), escapes, and a mass breakout at Woomera in June 2000.

The Tampa incident

Late in August 2001 the third wave halted, not because of any change in the number of boats and their passengers heading towards Australia but because of a dramatic change in Government policy. This was instituted during the *Tampa* incident.

On Saturday 25 August, Australian Search and Rescue aircraft began keeping watch on a wooden ferry (the *KM Palapa 1*) which had set out from Indonesia. It was heading towards Christmas Island with a large number of passengers, presumably with the intent of off-loading them on the island so that they could apply for refugee status on Australian

territory. But the boat was in difficulty; it had stalled. It was in the Indonesian rescue zone and the Australian Search and Rescue tried to draw the attention of Indonesian authorities to it but with no result. So on Sunday 26 August, they broadcast a general alert.

Captain Arne Rinnan of the Norwegian freighter, the *Tampa*, responded and was guided to the *Palapa* by an Australian Coastwatch plane. The boat was now starting to break up and Rinnan's crew managed to get the 433 passengers (and the crew) on board the *Tampa* with some difficulty. The Indonesians gave permission for the people to be landed in the port of Merak, deemed the nearest feasible point of disembarkation.¹⁸ It was 30 hours away, and Rinnan set his course in that direction. After 90 minutes a group of men forced their way on to the bridge. They described themselves as 'desperate people from a dangerous background' and insisted that Rinnan turn the ship and take them to Christmas Island or face 'dire consequences'. The captain and his crew were outnumbered by male asylum-seekers (aged 16 and over) by 13 to one; Rinnan turned the ship.¹⁹

At Midday on Monday 27 August the Howard Government announced that the *Tampa* would not be given permission to land in Australia or any Australian territory, and the Labor Opposition backed them in this decision. On Tuesday 28 the Government tried to get emergency legislation through Parliament (the Border Protection Bill) to ensure that the courts would not overturn Monday's decision, but Kim Beazley, leader of the Opposition, judged the bill too draconian. He refused to support it and it was rejected in the Senate that evening. On Wednesday 29th the *Tampa* entered Australian waters off Christmas Island in defiance of the Government's wishes and Special Air

Service (SAS) troops were ordered to board and take control of the ship.²⁰

The Government appears to have hoped to persuade the Indonesians to take the people back but to no avail; they had changed their minds. After a standoff of some days the *Tampa*'s new passengers (the majority of whom were said to be Afghanis or Iraqis) were transferred to an Australian Navy vessel, the HMAS *Manoora*, and the Pacific island of Nauru agreed to house most of them temporarily while their applications for refugee status were processed; New Zealand agreed to take 150 (mainly those in family groups).²¹ But this agreement did not bring the *Tampa* incident to a close. While the negotiations were in progress, civil rights lawyers in Melbourne took up the cause of the asylum-seekers concerned. They lodged a case against the Government's actions in the Federal Court and the *Manoora* was obliged to wait off the coast of Papua New Guinea for the hearing to take place. On Tuesday 11 September Federal Court Judge, Tony North, announced his decision: the use of the SAS had meant that the asylum-seekers had been detained on the *Tampa* 'without lawful authority' in breach of the common law principle of habeas corpus. He ruled that they must be brought to Australian territory by 5.00 pm Friday 14.²²

The Government immediately appealed to the Full Bench of the Federal Court and, on Tuesday 18 September, the Full Bench handed down its decision. This time it was in the Government's favour, two to one: the majority considered that the Commonwealth had acted within its executive power in the steps it had taken and that the 'rescuees' had not been detained by the Commonwealth nor had they had their freedom restricted by anything that the Commonwealth had done.²³

Media reports of this judgment were somewhat overshadowed by news that many of the asylum-seekers, now anchored off Nauru, were refusing to disembark, a stand-off which took more than a fortnight to resolve.²⁴ (Two of the litigants acting on behalf of the *Tampa* people in the Federal Court, Eric Vardalis and Liberty Victoria, then requested leave to appeal to the High Court; leave was granted and the appeal was scheduled to be heard on 14 December. But in the meantime the executive's decision could proceed.)²⁵

More boatpeople have attempted to make their way to Australia since the *Tampa* incident. The Government has continued with its policy of trying to find Pacific Island nations to house them while their claims are processed off-shore, if possible by UNHCR officials but at any event away from the Australian legal system. It is too soon to say whether this new policy will eventually deter boat arrivals as many customers have already paid the people smugglers and are waiting in Malaysia and Indonesia to try their luck. *The Australian* reports that 1823 boatpeople headed for Australia in September and October;²⁶ had they landed, the total for the first 10 months of 2001 would have exceeded 5500.

