AJHR vol 13.1 articles 30/11/07 2:34 PM Page 149

From humanitarianism to human rights and justice: a way to go

Diane Gosden*

Refugees are now seen as threatening a host country's security by increasing demands on its scarce resources, or threatening the security of regions by their presence.
— B S Chimni (2000, 11)

Such is the humanitarianism of our times.
— B S Chimni (2000, 3)

This article explores the relationship between humanitarianism and issues of human rights and justice, in the context of Australian advocacy for asylum seekers/refugees.[1] It explores tensions within the Australian advocacy movement between the need for immediate humanitarian relief of the suffering of asylum seekers/refugees affected by Australian policy, and the need for long-term systemic change. The article examines capacities and limitations of humanitarianism in regard to that advocacy, via the trajectory of advocacy achievements and non-achievements. Using this focus, it explores the extent of overlap or distance of humanitarianism from issues of human rights and justice, through the concept of 'a just humanitarianism'. Despite the limitations identified, the article argues that humanitarianism has the potential to act not only in its own right, but as an opening point for human rights awareness, and in that sense, as a bridge towards an end point of justice. In this regard, the article argues for a pluralist approach in working towards that end goal, with the making of connections between the tools of humanitarianism and human rights at local, national and international points of entry.

Introduction

A variety of concepts are held about the nature and practice of humanitarianism. This article examines these concepts through the particularity of that activism and

* The author has been involved in this issue as both researcher and advocate. She is a PhD candidate at the Centre for Refugee Research, University of New South Wales.

1 The term 'asylum seeker/refugee' is used to indicate that those mentioned here as refugees have originally sought refuge in Australia through the onshore component of its program for refugees and others in humanitarian need.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 150

advocacy[2] in Australia in recent years which has contested Australia's treatment of 'asylum seekers'.[3] The article traces a journey by asylum seekers/refugees and their advocates[4] to achieve a 'just' asylum seeker/refugee national policy. This journey is still in process in Australia via the tools of humanitarian and human rights advocacy. A number of authors have noted the distance between humanitarianism and justice (Dauvergne 1999; Taylor 2001), and others have noted the distance between both humanitarianism and human rights in terms of global social justice issues (Chimni 2000; George 2003, 25; Grewcock 2003–04). Awareness of these tensions needs to accompany advocates on any journey from an initial awareness of human suffering, to humanitarian responses to alleviate that suffering, to efforts to build absent human rights 'from below' (Ife 2005, 19), and to struggles for systemic incorporation of those human rights in order to achieve a just society, whether that be at a community, national or global level. It is this continuum which is explored here in the particularity of advocacy contesting Australian onshore refugee policy. The following section begins by considering the resources offered in this journey by humanitarianism.

Constructions of humanitarianism

'Humanitarianism' is commonly defined in dictionaries in terms of humanitarian principles or practices (Marckwardt et al 1984, 614; Barnhart 1995, 1029), while 'humanitarian' is defined variably as 'a person who seeks to promote human welfare'; 'who advocates or practices humane action' (Moore 2004, 610); 'who is broadly philanthropic and humane'; and 'who seeks to forward the welfare of humanity by ameliorating pain and suffering in any of their manifestations' (Marckwardt et al 1984, 614). Such definitions represent traditional views of humanitarianism as based on a duty, arising from a sense of compassion, to act to alleviate human suffering (Darcy 2004, 9). However, in recent years, other conceptions of humanitarianism have been put forward, in which commonalities with human rights agenda are present, and the concept of human rights is

2 Research methods in the author's study of this collective action have included participant observation, mapping of group involvement, and in-depth interviews across sectors of involvement and geographical areas in Australia.

3 Crock and Saul (2002) point out that those people referred to as 'asylum seekers' are 'in fact and as a matter of law, seeking asylum, refuge or protection in Australia … They are also the *only* refugees that Australia is *legally obliged* to protect under international law' (2002, 10).

4 The term 'advocate' is used as a generic term for activists and advocates. It is the term most commonly used by supporters of asylum seekers/refugees as a self-identifier, especially on the east coast of Australia. It usually connotes public advocacy, which may or may not be associated with professional advocacy, such as legal and medical.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 151

increasingly invoked (Darcy 2004, 4–5). As James Darcy argues, there is a significant overlap of the two agendas, with 'a shared concern with many of the same contexts, the same people, and the same threats to their wellbeing' (2004, 6).

Despite this, humanitarian and human rights philosophies and discourses also possess marked points of divergence (Dauvergne 1999; Taylor 2001; Darcy 2004; Every 2006). In an analysis of these orientations in pro- and anti-asylum seeker discourse in the 2001 Australian Parliament, Danielle Every (2006) observes that while a universal human rights discourse 'is sourced in notions of equality', humanitarianism remains based on 'the fundamental inequality between a benefactor and a beneficiary that arises when someone is "in need" ' (2006, 106). As a result, Every notes, they offer 'quite different subject positions for asylum seekers' (2006, 106).

