

KEYNOTE ADDRESS

Launch of the Andrew & Renata Kaldor Centre for International Refugee Law

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Introduction

It is incongruous that in a country as large, wealthy and multicultural as Australia, the treatment of asylum seekers and refugees is a national preoccupation. The conversation is not about rights or responsibilities, assistance or protection, but rather about 'stopping the boats' and 'smashing the people smugglers' business model'. How did we reach a point where both major political parties have become engaged in a race to the bottom about how best to shut down Australia as a place of refuge for people who take to the sea?

As in many countries, asylum seekers are an easy target for anxieties about national security, unemployment and demographic composition. They cannot vote, so their voices are marginalized in political debate, and as they are increasingly moved outside the Australian community into immigration detention in remote offshore processing centres, the divide between 'them' and 'us' is reinforced. Politicians have fuelled fears that asylum seekers present a threat not only to the integrity of Australia's borders, but to the national fabric as a whole, and certain elements of the media have not only fanned the flames but poured on the accelerant.

As an island nation, Australia has long suffered a disproportionate anxiety about being 'invaded' from the sea. From the mid-19th century, there was a fear of 'yellow hordes' invading from the north,¹ an idea that came to underpin the country's racially repugnant 'White Australia Policy', the final vestiges of which were not dismantled until 1973.

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¹ This was a common sentiment expressed in Australia from the mid-19th to the mid-20th century, initially in response to Chinese immigrants to the goldfields in the 1850s. It was fuelled by magazines such as *The Bulletin*, which ran images such as 'The Mongolian Octopus: His Grip on Australia' (21 August 1886), and inspired a genre of invasion scare novels (see Neville Meaney, 'The Yellow Peril', *Invasion Scare Novels and Australian Political Culture* in Ken A Stewart (ed), *The 1890s: Australian Literature and Literary Culture*, (University of Queensland Press, St Lucia, 1996). See generally David Walker, *Anxious Nation: Australia and the Rise of Asia, 1850–1939* (University of Queensland Press, St Lucia, 1999).

In the post-war period, the Australian government actively brought ships of displaced persons from Europe. Between 1947 and 1954 alone, Australia resettled almost 171,000 refugees² – almost six times more per capita than we do today.³ Although this policy was driven more by concerns about Australia's declining population and workforce than strictly humanitarian impulses,⁴ it was a mutually beneficial programme that gave people a new life after the horrors of war and economic depression that followed. The fruits of their labour helped to make Australia what it is today.

In 2001, an unfortunate confluence of events, most prominently 9/11, enabled the then Coalition government to exploit public anxieties and create a rhetorical – and, ultimately, legislative – divide between the rights of so-called 'genuine' refugees, resettled in Australia from camps and settlements abroad through the offshore humanitarian program, and those arriving spontaneously in Australia, typically by boat, described variously as 'illegals', 'queue jumpers', and 'unauthorized arrivals'.

Of course, the building blocks had been put in place by the Hawke and Keating Labor governments. In 1992, Labor instituted a policy of mandatory detention.⁵ Originally, it was intended as a temporary and exceptional measure for a second wave of Indochinese 'boat people', mainly from Cambodia, but later was extended to all 'unlawful non-citizens' for bureaucratic efficiency.⁶ The then Minister for

² Elibritt Karlsen, Janet Phillips and Elsa Koeth, 'Seeking Asylum: Australia's Humanitarian Program' (Australian Parliamentary Library, Background Note, 21 January 2011) 28 <http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/158141/upload_binary/158141.pdf;fileType=application%2Fpdf#search=%22Immigration%20%20publications%202010s%22>, accessed 18 September 2013.

