

POLITICS, SYMBOLISM AND THE ASYLUM SEEKER ISSUE

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I. INTRODUCTION

In October 1999, the first of several thousand mainly Iraqi and Afghan asylum seekers landed without prior authorisation on Australian shores. The ensuing public debate about how such arrivals should be managed was characterised by hyperbole and distortion. This article attempts to explain the response of the Australian community to the recent arrivals. It begins by describing the nature of the political reaction, moving then to an analysis of its substance. The article will show that the language of the debate was only marginally reflective of the reality. This was particularly true of the Australian Government's reaction. Consistent with its rhetorical position, the Government's policy response to the unauthorised arrivals was flawed. Yet problematic as it may have been, the Government's handling of the recent arrivals was consistent with its asylum policies more generally. Following a brief discussion of the Australian Government's asylum policies, an attempt is made to place the reaction to the recent arrivals into a broader social analysis. The response to the Iraqi and Afghan asylum seekers – and all asylum seekers, given the nature of Government policy – can be viewed as symbolic of an ongoing sense of alienation within parts of the Australian community where asylum seekers, as the 'other', are constructed as a threat to the nation.

II. THE POLITICAL RESPONSE TO THE RECENT ARRIVALS

The asylum seekers who arrived in Australia by boat in late 1999 and early 2000 were portrayed as abusers of Australia's apparently generous refugee system and as threats to the Australian community. The Minister for Immigration reported that 'whole villages' from the Middle East were uprooting

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to come to Australia.¹ The recent undocumented boat arrivals were widely referred to as 'queue jumpers'² who were 'stealing the places' of 'genuine' refugees – often the 'most vulnerable'.³ While the Australian Government depicted the asylum seekers as abusive, the Opposition was hardly more sympathetic. It warned that the illegal arrivals were a national emergency,⁴ suggesting that the Government was unable to defend Australia's coastline.⁵

Western Australia's Liberal Premier, Richard Court, also contributed to the confused public debate, saying that Australia was being 'swamped',⁶ not by genuine refugees but by 'smart alics',⁷ and that people smugglers would begin to charter flights from Indonesia unless Australia improved its coastal surveillance.⁸ One of the more extreme federal politicians, Senator Lightfoot, referred to the recent arrivals as:

criminals ... [who] by invading our shores in such significant numbers, threaten the peace of mind and sense of security of many Australians, by way of their divergent lifestyle, culture, outlook and values.

In April 2000, with predictions that large numbers of those detained at Woomera Detention Centre would soon be released on temporary visas,¹⁰ the rhetoric of the Government and others resurfaced. Premier Court re-entered the fray, stating that released detainees would be unwelcome in his state.¹¹ At about the same time, Minister Ruddock suggested that it would not be unreasonable for released detainees to pay the costs of their detention.¹² This was consistent with earlier suggestions, considered by the Minister, that detainees should pick fruit in areas where there is a shortage of labour in order to repay their detention costs.¹³

Later, as the Government defended delays in releasing detained refugees¹⁴ and with significant unrest within the immigration detention centres, including

1 J MacDonald, "Refugee crisis warning" *The Age*, 18 November 1999; Associated Press, "Australia captures another boatload of illegal arrivals", 18 November 1999.

2 See comments by C Gallus, member of the Joint Standing Committee on Migration (7:30 Report, Australian Broadcasting Corporation, "Australia's respect for human rights a huge draw for illegal immigrants", 15 November 1999), and comments by Senator Vanstone, acting Immigration Minister (ABC News, "Third load of boat-people located off Western Australia", 7 November 1999).

3 "Boat people dumped at sea" *Herald Sun*, 21 November 1999; M McKinnon, "Labor backs migrant laws" *Herald Sun*, 23 November 1999; P Heinrichs, "People smugglers to face crackdown" *The Sunday Age*, 21 November 1999.

