

The University of Newcastle

Annual Human Rights and Social Justice Lecture

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Introduction

I commence by warmly congratulating the University of Newcastle on instituting an annual Human Rights and Social Justice Lecture. I hope your brave initiative will be followed by other universities and that you will use your influence to persuade them to do so. I thank you for giving me the honour of delivering this year's 2nd lecture on the asylum seeker problems which our country has so shamefully brought on itself in these last few years. I introduce my subject by setting the context in which this major departure from a proud human rights heritage has occurred.

54 years ago this coming December, a war ravaged and war-weary world ushered in a new international order with what was called the Universal Declaration of Human Rights. It was a bold and brilliant document full of words, phrases and concepts that everyone wanted to hear. It spoke of recognising the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. It observed that disregard and contempt for human rights had resulted in barbarous acts which had outraged the conscience of mankind. It called for the advent of a world in which human beings shall enjoy freedom of speech and belief, and freedom from fear and want, as the highest aspiration of the common people. It declared as essential that human rights should be protected by the rule of law.

As a consequence, a common standard of achievement was declared for all people and all nations. Every individual and every organ of every society was required to strive by teaching and education to promote respect for these rights and freedoms, and to work to secure their universal recognition and effective observance.

It was too late for the 20 million Russians who had died in the freezing winters of 1942 and 1943. It was too late for the 15 million civilians in other parts of Europe who had died as the innocent victims of the power-hungry half crazed lunatics of the Third Reich and their millions of German, French, Polish, Ukrainian, Croatian, Italian and other sympathisers.

It was too late to save the 17 million allied soldiers who had died in defence of the gravely imperilled frontiers of freedom, and their German, Italian, Japanese and other counterparts who hardly had a stake in the cause which sent them to their inglorious deaths. And it was

too late for the 6 million Jews and the hundreds of thousands of gypsies, communists, social democrats, Catholics, non-Aryans, homosexuals and humanitarian sympathisers – including 1½ million children – who were subjected to the rifles, the preposterous death camps and the Zyklon B Gas of the SS and Einsatzgruppen.

The atrocities of the Nazi era and the horrors and devastation of the Second World War compelled the international community to unite in a vow to create a world free of war, persecution, and injustice and never again to allow such horrors to darken the lives of humankind. And on 10 December 1948, the General Assembly of the newly created United Nations proclaimed this extraordinary declaration of humanitarian principles.

The pen was almost still writing the Universal Declaration when the Iron Curtain descended on Europe. Behind this almost impenetrable barrier for another 40 years, the so-called workers' revolution against the evils of capitalist materialism held sway. Under the guise of establishing an egalitarian proletariat, Soviet and Eastern European communism constructed a secret society of repression, fear, inhumanity, and nuclear might.

They built the monstrous Berlin Wall, attempted to blockade and perhaps obliterate the United States by carpeting Cuba with nuclear missiles, and armed ruthless regimes oppressing their own peoples, from North Korea to Angola, from the Middle East to South America. In some places, such as Ukraine, they actually engaged in genocide. They paralyzed the United Nations with their infamous veto, and built an environmental legacy from which to this very day hundreds, perhaps thousands, die every year just by breathing the air and drinking the water.

In response, the western world built armies, armaments and armadas of ships, planes, bombs and rockets. Amongst other places, we fought in Korea, Indo China and the Persian Gulf, as it turned out, for very elusive results. We ignored and not infrequently funded ruthless dictators even when they butchered their own people, because they were seen as “friends” of the West or at least anti-communist. Yet when Mikhail Gorbachev almost singlehandedly brought the communist house of cards crashing down, and then the tragic followers of the evil Saddam Hussein gave up their unequal struggle, we cried out victory.

The new international order

40 years after the first one was virtually stillborn, the second new world order of our era was born – this one was alive, or so the politicians told us. There was no Universal Declaration Mark 2. We had done such a good job ignoring the first version, and it was so well expressed, there was no point in trying another exercise in grandiloquence. There had been other international treaties on human rights in the meantime but the world's main countries wanted nothing to do with them. Britain waited until it went into Europe when it was given no choice. Australia took until 1980 to ratify the main 1966 treaties and even then only embraced them tentatively and in part. The USA ratified its first and only human rights treaty just 9 years ago with a veritable host of reservations.

The world had come a long way in that 40 years – colour television, people on the moon, space research and travel, the Salk vaccine and other fantastic medical advances prolonging life and alleviating suffering, the end of colonialism, the US Civil Rights Act, progress for Aborigines, a human rights charter for Canada, and subsequently for the UK and New Zealand leaving only Australia of the western industrialised world without one, mobile and car phones which can telephone Norway as easily as Newcastle, and so on.

But while all this was happening, people were getting swamped by the tyranny of bureaucracy, the politics of the unprincipled or negligent – even of the dishonest, and the effects of massive national debt brought about in part simply by bad government in many countries. And millions became beset by famine, poverty and persecution by new warlords.

The allies spent \$150 billion on ousting Saddam Hussein from Kuwait – without achieving even a skerrick of democracy in Kuwait where women can still not have a driver's licence let alone a vote. And then we permitted him to murder, starve and freeze to death thousands of his Kurdish and Shiite citizens.

And while he is no doubt quivering in his boots at this moment at the looming possibility of invasion by Australia's military might led by that redoubtable veteran campaigner of many a decent stoush, Alexander Downer, we have thus far allowed him to remain in power so that he can go on oppressing his own people and doing murderous mischief and mayhem

around the world – just as we have allowed the Turks to persecute the Kurds from the other side of the border while we in Australia gave an AC to a visiting former President of Turkey. We failed dismally in Somalia; we ignored the warnings about Rwanda, and then withdrew UN personnel allowing thousands more to die; we set up safe havens in Bosnia and then stood by while the people we were supposedly protecting were forcibly uprooted and mercilessly shot; we have largely ignored massacres in Algeria and elsewhere, done little to assuage or reverse the suppression of the Burmese and the Tibetans, and for four decades virtually made love to the ruthless autocrat Soeharto and his voracious family in priority to helping the Indonesian poor and seeking justice for the East Timorese.

And this is only a tiny part of democracy's perfidy to the humanitarian principles the Universal Declaration was supposed to get us to uphold.