³ In the five years between July 1948 and July 1953, Australia accepted 165,525 refugees, predominantly from Eastern Europe. At the time, this represented almost two per cent of Australia's population (which was 8,986,530 in the 1954 census). Refugees comprised over half of all migrants settled in Australia between 1948 and 1953. In the five years between July 2007 and July 2012, Australia accepted 67,849 refugees and other humanitarian entrants, representing approximately 0.3 per cent of the population (which was 21,507,717 in the 2011 census). For statistics, see Commonwealth Bureau of Census and Statistics, 'Australian Life Tables, 1953–1955' (Census, 30 June 1954) 5 <[http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/171E1806BCBAB6A1CA257872002194FC/\\$File/1954%20Census%20-%20Volume%20VIII%20-%20Part%20V%20Australian%20Life%20Tables%201953%20-%201955.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/171E1806BCBAB6A1CA257872002194FC/$File/1954%20Census%20-%20Volume%20VIII%20-%20Part%20V%20Australian%20Life%20Tables%201953%20-%201955.pdf)> accessed 18 September 2013; Australian Bureau of Statistics, '2011 Census QuickStats' (28 March 2013) <http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/0> accessed 18 September 2013; Refugee Council of Australia, 'Statistics on Australia's Current Refugee and Humanitarian Program' (February 2013) <<http://www.refugeecouncil.org.au/r/stat-rhp.php>> accessed 18 September 2013; Barry York, 'Australia and Refugees, 1901–2002: An Annotated Chronology based on Official Sources' (Australian Parliamentary Library, 2003) 134; Klaus Neumann, *Refugee Australia: Australia's Humanitarian Record* (UNSW Press, 2004) 34.

⁴ Neumann, above n 3, 32.

⁵ Migration Amendment Act 1992 (Cth).

⁶ Migration Reform Act 1992 (Cth) (in force 1 September 1994). See generally Joint Standing Committee on Migration Regulations, *Australia's Refugee and Humanitarian System: Achieving a Balance between Refuge and Control* (Australian Government Publishing Service, August 1992). According to the then Immigration Minister, Gerry Hand, the 'array of laws which govern detention and removal, depending upon how a person arrived in Australia ... is confusing to the public and administrators alike.' A blanket policy of mandatory detention would therefore 'provide for a uniform regime for detention and removal of persons illegally in Australia. Non-citizens who are in Australia without a valid visa will be unlawful and will have to be held in detention': Commonwealth, *Parliamentary Debates*, House of Representatives, 4 November 1992, 2620 (Gerry Hand, Minister for

Immigration, Gerry Hand, explained that the government was determined 'that a clear signal be sent that migration to Australia may not be achieved by simply arriving in this country and expecting to be allowed into the community'.⁷

Since then, politicians on both sides have played up the idea of the 'good refugee' (who waits in a camp for resettlement) and the 'bad refugee' (who 'jumps the queue' by coming by boat). International law does not make such a distinction – a person either has a well-founded fear of persecution, or does not. Often, there are no camps for people to reach safely. Even if they do, there is no resettlement guarantee – less than one per cent of refugees are resettled annually.⁸ A refugee's chance of resettlement does not depend on how long he or she has been waiting, but on factors such as vulnerability, suitability for resettlement, countries Australia deems to be 'priorities' for resettlement, and 'the views of individuals and organisations in Australia conveyed during community consultations with the Minister for Immigration and Border Protection'.⁹

It is not a crime to seek asylum from persecution or other serious human rights abuses, but rather the right of every individual under international law.¹⁰ Indeed, the Refugee Convention prohibits countries from imposing penalties on asylum seekers who enter without a passport or visa. This is because the drafters of the Convention recognized that the very nature of refugee flight might make it impossible to obtain travel documents. Asylum seekers cannot apply for protection visas before they leave their country because 'refugees' must, by definition, be outside their country. Even if they cross a border, Australian embassies cannot issue protection visas to those on the move – such as people fleeing the Taliban in Afghanistan. Further, it is highly unlikely that refugees will be able to get a visa of any other kind, such as a tourist or work visa. For example, an Iraqi who applies to an Australian embassy for such a visa will likely be screened out, precisely because of the assumption that he or she will claim asylum on arrival in Australia. It is a catch-22.