4 M McKinnon, "Boatpeople bill hits \$200m" *The Courier Mail*, 10 November 1999.

5 J Koutsoukis, "Coast watch left to public: Labor" *The Age*, 9 November 1999.

6 *Ibid.*

7 M Price, "Refugee 3-year visa irks premier" *Weekend Australian*, 8-9 January 2000.

8 Note 6 *supra*.

9 R Lightfoot, letter, *The Australian*, 24 November 1999.

10 P DeBelle, "Ruddock attacked for 'ducking' on refugees" *The Age*, 27 April 2000; ABC Newsmail "SA Premier unhappy at plan to release illegal immigrants", 26 April 2000.

11 ABC Newsmail, "Govt asks states to refuse assistance for refugees", 26 April 2000.

12 A Clennell, "Now boat people could pay for their detention" *Sydney Morning Herald*, 29 April 2000.

13 M Bachelard, "Let illegals pick fruit – Ruddock" *The Australian*, 14 February 2000.

14 ABC Newsmail, "Delays must be accepted to check migrants' history: Ruddock", 13 June 2000.

'breakouts' in Derby, Woomera and Port Hedland,¹⁵ Minister Ruddock again attempted to play upon community concerns by saying that some of the asylum seekers "could be murderers, could be terrorists".¹⁶

While alternative views, including those of refugee and human rights advocates,¹⁷ some of the so-called quality media¹⁸ and some academics,¹⁹ received public space, these more liberal attitudes appeared to resonate less with the nation than the rhetoric of its political leaders. The country's leaders had both distilled and provoked a sense of anxiety within the community. The Australian Labor Party's ("ALP") support for the Government's initiatives²⁰ reflected the Opposition's reading of the electorate's position on this issue.

Letters to the newspapers also appeared to indicate the fear in the Australian community of the unauthorised boat arrivals. These letters were dominated by hostile sentiments. Reflecting a sense of economic insecurity, concerns were raised at the cost of Australia's response to the unauthorised arrivals, especially in an economic climate in which services to resident Australians were being cut:

While it is costing us millions to feed and house these parasites, the government is looking at ways to cut welfare payments to Australians. Much of the anti-migrant feeling is created by the burden placed on the taxpayer by these unwanted illegals.²¹

Another letter-writer called on the Government to cut abuse of the system by 'leeches' who access legal aid and health services that 'our own' are denied.²² Others deemed the boat arrivals "the greatest peril imaginable – an invasion by thousands of illegal immigrants",²³ an "orchestrated invasion"²⁴ which required

15 ABC, "Migrants break-out en masse around Australia", 9 June 2000; D Gray, "WA illegals in copycat breakouts" *The Age*, 10 June 2000.

16 *Ibid.*

17 See for example ABC Newsmail, "Sidoti accuses Commonwealth of condoning child abuse", 18 July 2000; C Graydon, "The heartless country" *The Age*, 23 November 1999; also Insight, "Asylum Seekers", Special Broadcasting Service, 2 March 2000.

18 See for example, the following editorials, "A calmer voice is needed on illegals" *The Age*, 19 November 1999; "Refugee visa no answer to crisis", *The Weekend Australian*, 20-21 November 1999; "Not right to demonise boat people", *The Canberra Times*, 10 November 1999. *Sydney Morning Herald* supported the Government's position ("The people smugglers" *Sydney Morning Herald*, 22 November 1999).

19 M Crock, "Stop panicking about the boat people" *Australian Financial Review*, 18 November 1999. R Manne, "Why do we not care?" *The Age*, 13 December 1999.

20 Note 55 *infra*. Despite a lack of conviction that the Government's new regulations would actually address the issue of increasing numbers of unauthorised entrants, the ALP decided not to support a Democrat sponsored motion to strike out the changes: Australia, Senate 1999, Debates, vol 199, pp 10599-623. The Democrats also argued that the regulations would not achieve the Government's aim of countering 'people smuggling' and that they would create a "second class category of refugees within Australia": Australia, Senate 1999, Debates, vol 199, p 10600. Senators Harradine and Brown supported the Democrat position: Australia, Senate 1999, Debates, vol 199, p 10623. But there were short term political risks associated with the ALP not supporting the Government on this issue. The Opposition feared that if it did not support the Government, the Government could accuse the ALP of supporting 'people smugglers' undermining of Australian sovereignty and the immigration program. In the face of a highly antagonistic electorate, the ALP was "caught like a rabbit in the spotlight": *AM*, "Opposition toes govt line on immigration", ABC Radio, 22 November 1999.

