

SPEECH TO ALP NATIONAL CONFERENCE FRINGE EVENT, “WHICH WAY FORWARD? REFUGEE, SECURITY AND THE ASIA-PACIFIC”, JULY 31, 2009

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Earlier this month, I visited the UK to meet representatives of agencies involved in supporting refugees. I was going there to learn more about the local situation but the level of interest in what has been happening in Australia was so high that I spent more time answering questions about current Australian policy than I did learning about UK policy and issues.

It is not surprising that there is considerable international interest given how damaging Australia's approach to refugee policy was during the life of the previous government. Khalid Koser, the international security expert who visited Australia this month, described the Pacific Solution and its associated policy framework as Australia's Guantanamo Bay, our Abu Ghraib. It was an approach which robbed Australia of the capacity to persuade other countries to respect human rights standards. It was a policy which damaged highly vulnerable people and even contributed to the deaths of some people returned to countries which they had attempted to flee.

The current Immigration Minister, Chris Evans, has rightly acknowledged, in reviewing the refugee policies which existed at the time of the change of government in 2007, that responsibility for bad policy did not rest entirely with the Coalition. Some policies were introduced during the life of the Keating Government, Labor opposition to the most appalling policies of the Howard Government was, at times, weak and the reform process which began in 2005 owes a great deal to a group of plucky Liberal moderates who stood up to their party leadership.

That said, the changes which have occurred in refugee policy since November 2007 have been impressive. In May on ABC Radio, the former Liberal MP Bruce Baird described Chris Evans as “probably the most effective immigration minister we've seen for a long time”. I know of no-one who cares about a fair deal for refugees who would disagree with him. Senator Evans has:

- permanently closed Australia's immigration detention centres in Nauru and Papua New Guinea;
- abolished Temporary Protection Visas;
- killed off plans to introduce integration criteria in assessment of refugee visa applications;
- increased the Refugee and Humanitarian Program by 750 places a year;
- improved the process of appointing people to the Refugee Review Tribunal;
- introduced a fairer approach to granting asylum seekers work rights and access to health care; and
- built on the alternatives to detention developed in the final years of the previous government by turning the old Community Care Pilot into an ongoing national program.

Also, he:

- is just about to achieve the abolition of the detention debt policy for asylum seekers and others in immigration detention;
- is working on improvements to the running of immigration detention centres;
- is removing some of the inequities of the citizenship test regime; and
- is developing plans to introduce a system of complementary protection, to ensure a fair process for vulnerable people owed protection under human rights treaties other than the Refugee Convention.

That's a very impressive list of achievements halfway through the first term of a government. Of course, the Refugee Council of Australia can always (and regularly does) suggest ways in which these policies can be improved further. However, that doesn't alter the fact that the past two years has seen the most positive and far-reaching change in Australian history to policies relating to asylum seekers.

With such wide-ranging change to domestic asylum seeker policy, the main challenges now lie in three areas:

1. Reviewing the excision policy which sees asylum seekers arriving by boat treated differently to others who seek refugee protection in Australia.
2. Investigating the most effective roles Australia can play in boosting opportunities for refugee protection in the Asia-Pacific region.
3. Longer term planning for Australia's Refugee and Humanitarian Program.

On the first issue, Australia's policy of excising offshore islands from the migration zone, it's disappointing to see this excision policy again in the draft ALP National Platform. Excision was a policy developed under John Howard, Philip Ruddock and Alexander Downer in the aftermath of the Tampa Affair. Of course, I acknowledge that it is operating quite differently now on Christmas Island to how it operated on Nauru and Manus Island and those found to be in need of refugee protection are receiving it fairly promptly – but the policy still remains.

The excision legislation in 2001 was introduced seven days after the September 11 terrorist attacks by a government which, at a time of great fear and uncertainty, was linking boat movements of asylum seekers with terrorism. Given that, it is not surprising that the policy received widespread support. However, any suggestion that there is a link between terrorism and asylum seekers arriving by boat has proven to be false and the high level of fear which existed in 2001 has dissipated – but still this excision policy remains.

When you look at how the excision policy is operating, it is clear that Immigration Department is doing what it can to give asylum seekers a fair hearing on Christmas Island. But this doesn't change the fact that asylum seekers processed under the excision policy have fewer rights than those processed under the mainland system. They are denied the right to appeal to the independent Refugee Review Tribunal and denied access to the Australian court system. Why? Simply because they arrive by a different mode of transport than the much larger number of asylum seekers who arrive by plane.

The statistics show that a much higher percentage of asylum seekers who arrive by boat are found to be in need of refugee protection (more than 90%) than those who arrive by plane (around 40 to 45%). The system is discriminating against those who are more likely to have stronger grounds for refugee protection. Even a pragmatist with no notion of human rights standards could see that claims for asylum could more easily and more cheaply be processed in a mainland city than on Christmas Island. We don't know the full cost of sending Immigration Department staff, legal advisers, social workers, torture and trauma counsellors, interpreters and detention centre staff to Christmas Island – but we do know, despite all the good will of those currently involved, that the systems on Christmas Island are under considerable pressure.