So where does the idea of the 'queue jumper' come from? Australia sets an annual refugee quota of 13,750 places.¹¹ In recent years, 6,000 resettlement places have

Immigration, Local Government and Ethnic Affairs) (Migration Reform Bill 1992, Second Reading Speech)

<<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F1992-11-04%2F0177%22>> accessed 5 February 2013.

⁷ Commonwealth, *Parliamentary Debates*, House of Representatives, 5 May 1992, 2370 (Gerry Hand, Minister for Immigration, Local Government and Ethnic Affairs) (Migration Amendment Bill 1992, Second Reading Speech)

<<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F1992-05-05%2F0031%22>> accessed 5 February 2013.

⁸ UNHCR, 'Resettlement' <<http://www.unhcr.org/pages/4a16b1676.html>> accessed 17 September 2013.

⁹ Department of Immigration and Border Protection, 'Fact Sheet 60: Australia's Refugee and Humanitarian Program' (November 2011) <<http://www.immi.gov.au/media/fact-sheets/60refugee.htm>> accessed 29 October 2013.

¹⁰ Jane McAdam, 'Use of Term "Illegal" Is Ignorant or Mischievous', *The Sydney Morning Herald* (Sydney, 23 April 2013) <<http://www.smh.com.au/federal-politics/political-opinion/use-of-term-illegal-is-ignorant-or-mischievous-20130423-2ibqv.html>> accessed 18 September 2013; Desmond Manderson, 'Groundhog Day: Why the Asylum Problem is Like the Drug Problem' (2013) *Griffith Review* (Edition 41).

¹¹ This was increased to 20,000 under the Labor government in 2012, but the Coalition government's policy is to bring it back to 13,750: Liberal Party of Australia, *Our Plan: Real Solutions for all*

been set aside for refugees from overseas who have been recognized by UNHCR as having a protection need. This number is not affected at all by the number of refugees who arrive in Australia spontaneously.

There are also 7,750 places in Australia's 'special humanitarian program'. These places are set aside for humanitarian entrants – that is, people who are subject to substantial discrimination amounting to a gross violation of human rights in their home country, such as women at risk. Historically, many refugees have used this channel to sponsor family members left behind. However, the more refugees who arrive onshore in Australia, by boat and by plane, the fewer places remain for humanitarian entrants overseas. This is where the notion of the 'queue jumper' comes from.

Australia is the only country to process refugees in this way. This dual system is an invention of the Australian government and is not premised on anything in the Refugee Convention, which if anything privileges those who arrive onshore. Even on its own terms, though, it is inaccurate to say that 'boat people' are taking the places of refugees waiting overseas. This is because the onshore number is linked to the special humanitarian quota, not the refugee quota, and also because asylum seekers who come to Australia by plane affect the number in the same way that boat arrivals do. Nevertheless, as the Refugee Council of Australia has observed, 'it pits onshore and offshore applicants against each other by creating a system in which onshore applicants are seen as "taking" places which could be used to resettle family members.'¹²

In any event, UNHCR's resettlement process does not operate like a queue, but more like a triage system in which needs are constantly reassessed. Someone who arrives today with an acute resettlement need, such as extreme vulnerability on account of sexual abuse or disability, may be prioritized ahead of someone who has been waiting for ten years.¹³

Nevertheless, this line between the 'invited' and the 'uninvited' has facilitated Australia's elaborate construction of Temporary Protection Visas (TPVs) for Convention refugees, migration excision zones, and offshore processing arrangements.

Despite dismantling many of these initiatives when it came to power in 2007, the Labor government gradually started reintroducing them. At first, it seemed to do so with a humanitarian agenda, shifting the rhetoric from 'stopping the boats' to 'saving lives at sea'. In the end, though, it adopted many of the same draconian policies as the Howard government, despite promises that it would never replicate them because of their inhumanity, illegality and ineffectiveness.