21 G Roberts, letter, *The Herald Sun*, 17 November 1999.

22 K Short, letter, *The Herald Sun*, 16 October 1999.

23 A Lacey, letter, *The Age*, 18 November 1999.

24 J Cecil, letter, *The Age*, 19 November 1999.

emergency action to be taken²⁵ or the “cause of major problems for the peace we now have in Australia”.²⁶ One person wrote that unless urgent action was taken, the ‘invasion’ by the boat arrivals “will destroy our way of life, our culture and our civilisation”.²⁷

III. THE SUBSTANCE OF THE POLITICAL RESPONSE

An analysis of the substance of the political response to the recent arrivals reveals that the claims made were only vague reflections of the reality. The message conveyed in the public discourse was that massive numbers of asylum seekers (‘whole villages’)²⁸ were abusing the refugee determination system (‘illegal immigrants’)²⁹ because they did not have valid (‘genuine’)³⁰ claims for Australia’s protection. By arriving in Australia without being screened, the asylum seekers were not only placing the security of Australians at risk, (‘terrorists, murderers’)³¹ but were also hindering those overseas refugees (‘queue jumpers’, ‘stealing places’)³² who did have genuine claims for Australia’s protection (the ‘most vulnerable’).³³ It is worth investigating each of these claims, not only because they contributed to a distorted public debate, but also because the inaccurate nature of the political response led to a flawed policy response.

A. ‘Whole Villages’

Between October 1999 and February 2000, more people arrived unlawfully by boat on Australia’s northern shores than they did between 1976 and 1981 in the wake of the Vietnam war.³⁴ But while the increase in unauthorised boat arrivals has been significant, the dramatic prediction that ‘whole villages’ would arrive in Australia has not been realised. Nor are the numbers of people arriving in

25 J Williams, letter, *The Age*, 17 November 1999.

26 K Williams, letter, *The Herald Sun*, 17 November 1999.

27 J Thompson, “In brief” *The Age*, 23 November 1999. See also Senator Lightfoot, note 9 *supra*. The language of war was used often throughout the debate. Federal ALP MP John Murphy, in the parliamentary debates concerning the Border Protection Bill said the situation was one of war, and that the war cannot be won by words; manpower is needed: Australia, House of Representatives 1999, Debates, vol HR 230, p 12309.

28 Note 1 *supra*.

29 Note 23 *supra*.

30 Note 3 *supra*.

31 Note 16 *supra*.

32 Notes 2 and 3 *supra*.

33 *Ibid*.

34 About 2000 people arrived by boat in the years following the Vietnam War: N Viviani, *The Long Journey: Vietnamese Migration and Settlement in Australia*, Melbourne University Press (1st ed, 1984) p 85. Between October 1999 and February 2000, nearly 3 000 people arrived illegally by boat in Australia. In 1998-99, 926 people arrived without authorisation by boat, and in 1997-98 the figure was 157: DIMA, Fact sheet 81: *Unauthorised arrivals by air and sea*, <<http://www.immi.gov.au>> updated 30 March 2000.

Australia and claiming refugee status significant by international standards.³⁵ Australia continues to exercise considerable control over its borders.³⁶ Compared with other countries, some of which have massive backlogs of asylum claims,³⁷ the 8 000-12 000 annual applications Australia receives do not appear beyond its administrative capacity.³⁸

B. 'Genuine Refugees' and 'Illegal Immigrants'

The suggestion that the recent arrivals were abusing the refugee determination system because they did not have 'genuine' claims is undermined by the fact that more than two-thirds of the Iraqi and Afghan asylum seekers who recently arrived unlawfully by boat and whose claims have been assessed by the Immigration Department have been granted refugee status.³⁹ That is, they are 'genuine' refugees and they have been adjudged so by the Immigration Department. The validity of their claims is also testimony to the fact that they were not 'illegal immigrants'.⁴⁰ While they entered the country without prior authorisation, the 1951 Convention Relating to the Status of Refugees ("Refugees Convention"), of which Australia is a signatory, implicitly acknowledges that the circumstances surrounding the flight of a refugee may preclude them from obtaining the documentation necessary to enter a safe country legally and obliges states not to "impose penalties, on account of their illegal entry or presence, on refugees".⁴¹