PUBLIC OPINION ON BOATPEOPLE

By the late 1970s a number of opinion polls on the Vietnamese boatpeople had been taken and these showed that, while around 60 per cent of Australians wanted to let a 'limited number' of boat people stay (and between seven and 13 per cent wanted to let 'any number' stay), between 20 and 32 per cent wanted to 'stop them from staying here' (or, as one poll put it, wanted to 'put those boats back to sea').²⁷ Table 4 sets out the data from three comparable polls.

Table 4 shows some toughening in the public's attitudes to boatpeople between 1977 and February/March 1979. However, as Table 5 shows, attitudes to the first wave of boatpeople differed, in some cases quite sharply, by social location. Non-British immigrants and religious agnostics were two groups more likely to have an open-borders approach but this attitude set was most firmly established among the tertiary educated, confirming a well-established finding that people with tertiary education (especially university graduates) are the least likely sub-group to take a restrictive stance on immigration of any kind.²⁸

There were no published polls on boatpeople during the 1980s,²⁹ but in

Table 4: Three comparable polls on boatpeople, 1977 to 1979, per cent

	Any number	Limit number	Stop them	Can't say	Total
1 December 1977	13	60	20	7	100
2 February 1979	7	61	28	5	100
3 February/March 1979	8	57	32	4	100

Sources: For Poll 1, Morgan Gallup Poll number 191A, 3-4 December 1977. The question read: 'Have you read or heard of the hundreds of refugees from Vietnam who have landed in Darwin from small boats? [98.4% had heard of them.] Would you allow any number of them to live permanently here — or limit their number — or stop them from staying here?' Poll 2, Morgan Gallup Poll number 252, 3-4 February 1979. The question was: 'Next about refugees from Vietnam — would you allow any number of them to live here permanently — or limit their number — or stop them from staying here?' The question doesn't specifically mention boatpeople but the implication of the 'stop them from staying' response is that the question means boatpeople not refugees in general. Poll 3, same question as Poll 2, Morgan Gallup Poll number 254, February/March 1979.

Table 5: Attitudes to boatpeople by education, country of birth and religion, February/March 1979, per cent

	Any number	Limit number	Stop them	Can't say	Total
Total sample	8	57	32	4	100
By level of education					
Tertiary/university	13	68	17	2	100
5th-6th form	10	57	31	3	100
Intermediate - 4 th form	5	62	30	2	100
Some secondary	6	52	37	6	100
Primary only	5	42	46	7	100
By country of birth					
Australia	7	58	33	3	100
United Kingdom	7	62	29	3	100
Other Europe	15	39	38	8	100
Asia/other	17	48	21	15	100
By religion					
Catholic	9	55	30	6	100
Protestant	6	58	34	2	100
No religion	12	58	24	7	100

Source: See Poll 3, Table 4

October 1993 after the arrival and detention of the Cambodians had become controversial, an Irving Saulwick poll on the topic was published in *The Age*. The question was rather different from the one set out in Table 4 but the trend is clear. In 1993 more people (44 per cent) wanted to send the boatpeople back than had been the case earlier and most of those who did not hold this view approved of detention while boat arrivals were

assessed. In all 90 per cent of the electorate (including 86 per cent of migrants) wanted either to send the boatpeople back or to detain them while their claims were assessed.

