Security, Inclusiveness and Australian Refugee Policy: A Critical Response

James S. Page

Abstract

This essay attempts to provide a critical response to the recent essay by Elisabeth Porter concerning Australian refugee policy. Whilst it is acknowledged the current Australian Government stands condemned in many if not most aspects of foreign policy, it is suggested that there are a number of critical issues within the analysis by Elisabeth Porter which do require further attention, including, 1) the allegedly racist nature of Australian refugee policy, 2) the critique of mandatory detention, 3) the problem of secondary movers, and 4) the moral complexity of dealing justly and compassionately with asylum seekers. The writer agrees with Elisabeth Porter that the refugee problem is a global one, although it is concluded that it is precisely this global nature of the problem which means that local refugee solutions are not so simple, and that the enduring solutions ought to be regarded as global.

Essay

The issue of dealing with refugees has been a long-standing one, although in recent years this has attracted much attention from both social scientists and journalists. It is difficult to say why this increased attention has come about, although undoubtedly the fact that stories about refugees are a tangible result of the dislocation of war might be part of this increased attention. Another factor is no doubt the fact that the plight of refugees is readily reportable – refugees make good copy for television. This has also been the Australian experience, with Australia's treatment of asylum seekers now receiving widespread attention both within Australia and overseas, with the recent essay by Elisabeth Porter one instance of this increased academic attention.[1] The purpose of this essay is not to provide support the current Australian Government. I believe that the current Government, under Prime Minister John Howard, ought to be condemned in crucial areas of foreign policy, including commitment to the illegal and immoral war in Iraq, failure to engage productively in arms limitations, commitment to increased military expenditure, failure to engage within the region of South-East Asia, undermining of the United Nations and the United Nations Charter, and, most crucially, failure to raise the Australian national commitment to overseas aid to internationally accepted levels. However, having said this, it does seem that criticism of Australian refugee policy by Elisabeth Porter does raise a number of critical issues which do need to be addressed.

The first critical issue is the suggestion that the current refugee policy is in some way a racist one, either through being a reflection of a racist Australian society or a reflection of a racist Government. I believe such a suggestion is, on close examination, problematical. Of course, there are racist elements within Australian society. Moreover, it is difficult not to accept that in the most recent Federal Election the current Government attempted to use the issue of unauthorized arrivals in an attempt to attempt to gain electoral advantage. However this does not necessarily mean that the refugee policy itself is racist or is a conspiracy by a racist government.[2] It is important to distinguish cause and effect. One immediate problem with the racist hypothesis is that the current refugee policy was introduced in 1992, by the previous

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[1] Elisabeth Porter, "Security and Inclusiveness: Protecting Australia's Way of Life", *Peace, Conflict and Development: An Interdisciplinary Journal,* Issue 3, July 2003.

ALP Government. Moreover, Australia is a relatively heterogenous society, with ethnic diversity becoming steadily and ineluctably more pronounced.[3] Australia has a strong ethnic press and strong multicultural broadcasting. The writer has personally taught in schools where over 50% of the student population do not have English as their native language. Moreover, of Australia's annual refugee re-settlement programme of some 12,000 people, most come from Africa, the Middle East or South-East Asia, as is the case for Australia's immigration as a whole. The racist hypothesis simply does not fit the reality of Australian demographics and current immigration.

Secondly, the issue of mandatory detention is not a simple one. One of the common statements from critics of Australian refugee policy is that Australia is the only country in the world with mandatory detention. However such a statement tends to ignore the fact that de facto mandatory detention is a common experience of the estimated 20 million refugees within the Global South, many of whom spend years and even decades living in supposedly temporary refugee camps.[4] Does anyone seriously suggest that individuals and families desire to live in refugee camps? They do so because they have no effective choice. Their existence is effectively a de facto mandatory detention in the camps. The statement that Australia is the only country with mandatory detention also does not indicate the alternative as practiced in other countries of the Global North. Europe and the United States are increasingly relying upon the practice of turning people away at the border, a practice consistently condemned by human rights groups.[5] The practice of mandatory detention is no doubt flawed. However, in comparative terms, it does at least allow asylum seekers some

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[2] Adrienne Millbank, "Dark Victory or Circuit Breaker: Australia and the International Refugee System Post Tampa", *People and Place,* 11,2 (2003), pp.24-38. On p.25 Millbank wryly comments: "That politicians will milk situations and events for electoral advantage is hardly a revelation. It is obvious".
[3] The demographic data gives an indication of the increasing ethnic diversity of Australia. In 2002, the proportion of net permanent and long-term migrants who were born in Asia was just under 72% and the proportion of those from the Middle East and North Africa was over 7% per annum. At 30 June, 2001, Australia's overseas-born population comprised 4.5 million, or 23% of the total population. See Australian Bureau of Statistics, *Migration, 2000-1 and 2001-2* (Canberra: Australian Bureau of Statistics, 2003), pp. 5,6, and also Katherine Betts, "Birthplace Origins of Australia's Immigrants", *People and Place*, 11,2 (2003), pp. 37-42.
[4] United Nations High Commission for Refugees, *The State of the World's Refugees, 2000: Fifty Years of Humanitarian Action* (Oxford: Oxford University Press, 2000), pp. 108,109.
[5] Frank Brennan, *Tampering with Asylum: A Universal Humanitarian Problem* (St.Lucia: University of Queensland Press, 2003), pp. 58-83; Lawyers Committee for Human Rights, *Refugees Behind Bars: The Imprisonment of Asylum Seekers in the Wake of the 1996 Immigration Act* (Washington: LCHR, 1999); and Lawyers Committee for Human Rights, *Is this America? The Denial of Due Process to Asylum Seekers in the United States* (Washington: LCHR, 2000).

