

Australia's refugee detention policy called into question

Borderline: Australia's treatment of refugees and asylum seekers by Peter Mares, University of New South Wales Press, ISBN 0 86840 746 1

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In recent years, differences have emerged in Australian ruling circles over the policy of compulsorily detaining asylum seekers, sometimes for years, until they exhaust their avenues of appeal against denial of refugee status. Violent repression, including the use of mass arrests, water cannon, tear gas and solitary confinement, has failed to quell the growing unrest in the overcrowded camps—expressed in hunger strikes, mass breakouts and increasingly determined protests—and this has fuelled concerns within the media and political establishment that damage is being done to Australia's international reputation.

Amid this debate, Peter Mares, the presenter of the Asia-Pacific program on Australian Broadcasting Corporation radio, has published a book that exposes some of the more glaring abuses in Australia's immigration policy and detention centres. *Borderline: Australia's treatment of refugees and asylum seekers* documents in some detail how asylum seekers who arrive on Australia's shores without permission are routinely denied information about applying for refugee status, treated as "illegal" immigrants, locked up in inhumane conditions and deprived of basic rights.

Over the past decade, Labor and Liberal Party governments alike have sought to undermine even the extremely restricted protections offered by the international Refugee Convention of 1951, which confines refugee status to those who fear individual persecution "for reasons of race, religion, nationality, membership of a particular social group or political opinion". This definition disqualifies most of the estimated 30-40 million refugees in the world today—those fleeing war, civil war, poverty, hunger, natural disasters, environmental catastrophes, totalitarian rule, general torture and violence.

Because asylum-seekers, by necessity, are often forced to escape from their countries and travel illegally, the Convention stipulates that governments should not penalise refugees "on account of illegal entry or presence". Despite this, the Labor government introduced mandatory detention for unwanted arrivals in 1992, scapegoating them as "illegals" and "queue jumpers".

The present Liberal-National Party government has taken this logic further by cutting its miserable 12,000-a-year quota of humanitarian and protection visas for offshore applicants—many trapped in overseas refugee camps—by the number of asylum seekers who reach Australia independently and are granted refugee status. This policy deliberately pits the two groups—both in urgent need of protection—against each other. The Howard government has also discriminated against those who make the perilous journey to Australia by granting them only temporary three-year

visas, denying them security, as well as welfare benefits.

Mares reveals the lie of the government's claim that the unwanted arrivals are unfairly pushing their way to the head of a refugee "queue" at the expense of other refugees. He shows that, far from being in an orderly waiting list, those seeking safe haven in Australia confront impossible situations, terrible delays and obvious discrimination. They set sail on leaky vessels, risking death on the ocean, because they are in desperate situations and cannot realistically gain entry any other way.

Those likely to be the most needy—refugees in Africa, Asia and the Middle East—are the least likely to be accepted. Out of the 7,500 places for offshore applicants last year, 45 percent were given to Europeans, leaving 2,206 places for the entire Middle East and 1,738 for all of Africa. The Australian High Commission in Nairobi (covering 34 African countries, including the Horn of Africa) had 8,000 applicants for asylum in September 1999, with a further 2,000 to be registered. There was an even greater backlog in Islamabad, which covers Iran and Afghanistan, as well as Pakistan.

On average, applications take 18 months to come up for consideration. In many countries, including Iraq and Iran, Australia has no facilities for receiving applications. Many asylum seekers in Iranian camps have been forced back into Afghanistan and Iraq, where their lives are in danger. Yet, if asylum seekers can get to Australia, a high proportion are found to be genuine refugees, even by the Convention's narrow definition. From Iraq, the acceptance rate is 97 percent.

Kalil, an Afghani refugee who fled by boat, told Mares he was afraid to lodge an application in Pakistan, which backed the Taliban. Similarly, during the war in the Balkans, refugees from Kosovo and Bosnia had to apply to the Australian embassy in Belgrade, where they feared persecution.

The discrimination does not end there. Refugees are more likely to be accepted if they have family or friends in Australia, possess desired skills and speak English—requirements that often disadvantage the neediest. Asylum seekers have little chance if they have health problems, frequently the result of poverty, malnourishment and lack of access to medical treatment.

Mares demonstrates that Immigration Minister Philip Ruddock has distorted the character and causes of the protests in the detention centres in order to brand detainees as criminals. The media, relying on government information and denied access to the Woomera detention centre, reported that a clash last August involving 300 officers and 80 protesting detainees was a "riot" featuring home-made slingshots and

fence posts converted into spears, in which 32 security guards were injured.

In the first place, the injuries were grossly exaggerated. As the *Australian* reported, “when the guards themselves read this figure in the press... they chortled at the number and official description of ‘soft tissue injuries’.”

Secondly, the government blamed advocacy groups outside the detention centre for instigating the protests in order to pressure the government to change its policy. In fact, tensions had built up because asylum seekers, including 100 children, had been in the remote desert camp since it opened nine months earlier. Many faced psychological trauma after fleeing torture in their homeland. Moreover, there had been instances of detainees being assaulted.