While a global economic order now outstrips the Bible and the Koran as the guiding faith of today's world, sadly the remoteness of global humanitarian reform is truly great. There is simply no sign at all that at last, economic equity and social equanimity are about to supplant the essentially selfish and aggressive pursuits of most nations. There is not even a whisper of a world united in its commitment, as opposed to its rhetoric, to redirecting its abundant skills and resources towards taking up the challenges of the real problems of humankind.

These challenges include alleviating hunger and disease; confronting, exposing and overcoming exploitation and corruption; removing torture and cruelty; attacking prejudice and discrimination; and addressing constructively the human imbalances and inequities which abound everywhere.

The present international crisis

The world has been traumatised by the outrageous wicked destruction of human life and property in New York and Washington 12 months ago, and still reels from the economic havoc caused or generated by those events. It faces the realisation that humanity is threatened, not so much by superpower rivalry or nuclear confrontation – as we have been brainwashed for so long, as by a much more sinister threat of chemical and biological attack

on such things as our water resources, power generation capacity, oil supplies, transportation and communication facilities and other fundamentals to our way of life. It is hardly any wonder that sane minds everywhere question the proposed massive expenditure on “star wars” technology and missile defences because they will be totally irrelevant to our contemporary risks and dangers.

We are said to be in a war on terrorism though against whom and to achieve what we cannot understand but must trust in our leaders to choose wisely and execute efficiently, when we generally do not trust them to do much simpler things almost every day. No one even takes a breath at the hypocrisies arising from the fact that American money financed terrorism by the IRA against British and Irish civilians for decades and longer in a cause they were unwilling to negotiate, and by violent groups all over Latin America and beyond so long as they were fighting in countries other than the USA itself. And most of the world connived in or applauded these murders, or did not raise a finger in protest. How did the deliberately engineered replacement of Salvador Allende by Augusto Pinochet, on of all things a different but coincident September 11, assist the fundamental freedoms of the Chilean people? Or reflect their choice as to the people by whom and the ideology by which they wished to be ruled?

There is, to be sure, not a lot upon which we can be happy and contented at this time. And although geographically remote and politically unimportant, Australia and we Australians are going to feel pain, pay the cost, and endure the risks that so many others are facing at this time. If nothing else, it should make us take stock and look to what we can and should do to address our own weaknesses and faults.

Australian human rights

For most of these last almost 54 years since the Universal Declaration, Australia has been one of the leaders in implementing the humanitarian standards it identifies. As a middle power with a respected human rights record, Australia has been looked to and listened to by the international community on human rights issues. This proud tradition of support for human rights and dignity casts upon us a great responsibility. As the largest developed democracy in our region, indeed the sixth oldest democracy in the world, Australia not only

has an obligation to speak out and act against persecution running rampant in other countries; we have an obligation to prevent and remedy human rights abuses on our own soil. And the standards we must observe are those we set for ourselves, not alien credos which we loudly, and rightly, reject.

Some people label these human rights principles as foreign ideas imposed upon us by unattractive regimes or ideologies from elsewhere. But none of the tenets of the Universal Declaration and the raft of international laws which has followed have in fact been forced on Australia by anyone. For one thing, when they were passed, the UN was firmly under western control. But much more significantly, none of their principles are foreign to us or to decent people anywhere. All of them are recognised and accepted as part of our and many others' cultural and legal framework in any event.

The driving force for their enthusiastic adoption in Australian terms is the evolution of our nation into a society where laws, employment and human relations reflect decency and honour; where legitimate controversy is fought and resolved with a passion devoid of stereotypes, and of minority, group or racial defamation; where a fair sharing of our country's resources and benefits is open to every sector of the community; and above all, where decisions of all kinds stem from considerations of merit and true deserts, free from preconceptions, prejudices and prejudgments.

The Australian reality today

However, in my perception, we Australians, together with the peoples of many others of the so-called developed countries, are today in serious danger of forgetting these goals. Continuing to recall and nominally respect the Universal Declaration of Human Rights and all the other human rights treaties is one thing. It is quite another to ensure that our governments and people actually honour these rights. And as of late our commitment is looking decidedly hollow and the world is taking notice.

At present, our society represents a mixed bag of the good, the bad and the ugly. Whilst we can be justly proud of, amongst other things, our scientific, technical, manufacturing and sporting triumphs, our insidious treatment of asylum seekers and continuing neglect of our Indigenous peoples, children, women especially those in poor circumstances, people with

disabilities and others require us to examine and prise open our consciences as we question both the substance and direction of our nation and people today.

Surely our generation has a responsibility to ensure that Australia is, and continues to be known as, a champion of honourable and humanitarian conduct. Yet because we appear as a nation not to be questioning our societal constructs today, we are at best wandering aimlessly, permitting our development to be steered in many directions, not all of them desirable.

Our education and health systems are in considerable disarray. Government schools are suffering and being closed down for lack of students and money, and the continued expansion of the HECS system is both dissuading young people from undertaking a university education and seriously impacting upon their ability to marry, start families and breed in sufficient numbers to sustain our population. And this is a country which needs every possible baby to be born and every brain to be developed to its maximum potential!

But of all our failings – and there are many -- there can surely be no doubt that the continuing sufferings of Indigenous Australians are our greatest and most long-standing shame – and the deprivations endured by the children are the very worst aspect of that shame.

It is not possible for me today, and it is not my purpose, to attempt to analyse and expose the full story of our dishonourable approaches to Aboriginal dispossession and disadvantage. That is another speech altogether. It will have to suffice for now that despite advances in some fields in some parts of the country, Australia's Indigenous peoples still face gross inequality deeply rooted in history and the prejudiced, intolerant or stubborn attitudes of the white community. Whichever social indicator is looked at, whether it is health, education, justice, employment or housing, Indigenous Australians are identified as the most disadvantaged group in the country. This situation represents a manifest and fundamental breach of Australian and international law. What it says about the morality of our nation I leave you to contemplate.

A fair go for all

In short, we continue to deny Indigenous people the very equal opportunity to a fair chance in life which we Australians like to call a 'fair go' for all. Which is not to say that Australia is not a wonderful country – I would say the best in the world – and that we are not generally a kind and generous people. It is just that we are not as good as we say or think we are. Indeed, while this situation persists, we are engaged in an empty untruthful boast about our allegedly superior standards.