C. 'Queue Jumpers' and 'Stealing Places'

Even though many of the recent arrivals have been deemed to be 'genuine' refugees, they may still be seen as 'queue jumpers' who 'steal the places' of others who might also need Australia's protection. This perception is based on the erroneous notion that there is a well-organised international refugee queue. Instead, there are millions of refugees throughout the world, many living for extended periods in destitution in refugee camps. These people do not exist in a

35 The United States received over 40 000 asylum applications in 1999, about 55 000 in 1998, and 85 000 in 1997, and has a backlog of about 340 000: USCR, "Asylum Cases Filed with the INS. Applications Received and Backlog, FY80-99", <<http://www.refugees.org>>. The United Kingdom received over 70 000 asylum applications in 1999: J Butler, "Number of Asylum Seekers at Record High" Press Association, 25 January 2000; and it has a backlog of over 100 000 claims. Editorial, "Time to fight the bigots" *The Guardian*, 1 April 2000. Canada receives about 25 000 asylum applications annually: GCJ Van Kessel, "The Canadian Immigration System," presented at International Conference on Migration, Austria, 26 November 1998; and Germany has between 95 000-100 000: (2000) 7(4) *Migration News*.

36 GP Freeman, "Can Liberal States Control Unwanted Migration?" (1994) 534 *The Annals of The American Academy of Political and Social Science* 20.

37 Note 34 *supra*.

38 In 1997-98, 8 058 asylum applications were lodged with the Immigration Department, and in 1996-97, there were 11 135 applications: Department of Immigration and Multicultural Affairs, *Annual Report 1997-98*, Sub-program 3.2: On-shore Protection.

39 J MacDonald, "Many Iraqis, Afghans win sanctuary" *The Age*, 17 January 2000.

40 Although some in the media persist in using this term, even after the asylum seekers have been recognised as 'refugees'. See for example T Love, P Coorey & M Bowman, "Set free in secret" *The Adelaide Advertiser*, 20 April 2000.

41 1951 Convention Relating to Status of Refugees 189 UNTS 150, Article 31(1).

'file or line'⁴² waiting for their turn at resettlement in countries like Australia. The process is, in reality far more disorderly, sometimes even corrupt.⁴³ Countries of resettlement select a very small percentage of the world's refugees based importantly on domestic interests as well as the needs of those seeking resettlement.⁴⁴ A more appropriate metaphor to that of a 'refugee queue' might be that of a 'refugee heap' out of which very few are plucked for resettlement in countries such as Australia.

Even though Australia attempts to select refugees for resettlement through a planned administrative process, the lengths of time taken for such a procedure⁴⁵ and the slim chances of actually securing a place⁴⁶ mean that some feel the need to pursue unofficial channels to enter Australia and gain its protection. Applicants often remain at significant risk while their claims are being assessed overseas.

The suggestion that the unauthorised arrivals are 'stealing the places' of other asylum seekers has its administrative basis in the linking of the on-shore and off-shore humanitarian streams of Australia's immigration program. Australia has a humanitarian program that includes twelve thousand places. Ten thousand of these places are allocated to off-shore applicants – people who apply to enter Australia for humanitarian reasons from overseas. Two thousand places are reserved for on-shore refugees. If the actual number of on-shore refugees exceeds the allocated number, the number of extra places is taken from the off-shore program. If the number of on-shore refugees is less than the allocated number, the extra places are used in other parts of the humanitarian program.⁴⁷ But the relationship between the two streams is simply a policy decision. The link between the on-shore and off-shore components of the humanitarian program need not exist. Australia could accept four to five thousand on-shore refugees, to use the Minister's hypothetical figures,⁴⁸ and maintain an off-shore program of ten thousand places.

Having said this, it would be fair to engage in a vigorous public debate about the resources – both economic and social – that would be needed to resettle

42 *The Macquarie Dictionary*, The Macquarie Library (2nd edition, 1988), p 1392.