Every's analysis of pro- and anti-asylum seeker parliamentary discourse found constructions of both rights and humanitarian discourses. In terms of human rights discourse, she observes that refugee advocates 'constituted asylum seekers as people with rights' (2006, 253), drawing upon a construction of rights as universal and arguing that Australia's actions violated the rights of asylum seekers (2006, 253). In contrast, Every notes that government speakers constructed a rights discourse in terms of 'sovereign rights as absolute, non-negotiable rights to control national borders' (2006, 252), and asylum seekers as a threat to these rights. Significantly, in these latter speeches, she observes, 'asylum seekers' claims were downgraded to a less compelling "humanitarian obligation" ' (2006, 252).

Refugee advocates also had a humanitarian discourse, which was constructed as an 'other-centred' humanitarianism emphasising the liberal principle of 'a "duty to assist others" as a moral and emotional imperative' (Every 2006, 253). In contrast, the government's discourse of 'humanitarian obligation' established what Every calls 'a bureaucratic humanitarianism' that removed asylum seekers as potential subjects of moral demands (2006, 131–35). Every argues that the humanitarian obligation constructed in these latter speeches was concerned to establish that Australia was taking a quantifiable 'fair share of the burden' (2006, 252), and did not include protection or an assessment of asylum seekers' needs. In a number of cases, she argues, this humanitarianism was defined so as to apply only to displaced persons in overseas refugee camps, thus dismissing asylum seekers arriving in Australia as 'a legitimate focus for humanitarian aid' (2006, 253).

Capacities and limitations of humanitarianism

These very different constructions of humanitarianism illustrate the fluidity of the concept, and the importance for clarity around the purposes for which it is being

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 152

used, as well as awareness of its capacities and limitations. Catherine Dauvergne, for example, in analyses of the role of humanitarianism in immigration law (1999) and of the dilemmas of rights claims in refugee law (2000), situates humanitarianism as 'a pragmatic tool for shifting law and policy' (1999, 597). It is, she suggests, perhaps even 'the best tool for arguments to improve conditions for refugees both worldwide and in Australia' (2000, 57), but one which must be used 'with caution because of its foundation in inequality' (1999, 597).

Dauvergne argues that 'humanitarianism has become the defining mark of immigration and refugee law in Western democracies' (1999, 619). She advocates for the role of a 'strategic humanitarianism' in these areas, and argues that a 'great deal of reform in immigration and refugee law could be achieved by making laws more humanitarian' (1999, 623). Her analysis is one that is concerned with an understanding of the role that humanitarianism plays within the 'liberal theory' framework of the international order, but also of 'the inherent limitations of arguing in humanitarian terms' (1999, 623). Dauvergne notes that 'liberal migration laws use humanitarianism as a stand-in for justice' (1999, 622–23), and argues that this has important consequences for the way we think about migration law, as humanitarianism and justice have little in common. Humanitarianism, she notes, is not 'a standard of obligation as justice would be, but rather of charity' (1999, 620).

For Savitri Taylor also, the underlying premise of 'sympathetic frames of reference', such as humanitarianism, is one of inequality (2001, 195). Taylor argues that when our response to asylum seekers arises from humanitarian impulses alone, we are likely to feel free to give our interests much greater weight than theirs (2001, 195). In a response to Dauvergne's analysis, Taylor argues that from a human rights perspective, advocacy which uses 'the language of humanitarianism, charity or economics when appealing for better treatment of on-shore asylum seekers' (2001, 197) can be counterproductive. The problem, she argues, is that it 'reinforces frames of reference that should be challenged' (2001, 197), and thus jeopardises 'the possibility of achieving more significant and enduring change that would benefit all asylum seekers in the long-term' (2001, 197).

From another perspective — that of global justice — B S Chimni has critiqued the way in which humanitarianism has been used internationally for refugee protection. Chimni has argued that in an era of globalisation, the ideology of humanitarianism has become manipulated in the service of sustaining global relations of inequality, and indeed used to facilitate the 'erosion of the fundamental principles of refugee protection' (2000, 3). In his critique, Chimni points to a humanitarianism in which, while there is a focus on the immediate needs for relief of suffering, there is also an absence of a systemic critique, and with it an obscuring of the connections between

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 153

causation and suffering, and between interconnected global interventions and local impact. These issues, he argues, 'must be placed squarely on the agenda of the practitioners of humanitarianism' (2000, 17). If they are not, Chimni argues, then that humanitarianism is not humanitarian enough. A 'just humanitarianism' (2000, 16), he argues, would make those connections.

These reflections on the concepts, capabilities and limitations of humanitarianism are apt in the instance of Australian advocacy for asylum seekers/refugees, since humanitarianism has played such a distinct role in that advocacy.