Mares is concerned that this approach is counter-productive. “Harsher detention measures will almost certainly lead to increased levels of conflict,” he warns, suggesting that these measures are directed at appeasing right-wing lobby groups.

Borderline exposes various ways in which refugee applicants are deprived of legal rights. Appeals against refusal of refugee status go to the Refugee Review Tribunal (RRT), which Mares describes as a “portfolio” tribunal “under the wing of the immigration department”. The department sets the RRT’s budget and the Minister selects its members, who can reject asylum seekers based on minor inconsistencies in the information they provide.

In many cases, inconsistencies may arise because detainees wish to protect those who helped them flee, or simply because they are distressed and are not accustomed to formal interrogations in English.

The former Labor government barred appeals to the courts from RRT decisions on most grounds. RRT rulings can now easily be made “judge proof” by basing them on conclusions that are unreviewable, such as judgments on the applicant’s credibility. As the Law Council of Australia reported to a Senate committee: “The tribunal does not have to determine the real issues. It can simply say, ‘I don’t believe you. Next case, please’.”

Mares explains that new arrivals can be blocked from applying for refugee status because they fail to specifically invoke the Refugee Convention in their initial interrogations, in which they are not informed of their rights. The Migration Act “effectively removes any obligation on an officer of the Commonwealth to inform a detainee of his or her legal rights”. It “has become routine departmental practice not to advise them of their right to see a lawyer or of their right to apply for refugee status”.

Boat people whom officers deem not to have invoked the Convention are kept in separate detention, without access to legal advice and denied contact with family and friends, until they can be deported.

Mares argues that the three-year temporary visas, introduced in 1999, cause unnecessary stress for refugees. They cannot apply for their spouses and children to come to Australia, or travel overseas to search for them, without losing the visa. Those who have skills and would be capable of working if their qualifications were recognised are denied access to English classes, education and employment services.

Mares observes that mandatory detention has been maintained since 1992 with the support of all major parties and little dissent in parliament. He also notes that the Labor Party has consistently tried to outbid the government in its scapegoating of asylum seekers and would follow the same course in office.

In part, he attributes this to the rise of the right-wing One Nation Party, with overt anti-Asian racism coming to the surface to catch “the disaffected” who “represented a lucrative block of voters waiting to be won over”. Moreover, he argues that anti-immigrant sentiment arises from the Australian population’s “deep-seated fear of invasion” from Asia.

This ignores the fact that Labor and conservative politicians alike, together with the trade union leadership, actively promoted the “White

Australia” policy for decades as a means of protecting national markets and dividing Australian workers from their class brothers and sisters in Asia. It also covers over the source of the “disaffection” among voters—the decline in living standards and stark growth of inequality produced by pro-market policies of both Labor and the Coalition. Faced with hostile electorates, the major parties have increasingly placed the blame for social problems on immigrants and refugees.

Mares proposes a revised immigration policy, firstly because the international factors that are pushing refugees will continue in spite of repressive and deterrent measures and secondly on the ground that a different approach would benefit the national economy.

He argues that an internationally co-ordinated effort to resettle Afghan and Iraqi refugees would undermine the “people smuggling” trade by giving boat refugees a realistic alternative. Australia should increase its intake of refugees, as it “would be cheaper than building more detention centres in remote Australia, and engaging in the long and expensive process of assessing claims onshore”.

Mares contends, as do many business groups, that increased immigration can provide useful skills and a population base for the Australian economy. He points to several members of Australia’s “Rich 200” list, including packaging billionaire Richard Pratt and residential property developer Harry Triguboff, whose families came to Australia as refugees. There could be “a tycoon-in-waiting locked up at Curtin [detention centre]”.

Mares advocates the Swedish system, which removes children from detention after six days and provides freer access to detention centres by lawyers, welfare workers and the media. One of the advantages of this approach, he notes, is that Sweden has fewer problems deporting asylum seekers whose applications are rejected. His advice is thus directed at strengthening the government’s ability to remove those who are denied protection under the Refugee Convention.

His proposals dovetail with the concerns of sections of the ruling elite who see the immigration policies of both Liberal and Labor as out of touch with their interests. They are pushing for a modified regime that reduces the most obvious violations of democratic rights because the growing difficulties of enforcing the current policy may affect Australia’s ability to attract skilled Asian immigrants and to intervene in the Asia-Pacific region under the banner of human rights.

Mares describes himself as a “heart on the sleeve liberal”. He rejects the “dream” of open borders proclaimed by what he calls radical economists and socialists. “There is not much point in advocating measures that have no chance of being implemented. No government is going to risk the electoral backlash that would result from an open borders policy.”

This view not only uncritically accepts the distorted picture of public opinion generated by the media and government leaders. More fundamentally, Mares’ proposals are directed at dressing up and legitimising a system that is inherently inhumane. With a few cosmetic modifications, it would continue to treat desperate working people, seeking to escape poverty and oppression, as criminals to be rounded up and deported at the earliest opportunity—regardless of the consequences for them. The substance of government policy would remain exactly the same: the exclusion of the vast majority of refugees who apply for entry through the official channels and the relentless removal of those who risk their lives to find other means of landing in Australia.



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