43 This assertion is based on the author's experience as a caseworker with community organisations assisting refugees in Australia.

44 For an historical perspective see J Collins, *Migrant Hands in a Distant Land: Australia's Post-War Immigration*, Pluto Press (1991) and J Jupp, *Exile or Refuge? The Settlement of Refugee, Humanitarian and Displaced Immigrants*, AGPS (1994) p 9. On the United States' experience see G Loescher and J Scanlan, *Calculated Kindness: Refugees and America's Half Open Door, 1945 to the Present*, The Free Press (1986). Regarding Canada, see H Adelman, 'Canadian Refugee Policy in the Postwar period' in H Adelman (ed) *Refugee Policy: Canada and the US*, York Lanes Press (1991).

45 Most people who arrive in Australia usually wait longer than 15 months in application time: S Dunbar, 'The Myth of the Off-Shore Refugee Queue – The Reality of Despair' (2000) 1 *Human Rights Defender* 20 at 21.

46 Australia's Immigration centre in Islamabad had 4 500 applications pending last year with only 920 visas granted. In Beirut, there were 3 200 applications, but only 630 visas granted: Insight, 'Asylum Seekers', Special Broadcasting Service, 2 March 2000.

47 Department of Immigration and Multicultural Affairs, Fact Sheet 40: *Australia's Off-shore Humanitarian Resettlement Program*, 16 November 1999.

48 P Heinrichs, 'Holding back the tide' *The Sunday Age*, 21 November 1999.

greater numbers of refugees. If, for example, the Minister's hypothetical number of on-shore applicants was one hundred thousand, it is difficult to imagine maintaining a ten thousand-place off-shore humanitarian program. But it is precisely the 'stealing places' rhetoric of Australia's leaders which makes reasonable debate on this issue impossible.

D. 'Most Vulnerable'

Even after the recent Middle Eastern boat arrivals have been proven to be 'genuine' refugees who have not jumped the queue, the issue of their comparative vulnerability needs addressing. The claim that by arriving in Australia without prior permission they are taking the place of the 'most vulnerable' rests on the fact that the recent arrivals have secured their passage to Australia by paying significant sums of money to 'people smugglers',⁴⁹ while other refugees live in absolute destitution in refugee camps in the poorest parts of the world. This aspect of the Government's rhetoric is a call to fair play. The most desperate – those who are destined to spend years in squalid refugee camps – should be assisted. But the reality of the fear of persecution is that fleeing from it is often a flight for life; a flight in which one is often forced to take whatever steps are necessary to reach safety. Fairness, while an important policy and philosophical principle, becomes meaningless in such circumstances, especially if advocated by those in positions of safety. Indeed, suggestions that those who arrive in Australia unlawfully and who are then assessed as 'genuine' refugees are taking the places of the 'most vulnerable', appear to be motivated as much by annoyance with the recent arrivals for not pursuing the official channels as a concern for the right of the 'most vulnerable' to reach safety.

The 'most vulnerable' line is also an incorrect reading of the United Nations' definition of a refugee. Refugees are not defined according to wealth, but according to a "well-founded fear of persecution" for particular reasons.⁵⁰ The measure is whether a person meets this test, not whether they are rich or poor. While it is legitimate to debate how Australia should respond to the differing needs of people seeking safety and security, the 'most vulnerable' line establishes a hierarchy where there is none, at least not in the international instrument that Australia uses to determine such matters.

E. 'Terrorists' and 'Murderers'

Like a number of the Government's other claims, the suggestion that the unauthorised arrival of the mainly Middle Eastern asylum seekers posed a potential security threat to the community was not entirely without substance. The Government has the important responsibility of safeguarding the health and security of the nation. People who may place the community's well-being at risk should be detained. But those who requested the asylum seekers be released did

49 See for example L Williams, "\$12 500 the cost of illegal admission" *The Age*, 18 November 1999; M Dodd, "Bali finds new profits in human cargo" *The Age*, 20 November 1999.