Humanitarian relief through a citizens' movement

For more than a decade, a small number of refugee and human rights non-government organisations (NGOs), professionals, church groups and activist groups have been involved in opposing aspects of Australia's onshore refugee policy. As John Gibson states, 'it is important to note the almost Jekyll-and-Hyde nature' (2006, 1) of Australia's current refugee protection system — that is, there is a marked difference in character between Australia's approach to the onshore (asylum and protection) and offshore (resettlement) components of its humanitarian program (Gibson 2006, 1; see also Crock et al 2006, 3–25). The offshore humanitarian component offers 'a humane and generous' program (Gibson 2006, 1) of resettlement for people accepted as refugees by the United Nations High Commissioner for Refugees (UNHCR), and for other people overseas in need of humanitarian assistance. As Crock et al note, it is the 'third largest offshore refugee resettlement program in the world' (2006, 3). The onshore component for those who arrive in Australia on temporary visas or without visas and claim Australia's protection is, in contrast, 'draconian' in nature (Gibson 2006, 1; see also Maley 2004) and includes, among other aspects, mandatory detention; restricted access to Australia's migration zone through excision of Australian territory; offshore processing of asylum claims through the 'Pacific Solution' (later known as the 'Pacific Strategy'); restrictions on the ability of Australian courts to judicially review administrative decision making (Gibson 2006, 10; Crock et al 2006, 61–107); and restricted protection visas (McMaster 2006; Taylor 2000).

This policy had long enjoyed support from the two major political parties in Australia, the Coalition of the Liberal Party and National Party, which has been in federal government since 1996, and the Australian Labor Party, which introduced mandatory immigration detention into practice in 1989 and into Australian law in 1992 (see Crock et al 2006, 173–86, for mandatory detention; see McMaster 2001, 2002; Jupp 2002; Neumann 2004 for analysis of historical antecedents; and see Pickering and Lambert 2002 for discursive antecedents to the current treatment of asylum

seekers). In more recent times, a larger uprising of passionate opposition to the policy occurred (Coombs 2004; Tazreiter 2004; Gosden 2006a; Vas Dev 2006; Fiske 2006). Many of these latter people became unexpectedly galvanised into action as they became aware of the human suffering associated with Australia's onshore refugee policy, following well-publicised national events in 2001 and 2002 (ABC 2001; Mares 2002; Weller 2002; Marr and Wilkinson 2003; Kevin 2004; Manne and Corlett 2004).

Of all these events, the 2001 actions of the Australian Government in refusing entry to asylum seekers on the Norwegian vessel *Tampa,* and the subsequent development and implementation by the Australian Government of the 'Pacific Solution', were the most politicised and publicised, nationally and internationally. The demonisation of asylum seekers in government and media discourses that accompanied the government actions ensured that the issue became an increasingly polarised one for the Australian public in a 2001 pre-election period (Pickering 2001a; Manne 2004). While opinion polls at the time showed majority public support for the government's actions (Goot 2002, 72), groups opposed to the policies also sprang up across Australia during this period and brought a new energy to advocacy in this area. Although the majority of these 'new' groups began from late 2001, Crock and Saul (2002, 5) note that awareness of the harshness of the policy had been increasing in the preceding period. The *Tampa* event and other 2001–02 events reinforced this already disturbed element of public opinion around occurrences in Australia's immigration detention centres (Mares 2002, 3–60; Crock and Saul 2002, 5; see Crock et al 2006, 187–208, for an account of conditions of detention).

The legacy of the policy has been evident in the harm that has been documented by medical and social researchers and human rights bodies (Steel 2003; HREOC 2004; Glendenning et al 2004; 2006; Corlett 2005a). Psychologists and psychiatrists Steel et al (2004) note, as health professionals, the resulting 'shattered lives and broken spirits' of asylum seekers/refugees (2004, 685). It is the legislation and policies relevant to this onshore component of Australia's refugee program that have formed the core of contention for asylum seekers/refugees and their advocates.

In the responses of advocates, empathic concern for the suffering combined with outrage at the policy. The social action which developed from these responses included action aimed at ameliorating the effects of the policy, and action aimed at bringing change to the policy (Reynolds 2004; Gosden 2005a; 2006a; Fiske 2006; Mares and Newman 2007). The former has included the provision of social, emotional, practical, welfare, medical and legal support. The latter has included political activism, legal challenges, research, publications, submissions to inquiries, community education, lobbying and the development of alternate policy. In addition, there is much overlap between the former and latter areas.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 155

In the political climate of historical support by the major Australian political parties for policies such as mandatory detention,[5] the way forward to long-term policy change often appeared to lie outside of the parliamentary process and with the Australian people, essentially as a citizens' movement (Gosden 2005a; 2006a). This process of engaging with fellow Australians was often made through both instinctive and strategic appeals to the humanitarianism of fellow Australians. The situations of suffering by asylum seekers and refugees were shared with other Australians in appeals for a more humane approach. These appeals to the Australian community did not exclude issues of human rights, justice and international obligations. But the humanisation of the suffering of asylum seekers and refugees,[6] and the attendant appeal to the compassion of fellow Australians, was often adopted by advocates as a path that could lead other Australians to a recognition that 'what is happening is wrong'.[7]