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<http://lpa.webcontent.s3.amazonaws.com/realsolutions/LPA%20Policy%20Booklet%20210x210_pages.pdf> accessed 18 September 2013. The analysis here is based on the way in which the scheme has operated historically. The new government may decide to alter the composition of the programme.

¹² Refugee Council of Australia, 'Links between the Onshore and Offshore Programs' (May 2012) <<http://www.refugeecouncil.org.au/f/as-link.php>> accessed 18 September 2013.

¹³ Refugee Council of Australia, 'Myths about Refugees and Asylum Seekers' (February 2011) <<http://www.refugeecouncil.org.au/f/myth-long.php>> accessed 27 September 2013.

In 2012, the Labor government reinvigorated Howard's 'Pacific Solution' by opening processing centres in Nauru and PNG. The idea was that the inferior conditions there, lack of legal advice and review mechanisms, and delayed resettlement (around five years) would deter asylum seekers from getting on boats. But it did not work, largely because it ignored the reasons why people seek protection in the first place.

So the government took it a step further, declaring in July 2013 that asylum seekers arriving by boat would now be sent to PNG for processing *and* resettlement. They would never be resettled in Australia. As full-page newspaper advertisements in Australia explained: 'If you come here by boat without a visa you won't be settled in Australia.'¹⁴

The Coalition countered by saying that it would not go this far. But perhaps that was just because its own previous attempts to get other countries to resettle 'our' refugees had largely failed under the first Pacific Solution. Leading with the Howard-government mantra 'this is our country and we determine who comes here',¹⁵ Abbott, then in Opposition, announced other disincentives, which he began to implement on the day his government was sworn in under a military-led policy entitled 'Operation Sovereign Borders'.

Operation Sovereign Borders is premised on the idea that Australia is experiencing a 'border protection crisis' which is 'a national emergency'.¹⁶ According to the policy, '[t]he scale of this problem requires the discipline and focus of a targeted military operation, placed under a single operational and ministerial command and drawing together all the necessary resources and deployments of government agencies.'¹⁷ Thus, one of the first actions of the new government was to appoint a three star general, Angus Campbell, to lead the operation. According to the former chief of Australia's defence force, this is a misguided policy that will change nothing. Asylum seekers 'are not our enemy. They're not attacking Australia ... Defence is to deal with our enemies but Customs, policing and all the rest of it deal with people on internal security matters.'¹⁸

While the government has signalled that it will expand offshore processing and seek other resettlement countries for those found to be refugees, it has nonetheless reintroduced TPVs as another deterrent. Any refugee who arrives by boat and end up being resettled in Australia as a 'last resort', as well as any boat arrival already in Australia awaiting the determination of their claim, will only be eligible for temporary

¹⁴ See eg *Sydney Morning Herald* (17 August 2013).

¹⁵ Bianca Hall and Judith Ireland, 'Tony Abbott Evokes John Howard in Slamming Doors on Asylum Seekers', *The Sydney Morning Herald* (Sydney, 15 August 2013) <<http://www.smh.com.au/federal-politics/federal-election-2013/tony-abbott-evokes-john-howard-in-slamming-doors-on-asylum-seekers-20130815-2rzzzy.html>> accessed 24 September 2013.

¹⁶ Liberal Party of Australia, *The Coalition's Operation Sovereign Borders Policy* (July 2013) 2, <<http://www.nationals.org.au/Portals/0/2013/policy/The%20Coalition%E2%80%99s%20Operation%20Sovereign%20Borders%20Policy.pdf>> accessed 24 September 2013.

¹⁷ *Ibid.*

¹⁸ Bianca Hall and Jonathan Swan, 'UNHCR "Troubled" by PNG Solution', *The Sydney Morning Herald* (Sydney, 26 July 2013) <<http://www.smh.com.au/federal-politics/political-news/unhcr-troubled-by-png-solution-20130726-2qo8c.html>> accessed 18 September 2013.

protection.¹⁹ The Australian TPV regime means that refugees who come by boat will never be allowed to settle permanently in Australia or bring out their families. They will have to have their status reassessed every few years. No other country uses temporary protection in this way.