50 Note 41 *supra*, Article 1A(2).

not call for the release of people deemed to be a risk to the community.⁵¹ In this context, the claim that as many as one in ten of the detainees may have been linked to anti-terrorist organisations⁵² appears to have been a political point-scoring exercise, an attempt to undermine the credibility of those calling for a more liberal policy⁵³ while articulating an apparently widespread fear that the asylum seekers were a threat to the community's well-being.

IV. POLICY RESPONSE TO THE RECENT ARRIVALS

The language of fear and abuse propagated by the Government and its supporters not only set the scene for a misinformed public debate about the unauthorised arrival of asylum seekers, but it also contributed to the development of a flawed policy response. Consistent with the portrayal of asylum seekers as threats to the community and abusers of the refugee determination system, the Government's policy response was to seek to make Australia a less 'attractive'⁵⁴ destination for asylum seekers who might choose to arrive without prior authorisation.

The Government introduced a new visa, the Temporary Protection Visa ("TPV")⁵⁵ for asylum seekers who enter Australia illegally and who are subsequently found by the Department of Immigration or the Refugee Review Tribunal to be refugees. Under the new visa, refugees who arrive illegally are given a three year temporary visa to which limited entitlements are attached.

When the South Australian and Victorian Governments criticised the lack of rights of refugees released from detention on TPVs and called on the Federal

51 Those advocating for Australia's detention regime be revolutionised continue to recognise national security as grounds for detention. The alternative detention model proposed by the Human Rights and Equal Opportunity Commission and Refugee Council of Australia is a sophisticated and responsive means of controlling who enters and remains in the country which attempts to balance human rights concerns and the right of the state to control its borders: Refugee Council of Australia, "Alternative Detention Model", <<http://www.refugeecouncil.org.au>>; Human Rights and Equal Opportunity Commission, "Submission to the Senate Legal and Constitutional References Committee inquiry into Australia's refugee and humanitarian program", <http://www.hreoc.gov.au/human_rights/asylum/index.html>.

52 B Nicholson & P Daley, "War criminal slips in by boat" *The Age*, 16 June 2000.

53 In a similar attempt at discrediting his opponents, Minister Ruddock, in the same week labelled critics of his dramatic video campaign against coming to Australia without authorisation as 'apologists' for people smugglers: M Saunders, "Refugee video sparks row" *The Weekend Australian*, 17-18 June 2000. Similarly, in the Parliamentary debates about the Temporary Protection Visa Regulations, the Government attempted, as Senator Bartlett had predicted they might (note 20 *supra*, p 10601), to portray the Democrats as supporting 'people smugglers': note 20 *supra*, p 10621.

54 J Howard, radio interview with N Mitchell, 3AW, 19 November 1999; ABC News, "Ruddock renews vow to push through immigration changes", 21 November 1999.

55 *Migration Regulations* 1994 (Cth), Schedule 2, Subclass 785.

Government to increase resources available to them,⁵⁶ the Commonwealth argued that the states and other organisations should not have to assist the temporary refugees because their basic needs were being provided by the Federal Government.⁵⁷ Organisations funded by the Federal Government were ordered not to support the released refugees.⁵⁸ The Federal Government suggested that assisting the refugees would undermine efforts to curtail unauthorised arrivals because the limited rights of the released refugees were part of its strategy to reduce incentives that might attract unauthorised arrivals to Australia.⁵⁹

A policy designed to restrict the entitlements of recognised refugees as a way of deterring others who might seek Australia's protection is questionable. The rationale behind the TPV goes beyond that of the detention regime established by the ALP. Detention was conceived in part as a deterrent;⁶⁰ the incarceration of unauthorised arrivals would deter others who might come to Australia in similar circumstances. And even if many asylum seekers who are detained are found to be refugees,⁶¹ the detention policy is not specifically targeted at refugees; everyone who arrives in Australia without the required authorisation is detained. The TPV, however, is the result of a policy that carefully and deliberately uses people who have a proven fear of persecution, and who have possibly survived torture or trauma, as tools for deterring others who might similarly enter the country without prior authorisation.