In 2005, this process moved to a centre stage position in the Australian Parliament,[8] as a small number of parliamentary members of the governing Coalition advocated for Private Members Bills which sought immediate humanitarian relief for asylum seekers and refugees suffering from the impact of Australia's onshore refugee policy. They also sought long-term reform of aspects of the policy. In this regard, the two-pronged approach reflected wider advocacy strategies of engagement with both the immediate suffering of asylum seekers/refugees affected by Australia's onshore refugee policy, and the systemic nature of the policy itself.

In May 2005, the two Bills were tabled in the Government Party Room by Liberal Party Member of Parliament Petro Georgiou. One Bill was the Migration Amendment (Act of Compassion) Bill 2005, which had been drafted as an 'Act of Compassion' for long-term detainees; for children and their families in detention; for Temporary Protection Visa (TPV) holders; and to provide permanent residence for

5 Exceptions to this are the minor political parties — the Australian Democrats and the Greens — individual Independent Members of Parliament, and individual members of the major political parties.

6 Peter Gale's 2002 analysis of print media coverage on asylum seekers identified the prominence given to the humanitarian perspective as compared to the human rights perspective.

7 It was not only previously unaware and uninvolved Australians who were so affected. Australians who had once accepted the policy also later came to this conclusion, as MP Petro Georgiou noted in a parliamentary speech in 2006 (Commonwealth of Australia 2006).

8 By this time, a series of scandals involving the detention of an Australian permanent resident and the deportation of an Australian citizen had brought increased public attention to the issue (see Palmer 2005; Commonwealth Ombudsman 2005). This period also followed earlier 2004 High Court decisions which found that indefinite detention is lawful under Australia's Constitution (Crock et al 2006, 173–81), and the 2004 win by the Coalition Party of a majority in both parliamentary houses, thus making even united opposition by other federal political parties unable to bring legislative change.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 156

people who could not be removed from Australia (AJA 2007a).[9] The other Bill was the Migration Amendment (Mandatory Detention) Bill 2005, which had been drafted as an Act to reform the mandatory detention system (AJA 2007b). This Bill was concerned with reform to the situation of mandatory detention of children, asylum seekers and unsuccessful asylum seekers subject to removal, and with the provision of permanent rather than temporary protection visas.

In June 2005, following negotiations within the Coalition Government and in particular with the Prime Minister, these Bills were withdrawn, and the subsequent Migration Amendment (Detention Arrangements) Bill 2005 was introduced into and accepted by the Parliament (ComLaw 2005a). As stated in the Bills Digest, the purpose of this Bill was '[t]o amend the *Migration Act 1958* to allow greater flexibility in the treatment of immigration detainees' (Prince 2005, 2). Later in the year, an accompanying Bill, the Migration and Ombudsman Legislation Amendment Bill 2005, which enlarged the role of the Commonwealth Ombudsman in immigration matters, was also accepted by Parliament (ComLaw 2005b).

What had changed in the substance of what was achieved by these Acts, compared to what had been sought in the earlier Bills, which were withdrawn? As Crock et al note, 'as at January 2006, all children had been released from detention centres into "community detention" ' (2006, 165).[10] So, too, had many long-term detainees. Many people on TPVs had been successful in their claims for permanent protection. In addition, the *Migration and Ombudsman Legislation Amendment Act 2005,* as well as extending the Ombudsman's immigration role, introduced 90 day time limits for the determination of protection visa applications and the completion of reviews by the Refugee Review Tribunal (RRT).

In terms of legislated protection of human rights in the *Migration Amendment (Detention Arrangements) Act 2005,* Parliament affirmed (in accordance with the Convention on the Rights of the Child and earlier recommendations by HREOC) the principle that 'a minor shall only be detained as a measure of last resort' (Comlaw 2005a, Sch 1, Pt 1, s 4AA), although this principle applied only to the holding of children in immigration detention centres or residential housing projects, rather than the new 'residence determinations' of 'community detention'.

9 Suggestions similar to this had been raised within community and church advocacy organisations for some time.

10 This is where a 'community sector organisation, contracted by DIMA, provides care and residential accommodation. The Minister can stipulate different conditions for each family, such as reporting arrangements. However, in general, detainees may go about their daily activities … without the accompaniment of a guard' (Crock et al 2006, 165).

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 157

The degree of humanitarian relief that was provided for the suffering of children and their families in detention, of long-term detainees in detention and of those on TPVs who successfully moved to a permanent status, was deeply welcomed by those affected asylum seekers/refugees and by advocates. Moreover, provision of this humanitarian relief was consistent with a shift in public opinion and a greater public awareness of the harm produced by these policies (Gosden 2005a; 2006a; 2006b).