To my knowledge, there were no polls on boatpeople published between October 1993 and August 2001. But after the *Tampa* affair a number appeared. All of them showed majority support for the Government's decision to prevent the

Table 6: Attitudes to boatpeople and detention, September 1993, per cent

	Total	Men	Women	Born in Australia	Not born in Australia
Send back	44	51	37	45	40
Detain and Assess	46	40	52	46	46
Allow to stay	7	5	8	6	8
Don't know/no answer	3	4	3	3	6
Total	100	100	100	100	100

Source: Irving Saulwick poll, 28 September 1993, published in *The Age* 11 October 1993, pp. 1, 4. The question read: 'You may know that some people have travelled to Australia from Asia in small boats and have applied to stay as migrants. Do you think people who attempt to become migrants in this way should be: sent straight back where they come from, despite what they say may happen to them; assessed with all other migrant applicants, and held in custody in the meantime; or allowed to stay as migrants in Australia?' Data are from a national random telephone sample of 1000 voters.

people on board the *Tampa* landing on Australian territory and high levels of concern to prevent similar landings in the future. An *Age* poll conducted by A. C. Nielsen between 31 August and 2 September found that 77 per cent of Australians supported the

Table 7: Attitudes to boatpeople and detention, August/September 2001, per cent

	Total	Capital cities	Other
Detain them in camps until their application is heard	71	70	72
Allow them to live in the community until their application is heard	21	23	19
Don't know	8	7	9
Total	100	100	100

Source: A. C. Nielsen Issues Report, 3 September 2001, summary data published in *The Age*, 4 September, 2001, p. 4. The question read: 'In general, which of the following statements best describes your view on how Australia should deal with asylum seekers? Should Australia detain them in camps until their application is heard or allow them to live in the community until their application is heard?' Data are from a national telephone sample of 2058 people aged 18 plus (1404 in capital cities, 654 in other areas). Data on capital cities versus non-capital cities supplied by John Stinton of A. C. Nielsen.

decision to refuse entry to the *Tampa* and that 74 per cent approved of John Howard's overall handling of the situation.³⁰ This poll also asked about attitudes to holding boatpeople in detention centres; again, as Table 7 shows, a large majority of respondents approved.

Other polls asked questions comparable to the 1977-1979 series set out in Table 4. Two Newspolls are particularly interesting because one was carried out before the 11 September tragedy in the United States and the other after. Table 8 shows that the terrorist attack seems to have firmed pre-existing attitudes but

that, even before it had occurred, half of the population wanted all boats carrying asylum-seekers turned back. But as we will see, most policy commentators and public intellectuals did not share this opinion.

People supporting an open-borders approach to the asylum-seekers mainly drew on humanitarian arguments, but they also claimed that the Howard Government's *Tampa* policy was damaging Australia's reputation overseas. A Morgan poll taken during the period 12-16 September in Australia and English-speaking countries overseas tests this idea (see Table 9). In New Zealand

Table 8: Attitudes to boatpeople before and after 11 September 2001, with data by sex, age, area and political support for the post 11 September poll, per cent

	Before	After	Sex		Age			Area		Political support	
	Total	Total	Male	Female	18-34	35-49	50+	The 5 mainland capitals	Other	Coalition	ALP
Turn back all boats	50	56	57	55	54	48	63	52	63	65	46
Allow some to enter	38	33	32	34	36	37	26	35	28	31	40
Allow all boats to enter	9	8	8	7	7	12	6	9	6	2	12
Uncommitted	3	3	3	4	3	3	5	4	3	2	2
Total	100	100	100	100	100	100	100	100	100	100	100

Sources: Newspoll, telephone surveys conducted on the weekends of 31 August to 2 September 2001 and 26-28 October 2001, among random national samples of 1200 adults aged 18 years and over. The question read: 'Thinking now about asylum-seekers or refugees trying to enter Australia illegally, which one of the following are you personally most in favour of with regards to boats carrying asylum-seekers entering Australia? Do you think Australia should: turn back all boats carrying asylum-seekers; allow some boats to enter Australia depending on the circumstances; allow all boats carrying asylum-seekers to enter Australia?' Data for the second poll are shown by sex, age, area and political support. Published in *The Australian*, 31 October 2001, p. 11, and 4 September 2001, p. 8.