The Australian population has moved on from the days when the alleged link between asylum seekers and terrorism was foremost in public thinking. Just this week, Amnesty International released details of a Neilsen opinion poll which showed that 69% of Australians believe that asylum seekers who arrive in Australia by boat should have access to the same legal protections as those who arrive by plane. The poll also showed that many Australians are misinformed about the numbers of asylum seekers arriving by boat, with the majority thinking

that 60% or 80% of asylum seekers travelling to Australia come by sea. In fact, last year, fewer than 4% of asylum seekers received by Australia arrived by boat – and, of course, our country last year received only 0.3% of the world's asylum seekers.

So, with political leadership – the same sort of political leadership the Rudd Government has shown in other areas of refugee policy – the excision policy could, and should, be reviewed.

The fact that some asylum seekers (in relatively small numbers) take to the sea in boats to reach Australia is not, as the Federal Opposition suggests, a failure of Australian Government policy but an indication of how limited the opportunities for refugee protection are in South and South-East Asia. Improving our engagement with our neighbours on questions of refugee protection is critical, both to providing better alternatives to refugees than taking to the seas and to saving the lives of highly vulnerable people escaping persecution.

Last month, the Refugee Council of Australia released a report, "The Search for Protection", based on interviews with recently resettled Burmese and Iraqi refugees regarding their experiences as refugees in Malaysia, Thailand, India, Syria and Jordan. I have some copies of this report available here tonight. Refugees spoke about having to work illegally to survive and fearing arrest and imprisonment because of the denial of work and residency rights. Conditions varied from country to country, with refugees who lived in Malaysia telling of being harassed, arrested, detained and mistreated and then being forced to pay large bribes to secure their release. Finding enough money to ensure basic survival, to pay for food, medical care and education, is a constant worry for refugees in many countries of asylum. All too often refugees have to leave serious medical conditions untreated because they have no funds for even basic health care.

Working with UNHCR and host governments to improve conditions for refugees in our region is a major challenge. It is encouraging to see the growth in Australia's support of UNHCR, which totalled \$37.8 million in 2008. But given the far greater sum being put into anti people smuggling initiatives, to respond to a symptom of the limited avenues for refugee protection, I cannot help but wonder whether Australia has found the right balance in spending priorities.

I know that Graham Thom (from Amnesty International) has more to say on Australia's regional engagement on refugee protection, so I will move to my final point, about Australia's Refugee and Humanitarian Program. The Refugee Council is encouraged by the Government's increase in the program, over the past two years, from 13,000 to 13,750 places. We are making two recommendations to government regarding the program in coming years.

The first recommendation is that Philip Ruddock's decision in 1996 to make a numerical link between the granting of protection to refugees within Australia and our offshore refugee resettlement program be reversed. The onshore and offshore programs are designed to meet quite different international responsibilities. The onshore program aims to meet Australia's obligations as a signatory to the Refugee Convention. The offshore resettlement program is a voluntary contribution to the sharing of international responsibility for refugees for whom there is no other durable solution available.

The linking of the two programs has undermined support within Australia for our nation's adherence to the Refugee Convention. The previous government went to great lengths to paint refugees who came to Australia as "queue jumpers" who were taking the places of needy refugees waiting patiently in refugee camps. This policy of deducting a humanitarian resettlement place every time an asylum seeker in Australia was recognised as a refugee was designed to promote the view.

(I may add that the Liberals might not have been the first to make this claim about queue jumping. The first reference to asylum seekers “jumping the queue” that we’re aware of was made in 1978 by the then Labor Shadow Minister for Immigration, Dr Moss Cass.)

Implicit in this view is that Australia should not be bothered by people seeking protection under the Refugee Convention and that genuine refugees should go to other countries and wait patiently in the hope that Australia may choose to resettle them. What an arrogant view and what an abrogation of the Refugee Convention. How would the governments and people of Pakistan, Syria, Jordan, Chad and Tanzania (to name a few) – who host many times more asylum seekers than Australia ever has – feel about this?

It’s time to say clearly that the recognition of refugees is vitally important and that refugee resettlement is vitally important – and that the two should not be put up in opposition to each other. Australia can plan (as it currently does) for the processing of asylum claims and for offshore resettlement quite well without having to subtract one from the other.

And with this issue addressed, Australia can enhance its medium and longer term planning of the refugee resettlement program. Refugee resettlement is something that Australia does extraordinarily well, as the High Commissioner for Refugees, Antonio Guterres, acknowledged during his visit this year. In the financial year just finished, Australia has resettled around 11,000 refugees and humanitarian migrants. It is interesting to note that in 1981-82, a time of economic downturn when overall migration was substantially lower than it is currently, the Fraser Government resettled 21,900 refugees. Given the vast global needs and the pressure for refugee protection in our region, a phased expansion of refugee resettlement should be considered by a government which has built such a positive record on refugee policy and global cooperation on human rights.