Yet, the increased investigative and reporting role of the Commonwealth Ombudsman fell far short of the decision-making power of the Judicial Assessor of the earlier Bills. The earlier measures — which would have provided targeted rather than mandatory detention, an appeal system for judicial review of detention and permanent protection provisions for all asylum seekers found to be refugees — were absent. Nor did the changes necessarily constitute sustainable gains. In large part, they were discretionary rather than codified, with implementation dependent on the goodwill of the government and the discretion of the Minister.

In contrast, the original Bills had been concerned both with immediate humanitarian relief and with more profound change for processes of justice and human rights protection. Among other things, as Crock et al note of the Migration Amendment (Mandatory Detention) Bill 2005: 'The limited grounds for detention proposed … largely mirrored the UNHCR Guidelines … and would have represented a striking improvement of Australia's detention regime' (2006, 164). Indeed, Crock et al argue, 'the Bill would have gone a long way towards bringing Australia into line with every other Western democracy, none of which has a policy of mandatory detention' (2006, 164). Ultimately, the concessions gained had been hard won and provided significant and desperately needed humanitarian relief. However, sustainable protection for the human rights of asylum seekers and refugees who arrive in Australia unauthorised had not been achieved.

The tension between immediate humanitarian relief and systemic change

This 'balancing' of the need for immediate humanitarian relief and the need for systemic change to Australia's onshore refuge regime has not been confined to this parliamentary instance. It has been an ongoing concern for Australian advocates with limited resources. This situation itself is a direct result of the inadequacy of provision for justice and human rights protection within Australia's onshore refugee regime. Because of that inadequacy, the vulnerability and suffering of those held within the regime has often determined priorities of action for advocates.

That vulnerability has also been a cause of constraint for some against more overt public criticism of the onshore regime. Within a system of non-enforceable, non-

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 158

accountable ministerial discretion which can be sought for individual asylum seeker/refugee cases, and where advocates were involved in both endeavours — to pursue systemic change and to lobby for particular groups of asylum seekers/refugees or for individuals — asylum seekers/refugees could become 'hostages' against overt criticism of the regime,[11] as the following statement by an advocate illuminates:

> It was made very clear to me in a meeting with a government minister who shall remain nameless, that they won't see a particular organisation … because of public statements made … It just means that you have to be very thoughtful … And ready to take the consequences when you know you're going to make a statement that could push you over the line. So it doesn't stop us from pushing really hard, but it means we think about the implications very carefully, and unfortunately those implications are about the effect on individuals whose cases are still being considered. [Advocate (name withheld) 2005, pers comm, 10 August.]

The tensions within advocacy for asylum seekers/refugees which are apparent in this statement have included those that are common in much social action — that is, between conservative and radical orientations. They have also included tensions between established advocacy groups and 'new' groups; between professional and 'lay' advocates; and between local and national orientations. There have also been tensions around differences in terms of expectations, strategies and outcomes. Yet, despite these tensions, advocates have been bound together by a shared concern with the nature of the onshore policy and the human suffering resulting from it. Significantly, in the moral dilemmas and jostling of priorities that have occurred around various issues, it has been the range and diversity of approaches which have allowed for the strategic taking of specific roles by those differently situated within a multidimensional spectrum of advocacy (see Gosden 2005a; 2006a for further analysis).

From the replies from advocates to a 2004 questionnaire circulated by Professor Margaret Reynolds, it is obvious that there are a number of responses supportive of the situation of asylum seekers/refugees in Australia (Reynolds 2004). One response has been that of empathic concern. As Australians have made contact with those seeking asylum (often detained for years in immigration detention centres, or living

11 Significantly, a number of people seeking asylum have, over the years, taken this burden of 'potential harm' upon themselves when they have agreed to act as spokespersons within immigration detention centres, and have advocated for others within that system, despite their own vulnerable situation. In addition, it has been the initial activism of these people within the immigration detention centres that has led eventually to exposure of the inhumanity and systemic abuses of the regime.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 159

in the community on temporary or bridging visas), these initial concerns have became enlarged, not only through greater knowledge of the situation but also through the deepened personal relationships which grew from that contact (Tascon 2005; Gosden 2005b). Another marked response is that of outrage at the injustice of mandatory detention and other immigration policies. These responses speak of issues of justice and injustice; of human rights and human rights abuse; of international obligations; and of the need for systemic change.

These desires to alleviate suffering and to bring systemic change are not mutually exclusive. Rather, they inform each other, and many respondents mention their desire for both (Reynolds 2004). However, the desperateness of the situation of those asylum seekers held in Australian immigration detention centres and in offshore locations (Gordon 2005), and of those asylum seekers and refugees in the community on 'inadequate' protection visas (McNevin 2005; Corlett 2005b; McMaster 2006), often determined the priorities of which of these different battles would be fought. Many advocates would go on to engage in both capacities — the humanitarian struggle for relief of the immediate situation and the political battle for justice through systemic change to immigration policy. Some would engage primarily with the systemic and the political. For others, their personal and professional resources were fully extended in the humanitarian endeavour to assist those asylum seekers/refugees as best they could in the immediate struggle to maintain safety, sanity and the most basic of living conditions.