Table 9: Attitudes to boatpeople arriving in Australia among people in Australia and people overseas, September 12 to 16, 2001, per cent

	Australia	New Zealand	USA	UK
Accept refugees	20	38	34	42
Put them back to sea	68	43	25	45
Undecided	12	19	41	13
Total	100	100	100	100
(Number)	(853)	(526)	(567)	(510)

Source: Morgan Poll, finding number 3446. The question read: 'Recently there has been a lot of discussion about the refugees arriving in Australia by boat. Do you feel the Australian Government should accept those refugees arriving in Australia by boat, or put those boats back to sea?' Sample: in each country a nation-wide cross section of people aged 18 plus, interviewed by telephone during 12-16 September, 2001. All of these polls were conducted by Morgan. Findings discussed in *The Bulletin*, 25/11/2001, pp. 23-24; data downloaded from <http://www.roymorgan.com/polls/2001/3446> on 23/10/01.

and Britain more people approved than disapproved. In the United States the largest group of respondents were those who were undecided (41 per cent); perhaps they couldn't offer an opinion on Australia's stance because they hadn't heard of it? Of course, the sample sizes for the overseas groups are small and they are tapping public, not elite, opinion, but the poll also found very high levels of support in Australia for the policy of putting boats back to sea: 68 per cent.

The Morgan poll also asked about Justice North's 11 September ruling in the Federal Court. See Table 10. North's judgment does not appear to have made Australia more receptive to the *Tampa* people; if anything, it may have made them more determined to reject them. Table 9 shows that 68 per cent wanted to put boats in general back to sea but Table 10 shows that 76 per cent wanted to keep the *Tampa* people away from Australian territory.

None of the data sets in Tables 6 to 10 are available by education or indeed for any other indicators of socio-economic status (save area of residence). But many

commentators in the quality media were astonished and dismayed at the level of support for border control that these polls record. In their view the attitudes of the general population were callous and inhumane. It is probable that they were also unexpected; public comment in mainstream forums and the tenor of letters to the editor in the broadsheet newspapers had not led these intellectuals, journalists and policy analysts to suspect such high levels of support for Government policy.³¹

The first wave of boatpeople focused the attention of the nation, but all of these early arrivals were granted refugee status and permanent residence. The level of public resentment was initially modest but, by March 1979, almost a third wanted the boatpeople stopped from staying here. By 1993 the proportion wanting the boats to be 'sent straight back' had risen to 44 per cent. Strong opposition to self-selected immigration was already clear eight years ago. Today this feeling is shared by between one half to two thirds of Australians.

What has happened to produce this pattern in public opinion? Part of the change may be explained by the general increase in opposition to immigration as a whole. In 1977, 43 per cent of Australians thought that the number of immigrants coming to Australia was too high but, by 1991, this opinion was shared by 73 per cent.³² Today, however, opposition to immigration has softened: a September 2001 poll found that only 41 per cent thought the overall numbers were too high.³³ This means that general opposition to immigration cannot fully

Table 10: Support for complying with the initial Federal Court ruling on the *Tampa*, September 12 to 16, 2001 per cent

	Total	Sex		Political support	
		Men	Women	Coalition	ALP
Yes, should be returned to mainland	19	21	18	10	26
No	76	75	77	87	68
Undecided	5	4	5	3	6
Total	100	100	100	100	100

Source: See Table 9 (the Australian sample, N= 853). The question was: 'As you probably know, boat people picked by the Norwegian vessel, the *Tampa*, are now being sent by the Australian Government to Nauru and New Zealand for processing. The Federal Court of Australia has ruled that the Government acted unlawfully in detaining the refugees on the *Tampa*, and has ordered the boat people on the *Tampa* be returned to the Australian mainland. In your opinion, should the *Tampa* boat people be returned to the Australian mainland now, or not?'

explain current sentiment about boatpeople.

Some saw the documenting of opinion on boatpeople as an especial shock in view of the welcome that the Australian public had given to the 4000 Kosovars accepted for temporary refuge only two years ago in 1999. Certainly if one chooses to see the two phenomena as equivalent, the difference in attitudes is remarkable.