The things we are still doing to, and not doing for, our Aborigines should not be happening. The things done in the past should not have happened. Together they are human wrongs, not for blame in the crude sense, but for the deepest regret and for a commitment to put them right as a matter of the utmost urgency. If they represent what some have called a black armband view of history, I for one wear it as a mark of sorrow, and as a commitment to reconciliation. Rather a black armband than a white blindfold to shut out the truth.

Asylum seekers

That picture, then, represents the context in which to consider the way we are approaching the current problems posed by asylum seekers arriving here by boat.

I know that the title of my presentation to you today, *The Great Australian Brain Robbery: The Hijacking of the Australian Conscience*, conjures up unpleasant connotations of cerebral invasion by terrorist assault. Yet this correlation, in my view, correctly represents the Australian reality today in relation to our present treatment of asylum seekers. As such it represents a sombre departure from our historic behaviour. In fact, as we are doing with too many of our own, we are permitting a litany of guileful sins to be also committed against those from other nations who need help.

It is often said that a society's moral strength is measured by how humanely it deals with the most vulnerable individuals living within its domain. Yet here in Australia today, a lack of moral fortitude, compassion and understanding of divergent cultures and peoples has given rise to a quite frenzied almost hysterical reaction to our asylum seekers.

Although I, like every other proud Australian, am excited at and often publicly laud our successes in so many fields, the treatment of those who have dared to ask for our assistance to rescue them from persecution, has caused me and many others to hang our heads in shame. In complete disregard of Australian law and practice, an undercurrent of racism, some of it insidious but too much of it overt, has permeated the public debate on our policies and practices, in the media and throughout the community.

So permit me to inject some reality and truth into the discussion.

The issue

First, what the issue is **not** about. No one has ever argued that anyone and everyone should be allowed to come to Australia whenever they choose. When the Prime Minister responded to the recent apprehension in Melbourne of the 2 young boys who had escaped from Woomera to join their father who was free on a temporary protection visa, he said that as a father he could sympathise with their plight, but that as Prime Minister he had to ask: “What are we supposed to do, let everyone in who wants to come?”

That question simply inflamed passions by again misstating the issue posed by the boys’ position. They were being incarcerated alone in the desert without either their father or a resolution of their status. While that particular idiocy remains completely unexplained to this day, their situation had, and has, absolutely nothing to do with our general policy towards asylum seekers.

I repeat: No one has ever argued that anyone and everyone should be allowed to come to Australia whenever they choose. No one has ever suggested that anyone but we Australians should decide who should come here, as last year’s infamous election advertisement stated was at risk or not happening now, and the Governor General’s speech opening Parliament earlier this year shamefully repeated. I for one certainly do not advocate a general change to the mix of people invited to join perhaps the most successful multicultural society in the world.

What we are seeking, I say as emphatically as I can, is not open slather, indeed the very opposite – which is due process, the application to each asylum seeker of traditional Australian standards of justice, law and decency, which are given to everyone else in our country. Even the worst convicted criminals – murderers, rapists, drug runners and others – are given the chance to apply for bail. Yet applicants for refugee asylum who have committed no offence, including children, are not permitted to apply for conditional release pending the outcome of their applications. Even more savagely, they are not even given a hearing before being imprisoned for alleged misdemeanours committed within the detention camps themselves. Their jailers are also their accusers, their witnesses, their prosecutors, their judges and their juries. Only in our immigration laws is such an untenable position allowed.

But as I shall seek to show, the monster we have created is much much worse than that. I have folders full of the most disgusting examples of mistreatment of detainees in these camps. I have photographs, signed statements, medical reports. They reveal cruelty and brutality of a kind Australians only ever read as happening overseas. They would disgust most right thinking human beings, as they do me.

Some of you would have seen on the Channel 9 Sunday program on May 5 last how armed guards with helmets, shields and weapons had just previously stormed a section of Woomera, corralling screaming women and children in a small room and terrifying the living daylight out of them. Nothing justifies that behaviour.

These camps are not concentration camps. A Holocaust is not occurring in them, and the suffering of the people, although great, is not to be compared to the Jewish and other victims of the Nazis. I do not much like historic parallels anyway but the thuggery of the guards at Woomera as shown on that TV program and of the employees at the other camps evidenced in my folders are not much different to that shown by some SS Guards in the name of the Third Reich in the 1930s in Europe. I hate to say it but these events happened in Australia in the 21st century.

Our sins

Over half a century ago, when Australia became the sixth signatory nation to the Geneva Convention on Refugees, we made a solemn legal and moral promise to provide humane protection to all people fleeing persecution. It is not as if the Australian hand was twisted into signing the Convention; we actually introduced the Convention into domestic law. Not that you would ever know, given the flagrant erosions of our obligations that have occurred, and continue to take place. Our most disturbing betrayal of our own laws has been the automatic unreviewable long term detention of child asylum seekers. In its wake rests also the bedraggled echelons of our country's compassion and humanity which are now, in this respect at least, in unqualified freefall.

The furore over the children supposedly thrown into the sea by their parents has revealed only one of the lies we have been told. What it has unveiled are the worst weaknesses of the democratic process – interpreted by some to mean that in the cause of party and political gain, and so-called freedom of speech, anything goes, no matter how untruthful or how inciting to cultural and racial division and xenophobia.

There is no human right to lie. Did anyone stop to think then, do they think now, whether they know any parents anywhere who would struggle to get their kids away from terror and torture and out of wretched refugee camps of misery and horror, and then celebrate their freedom by drowning their own kids in the sea? Yet that is precisely what large numbers of Australians bought at the last federal election when the authorities knew it was not true. Are there no limits to our willingness to connive in evil?

Until the leaders and moulders of public opinion have the fortitude to admit their misjudgments, and our ailing policy for dealing with asylum seekers is cured, these sins will continue to be committed. So at the risk of further alienating those whose prejudices do not permit them to consider or reconsider the facts, let me for a few minutes place a few facts on the table to replace some of the more blatant misrepresentations to which we have been subjected in past months.

