

Australia's Mandatory Detention of Asylum Seekers - *An unlikely model for Europe*

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Many Europeans would have been puzzled by reports of the Australian Government's tough arbitrary detention policies, which have incarcerated a few thousand asylum seekers in deserts or Pacific Island camps. Australia has enjoyed a reputation for democratic tradition and egalitarian social policy. As a nation it has played a constructive role in developing human rights standards through the United Nations and as a middle power has been well respected for its reasoned approach to humanitarian aid and conflict resolution. Certainly questions have been raised about Australia's dispossession of aboriginal peoples and there have been some lingering doubts about the remnants of the White Australia Policy abandoned in the 1960s. Despite these caveats, the vibrant multicultural nation which recently hosted the Olympic Games continues to project a confident and tolerant society at ease with its diversity.

Behind this seemingly successful facade lies historic paranoia fed by Australia's isolation. For ten years now both major political parties have presided over the mandatory detention of asylum seekers. While the nation welcomed World War II refugees and successive waves of immigration from around the world, since the early 1990s there has developed a hardening of government policy and community disquiet. Migrant hostels in the cities have been replaced by prison like detention centres in the desert. Recent arrivals who used to be free to live in the Australian community are now held in secure compounds for months at a time.

The government has given up its role as caretaker and contracted the management of refugee camps out to a subsidiary of an American private prisons company. Families from war torn regions of the world are now housed behind razor wire and bars, guarded by people more experienced in prison culture than in addressing the needs of traumatized asylum seekers.

While this policy has been in place for some time now, the extremism of its practice was highlighted in August 2001 when an international distress call from a sinking vessel in the Indian Ocean south of Indonesia was relayed to the Australian Maritime Safety Authority. The nearest ship, Norwegian MV Tampa was asked to assist and in doing so was responding to the Safety of Life at Sea Convention (1954). The captain took several hundred survivors aboard and advised that he intended landing them in Australian territory on Christmas Island, a well-known destination of many asylum seekers.

However as the ship approached the island, extraordinary events took place that have impacted severely on Australia's international reputation. Firstly a phone call directed the Captain not to land the survivors even though it was obvious his vessel was ill prepared to cater to so many people. Secondly the Australian military boarded MV Tampa to ensure that

it did not proceed to Christmas Island. While the military subsequently brought in supplies, its primary duty was to prevent the asylum seekers landing on Australian soil.

This unprecedented breach of international law has led to a major upheaval in Australia's domestic politics and left many European countries deeply concerned about the dangerous precedent set by an affluent developed nation avoiding its international responsibilities. Within Australia the community is deeply divided with more than half accepting the Government's rhetoric about the risk that "illegals" present. This combination of fear of terrorism in a pre-election climate combined with gross distortion of the situation by government successfully led to their re election. However many believe that the failure of the Opposition party to challenge the misleading 'border protection' campaign was equally at fault.

Twelve months on, little has been resolved. Both political parties retain their unwavering support for mandatory detention and border protection. Seven separate pieces of legislation have formalized government action by "removing" certain islands from Australia "for the purposes of immigration". The rights of asylum seekers to appeal to Australian courts for review of administrative decision making have been curtailed by an act of parliament, a decision much criticized by the legal fraternity and currently being formally argued before the High Court of Australia.

Many members of the Australian community have rallied to try to make life more bearable for detainees. At least a hundred new organisations and advocacy groups have responded to the shame of being Australian by working to reform the law and highlight the inhumane conditions of detention. Thousands have "adopted" individuals or families, or write letters and send gifts. One individual, hearing that detained children thought there were no flowers in Australia, emailed her friends to send flowers to Woomera. Within days hundreds of bouquets were arriving at the desert camp. This story had a poignant sequel as shortly after young people converged on the site in solidarity with the detainees and found their new friends eager to return the friendship by throwing flowers over the razor wire!

There have been hunger strikes, lip sewing and attempted suicide by desperate detainees. Protest rallies outside remote desert camps have temporarily freed a number of people. Meetings and marches, exhibitions, performances and film making all designed to highlight Australia's gross breaches of human rights have been held with increasing frequency in the last six months.

Within the political system there have been enquiries and investigations by the Human Rights and Equal Opportunity Commission and the Commonwealth Ombudsman, as well as questions, speeches and allegations in Parliament. The media has continually investigated the culture of fear and despair within detention camps. Professional groups representing doctors, psychiatrists, nurses, lawyers and teachers have publicly identified the failure of government to meet its duty of care. Human rights groups have approached the United Nations and presented their concerns to senior officers within the Office of the High Commissioner for Human Rights and the United Nations High Commission for Refugees.

Mary Robinson sent a Special Envoy Justice Bhagwati to investigate conditions in Australian detention camps. Both he and the Rapporteur on Arbitrary Detention have been shocked by

the situation of asylum seekers in Australia. There have been calls for a Royal Commission of Enquiry and for an end to the culture of violence within detention camps.

Europeans of course have their own concerns about the numbers of migrants who cross borders with such relative ease. The comparison with Australia is stark. Australia has compromised its good name and wasted vast resources on a "solution" for a few thousand vulnerable people, the majority of whom can eventually prove their refugee status. To add insult to injury the Australian Immigration Minister now boasts he is intent on advising European countries to adopt his tough strategies. Fortunately much of this posturing will fail because so many Europeans can understand what it is like to be dispossessed by war and conflict.

Australia is indeed a lucky country having not faced war in its homeland since it invaded Aboriginal land more than two hundred years ago. Recent events suggest that as a nation we do not value our good fortune by being willing to share our well being with others. There is no doubt Australia is an unlikely model for Europe. In fact we would be better placed to adopt the more humane approach to refugees offered by the Europeans.