Into these circumstances of vulnerability and suffering, the *Migration Amendment (Detention Arrangements) Act 2005* and the *Migration and Ombudsman Legislation Amendment Act 2005* brought not only a degree of humanitarian relief, but also some hope for the further role which the 'liberal' values of humanitarianism might play in reforming the regime.[12] However, in 2006, the fragility of the assumed political goodwill of the previous year, and the 'inherent limitations of arguing in humanitarian terms' (Dauvergne 1999, 623), were made painfully obvious. In a reversal of the spirit of the 2005 reforms, the federal government introduced the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006, a Bill described by one of the parliamentarians who had initiated the 2005 reform Bills as a 'severely regressive measure' and 'the most profoundly disturbing piece of legislation'.[13]

12 See comments by Petro Georgiou MP (Commonwealth of Australia 2005).

13 See comments by Petro Georgiou MP (Commonwealth of Australia 2006).

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 160

In this Bill, a number of aspects noted earlier by Chimni as eroding the principles of refugee protection were present. In terms of policies of containment, the Bill proposed an expansion of the offshore processing regime introduced in 2001 (SLCLC 2006, Ch 1, s 1.2). The 'flexibility … to move a wider group of people to offshore processing centres' was 'designed to operate as a disincentive to people who arrived on the mainland unauthorised by boat …' (as cited in SLCLC 2006, Ch 1, s 1.4). The consequence, for all 'boat people' seeking asylum without authorised papers, would be exclusion from the Australian refugee protection regime available to other asylum seekers. In a scenario in which Chimni's description of 'spurious realism' seems apt, this exclusion was justified in terms of issues of diplomacy with a neighbouring country and as a rationalising of earlier excisions (see Manne 2006 for analysis of the Bill). In furthering the shrinkage of responsibility taken towards asylum seekers, the proposal created a negative precedent which 'would work to undermine, rather than support, the 1951 Convention in the region, and possibly beyond' (UNHCR 2006, 8). Overall, in the assessment of the UNHCR, the Bill amounted to 'a set of proposals … not in accordance with the object and purpose of the 1951 Convention' (UNHCR 2006, 2).

Despite a degree of 'burn-out' (Gosden 2005a, 29) among some asylum seeker/refugee advocates,[14] a strong campaign was mounted against the proposed Bill (Gosden 2006b; Taylor 2006). While most of the earlier amendments to the *Migration Act 1958,* which had pioneered policies of containment and harshness, had been passed with the support of both the government and the major opposition party, a different scenario was played out in this instance. In the House of Representatives, although the Bill was passed, three government members voted against it and a further two abstained from voting. In the Senate, the vote faced opposition and abstention by a number of government MPs. In addition, as well as opposition by the minor political parties[15] and Independent MPs, the major opposition party[16] also opposed the legislation (see Gibson 2006, 13–14 for a fuller account). On 14 August 2006, the Bill was withdrawn by the Prime Minister.

14 Surawski et al (under review) have studied the vicarious trauma and coping strategies of advocates.

15 Opposition to Australia's onshore refugee policies by the Australian Democrats and the Greens and a number of Independent MPs has played a consistent role in the overall advocacy.

16 At their 2007 national conference, the Australian Labor Party also adopted a policy that will provide permanent (rather than temporary) protection to asylum seekers determined to be refugees, and that will address the arbitrary 45-day rule that denies asylum seekers on Bridging Visas the right to work while their claim is being processed (AJA 2007c).

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 161

The withdrawal of the Bill illustrated a level of education and resultant shift in public opinion (Newspoll Market Research 2006) which had taken place around this issue.[17] By 2006, more Australians, whether or not in formal positions in public life, knew about the human cost of Australia's policies. That human cost had been evidenced at many levels — in research, in human rights reports, in Senate reports, in the exposure of malfunctioning in immigration department practice and in the challenging of immigration policy in courts of law. It had also been shared with the Australian public through media coverage that illustrated the human suffering of asylum seekers and refugees (Gale 2002, 3–4); through information and community education by advocates (Gosden 2005a); and through the sharing of personal experiences by asylum seekers/refugees affected by these policies and Australian advocates with whom they had engaged.

Every (2006) has noted that in the government's humanitarian discourse, asylum seekers were constructed as non-subjects. The achievement of asylum seekers and advocates is to have countered that dehumanisation and depersonalisation as occasioned by government discourse and immigration department practice. Asylum seeker/refugee voices and advocates' discourse of asylum seekers/refugees as subjects had penetrated the Australian community to an extent which made the 2006 withdrawal possible.