First. Border protection is a propaganda catchphrase, not a national problem. Our borders are not under assault, least of all from the Captain of the Tampa who a little over 12

months, should have been lauded as a hero – as he was back home in Norway – for voluntarily risking his ship and crew to save people in danger of drowning in the sea. In fact, he was quite hysterically lambasted by some of our politicians and media for ‘invading Australia’s sovereignty’, as they called it. Can you imagine the King of Norway ever declaring war on Australia at all, let alone with an oil tanker or container ship?

We Australians once had a policy of border controls and refugee protection. For some reason our policy has now changed to border protection and refugee controls. This unwelcome acrobatic feat can only be political in origin because it is otherwise quite incomprehensible. It has achieved nothing beneficial to our nation and people and has demolished at a stroke, at least tarnished, our reputation for humanity.

Second. People seeking refugee asylum are not ‘illegal’. In making their applications for refugee status, they are doing something expressly permitted by Australian and international law. It always amazes me how our politicians can make such harried utterances – obviously it is they who need educating about the law rather than the asylum seekers. Why so many journalists blindly follow suit by continuing to speak of these people as illegal migrants is a national tragedy of its own.

Third. Asylum seekers arriving here by boat without documentation are not ‘queue jumpers’ – another colourful phrase used so frequently by the prejudiced, the ignorant and the misguided. Those fleeing their countries in fear of their lives do not have the option of being able to regulate the times or places for their terror. People willing to queue have time to wait. Refugees do not. If we shared a land border with a country of oppression, there would be no talk of queues. Instead, we would be swamped by human misery, as so many European countries have been in the wake of the atrocities which have recently transpired in the former Yugoslavia and Afghanistan. Moreover, Australia does not have offices in the countries from which the majority of our present asylum seekers are coming. In other words, these people have no one to apply to to get a spot on the mythical queue even if it existed.

It is true that a boat person granted asylum in Australia might temporarily displace someone else wanting to come here. But all those people have been kept waiting for years by the bureaucrats processing their applications. Evidently our officials saw no urgency in those

applicants to rival that shown by people willing to spend all the money they have and more to risk their own and their children's lives on leaky river boats over thousands of kilometres of dangerous and unfriendly seas after waiting years without hope in shocking conditions in Iran, Iraq or Pakistan.

I have been in some of the camps in Pakistan, as I was in Bosnia, Kosovo and so many other scenes of tragedy and despair in recent years. I can tell you that I would do all in my power, and take any option, to escape, or at least get my children out of, these appalling places, after a day or a week, let alone 2 years or more. If I was escaping tyranny and oppression, and saving my kids from torture, persecution or starvation, I doubt that I would go looking for a queue to join.

Remember, these people previously lived in their own homes, many of them comfortable, warm, pleasant family homes, as I have seen for myself. Then suddenly, mostly without notice, they were peremptorily removed by ruthless thugs and gangs.

The political manipulators and the prejudiced erstwhile protagonists and now proud inheritors of Pauline Hansonism have been trying to convince us that these camps are full of terrorists and frauds and that we are being duped by crooks. I met a man in the camps who was given 10 minutes to leave his own home just 24 hours after he had had an open heart operation. I saw his fresh chest scars. I met disabled people in crude wheelchairs, frail elderly people hardly able to stand up, heavily pregnant women, sick people taken from hospitals – all of them physically plucked from where they were and taken to heartless endless lines of tents in the dirt and the mud.

No doubt there are others who are not so worthy of consideration but I have seen and spoken to rows upon rows of people who are. I can assure you of one thing -- rich people and terrorists would not – and do not – wait in these places for years! Nor do the wealthy and the wicked risk their own lives in unseaworthy boats offering squalid conditions for days and weeks on end, under the control of people they don't know, going to places they have never seen and know nothing about. There may be a few frauds and unsavoury characters who sneak in, as there always have been, but the rich and the dangerous are by and large not the people on the boats coming here.

Some of the people have undoubtedly told untruths to the authorities. But not all liars are rogues! History has taught us again and again that people escaping terror often lie to be free. So would I and every normally honest person. Many Russians seeking to flee Soviet communism pretended to be Jews so as to get an exit visa to Israel or the United States or Australia. Many targets of the Nazis and other fascist regimes pretended to be Catholics or something other than what they were in order to get the protection of the Church or to escape or hide somewhere.

If the people here who have lied about their origins or some other detail in order to save their kids because in their belief the truth might but should not have excluded their rescue, they may still be worthy of listening to. Most of our Afghan asylum seekers have rejected or been rejected by their leaders, the very people we have sent troops to kill. Whatever else should happen to them, they should certainly not be treated as their leaders' envoys or advance forces.

Fourth. Refugees are not migrants. Unlike migrants, refugees do not decide one day just to change the place where they are living for some other place which will accept them. Usually in urgent and forlorn circumstances, these people escape persecution and possibly death or starvation for themselves and their children. They are desperately seeking, even begging for, help and rescue. Our immigration program permits around 90,000 people in this category a year. The 10,000 or so refugees we take are dealt with quite separately under what is known as the refugee and humanitarian program.

We certainly cannot provide a home for every refugee in the world, but at the moment we are not even doing our best. In fact, despite our solemn legal and moral obligations, Australia, a rich country with a fine past record in offering refuge freely and openheartedly to such people, is refusing to rescue thousands of people in this category every single day. In the year 2000, we took a whole 21 people from the Pakistani camps while another 2500 died in the winter cold. A country of 20 million people can do a lot better if the will is there, as it has been in the past.

Fifth. People smuggling is often an evil and nasty undertaking. But it is not new and no one has ever been able to stamp it out. Whether by goat, boat or foot, by camel, car or

donkey, or in one of countless other ways, people have for centuries been paying others to take them somewhere else than where they were, mostly to escape terror and death. Those parasites who have taken the last cent of people under stress to enrich themselves deserve serious opprobrium and condemnation and we should do whatever we can to bring them to account, as we are about to do by trying a number of alleged people smugglers from Indonesia.

But attacking the industry and its disreputable purveyors or entrepreneurs should not colour or dictate our treatment of the people they have transported. As with all criminal activity, we should never confuse the perpetrators with their victims. The “smugglers” are desperate for money – and they will take it from anyone, no matter how poor and vulnerable. The “smuggled” are also desperate but their desperation is for rescue, safety and survival. I for one would not hesitate to pay whatever I could put together to anyone who could help my family escape terror, torture and starvation. Because it is criminals who organise the boats does not permit us to denigrate and mistreat their completely innocent human cargo.