Robert Manne has recently argued that Australia's public culture has been reshaped, for the worse, under the Howard Government. He blames this on Pauline Hanson's influence together with Howard's attitude to her. Instead of condemning Hanson's views about Aboriginal welfare and Asian immigration, Howard applauded the weakening of political correctness and the growth of free speech. Manne writes that,

In the strange dynamic that now developed between the stridency of Hanson and the silence of Howard Australia's political culture began to be reshaped.

But even as late as 1999 this change had not done its worst because we still accepted the Kosovars.

The moral turning point with regard to refugees began only in October, 1999, when boat people fleeing from two of the most vicious tyrannies on earth — Iraq

under Saddam Hussein; Afghanistan under the Taliban — began to arrive in significant numbers on our northern shores. This was the moment where the idea of the refugee began to be transformed in Australian public consciousness from a human being worthy of compassion into a human being deserving only our contempt.³⁴

The survey data do not support this interpretation. There was no sudden change after 1999, whether induced by Howard and Hanson or conjured up from some other source; attitudes to boatpeople had formed and firmed over a quarter of a century. The more experience Australians had of boatpeople arriving, the more unhappy about it they became and the less inclined to offer an open house.

It is not logical to compare public sentiment about the Kosovars with feeling about boatpeople. The Kosovars were invited to Australia for temporary respite on our terms. I am not aware of survey data on this topic but most Australians seemed glad that our country could help and many offered personal assistance. We should not see the two sets of circumstances as similar; a better comparison may be between giving to a charity of one's own accord versus being besieged by street beggars. In the first instance we

believe that the recipient is deserving and the money well spent. In the second we cannot know if the suppliant is deserving or a fraud and people who are accosted in this way often feel stressed and resentful.

But the negative attitudes to boatpeople recorded in the current polls may be due to more than just experience or to doubts about the asylum-seekers' bona fides. Indeed the *Tampa* incident itself illustrates some possible sources of changes in attitude. First, there is the scale of the movement, which was very much larger than the first two waves. This in itself captured public attention and, when combined with the growing numbers per boat, highlighted the role of people smugglers. Such operators do not seem to have played a part in the first wave;³⁵ their prominence today feeds the suspicion that, rather than being genuine refugees, many of the boatpeople are manipulating the system. (Given the difficulties with refugee determination in Australia the extent to which this is actually happening is hard to gauge, but we are talking here of perceptions rather than reality.)³⁶

In the late 1970s many people could have thought that to turn the boats around would be to condemn innocent and desperate people to death by drowning. Today a person offering this response could think, 'Let the people smugglers take them back to Indonesia'.

The *Tampa* incident also highlights the role of the courts. Most members of the public have probably been unaware of the extent to which judicial decisions have modified and constrained immigration and refugee policy since the early 1980s. Justice North's decision made this role plain for the nation to see. And, of course, there is the shift from Asian source countries to the Middle East. It is curious that allegations of Australian xenophobia

have focused on our supposed antipathy to Asia and Asians. Middle Easterners are, after all, phenotypically very close to Europeans. Yet a poll taken in 1988 found that the Middle East was the least popular region of the world as a source for future immigrants, less popular than Asia or Africa.³⁷ This points to the importance of cultural rather than racial diversity.³⁸ The *Tampa* incident occurred while the nation was learning shocking accounts of rapes in Western Sydney; gangs of young men of Lebanese origin had allegedly been raping young Caucasian women in a racially motivated fashion.³⁹ This series of incidents was unlikely to make the public more inclined to offer the welcome mat to boatloads of unknown adventurers from the Middle East, a state of mind that the 11 September catastrophe could only reinforce.

Nonetheless, the evidence shows that there was no sudden desire to close the door on boatpeople dating only to the last couple of years. This has been a slow and growing trend over the last quarter of a century. Critics are quick to dismiss this attitude as narrow-minded xenophobia, the mindset of a paranoid people still gripped by nineteenth century fears of invasion. For example, Angela Mitropoulos takes Peter Mares to task for allowing himself to contemplate invasion fears. Would he still harbour these fears if Queensland had been 'steeped in famine for a decade' and Queenslanders were making their way South? 'Does the recent rural-to-urban migration conjure up the idea of a flood? Who do we include in "we", in our idea of who is human and who is not?'⁴⁰