The harmful psychological effects of TPVs have been well documented.²⁰ People are left in limbo, unable to go back home because they fear persecution, and unable to build a life in Australia because they fear being returned when their visa comes up for reassessment. One study showed that TPV holders exceeded permanent protection visa holders 'on all measures of psychiatric disturbance and mental disability.'²¹ When TPVs were used previously, they resulted in more women and children getting on boats, in an attempt to join their husbands and fathers. Many died in the process.

Another element of Operation Sovereign Borders is 'turning back the boats' when it is safe to do so. As we know, Indonesia has objected strenuously to this policy, arguing that it is 'offensive' and a threat to its sovereignty.²² It will rarely be safe, or legal, to turn back boats. This is because of the immediate risk posed to the lives of those on board these typically unseaworthy vessels, as well as the danger that refugees may be returned to persecution or other forms of serious harm. Past experience under the Howard government shows that a policy of turning back boats is fraught with significant risks.²³ The Australian Navy had to deal with threats and acts of self-harm, aggression towards members of the boarding party, and acts of sabotage to the boats.²⁴ One boat which was 'successfully' turned around sailed for 12 hours towards Indonesia before it ran aground, about 300 or 400 metres from an island. Three people reportedly drowned trying to reach the shore.²⁵ A number of other boats sank and people drowned.²⁶ Turning back boats places Australia at risk

¹⁹ *Operation Sovereign Borders Policy*, above n 16, 7. See also Migration Amendment (Reinstatement of Temporary Protection Visas) Bill 2013 and its Explanatory Memorandum and Statement of Compatibility with Human Rights; Migration Amendment (Temporary Protection Visas) Regulation 2013.

²⁰ See eg Zachary Steel and others, 'Impact of Immigration Detention and Temporary Protection on the Mental Health of Refugees' (2006) 188 *British Journal of Psychiatry* 58; 'A Comparison of the Mental Health of Refugees with Temporary versus Permanent Protection Visas' S Momartin and others, (2006) 185 *Medical Journal of Australia* 357.

²¹ Momartin and others, above n 20, 360.

²² 'Indonesian MP Tantowi Yahya says Coalition's Asylum Seeker Policy Threatens to Damage Relations', *ABC News* (19 September 2013) <<http://www.abc.net.au/news/2013-09-19/indonesian-mp-says-turn-back-the-boats-policy-is-offensive-and-/4966934>> accessed 20 September 2013.

²³ Senate Select Committee, *Inquiry into a Certain Maritime Incident: Report* (23 October 2002) <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=maritime_incident_ctte/report/report.pdf> accessed 18 September 2013.

²⁴ Senate Select Committee, above n 23, Appendix 1.

²⁵ Debbie Whitmont, 'To Deter and Deny', *ABC Four Corners* (15 April 2002)

<<http://www.abc.net.au/4corners/stories/s531993.htm>> accessed 18 September 2013.

²⁶ These figures are drawn from the Senate Select Committee, above n 23, which relates only to Operation Relex (3 September 2001–13 March 2002), not to Operation Relex II (14 March 2002–16 July 2006). This is reminiscent of Singapore's Operation Thunderstorm in the 1970s, in which unseaworthy asylum boats from Vietnam were towed back to sea and some asylum seekers drowned. For an account of this, see 'A Forgotten Past: Vietnamese Boat People in Singapore' (1 July 2011) <<http://remembersingapore.wordpress.com/2011/07/01/vietnamese-boat-people-in-singapore/>> accessed 4 October 2013. See generally W Courtland Robinson, 'The Comprehensive Plan of Action for Indochinese Refugees, 1989–1997: Sharing the Burden and Passing the Buck' (2004) 17 *Journal of Refugee Studies* 319.

of breaching its obligation of *non-refoulement* under the Refugee Convention and human rights law, especially when the Navy has no clear processes in place to identify refugees.