Having said that criticisms of some people smugglers were justified, I also say quite unashamedly that some people smugglers are and have been heroes. Many Jews escaped the Nazis literally on the backs of people, sometimes paid in some form, who carried them to freedom on foot through the snow. Some hid under hay and chaff, some even under horse and cow dung, as they were carted, at a cost, by people-driven donkeys to safety in war torn Europe. Many escapees from oppression in Asian countries won their freedom in similar ways.

The heroic Swedish diplomat, Raoul Wallenberg, who issued false visas in Vienna to Jews to allow them to escape the SS, was a people smuggler. So was his Japanese counterpart who did the same. So was Oskar Schindler – the German businessman immortalised by Steven Spielberg in the film Schindler’s List based on Tom Kenneally’s book – who, by bribing camp guards, smuggled Jewish prisoners from Auschwitz death camp into his factory as workers for his personal profit. In the process he saved hundreds from extermination in the gas ovens.

The boats which brought the survivors of the Holocaust to Australia, North America and many other countries were hired at great cost from greedy and not very nice people like Aristotle Onassis, Stavros Mavrimatis and others who became very wealthy on the proceeds and even social icons in the years that followed. The fact that the money was supplied by public and benevolent organisations and individuals does not reduce the exploitation for profit indulged in by the shipping magnates. Yet no one challenged their avarice and ruthlessness. Nor were they ever put on trial for their exploitation of their human cargoes. People do not cease to be refugees because someone has been paid to get them to a safe place.

The numbers

The situation facing Australia at present and over the last few years has arisen partly because Australia has substantially reduced the numbers of refugees it is willing to accept. We have come down from around 25,000 in the Fraser and Hawke years of the 70s and 80s to around half that number now at a time when the number of refugees and displaced people in the world has almost doubled – that is, grown by more than 10 million – and our population has increased by almost 2 million, not to mention our national wealth and levels of personal consumption. If you suddenly reduce a 4 lane highway to 2 lanes, there will undoubtedly be a major bank up of cars and some distortion of needs of the drivers in the traffic jam. But all of them want, and have a right to be helped, to reach their destinations. Those who are sick or at risk, or are trying to help others in this situation, are entitled to and should receive priority. When they are facing mortal danger, their situation will normally have a considerable degree of urgency about it.

Less than 5000 boat people have arrived in or near Australia in the last few years. I do not particularly advocate it but if we had allowed all of them in, it would hardly have made a blip on our communal scene.

Mandatory detention

Even when asylum seekers do manage to reach our shores, the abuse, fear and uncertainty does not stop. Australia is now the only developed country in the world to practise indefinite indiscriminate incommunicado detention of asylum seekers. Alone of all countries in the world, including Canada, the United States and the nations of Europe and Scandinavia with whom we compare ourselves, we have detained all of them – the elderly, the children, the sick, the pregnant and the vulnerable – at a cost by the way of more than \$60,000 per person per year, while the Catholic Archbishop of Perth was offering free accommodation for all the people at Port Hedland in Catholic homes and thousands of Australians have placed their names on websites offering free accommodation in their homes for released detainees while the review process grinds on. The States of South Australia and Tasmania which need population have actually offered to take anyone released from detention.

But our authorities would rather keep every child, every elderly and sick person, every pregnant woman locked up behind barbed wire, most of them in remote places, or in the desert with temperatures of 45° to 50° and no or insufficient air conditioning – and not a tree, or a decent bit of grass, or another friendly face in sight. And because their countries will not take them, we are unable to send them back to their original homes after they have been refused asylum. These people thus enter a type of stateless limbo – a virtually endless harsh detention in remote Australia or in offshore islands whom we shamelessly bribe to do our dirty work for us.

And now we are charging people for their detention - not to collect the money because we don't let them work to earn any, but to punish them for having the temerity to seek asylum here. If this little piece of nastiness were not deadly serious, it would be a joke. On what financial basis do you calculate the cost of accommodation in an otherwise unoccupied desert prison camp? Cold baked beans apparently cost much more out there than in 5 star hotels in our cities.

I wonder if by this despicable impost, we are trying to recover the billions we are spending on Nauru and on Christmas and Manus Islands, and on setting up the Navy in the Indian Ocean as a standing public transport agency. Just imagine what that money could be doing

to help our failing public education system and to attack public hospital waiting lists for elderly people needing knee and hip replacements. We might even have been able to avoid depriving working mothers of child care, or the disabled of the budget cuts last May, or increasing the cost of pharmaceutical prescriptions.

One thing we do know. The law has been changed so that anyone who owes the Commonwealth any money cannot ever be given a visa to enter Australia. Which is why the Commonwealth seeks an order for costs in every refugee court proceeding against some of the poorest people in the world. If the banks or other corporate giants used legal costs as a weapon against the poor and the defenceless, there would be boycott campaigns against them. But our country is doing it to people who have done no wrong except to be caught up in internecine struggles in their own countries not of their own making, and wanting to flee refugee isolation and fear of persecution or death.

Make no mistake. Detention is neither benign nor a result of due process. It is harsh compulsory jailing without charge or trial. Political subterfuge would have us view this gruesome incarceration of asylum seekers as necessary to expedite the speedy and efficient adjudication of refugee status under the Geneva Convention which governs these matters under Australian law. But these so-called 'expeditious' and 'efficient' assessments have often taken years, during which time people get more and more desperate and depressed, and children become institutionalised, replete with all the menacing consequence of that status.

No one has yet been able to explain to me the assistance rendered to assessment of status by the impounding of family photographs from detainees. How is processing efficiency advanced by referring to the detainees by number not name? How is the task of identifying a refugee facilitated by denying people in detention visits by family and friends? And perhaps most sinister of all, will the person who decided that children be denied proper recreation, education and health care while all this is going on, please stand up? One journalist actually took me to task for that particular complaint by saying that Woomera has a pool table. When I asked whether he had a 2, 3, 4 or 5 year old who played pool, he dismissed me as "picky". He might have said "fussy".

All of these outrages are perpetrated by Australia in the name of “efficiency” every single day. I mean, who is kidding whom?