Mitropoulos cannot understand why Australians might want to distinguish between fellow citizens and foreigners; she does not see the importance of a common sense of peoplehood. Modern nations consist of millions of disparate

individuals. If they cannot also think of themselves as belonging to a group that has a collective memory of its obligations and a collective responsibility for their common future they will be unable to act as a group on the broad scale and over the long term.⁴¹ Consequently threats to a sense of common identity endanger a broad range of other goals that we care about. But many intellectuals are tone deaf to the ideas of nation and peoplehood and the power that these ideas have for most Australians. People who are secure in their identity may choose to act compassionately, as in the case of the Kosovars, but resent attempts to coerce them to share their home with outsiders. Critics who cannot understand this imagine that if they assault and insult the idea of the nation with sufficient vigour we will all become generous internationalists living in a world of peace and sharing.

In the recent election campaign the Government emphasised its stand on the boatpeople. For the Government's critics,

reminding voters of its respect for borders was a disgraceful appeal to the ever-present racism of the Australian people. This is not the correct way to see it. Liberal democracies that care for their members, and for outsiders, must have a high level of social cohesion. Without this, members cannot believe that they are a people and without such a belief they cannot function as a collective entity over the long term. Some individuals, secure in the knowledge of their own human capital and confident of their international connections and marketability, do not see the need for a belief in peoplehood. But the majority do. They know that strong communities must have borders and they want to continue to belong to a strong community.

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- ² See N. Viviani, *The Long Journey: Vietnamese Migration and Settlement in Australia*, Melbourne University Press, Melbourne, 1984, p. 85.
- ³ See K. Betts, *The Great Divide: Immigration Politics in Australia*, Duffy and Snellgrove, Sydney, 1999, pp. 196, 208-209.
- ⁴ By 1982 there were just under 70,000 people settled in Australia who had been born in Indochina (58,000 from Vietnam) and by 1995, 189,500 (158,500 from Vietnam): Viviani, 1984, op. cit., p. 85 and N. Viviani, *The Indochinese in Australia 1975-1995: From Burnt Boats to Barbecues*, Oxford University Press, Melbourne, 1996, p. 159.
- ⁵ Viviani, 1984, op. cit., p. 44. A further 45,000 arrived in countries of first asylum in 1977; by the end of 1977 Australia had accepted a mere 5348. See *ibid.*, pp. 44, 50.
- ⁶ Betts, 1999, op. cit., pp. 195-196, 203, 207-212
- ⁷ See Viviani, 1984, op. cit., pp. 53, 68-71, 75-76, 82.
- ⁸ See for example Malcolm Fraser's responses to Paul Kelly's questions in P. Kelly, *100 Years: The Australian Story*, Allen and Unwin, Sydney, 2001, pp. 33-34.
- ⁹ The largest group consisted of over 40,000 applicants from the People's Republic of China who had arrived on student visas. See B. Birrell, 'Implications of the November 1993 and January 1994 amnesties: how many will be affected and at what cost?', *People and Place*, vol. 2, no. 1, 1994, pp. 34-41, and 'The outcome of the 1 November 1993 decisions', *People and Place*, vol. 2, no. 3, 1994, pp. 39-46.
- ¹⁰ The 'new administrative law' has a number of components: the Administrative Appeals Tribunal (1975); the office of Ombudsman (1976); the Administrative Decisions (Judicial Review) Act (1977); and the Freedom of Information Act (1982). Together they have amounted to a new system of control within the Federal Government in which the actions of the executive are now much more likely to be challenged in the

courts and subjected to judicial review. The new administrative law was set up for Australian citizens and permanent residents but, in fact, would-be immigrants appealing against negative decisions by the Immigration Department were quick to make use of it. By the late 1990s more than half of the administrative law cases filed in the Federal Court concerned migration and the culture among the presiding judges has often been at odds with decisions made by the Department. See J. McMillan, 'Federal Court v Minister for Immigration', *Australian Administrative Law Forum*, no. 22, 1999, pp. 1-25.