While the establishment of the TPV was one aspect of the Government's policy response to the unauthorised boat arrival of asylum seekers, the *Border*

56 The position of the states might be explained in a number of ways. There was a genuine question of principle involved; the State Governments were concerned at the conditions of the refugees: A Clennell, New start program for refugees: \$239" *Sydney Morning Herald*, 27 April 2000. The active lobbying of refugee advocates and religious and ethnic organisations fuelled this sentiment: L Schwartz, "Hope amid uncertainty" *The Sunday Age*, 23 July 2000. There was also an economic component to the States' response to the release of the refugees. The States have been concerned for some time that the cost of supporting several thousand refugees with limited entitlements and little English would fall upon them: note 10 *supra*; P Barber, "Feds 'pocketing money' that should help refugees: minister" *AAP*, 17 July 2000).

57 *AAP*, "No state funding needed for freed boat people – Ruddock", 26 April 2000; ABC Newsmail, note 11 *supra*.

58 A Clennell and P DeBelle, "Turn boat people away, mission told" *Sydney Morning Herald*, 3 May 2000; *AAP*, "Welfare workers banned from helping refugees, group says", 18 July 2000.

59 Australian Associated Press, "No state funding needed for freed boat people – Ruddock", 26 April 2000; Fran Kelly, Radio National, Breakfast, 27 April 2000.

60 See J McKiernan, "Defend, Deter, Detain", in M Crock (ed), *Protection or Punishment: The Detention of Asylum Seekers in Australia*, The Federation Press (1993); see also Amnesty International, *Australia A Continuing Shame: The mandatory detention of asylum seekers*, June 1998 p 5.

61 Over 80 per cent of detained asylum seekers are granted refugee status and one third of those asylum seekers granted refugee status in 1997-98 had been detained during the determination process: M Piper, "Settlement needs of former detainees", unpublished paper on file with the author, received from Service for the Treatment and Rehabilitation of Torture and Trauma Survivor, 20 January 2000. The authors of an analysis of two studies of the mental health of detained asylum seekers, write that "[t]he results suggest that asylum seekers who have suffered the most severe persecution may be at increased risk of being detained on arrival in Australia, possibly because that group is more likely to leave their former home country in great haste without the capacity to acquire a temporary entry visa to Australia": D Silove & Z Steel, *The Mental Health and Well-Being of On-Shore Asylum Seekers in Australia*, Psychiatry Research and Teaching Unit, The University of New South Wales (1998) p 33.

Protection Legislation Amendment Act 1999 (Cth) was another plank of the Government's policy. As well as empowering Australian authorities to interdict on the high seas boats suspected of people smuggling,⁶² the Border Protection legislation requires on-shore refugee applicants to have taken all possible steps to gain the protection of states other than Australia.⁶³ This legislation prevents certain classes of asylum seekers – including those who have spent more than seven days in another country that the Minister has declared has effective refugee determination procedures – from applying for refugee status in Australia.⁶⁴

Thus, the Government's policy response to the recent increase in unauthorised boat arrivals seeking asylum was to introduce measures to discourage other asylum seekers from entering Australia. Any sense that Australia was an 'easy touch'⁶⁵ had to be quashed. Yet as will be shown in the following section, the suggestion that Australia's asylum policies were 'soft' is unfounded since asylum seekers' entitlements in Australia have been diminishing since the Coalition came into office.

V. ASYLUM POLICY UNDER THE COALITION

As we have seen, the Government's rhetorical response to the Iraqi and Afghan boat arrivals was generally hostile and its policy reaction similarly restrictive. But this response was hardly surprising. Rather, it was consistent with the Government's long-term approach to asylum seekers.

The Coalition has overseen the curbing of an array of asylum seekers' entitlements. Financial assistance through the Asylum Seekers Assistance

62 *Migration Act 1958* (Cth), Div 12A, ss 245A-H.

63 *Ibid*, s 36(3).

64 *Ibid*, Subdivision AK, ss 91M-Q.

65 J Howard, note 54 *supra*. Pauline Hanson also referred to Australia's reputation as a country with a 'soft touch' for illegal entrants who were mostly "little more than opportunistic invaders": Australia, House of Representatives 1997, Debates, vol HR 215, p 7640.