

# Vanquishing asylum seekers from Australia's borders

## Creating visibility for justice

Prof Linda Briskman

### I Introduction

Banishing asylum seeker 'boat people' from the nation state has been a cornerstone of Australian politics.<sup>1</sup> This casting asunder is so normalised that the majority of the population barely notices, or hardly cares, with cruel politics, invisibility and apathy combining in a human rights-denying combination. Regrettably, the global increase in the volume of asylum seekers has normalised, removing immigration spaces of incarceration from the archetypal list of exceptionality.<sup>2</sup>

In 2016, I wrote for *Court of Conscience* about resisting the silence that shrouds asylum seeker advocacy.<sup>3</sup> This paper takes a new turn by examining the binary of asylum seeker invisibility (desired by the state) and visibility through both imagery and messaging. In doing so, I present examples of how policies and practices are difficult to challenge when hidden from public knowledge and view. To set the scene for the paper, I first provide an overview of some of the harsh 'casting out' policies.

### II Casting out

Mandatory detention in Australia, introduced by the Labor government in 1992, is the foundation of asylum seeker subjugation. This provision is condemned by human rights organisations, the asylum seeker advocacy movement, professional bodies and refugees. Immigration detention is not only a way of controlling borders and migration, a key policy plank of government, but of placing lawful asylum seekers out of the gaze of humanity, lest humanising rather than criminalising boat arrivals might weaken the deterrence narrative. On a global scale, numbers of 'unauthorised' arrivals are relatively low in Australia, as vast sea borders create a natural barrier. Nonetheless, as the Geneva-based research centre (Global Detention Project) posits, Australia has the most restrictive immigration control regime in the world.<sup>4</sup>

When immigration detention was enshrined in legislation, it was unlikely that the policy architects anticipated what would follow. The policy was such that all 'unauthorised' asylum seekers, mainly boat arriv-

als without valid visas, were to be detained until granted refugee status or removed from Australia.<sup>5</sup> What began as detention in metropolitan, rural and remote sites extended to distant island locations including Australia's Indian Ocean Territory of Christmas Island and subsequently to the countries of Nauru and Papua New Guinea (Manus Island), the latter known as offshore processing centres. The indefinite nature of immigration detention is frequently prolonged, with serious mental health implications. Although mandatory detention legislation remains in place, policies have been devised that allow people to be released into either community detention (residence determination) or a Bridging Visa E.<sup>6</sup> These strategies have created additional problems including inadequate financial support, lengthy periods before claims are processed and flow-on effects such as disallowing family reunion.<sup>7</sup> As neither of the major political parties in Australia want people to arrive by boat, an array of policies and legislation has been incrementally introduced for the purpose of deterrence.<sup>8</sup> While it is beyond the scope of this paper to provide a full description of the harsh deterrent measures, it should be noted that the most publicly criticised has been the so-called 'Pacific Solution', which paradoxically is the most invisible.

Bacon et al. describe 'Pacific Solution' detention in the sovereign nations of Nauru and Papua New Guinea as marking the point 'at which Australia began moving away from its international treaty obligations – to one of crude and pragmatic national politics based on fear and vilification'.<sup>9</sup> The trajectory of exclusion includes the announcement by the Rudd Labor government in July 2013, declaring that no asylum seeker who arrived by boat would ever be given the chance to settle in Australia.<sup>10</sup> For the first time ever, Australia would be totally closed to those arriving by boat even when found to be refugees<sup>11</sup> and has resulted in some asylum seekers and refugees remaining immobilised in Nauru and on Manus Island, with others resettled in the United States under a 'swap' deal negotiated between Australia and the US, even further alienating asylum seekers from the view of the Australian public.

### III The visibility/invisibility binary

At a global level, movement of asylum seekers and refugees has become increasingly observ-

able outside the realm of human connection. Our online screens, social media sites such as Facebook and Twitter along with Instagram networks remind us of the sheer velocity of people on the move with the destruction of nations, communities and peoples.<sup>12</sup> Roland Bleiker writes of the power of visual imagery in the global political arena, noting that 'we live in a visual age', with images of international events shaping our understandings, including digital media.<sup>13</sup>