- ¹¹ See K. Betts, 'Refugee-status procedures and the boat people', *People and Place*, vol. 1, no. 3, 1993, pp. 9-15, and Gerry Hand in B. Birrell, 'An interview with Mr Gerry Hand, former Minister for Immigration, Local Government and Ethnic Affairs', *People and Place*, vol. 1, no. 4, 1993, pp. 1-9.
- ¹² See M. Crock, 'A legal perspective on the evolution of mandatory detention', in M. Crock (Ed.), *Protection or Punishment? The Detention of Asylum-Seekers in Australia*, The Federation Press, Annandale, 1993, pp. 33-34.
- ¹³ Especially Iraq and Afghanistan: see DIMA, *Fact Sheet, 88: Processing unlawful boat arrivals* (17 September, 2001).
- ¹⁴ See 'Philip Ruddock on Australia's refugee crisis: an interview with People and Place', *People and Place*, vol. 9, no. 3, 2001, Table 2, pp. 8-9.
- ¹⁵ See B. Birrell, 'Why Howard was right', *The Age*, 7 September 2001, p. 17.
- ¹⁶ See Ruddock in 'Philip Ruddock on Australia's refugee crisis', op. cit., p. 9. To remedy this problem the Government introduced the Migration Legislation Amendment Act (No. 6) 2001; this was passed with bipartisan support in September 2001 (after the 11 September terrorist attacks) together with a suite of other migration legislation. See DIMA, *Fact Sheet 90: New measures to strengthen border control* (2 October 2001) and M. Saunders and I. Henderson, 'United front to lock out illegals', *The Australian*, 19 September 2001, p. 13, 14.
- ¹⁷ See, for example, P. Mares, *Borderline: Australia's Treatment of Refugees and Asylum Seekers*, University of New South Wales Press, Sydney, 2001; D. McMaster, *Asylum Seekers: Australia's Response to Refugees*, Melbourne University Press, Melbourne, 2001; and the section titled 'New World Borders' in *Overland*, vol. 164, Spring, 2001.
- ¹⁸ Howard is reported as saying that there was a clear obligation under international law for the asylum-seekers to be taken to Merak. See R. Garrahan and V. Carson, 'Refugees trapped at sea', *The Australian*, 28 August 2001, p. 1.
- ¹⁹ For an outline of these events see D. Marr and M. Wilkinson, 'Tampa Tantrums', *The Age: News Extra*, Melbourne, 20 October 2001, p. 1, 4.
- ²⁰ *ibid.*
- ²¹ See M. Saunders, R. Garrahan and B. Crawford, 'Pacific solution on hold', *The Australian*, 3 September 2001, p. 1.
- ²² M. Saunders, 'Take boatpeople back, court orders', *The Australian*, 12 September 2001, p. 4.
- ²³ Federal Court of Australia, Minister for Immigration and Multicultural Affairs & Ors v Eric Vadarlis (V 1007 of 2001), and Minister for Immigration and Multicultural Affairs & Ors v Victorian Council for Civil Liberties Incorporated & Ors (V 1008 of 2001), downloaded from http://www.austlii.edu.au/au/cases/cth/federal_ct/2001/1329.html, 31/10/01
- ²⁴ M. Saunders, B. Crawford and S. Powell, 'Asylum-seekers refuse to disembark', *The Australian*, 18 September 2001, p. 11; S. Powell, 'Manoora free of its asylum-seekers', *The Australian*, 5 October 2001, p. 2.
- ²⁵ B. Crawford, 'Tampa boatpeople appeal hastened', *The Australian*, 30 October 2001, p. 2.
- ²⁶ G. Megalogenis, 'Record boatpeople influx is sinking PM's policy', *The Australian*, 6 November 2001, p. 1, 2.
- ²⁷ See Morgan Gallup Poll number 270, 2-9 June 1979 (28 per cent wanted to 'put those boats back to sea').
- ²⁸ See survey data analysed in Betts, 1999, op. cit., pp. 120-130.
- ²⁹ For a comprehensive list see M. Goot, 'Migrant numbers, Asian immigration and multiculturalism: trends in the polls, 1943-1998', DIMA, Canberra, 1998, Table 7. [I am referring to a draft of this report kindly supplied to me by the author.]
- ³⁰ A. C. Nielsen *Issues Report*, 3 September 2001 (summary data published in *The Age*, 4 September, 2001, p. 4).
- ³¹ For commentary on the split between published opinion and public opinion see M. Price, 'Space for diverging viewpoints', *The Australian*, 8-9 September 2001, p. 30 and The Reham report, 'PM rescued by refugees', *The Australian: Media liftout*, 11 October 2001, p. 15. Andrew Bolt reports that 250,000 viewers rang Channel 9 and Channel 10 in a phone-in poll to support Howard's stand on the Tampa. Bolt draws a sharp line between commentary by elite opinion-makers and the feelings of the ordinary citizen. A. Bolt, 'The great cringe', *The Herald Sun*, 3 September 2001. See also analysis of calls to talk back radio in M. Price, 'Talkback callers turn off sympathy', *The Australian*, 29 August 2001, p. 2 and The Reham report,