access to due process, an access that is often completely denied under alternative means operative in comparative countries of the Global North.

Thirdly, criticism of Australian refugee policy generally fails to engage the problem of secondary movers, that is, asylum seekers who have transited through an intermediate country, where there is no fear of persecution, and from there travelled to Australia. [6] The complicating factor with the secondary movers is that it is difficult to ignore the conclusion that there is at least some element of an economic motive in coming to developed country, given that they were already safe from persecution in the intermediate country. This is not to say that individuals ought not to be allowed to migrate to a specific country for economic reasons. Indeed, most of the migration to Australia over the past two hundred years has been by those seeking a better future and a better standard of living. It is a little inconsistent for those already in Australia to simply say, in effect, we are already here now, and you cannot come. However the phenomenon of secondary movers does indicate that the issue of dealing with unauthorized arrivals is wider than the simple issue of the granting of asylum.

Fourthly, there is an element of moral complexity, which is not normally addressed in criticism of Australia's refugee policy.[7] In effect, in dealing with refugee policy, an ethics of care comes into conflict with a consequentialist ethics. It is quite appealing to invoke the need for attentiveness to the needs of unauthorized arrivals, and indeed we ought to be attentive. However does this necessarily mean that there ought to be automatic acceptance of unauthorized arrivals to Australia? This would surely have drastic consequences for countries of the Global South, as the existing disastrous outflow of capital and skilled labour would be exacerbated. As is acknowledged in the essay by Elisabeth Porter, most alternative models argue for some minimum detention of unauthorized arrivals, involving basic processing.[8] However the problem for such suggestions is that processing of unauthorized arrivals is not simple, especially in instances where the arrivals have no documentation. Moreover, if one is to allow the right of appeal, which is an important democratic right, then this also

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[6] Adrienne Millbank, "Dark Victory or Circuit Breaker", p. 27. The complicating factor of those seeking to migrate due to economic factors, such as improved lifestyle in the target country, is also acknowledged by Volker Türk and Frances Nicholson "Refugee Protection in International Law: An Overall Perspective", in: Erika Feller, Volker Türk and Frances Nicholson (eds.), *Refugee Protection in International Law: UNHRC's Global Consultations on International Protection..*(Cambridge: Cambridge University Press), p. 5.

[7] Frank Brennan, *Tampering with Asylum,* pp. 15-27. My description of the task of dealing with unauthorized arrivals as one of 'moral complexity' comes from Brennan.

implies that the period of detention needs to be extended, in order to allow the individual a right of appeal. This is not to say that mandatory detention is justifiable. However appeals to seemingly straightforward notions of attentiveness don't really address the whole situation.

   Is mandatory detention immoral?   My response would be ultimately in the affirmative, that is, it is immoral. Yet the problem is that the nation-state system itself is ultimately an immoral one, in that refugees are a result of the nation-state system [9] and moreover it is the nation-state system which decrees that a person born in the Global South does not have the right automatically to come and enjoy the lifestyle or the Global North. The problem of unauthorized arrivals and refugees is ultimately part of the problem of global apartheid, [10] and it is this that we should be working to resolve. This cannot be accomplished precipitously, though an immediate declaration of open borders, but through a graduated yet specific commitment of the countries of the Global North towards global development, that is, a commitment away from a culture of war and violence towards a culture of peace. One of the immediate and tangible actions of countries of the Global North would be to commit to disarmament and to commit to the recommended United Nations levels of aid. The shame of the current Australian Government is that it refuses or fails to understand the importance of such a commitment to global culture of peace. It is in this, rather than in refugee policy as such, wherein the current Australian government ought to be most strongly condemned.

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[8] Porter, *Security and Inclusiveness*
[9] Emma Hadda, "The Refugee: The Individual Between Sovereigns", *Global Society: Journal of Interdisciplinary International Relations,* 17:3 (2003), 297-322.
[10] Titus Alexander, *Unravelling Global Apartheid: An Overview of Global Politics* (Cambridge: Polity Press, 1996); Gernot Köhler, "Global Apartheid", *Alternatives,* 4,2 (1978), pp. 263-275; and Gernot Köhler, "Three Meanings of Global Apartheid: Empirical, Normative, Existential", *Alternatives*, 20,3 (1995), pp. 403-413.