Imagery can be evocative in producing emotion. Take for example the global circulation of a 2015 image of three-year old Syrian Kurd, Alan Kurdi, lying dead on a Turkish beach, a child like any other. More recently, in June 2019, the picture of a father and toddler daughter broke compassionate hearts, with both lying face down in waters on the Mexican side of the Rio Grande. Particularly poignant was the child lying still in her father's lifeless protective embrace. Los Angeles Times journalist declared that: 'Sometimes an image is so powerful, it cuts through almost any noise', although others questioned the benefit of disseminating through social media the photograph that was first published in Mexico by *La Jornada*.<sup>14</sup>

Even though such images are powerful, they are few and far between. In the Australian context there are many factors that converge to hide asylum seekers from public view. Immigration detention in remote sites is one way in which humanising of asylum seekers has been restricted. When Christmas Island was a major detention site, a four-hour plane trip from Perth and expensive fares and accommodation were prohibitive for people wishing to visit asylum seekers and hear from them directly. With the advent of offshore detention, there have been restrictions in place that prevent people gaining visas to the countries in question, including journalists.

An additional means of purging asylum seekers from public view via distance is naval interception at sea, including the 2001 Operation Relex, reinvented in 2013 as the military-led Operation Sovereign Borders, which continues.<sup>15</sup> Because of Australia's vast sea borders and the secrecy of 'national security' operations, the plights of those who have been intercepted and removed from Australian waters are largely unknown. Furthermore, most people would not be aware

of Australia's obligations under the 1951 *Refugee Convention*, particularly the principle of refoulement, which prohibits people being sent back to places of possible persecution. Nor are they likely to be aware of how Australia violates other international norms to which it subscribes, including the *Convention on the Rights of the Child*, the *International Covenant on Civil and Political Rights* and the *Convention against Torture*. There was inadequate publicity given to an early action of the re-elected conservative government, which opportunistically declared that it had saved the lives of 41 Sri Lankan asylum seekers at sea,<sup>16</sup> but not enough lifesaving it seems to fully hear out their claims before returning them back to Sri Lanka. Sending back people without giving each person a chance to fully present their claim including 'fast-tracking' has been criticised by the Kaldor Centre for International Refugee Law which calls for compliance with Australia's international legal commitments.<sup>17</sup>

On mainland Australia, asylum seekers are 'less place based, less contained and less spoken about'.<sup>18</sup> With asylum seekers now more commonly in the community than detention, this is deceptively touted as a humane approach. However, with the diminishment of the previous safety net of the Status Resolution Support Service (SRSS), many vulnerable asylum seekers are forced into destitution and at best reliant on charity, community goodwill or state government intervention.<sup>19</sup> Arising from this, interaction and connection are not easy to foster. Waiting for years for claims to be processed has a negative impact on personal wellbeing, which does not bode well for a conventional social life, social interaction, community visibility and empathy.

In attempts to create alternative visibilities, approaches are adopted through persuasive language and metaphor. Yet, these may be subject to harsh rebuke by influential groups. One recent example is the criticism of well-respected author Thomas Keneally. Executive Director of the Sydney Institute Gerard Henderson condemned Keneally for adopting the term 'concentration camp' for the asylum seeker/refugee camp, with his usage of this term seen by Henderson as 'grossly inaccurate'.<sup>20</sup> When criticism is levelled at advocates who may be less emboldened than Keneally, it can create a

cycle of silencing with advocates disinclined to speak their minds and talk from the heart. In a less provocative ways and with a strong and convincing evidence base, human rights reporting presents information on harms that have been inflicted on asylum seekers and refugees, particularly in offshore sites. The vast array of factual and analytical documents from reputable organisations such as Amnesty International, the Australian Human Rights Commission and United Nations agencies are unlikely to be perused other than by those who are already committed to asylum seeker justice; although the asylum seeker social movement is robust, numbers are not high enough to create a groundswell of policy influence.

For non-state actors who profit from colluding with government, almost total invisibility about their detention activities is the norm unless their activities are exposed by investigative journalists. Private corporations conspire in a silent manner, no doubt because of commercial-in-confidence contractual arrangements. These include companies tasked to run detention prisons on behalf of government and others who provide services within, including health services that have been exposed as manifestly inadequate. Non-governmental organisations have also uncritically co-operated with government, with their staff unable to speak out about what they have witnessed.<sup>21</sup>