Other countries

The Minister has been claiming recently that other countries are now copying us and adopting our systems of dealing with asylum seekers. That statement is an untrue generalisation not worthy of him, but even if it were true, I would myself not be boasting about it. The countries of Eastern Europe copied Soviet Communism too. I doubt that they thereby legitimised it. The fact is that although there has been some tightening up of previously loose arrangements in some countries, all the countries comparable to us continue to base all their refugee processes and laws on the basic human rights of the people. We have simply turned our collective backs on such wet “weakminded” ideas.

In fact of course, much criticism has been heaped on Australia for our behaviour, in my view rightly. Some retort that we should not concern ourselves with the views of people from other countries, however eminent, when there are so many places which are much less humane than we are. That shameless little piece of arrogance never seems to stop us from expressing views on others’ conduct whenever we feel like it. It may feel good to be able to dish it out. It mightn’t be a bad principle to learn to take a bit as well. But there are less rhetorical answers to that proposition.

First. Large numbers of distinguished Australians of all political, social, cultural and religious persuasions, many rank and file Australians, and the leaders of many churches and other serious organisations and institutions have also vigorously challenged and rejected our asylum policy. Many of them have lent their names to a new organisation called Australians for a Just Refugee Policy. They are politicians, Judges, ministers of religion, professionals, sports people, artisans, factory workers and others. I do not know if they share views on other matters, but they do on this one. What is wrong with listening to the ideas of all these people?

Second. We should never judge ourselves by the standards we loudly and rightly condemn. Instead, we should always measure our behaviour by the standards we fix for

ourselves. Those standards have been set by Australians themselves over the past 100 years or more, and we ought not to let some of our number demolish at a stroke what successive generations of Australians have worked so hard to build. Nor should we stand mute while they demonise those who have recoiled from this sudden gross departure from everything we have always held to be important.

Third. The correct comparison is with countries whose standards we have always regarded as being parallel with our own. By their standards we are drowning in a sea of mud and muck. In fact we take many less than other comparable countries and take a lot longer to process those we do take. For example, in the last 2 years or so, Sweden, with a third of our population, has given protection to almost four times the number in Australia. I do not have time today to detail the humane and practical approach adopted in Sweden. It has already been well documented, most recently in a submission by all the Australian doctors' organisations and associations of healthcare professionals to the current inquiry by the Human Rights Commissioner on Children in Immigration Detention. You can access it on the website of the Royal Australasian College of Physicians (www.racp.edu.au).

Suffice to say that almost all the people seeking asylum in Sweden are living in the community. No child under 18 years old can be held in detention for more than three days. In extreme circumstances this can be extended to six days, although the extension provision has I think been used only twice. Very few people have absconded and there has been little violence. This is not because Sweden is a soft touch; it is because Sweden has treated the people with decency and humanity. By a strange quirk of fate, that is fundamentally the system we in Australia used to use.

The children

Because refusal of refugee status does not mean return to country of origin, some children have spent, and more will spend, the years from age 0-5, or 3-8, or 6-11 compulsorily locked up behind barbed wire, without having committed a single offence. This treatment breaches fundamental human rights and much more. Again, convicted criminals do a lot better!

Article 22 of the UN Convention on the Rights of the Child, which Australia has ratified, requires signatory nations to provide adequate protection and assistance to children, whether alone or with families. Although the UN High Commissioner for Refugees (UNHCR) asks signatory nations not to imprison asylum-seeking children, we do. Although we are asked not to use detention as a deterrent measure, we do that too. Even when detention takes place, UNHCR Guidelines and the Children's Convention (Article 37) require the length of detention to be minimal. We flatly ignore that requirement as well.

There are currently more than 500 children in offshore and onshore immigration detention, including about 20 unaccompanied minors, some under 10 years old. These unaccompanied children are normally held without any support to protect them and their rights. Some have defended this outrage by saying that the children were deliberately sent here so that at some future time their parents could come as well. Words fail me, except perhaps for "so what?" If they qualify as refugees, the parents should be allowed to apply to be here. Even if that was the parents' aim, what is wrong with trying to escape persecution? And how and why are the children held accountable anyway? I wonder whether consideration might also be given to the possibility that the parents entertained the hope that sending their children away would save kids from torture, starvation or death?

I have been visiting refugee camps and similar concentrations of displaced or dislocated people in fear all over the world for years. I have looked in the tear-filled eyes of many parents of different nationalities and religions as they nursed sick and frightened children whom they could do nothing to help in their pain and suffering. I have held some of the children myself as their lives were ebbing away from diarrhoea, measles and other easily preventable diseases if only we could have given them some of the fresh water we waste every day just cleaning our teeth. I have detected in these parents absolutely no different standards or levels of love and hope for their children than are held by any one of us. If we can do nothing else, can we just tone down the arrogance a fraction?

Not only have these children been exposed to the trauma of horrific regimes at home and the perils of escape, these brutalities are entrenched by our disastrous reception and treatment of them here. They are being "looked after" – if you could call it that – by the employees of an American private correctional corporation - "foreign prison warders" in ordinary language. They don't and won't love them. They don't and won't cuddle them at

night when they cry, as they not infrequently do. Nor do they shield them from the violence of desperation which so frequently occurs in detention centres. As the healthcarers' submission to the Human Rights Commission's inquiry testifies, they won't even carry out the treatments recommended by the health professionals who manage to break into these distinctly un-Australian institutions. The submission is replete with case studies of the suffering of children such as make the heart weep as the anger grows.

Finally, so that it is not just my words, I quote a couple of actual victims. One young woman gave this evidence to a recent enquiry:

I spent nearly four years in Australian detention. Two women tried to commit suicide. There are no words to describe what it is really like in there. I spent four years without real schooling and without social life ... I couldn't believe that this was Australia. Now that I've got to know Australians I realise they are not like the Government. A lot of them do not know what the Australian government does to people I'm twenty-one and still doing the HSC¹.

A Cambodian boy told the Human Rights Commission about his and his brother's experience in detention:

During the last couple of months of the five and a half years we spent in detention we were really depressed ... Things would upset me very easily, I could not control my emotions and my anger. I took medication every night for the last few months I was in detention. I was bored and nervous as I didn't know what would happen. I had no one to talk to. I would spend a lot of my time just looking around and looking up at the sky.²

This is child abuse, pure and simple. And it has for years been, and is still being, committed daily by Australian authorities in the name of the Australian people!