The Abbott government has also signalled its intention to cut legal assistance for asylum seekers who arrive by boat.²⁷ Legal assistance is a crucial element of a fair and efficient justice system founded on the rule of law. The evidence shows that we get better decisions when asylum seekers have early access to properly resourced legal services by specialist lawyers. Refugee lawyers provide an important 'triage' service and help prevent the courts from being flooded with unmeritorious claims. The bottom line is that without legal assistance, there is a real risk that refugees will be sent back to persecution and other serious forms of harm such as torture and death.

The government has also threatened to remove appeal rights to the Refugee Review Tribunal (RRT), which is the independent body that reviews decisions made by government officials about whether or not people are 'refugees'.²⁸ This stems from concerns that the RRT is finding that too many asylum seekers are actually refugees, when government officials have said they are not. Rather than probing the quality of departmental decision making, the government simply wants to cut out the reviewer.

All these policies breach Australia's international human rights obligations in some way. In addition to undermining the humanitarian object and purpose of the Refugee Convention, they also violate concrete legal obligations – such as the individual right to seek asylum (and the attendant right not to be penalized for arriving without a visa), the right to be free from cruel, inhuman or degrading treatment, the right not to be arbitrarily detained, and the right to non-discrimination.²⁹

We also know from the previous policies on which they are based that they do not 'stop the boats'. As former Australian Prime Minister Malcolm Fraser has observed: 'No amount of deterrence can match the terror from which those who are genuine refugees are fleeing.'³⁰ Instead, they lead to increased levels of trauma and mental illness among refugee communities, exorbitant financial costs, and desperate family members themselves taking dangerous boat voyages to try to join their loved ones.

²⁷ Tom Nightingale, 'Coalition Vows to Stop Funding Legal Advice for Asylum Seekers', *ABC News* (31 August 2013) <<http://www.abc.net.au/news/2013-08-31/coalition-would-stop-funding-immigration-advice-for-asylum-seek/4926666>> accessed 3 September 2013.

²⁸ 'Legal Experts Say Courts Would Be Swamped if Appeal Rights Removed', *AM* (16 August 2013) <<http://www.abc.net.au/am/content/2013/s3826976.htm>> accessed 17 August 2013; 'Coalition Has Reservations about Refugee Convention', *AM* (18 July 2013) <www.abc.net.au/am/content/2013/s3805470.htm> accessed 29 October 2013.

²⁹ See eg UDHR, article 14; Refugee Convention, articles 3, 31; ICCPR, articles 2, 6, 7; CAT, article 3.

³⁰ Malcolm Fraser, 'Vietnamese Refugees Were a Boon, Not a Burden', *The Sydney Morning Herald* (Sydney, 29 July 2013) <<http://www.smh.com.au/federal-politics/political-opinion/vietnamese-refugees-were-a-boon-not-a-burden-20130728-2qsh4.html>> accessed 18 September 2013.

To put all of this into context, in 2012 Australia received 17,202 asylum seekers by boat, its highest annual number,³¹ but only 1.47 per cent of the world's asylum seekers.³² In the same period, it accepted 190,000 migrants through its skilled and family migration scheme.³³

The public perception is that asylum seeker numbers are much higher than this, and many people do not understand why people flee in the first place. Given Australia's relative affluence and political stability, most voters have no conception of what it means to fear persecution or other forms of serious harm. In fact, perhaps the saddest irony of all is that precisely because the asylum issue has such a negligible impact on most Australians' everyday lives, they can choose to remain ignorant about the issue.

Finally, the more that asylum seekers are made to disappear from our community, the less chance there is for Australians to get to know them as neighbours, colleagues or friends.³⁴ As this happens, the chance for greater empathy and understanding also disappears.

The fact is that it would not be hard to sell the positive contributions that refugees have made to Australia. Quite apart from legal and ethical justifications for protecting refugees, such stories would help to show why respecting the human rights of asylum seekers and refugees is also in the national interest from an economic perspective.