Sustained asylum seeker/refugee endeavours to expose practices and harms are relatively new. Despite the transportation of asylum seekers offshore, the incarcerated have found ways to defy their concealment in order to bring attention to their suffering and the policies that create anguish and despair. The refugee movement has applauded asylum seeker voice including Manus Island detainee of six years, Behrooz Boochani, whose book *No Friend but the Mountains* received national acclaim and awards.<sup>22</sup> Boochani also produced a film from within Manus, *Chauka, Please Tell Us the Time*, filmed on his mobile phone, and he regularly writes articles for media outlets. Another man who was imprisoned on Manus Island, Abdul Aziz Muhamat, is the winner of an international human rights award and now resettled in Switzerland. In 2019, he spoke to the United Nations Human Rights Council of the humanitarian crisis on Manus



Still image of Behrouz Boochani  
from Simon Kurian's documentary,  
'Stop the Boats' (Simon Kurian)



Island, particularly the spate of attempted suicides,<sup>23</sup> a speech that entered the public domain through sympathetic media outlets.

As alluded to above, despite potential transformation created through exposure and visibility, it is difficult to appeal to those other than committed asylum seeker rights advocates. The power and resources of government and sections of the media far exceed those available to civil society. Government also uses imagery and narrative, including to promote the criminalising of asylum seekers through incarceration. Messages are initiated by government and then disseminated through media sources. One example is the fabricated Children Overboard affair in 2001, when the Howard government deceptively asserted that asylum seekers had thrown their children into the sea to gain protection in Australia; images were released to support this false contention. Another example is the 2002 escape from Woomera detention facility in South Australia, where visuals of desperate asylum seekers jumping over the containment wire reached our television sets and produced fear. Through constant imaging of the boat tragedy on Christmas Island in 2010, we saw on our televisions an asylum seeker boat crashing into rocks, killing 50 people – men, women, children. Instead of engendering sympathy, the government distorted compassion for political purposes, declaring that subsequent harsh policies were designed to stop deaths at sea. The asylum seeker boat is an effective visual, with invasion and fear striking the hearts of the populace and washing away humanitarian sentiments.<sup>24</sup>

#### iv Restoring human rights and human dignity

The difficult problematic is how to rupture the asylum seeker system, within a context where Josh Lourensz warns: 'Be prepared: Kafka wasn't writing fiction'.<sup>25</sup>

In his seminal work on *Inhuman Rights*, Winin Pereira speaks of how dissemination of distorted information results in 'thought control' that is effective because it is so subtly carried out. The right to information, he argues, becomes a restricted right, with information not forthcoming even when requested, meaning that people are rarely informed of all the effects flowing from policy

and activity, including health, impoverishment and cultural damage.<sup>26</sup>

Through making the invisible visible, there is some optimism that asylum seekers/refugees and advocates can defeat government legitimacy in carrying out human rights abuses, creating change from the bottom up. The win at the 2019 federal election has enabled the federal government to gloat about being election-victorious, but running government does not give licence to state-sanctioned cruelty. We need to unravel the discourse of national security, selectivity of entry and the mythical queue to avoid public manipulation by 'thought control'. This remains work in progress.

This paper has discussed converging factors that create a climate of both tacit and overt community acquiescence to asylum seeker policies, and the use of imagery to both contest and maintain the ongoing human rights predicament. In concluding, it seems essential to centre efforts on the entrenched law pertaining to mandatory detention and the harmful policies that follow and bring them more directly into public view. Governments and colluding non-state actors must be called to account as Ghassan Hage potently states when referring to 'caging' and its link to observable racism. He says:

Today, as we witness Aboriginal deaths in custody, asylum seekers immolating themselves for finding their caging intolerable, people dying while trying to break free from claustrophobic national borders behind which they are kept against their will, we also face the fact that the caging of mainly black and brown people has become a racist technique of extermination. Those responsible for legitimising and deploying such a technique need to be held accountable for the impact of their actions.<sup>27</sup> †

Prof Linda Briskman holds the Margaret Whitlam Chair of Social Work at Western Sydney University. She conducts research, publishes and advocates for the rights of Indigenous peoples and asylum seekers, as well as working on challenging Islamophobia.