The dangers and potential of humanitarianism

As Chimni has argued, the dangers of humanitarianism arise when it is uninterested in, obscures or denies the connection between suffering and causation. Dangers for humanitarianism also exist when it becomes uninformed and undirected by the direct knowledge, experiences and needs of those who are in the situation of humanitarian crisis — that is, when it is something done *for* rather than *with* asylum seekers/refugees. In addition, as Dauvergne (1999) and Taylor (2001) remind us, humanitarianism is not a standard of obligation or equality, as are justice and human rights. Rather, it defines a morality of 'beneficence and bestowal' (Dauvergne 1999, 622).

On the positive side, apart from the often life-saving practical and social assistance it can provide, humanitarianism can also act as an opening for a more informed social consciousness and for subsequent social action to address the causes of the humanitarian crisis. As Anna Samson of A Just Australia (AJA) described it: 'It provides an opening. And you need to follow that opening with a political analysis that makes connections for people between the humanitarianism and human rights'

17 In the parliamentary debate on the Bill, there were repeated references by those parliamentarians who opposed the Bill to the lobbying against the Bill by voters in their electorates.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 162

(Samson 2006). In this sense, the realisation of that potential depends on the making of connections — between the perception of another's suffering and effective tools not only for immediate and temporary alleviation of that suffering, but also for more long-term protection and defence against the imposition of that suffering. This process involves the making of connections between the perception of that suffering; the humanitarian, human rights and other resources available for intervention; and the wider social, economic and political web within which the suffering has been engendered.

Making connections: humanitarianism, human rights and justice

While some humanitarian relief for asylum seekers/refugees and some penetration of advocates' humanitarian discourse into the wider community has been achieved in Australia, what has not been achieved is legislative reform of a policy which directly causes such human suffering. To overcome the consequences of that policy requires a further step into the crystallisation of those humanitarian concerns in legislative frameworks that provide protection for the human rights of asylum seekers and refugees.

Historically, examples of humanitarian concerns achieving legislative protection for human rights include such well-known campaigns as the 18th- and 19th-century anti-slavery campaigns in Western nations and the 19th-century 'factory' reforms in countries such as the United Kingdom. Those achievements involved long social and political campaigns on behalf of those stripped from recognition of their humanity and human rights by social constructions, colonisation and the Industrial Revolution. As Costas Douzinas reminds us, a slave in early Roman or Greek society was seen as an 'animal vocale', and a worker in the 19th-century industrial revolution as 'a cog in the machine' (Douzinas 2000, 257).

In our age, it is asylum seekers and refugees who have become 'the main category of otherness' in the world (Douzinas 2000, 142). Chimni's analysis is of a 'global apartheid' (Chimni 2000, 9) regime of privileged and underprivileged countries, in which those displaced from the latter become constituted by the former as both threat and burden (Chimni 2000, 11). In a period defined by Edward Said as 'the age of the refugee, the displaced person, mass immigration' (2000, 174), asylum seekers/refugees have become constructed in ways that obscure their recognition as subjects with human rights as well as needs.

This is specifically where the refugee and universal human rights regimes developed in the 20th century as 'overlapping, if discrete, systems' (Bhabha 2002, 166) provide the most cogent framework for action. However, in an era in which asylum seekers

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 163

and refugees no longer possess the 'ideological or geopolitical value' (Chimni 2000, 3) that existed prior to the end of the Cold War, recognition of the human rights of asylum seekers becomes easily subsumed in societies which do not provide adequate legislative and constitutional protection for universal human rights.

Australia has been noted as currently the only Western democracy without a national bill of rights (Charlesworth et al 2006, 64). In terms of protection for human rights as defined in international human rights conventions, Charlesworth et al note that: 'On paper, Australia has long been a champion of the international human rights framework … Yet, in practice, it has failed to implement the majority of these treaties into domestic law' (2006, 64). Nor, the authors argue, does the Australian Constitution provide mechanisms 'for parliamentary involvement or a popular say in whether the nation takes on international commitments' (2006, 150).

Australian advocates have utilised human rights instruments and discourse in numerous ways at local, national and international levels in seeking protection of asylum seekers' and refugees' rights.[18] Yet, it is argued that the effectiveness of this resource has been limited in Australian courts by the lack of 'a coherent rights jurisprudence founded on basic principles of human rights' (Saunders and Gardiner 2003, 38; see also Taylor 1998; Dauvergne 2000; Zifcak 2005; Charlesworth et al 2006, 69). Additionally, in terms of widening the spread of the human rights narrative within the Australian community, advocates have needed to counter governmental dismissal of that narrative, as it has been advocated by domestic and international human rights bodies (see Kinslor 2002 for analysis of such instances; see websites of advocacy groups such as A Just Australia, the Refugee Council of Australia, the Justice Project, Project Safecom, the Refugee Action Coalition, New Matilda and Getup for media releases and archived articles on human rights issues).[19]

In the view of MP Stephen Smith (ALP), the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 presented Australia with 'a litmus test' (Smith 2006). Writing before the vote on the Bill, Smith argued that 'it gauges our commitment to … the human rights of "the other" … The danger is beyond the excising of Australia from the migration zone. It is the threat of excising the concept of human rights itself from our care and concern' (Smith 2006).