In 2011, the Immigration Department published a report it had commissioned from Professor Graeme Hugo which tracked the economic and social contributions of first and second generation refugees in Australia since 1975.³⁵ The study revealed that on average they had higher levels of education than other migrants and the Australian-born population; greater entrepreneurial qualities (five of the eight billionaires in Australia in 2000 were of humanitarian settler background); and often higher levels of participation in both paid and volunteer work. In other words, they are some of Australia's most productive and successful people.

³¹ Janet Phillips and Harriet Spinks, 'Boat Arrivals in Australia since 1976' (Research Paper, Australian Parliamentary Library, updated 23 July 2013) 22
<http://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/bn/2012-2013/boatarrivals> accessed 3 September 2013.

³² Asylum Seeker Resource Centre, 'Australia vs the World' (July 2013)
<http://www.asrc.org.au/pdf/australia-vs-rest-world-refugees-asylum-seekers____.pdf> accessed 24 September 2013.

³³ Department of Immigration and Border Protection, 'Migration Program Statistics'
<<http://www.immi.gov.au/media/statistics/statistical-info/visa-grants/migrant.htm>> accessed 4 October 2013.

³⁴ Manderson, above n 10.

³⁵ See Graeme Hugo, *A Significant Contribution: The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants* (Department of Immigration and Citizenship, May 2011).

As a self-described 'boat person' from another era, having fled Slovakia in 1947, Australia's second richest person, Frank Lowy, has said: 'To imagine a better life for you and your family and to make the leap of faith required to leave behind all that is familiar calls for a special kind of courage. If we look at new arrivals to Australia from this perspective, our capacity will be greater to welcome them warmly and to help them make a new home here as one of us.'³⁶

Yet, some government policies have prevented asylum seekers who arrive by boat from engaging in meaningful employment at all. Under the previous Labor government, any asylum seeker who arrived post-13 August 2012 was denied the right to work through the operation of the so-called 'no advantage principle'.³⁷ As any psychologist will tell you, denying people the possibility to participate in meaningful work compounds feelings of worthlessness, hopelessness and exclusion. When we deny humanity to others, we dehumanize ourselves.

Despite this, it is not uncommon to hear people from refugee backgrounds decry the 'illegals' who arrive in search of Australia's protection. Some say they are simply economic migrants looking for a new life. The facts simply do not bear this out. Immigration Department statistics show that over 93 per cent of boat arrivals were Convention refugees.³⁸

Others argue that their own families came the 'right' way, through the lawful channels. But what many do not realize is that those channels no longer exist. Schemes like the post-war one or the Comprehensive Plan of Action for refugees from Indochina were created in response to particular humanitarian crises, and the resettlement programme we have today pales by comparison in terms of the number of places available, and the number of people trying to access them. There are many more asylum seekers in the world than there are resettlement places. Less than one per cent of refugees registered with UNHCR are resettled each year.³⁹ The Refugee Council of Australia has calculated that it would take close to 117 years for all the world's refugees to be resettled.⁴⁰

Emblematic of this is the fact that in October 2013, it was reported that 17 countries had agreed to resettle refugees fleeing Syria, but of the more than two million Syrians displaced, only 10,000 resettlement places had been offered altogether. Meanwhile, Syria's neighbours – Lebanon, Turkey, Jordan and Iraq – are hosting the

³⁶ Frank Lowy AC, 'Inaugural Australian Multicultural Council Lecture' (Parliament House, Canberra, 19 September 2012) <<http://www.amc.gov.au/speeches/amc-lecture-franklowy.htm>> accessed 18 September 2013.

³⁷ See *Report of the Expert Panel on Asylum Seekers* (August 2012) <http://expertpanelonasyumseekers.dpmc.gov.au/sites/default/files/report/expert_panel_on_asylum_seekers_full_report.pdf> accessed 20 September 2013.