References

- 1 Linda Briskman, 'A Clash of Paradigms for Asylum Seekers: Border Security and Human Security' in Goh Bee Chen, Baden Offord and Rob Garbutt (eds), *Activating Human Rights and Peace: Theories, Practice and Contexts* (Ashgate, 2012) 175, 175.
- 2 Karen Soldatic, 'Disability's Circularity: Mobility, Indigeneity, Race and Immigration in Settler-colonial Australia' *Studies in Social Justice* (forthcoming).
- 3 Linda Briskman, 'Resisting Silence: Asylum Seekers and Voices of Conscience' (2016) 10 *UNSW Law Society Court of Conscience* 20.
- 4 See 'Australia Immigration Detention', *Global Detention Project* (Web Page) <<https://www.globaldetentionproject.org/countries/asia-pacific/australia>>.
- 5 'Australia's Asylum Policies: Detention', *Refugee Council of Australia* (Web Page, 28 December 2018) <<https://www.refugeecouncil.org.au/asylum-policies/7/>>.
- 6 Ibid.
- 7 'Lives on Hold: Refugees and Asylum Seekers in the "Legacy Caseload"', *Australian Human Rights Commission* (Web Page, 17 July 2019) <<https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/lives-hold-refugees-and-asylum-seekers-legacy>>.
- 8 Mary Anne Kenny and Lucy Fiske, 'Refugees and Asylum Seekers: Social Work Practice with Refugees and Asylum Seekers' in Simon Rice and Andrew Day (eds) *Social Work in the Shadow of the Law* (The Federation Press, 4th ed, 2014).
- 9 Wendy Bacon et al, *Protection Denied, Abuse Condoned: Women on Nauru at Risk* (Report, June 2016) 20.
- 10 'Offshore Processing Statistics', *Refugee Council of Australia* (Web Page, 8 April 2019) <<https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/>>.
- 11 Madeline Gleeson, *Offshore: Behind the Wire on Manus and Nauru* (New South Publishing, 2016).
- 12 Soldatic (n 2).
- 13 Roland Bleiker, *Visual Global Politics* (Routledge, 2018) 1.
- 14 Kate Linthicum, 'A Photo From the Rio Grande Captures the Tragic End for a Father and Daughter', *Los Angeles Times* (online, 26 June 2019) <<https://www.latimes.com/world/la-fg-father-daughter-drowning-mexican-border-20190626-story.html>>.
- 15 For more information on the Operation Sovereign Borders, see Australian Government, 'Operation Sovereign Borders' (Web Page) <<https://osb.homeaffairs.gov.au>>.
- 16 Simone Benson, 'Australian Sea Patrol Helps Save 41', *Weekend Australian* (online, 5 June 2019) <<https://www.theaustralian.com.au/nation/politics/australia-aids-asylum-boat-rescue/news-story/d76392f7fe82eb1f21b82f16bb99c25d#&gid=null&pid=1>>.
- 17 Kaldor Centre for International Refugee Law, *Principles for Australian Refugee Policy* (Report, June 2019) 1.
- 18 Josh Lourensz, 'So Much for Seeking Asylum' in John Hinkson et al, 'After the Loss, What Country are We?' (2019) 160 *Arena Magazine* 15, 18.
- 19 Ibid 18.
- 20 Gerard Henderson, 'Concentration Camps? You Can't Be Serious, Tom Keneally', *The Weekend Australian* (online, 6 July 2019) 20 <<https://www.theaustralian.com.au/inquirer/concentration-camps-you-cant-be-serious-tom-keneally/news-story/67011129ac040bcb09d2f5ae66f7365b>>.
- 21 Linda Briskman and Jane Doe, 'Social Work in Dark Places: Clash of Values in Offshore Immigration Detention' (2016) 35(4) *Social Alternatives* 73, 78.
- 22 Behrooz Boochani, *No Friend but the Mountains*, tr Omid Tofighian (Picador, 2018).
- 23 Helen Davidson, 'Former Manus Island Detainee Tells UN "Human Beings Are Being Destroyed"', *The Guardian* (online, 27 June 2019) <<https://www.theguardian.com/australia-news/2019/jun/27/former-manus-island-detainee-tells-un-human-beings-are-being-destroyed>>.
- 24 Lynda Mannik, 'Introduction' in Lynda Mannik (ed) *Migration by Boat: Discourses of Trauma, Exclusion and Survival* (Berghahn, 2016) 1, 4.
- 25 Lourensz (n 18) 17.
- 26 Winin Pereira, *Inhuman Rights: The Western System and Global Human Rights Abuse* (The Other India Press, 1997) 132.
- 27 Ghassan Hage, 'Caging People to Dominate Them is a Sign of Weakness, Not Power', *The Guardian*, (online, 6 July 2019), <[https://www.theguardian.com/commentisfree/2019/jul/06/caging-people-to-dominate-them-is-a-sign-of-weakness-not-power?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/commentisfree/2019/jul/06/caging-people-to-dominate-them-is-a-sign-of-weakness-not-power?CMP=Share_iOSApp_Other)>.