'A "gutful" of illegals', *The Australian: Media liftout*, 6 September 2001, p. 5. Phillip Adams writes that 'the nation is deeply, bitterly divided between ... the bulk of the population and the people contemptuously and contemptibly described as the chattering classes', P. Adams, 'A vote for division', *The Australian: Review section*, 17-18 November 2001, p. 32.

³² See polls set out in Betts, 1999, op. cit., p. 114.

³³ The poll was carried out between 31 August and 2 September by A. C. Nielsen and published in *The Age*, 4 September 2001, pp. 1, 4. It was based on a random nation-wide telephone sample of 2058 people aged 18 plus. The question was: 'Do you feel that the current level of immigration is too high, too low or about right?' The results confirm Murray Goot's finding, based on different data sources, that opposition to immigration has eased since 1996. See M. Goot, 'More "relaxed and comfortable": public opinion on immigration under Howard', *People and Place*, vol. 8, no. 3, 2000, pp. 46-60.

³⁴ R. Manne, 'The mean generation', *The Age: Saturday Extra*, 3 November 2001, p. 4

³⁵ This is true of the boats which reached our shores. But organised traffic in people wanting to leave Vietnam did become a problem in late 1978 and early 1979. See Viviani, 1984, op. cit., pp. 85-86, 88-89, 92-94.

³⁶ While its extent cannot be known, there is evidence that fraud exists. In early July 2001 a boatload of 242 people intending to seek asylum in Australia was intercepted in Cambodia, before the people concerned had had an opportunity to destroy their papers. All of them claimed to be Afghani but 25 per cent had Pakistani passports and half admitted that they were in fact Pakistani. The Afghani involved actually had long-standing settlement rights in Pakistan, the United Emirates, or Saudi Arabia. See Ruddock in 'Philip Ruddock on Australia's refugee crisis', op. cit., p. 2. Melinda Lu's investigation in Peshawar shows that it is relatively easy to buy the documents there that would be needed to make a false claim as an Afghani refugee. See M. Lu, 'Inside "people smuggling"', *The Bulletin (Newsweek section)*, 6 November 2001, pp. 49-50.

³⁷ See P. Stephens and P. Bone, 'Most Australians want cut in immigration, poll finds', *The Age*, Melbourne, 9 February 1988, p. 5.

³⁸ Wolfgang Kasper argues that, for cultural reasons, migrants from the Middle East impose higher transaction costs on the Australian community than those from Asia. See W. Kasper, 'Immigration, institutions, harmony and prosperity', *Quadrant*, November 2001, pp. 6-10.

³⁹ See M. Chulov, 'Rape menace from the melting pot', *The Australian*, 18-19 August 2001, p. 1, 4; L. McIlveen, 'Bid to end ethnic link to crime', *The Australian*, 24 August 2001, p. 3; and J. Albrechtson, 'Ignoring the race factor doesn't help', *The Australian*, 3 September 2001, p. 13.

⁴⁰ A. Mitropoulos, 'The barbed end of human rights', *Overland*, vol. 164, Spring, 2001, p. 55

⁴¹ See M. Canovan, *Nationhood and Political Theory*, Edward Elgar, Cheltenham, UK, 1996, pp. 22-24, 46, 74-75.