Deterrence

And just a word on deterrence about which I could say a lot, but will not do so today. To those who claim the success of our policies in deterring people coming to Australia, I ask simply: Why then are we spending \$100m to develop the reception facility on Christmas Island – more than has been spent on the residents there in more than 10 years? Why are

¹ Vinson T and Lester E 'A high price for freedom'. 1998 p22 Sydney Morning Herald

² HREOC 1998, 229-230

we developing a new facility at Port Augusta, and expanding some of the other places we already have?

Most of the people I have met in the refugee camps have never heard of Australia, or do not know where we are, let alone do they seek to target us. They do not generally have television sets. When they do, I am sorry to have to disappoint everyone with the news that Australian politicians are not on them. These people will go anywhere so long as they do not remain where they are. Primarily they would like to go home to the places and people they know. Being deterred from coming to Australia by the statements or actions of Australian politicians is just not on their radar screens.

Most important of all, by what crude standards of thinking do we empower ourselves to abuse and mistreat children who have already arrived here as a weapon to deter others who have not?

Criticism

Yet all criticism of this gross misconduct has been brushed aside as bleeding heart stuff not worthy of serious consideration. Terms like “the intellectual elite” or the “chardonnay set” have been used. I prefer Shiraz myself, but the names will never avoid the facts. Without knowing any of the facts applying to the individuals, many promoters and defenders of the system say that the asylum seekers do not deserve to be treated decently.

I beg to disagree. What we are doing is inhumane, and inhumanity cannot and must never be accepted with impunity. We simply must protest such fundamental violation of decent conduct. We, the people, can make our democracy work better than this. Why don't we? We certainly cannot leave it to the politicians or the talk back junkies or the professional propagandists, who too often have a problem finding a single moral principle between them all.

Successive governments of Australia and their supporters have so far ignored any number of damning reports by U.N. agencies, our own Human Rights Commission, Amnesty International and many others.

The NSW Department of Community Services (DOCS) recently published a report on the dangerous mistreatment of many detained children but its findings, like similar criticisms by the Premier of South Australia, have been peremptorily dismissed because, as the Immigration Minister said on television recently, Commonwealth not State Law governs the detention centres. Do our people know, have they been told, that despite Commonwealth ratification of the UN Children's Convention, Commonwealth law apparently does not provide an assurance that children, whether alone or with their families, are to be treated with humanity, and their welfare protected and nurtured.

This is pure cant, not argument. It is at best governance or bureaucracy gone mad.

Confidentiality and secrecy

Moreover, not satisfied with being child abusers and human rights violators, our authorities insist on keeping the detention centres under a cloak of secrecy and deception by excluding visitors offering comfort to detainees, by refusing entry to professionals who can help them, and by saying no to the media which might actually reveal to our people as a whole what is going on. It is even required of fully qualified visiting health professionals who do gain admission, and all employees, that they sign confidentiality undertakings for the purpose of intimidating them into not speaking of their experiences within centre walls on pain of litigation and loss of jobs and contracts. Can they smell, can we smell, blackmail? Where is the transparency and the accountability to which people in a democracy are supposed to be entitled?

Although these crazed threats that contracts will be terminated and legal action taken against honourable hard working Australians if they speak the truth about the conditions being endured by detainees, are real and create genuine fear, as is intended, they are in fact complete nonsense. There is simply no right to confidentiality of centre managers or immigration officials in protecting and keeping secret unlawful and immoral official conduct against human beings in their care. The only people entitled to confidentiality are the detainees themselves and they are anxious for their stories to be told, not in keeping their stories within the confines of the razor wire.

Indeed, detainees who give their permission for others to tell their stories, are entitled to have them told, especially as they cannot do so themselves. Which is why these attempts to silence decent law-abiding professionals and employees, and keep out the media, are nothing less than brutal bullying tools designed to keep us, the people, from learning the truth and to further oppress the detainees themselves. They also assist to maintain the apparent legitimacy of illegitimate official actions, and are deliberately targeted to provide a smokescreen for continued human rights abuses. In any event, are they not wasting enough public money already without throwing more away on court cases?

Change

The first task is to do away with the institution of “mandatory detention”, a manicured term which like that other infamous nom de plume “ethnic cleansing”, actually hides its sinister meaning. Compulsory jailing of innocent children and their loving parents must be abolished. In its place, we should concentrate all efforts on placing them in the community, with reporting systems and bonds if desired, so that we may do our legal and moral duty, and in the process, hold our heads high amongst our international counterparts. As has been proved elsewhere, and indeed here in the past, such systems are both achievable and sensible.

While our leadership continues to insist on the long term detention of asylum seekers – and they might as well understand now that they will be forced to dump it eventually – the system must be radically reformed, and the conditions and facilities dramatically improved, both throughout and after the adjudication process. If detention is to go on, even for a little while longer, we need more eyes capable of penetrating the barbed wire to the truth of the matter, and the dark curtains pulled down to allow for transparency and for access to the operations and effects of this important public government activity which we are paying for – and pretty heftily at that.

We need also to restore due process by giving all asylum applicants a fair chance to put their cases to an unbiased unslanted examination by the authorities and provide one full appeal to a fully independent court or tribunal of integrity. Legal assistance should be

provided to all applicants who cannot afford their own lawyers. There should be no orders for costs in favour of the Commonwealth.

We must fully legitimise the asylum seekers found to be refugees which many of them have been. Under our present laws, asylum seekers arriving in Australia without adequate identification papers will only ever be granted three year temporary protection visas, meaning that in three years, regardless of the situation in their home countries, they will or are liable to be returned to whatever might face them. While here, they are entitled to few benefits given to other types of refugees. Yet their situations are identical.

This little "pearl" is a complete denial of the whole concept and essence of refugee status. Temporary protection visas should be abolished. Most survivors of the Nazi Holocaust also destroyed their papers so that if caught by the Russians they would not be sent to Siberia, and if caught by Nazis thugs they would not be murdered on the spot. The absence of papers also provided them with maximum flexibility to negotiate or even buy a safe outcome.