³⁸ Department of Immigration and Citizenship, 'Asylum Statistics: Australia' (Quarterly tables, March quarter 2013) 15, based on final determinations of claims by boat arrivals who came in 2011–12, as at March 2013 <http://www.immi.gov.au/media/publications/statistics/asylum/_files/asylum-stats-march-quarter-2013.pdf> accessed 24 September 2013.

³⁹ This figure is based on UNHCR's 2012 statistics of 10.5 million refugees, of whom 88,600 were resettled: UNHCR, *Displacement: The New 21st Century Challenge: UNHCR Global Trends 2012* (UNHCR, Geneva, 2013) 2–3.

⁴⁰ Refugee Council of Australia, 'Resettlement Statistics Explode Myth of "Regular Pathways" for Refugees' (2 August 2013) <<http://www.refugeecouncil.org.au/n/mr/130802-Rsmt-rates.pdf>> accessed 30 October 2013.

vast majority of refugees, thought now to comprise up to 25 per cent of Lebanon's total population.⁴¹

In an ideal world, we would not see people fleeing their countries in the first place. They would not have to travel by sea to reach countries where protection should be forthcoming. They would not be treated like criminals once they arrived. Clearly, this world is not ideal. But a country like Australia should be at the forefront of trying to make it as good as it can be.

Forced migration is a very complex issue and will not be resolved through unilateral actions based on three-word slogans. Other countries are watching Australia carefully, and our policies and practices undoubtedly assert influence elsewhere. This is particularly concerning if we want to encourage other countries in our region to commit to sharing the responsibility of protecting refugees. What kind of example are we setting?

The mission of the Andrew & Renata Kaldor Centre for International Refugee Law is to set a different kind of example. We want to restart the conversation about refugees in this country. As an independent, academic research centre, our work will be underpinned by scholarly excellence and empirically sound analysis. But for our research to have an impact, we cannot sit in an ivory tower. We want to shape a new vision and set a new agenda, which puts Australia into a global context, as well as a historical context. We need to start asking different questions, and finding different answers, and engaging with different groups of people.

On Thursday, we will run our first Centre event, in conjunction with the Centre for Refugee Research in the Faculty of Arts and Social Sciences. This will be a Refugees and Displacement Research Collaboration Workshop, bringing together researchers from all different disciplines at UNSW who are working on refugee and forced migration issues.

From next year, our Centre will hold an annual conference in November for key policymakers, academics, refugee lawyers and migration agents, judges and decision-makers, and NGOs, which will review the year and set the agenda by looking ahead to the major themes and issues of the next.

We will run high-level confidential roundtables, bringing together key stakeholders to tease out the complexities of forced migration dynamics and policy, and try to see where we can reach common ground.

We will run a speaker series called 'Refugee Leaders', showcasing the valuable contributions that refugees have made, and continue to make, to Australian society. This will be just one way in which we will reach out to a broader public audience. We

⁴¹ 'Australia Joins Nations Taking Syrian Refugees', *The Sydney Morning Herald* (Sydney, 2 October 2013) <<http://www.smh.com.au/world/australia-joins-nations-taking-syrian-refugees-20131002-2ut3t.html>> accessed 4 October 2013.

also have factsheets and videos on our website addressing some of the ‘facts and myths’ on asylum; we will give talks to community groups – and not just in Sydney; we will run an annual Global Dignity Day in October, reaching out to high school students from around 40 diverse schools.

And we will engage with those who aren’t the usual suspects in the refugee space – business leaders, journalists, and others who shape public opinion, whether in public or behind closed doors.

We are in the process of recruiting two full-time researchers and a Centre administrator, and today we have launched our website, which we hope will become the ‘go to’ point for sound, evidence-based material on international refugee law and Australian policy.

Leadership is about encouraging people to see things differently. This takes time, and requires trust. My hope is that the Centre will help to generate a respectful and informed public debate on the asylum issue, moving beyond political slogans to a reasoned and intelligent discussion.

Thank you for being here to celebrate the Centre’s first step.

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