Yet if our current system had applied to them, they would have all been sent back to what remained of Germany and Poland after the Second World War. If it had applied to the refugees who came here from Cambodia, Laos and Vietnam, they would have been returned to Communist governments.

In fact we did send back most of the 4000 Kosovars we temporarily helped, telling them that peace had returned to their country. Yet most found that their homes, farms or businesses had been destroyed or were being occupied by others, often with the permission or support of the authorities. They still wander the streets trying to eke out a living and find shelter somehow.

If people cannot be sent back to their own countries and no other country is willing to take them, we must give them status in Australia to work, receive medical care, and seek education until their situation can be resolved satisfactorily and humanely.

In other words, we need to reassert, as we have always done before, that Australia is a place where people might seek true refuge from the ravages of persecution, not just until

their stories have been forgotten and the public opposition to their forced return has become muted by the passage of time.

Sending them home

The Refugee Convention includes a so-called 'cessation clause' which recognises that where circumstances in a country change, people from that country might no longer need protection. But the Convention is clear that such changes must be of a substantial and durable nature.

There have certainly been significant changes in Afghanistan since September last year, so that under the new regime now installed, a start has been made in winding back some of the worst excesses of the Taliban. However, we must remain deeply concerned by statements from our political leaders that Afghanistan is "safe" because the Taliban have been routed.

Indeed, there is more than a hint of hypocrisy about a country like our own which while telling, even paying, people to go back home because it is said to be now safe, is at the same time sending more military personnel there on the ground that the Taliban still control parts of the country and the Al Qaeda are still functioning and terrifying significant elements of the population. All this, by the way, while we have just reduced our annual commitment to the UN's refugee agency from \$14m a year to \$4m.

In my opinion, suggestions that peace has broken out are grossly under-estimating the complexity of the situation. Firstly, they fail to recognise that for the last 20 years and more, Afghanistan has been embroiled in a succession of bitter struggles between the various ethnic and religious groups within the country. What we are seeing is just the next chapter, not the end game.

Secondly, when there has been an upheaval of the scale recently seen in Afghanistan, a significant number of people will be in need of ongoing protection. This was the case in Indo China where so-called "resettlement" programs (meaning genocide or forced labour) went on for almost 20 years after the war ended. Six years after the signing of the Dayton Peace Accords on Bosnia, the largest single group being accepted by Australia for resettlement at

this time comes from Bosnia, mostly Muslims, who had been told that their country was safe to return to or stay in.

It is far too soon to make a blanket assessment about Afghanistan. Although the initial reports have tended to be positive, ethnic divisions within Afghanistan's tribal culture are still deep, and freedom of expression and belief is not widely respected. The reinstatement of politics in a country that has suffered as much as Afghanistan is a process which will take years, not weeks or months.

Some Afghans are actually very keen to return to their homeland. In large part, these are people who have links to the new regime and are keen to establish a place for themselves in the new order. Their return should be facilitated. Such people are, however, a minority of the Afghans in Australia. The majority of the Afghan asylum seekers have been from the ethnic and religious minority group, the Hazaras. Without doubt the Hazaras suffered terribly under the Taliban. It must also not be forgotten that their persecution began long before the reign of the Taliban and there are as yet no guarantees that it will end with their demise.

Leadership

And a final word on our own leadership.

This is the first recorded time that our leaders have refused to inform and educate the people with the facts. When trade unions and others objected to Chinese labourers being brought here to help find gold in the late 19th century, the leaders told the people what had to be done. When 83% of Australians voted, in 1947, against allowing Jewish survivors of the Nazi Holocaust to be admitted to Australia, the leaders told the people what was right – even if they partly gave in to the pressures by limiting the numbers of Jewish passengers on each boat to 25% of the total.

When people objected to workers coming here from Yugoslavia and other parts of southern Europe to help build the Snowy Mountains Hydro Electric Scheme, with all that that project has meant to the prosperity of Australians, the leaders said what the national interest

demanded. When more than 60% of people voted to reject refugees from Vietnam, Laos and Cambodia, whose countries and lives we had helped to wreck, in our own not their interests, the leaders decided what our national duty was.

Where are the leaders today who will carry out their similar responsibilities in relation to those seeking our acceptance today? When will our leaders of both the major political groupings decide to lead, not follow, the prejudices and ignorance of those who do not want to know the truth lest they be embarrassed by it? What we are looking for is a noble country which upholds human dignity for itself and bestows human dignity on everyone in it. We want, and deserve, leaders committed to the achievement of this saintly goal.

Conclusion

Human rights are, as their most famous declaration says, universal. They are for all of humankind. No one person is more of a human being than another.

There is no more fundamental task for honourable people than to uphold the sanctity of the human condition. A truly humane nation treats all vulnerable people, whatever their ethnic, racial and cultural origins, with dignity, sensitivity and respect, and caters for their physical, emotional and welfare needs.

We Australians are normally generous, kind and honourable people, but we have strayed from our path at present in relation to those seeking refugee asylum in our country, people who in all but a tiny number of cases, are human victims of terror, persecution, torture, starvation and worse.

It is time for attitudinal change on this issue. We are no longer cherishing the principles we have so enthusiastically promised to uphold for our children and for children everywhere. In the process we are forsaking who we are and what we stand for. We must take a step back and remember why we made these promises, and what we need to do to keep them. After all, if the children are suffering and the children are the future, what hope is there for the future?³

³ Adapted from Maty Phiri editor monthly newsletter for teenaged in Zambia

Nelson Mandela said on his last visit to Australia just over 2 years ago :

One of the most difficult things to do is not so much to change society as to change ourselves.

This change will not just happen. It is up to us to make it happen. Our people and our leaders must be made to realise that it takes a stronger nation to admit its errors, and to learn from them, than to pretend that nothing went wrong in the first place.

We cannot continue to ignore the plight of our asylum seekers and refugees and tolerate attitudes towards them which would redefine our country as some type of monoracial or elitist fortress. We must reject the inhumanity and loose racism that have driven our policies in this area. In their place, let us decide with quiet but unflinching determination to treat those who ask for our help in exactly the same way as we would ask, and expect, for ourselves.

This is a fight for rediscovery of our nation's soul. We dare not fail. In my opinion, we have not a moment to lose.