18 These include legal argument at various levels; public discourse; lobbying; submissions to government inquiries; submissions to inquiries by national human rights bodies; application to international human rights bodies; and lobbying at international refugee and human rights forums.

19 As referred to above, websites include <www.ajustaustralia.com>; <www.thejusticeproject.com.au>; <www.safecom.org.au>; <www.refugeecouncil.org.au>; <www.racnsw.net>; <www.newmatilda.com>; and <www.getup.org.au>.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 164

Yet, despite the human rights concerns raised in public debate on this and other issues, general competence in human rights discourse has been noted for its relative lack in Australian society (Evans, as quoted in Charlesworth et al 2006, 65 and 70; Zifcak 2003, 66). In addition, previous attempts to introduce human rights Bills into federal legislation have not been successful (Charlesworth et al 2006, 69–70). While humanitarianism as concept and practice has an ancient tradition in human society, the concept and practice of universal human rights have a more relatively recent history (Douzinas 2000). It also tends to be a less intimately lived and realised concept for those whose lives are not severely impacted upon by its absence.[20] As Jim Ife and Lucy Fiske (2003) have argued, the development of a strong human rights culture in a society involves not only the achievement of legislative frameworks of protection for human rights, but also the growth of an 'ownership' of human rights understandings within the general community (2003, 5).

In Australia in recent years, some asylum seeker/refugee advocates have received a more immediate education in human rights issues from asylum seekers/refugees affected by its absence (ACHSSW 2006; Fiske 2006). In addition, the degree of empathic identification and personal connections which has developed between some Australians and asylum seekers/refugees has brought a more intense awareness for those Australians, in connecting the abstract concept of human rights conventions with the known suffering and systemic deprivations of rights of real and often loved human beings (Tascon 2005; Gosden 2005b).

Despite the obstacles which have limited the effectiveness of human rights discourse and mechanisms in the national context, the human rights regime has provided a legitimising force for Australian advocates.[21] It has also had the potential to provide advocates with an enlargement of view beyond the national boundaries and towards greater awareness of the role of human rights in issues of global justice. From another perspective, as Fiske (2006) argues, the human rights narrative has itself been actively contributed to, as advocates have joined together in numerous endeavours throughout Australia to provide basic rights denied to asylum seekers/refugees

20 The recent publicity given to the cases of Australian permanent residents and citizens detained in immigration detention centres and deported (Palmer 2005; Commonwealth Ombudsman 2005; 2006) may have begun a process whereby more Australians have been put on record about the fragility of protection from human rights abuse.

21 The human rights framework has provided the basis for reports and submissions which have subsequently been relied on in influencing legislative amendment. Examples include submissions to the Human Rights and Equal Opportunity Commission report into children in immigration detention (HREOC 2004), and submissions to the Senate Legal and Constitutional Legislation Committee examining the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 (SLCLC 2006).

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 165

through Australian government policies. This kind of engagement is an example of what Ife has described as the building of 'human rights from below' (2005, 19).[22]

Increased awareness of and respect for universal human rights requires leadership and community education in human rights. This is not necessarily an easy task, but as Senator Gareth Evans remarked in 1983, 'decency and humanity demand that the effort be made' (Evans 1983, quoted in Charlesworth et al 2006, 70). Additionally, as Dominque Saunders and Jamie Gardiner observe: 'As our society gets more complex … and as the forces of economic globalisation challenge the earlier internationalisation of human rights, the need for effective and systematic protection of human rights in this country is more pressing than ever' (2003, 40).

Smith may well be correct in his judgment that '[i]n dealing with any future refugee crisis, a decisive moral choice in favor of true human rights would surely trace its success to the defeat of this bill' (Smith 2006). Yet, at present, this achievement sits untenably with existing legislation affecting asylum seekers/refugees in terms of human rights conventions (AIA 1998; Taylor 2000; AI 2002; 2005; Maley 2004; Glendenning et al 2004; 2006; McNevin 2005, 13–16; Charlesworth et al 2006, 83–85; Crock et al 2006, 102–06, 176–78; Bem et al 2007).

A 'just humanitarianism'

This scenario brings us back urgently to those issues raised by Chimni's concept of a 'just humanitarianism'. It is policies of containment that seek to deflect and avoid responsibilities under the Refugees Convention that are, in Chimni's analysis, 'destroying the principles of refugee protection in the rest of the world' (2000, 16). A 'just humanitarianism', as I understand it, would require the combination of the traditional humanitarian impulse to alleviate another's suffering *with* address of the various levels of causation of that situation. The extent to which the occasion of the withdrawal of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 provides more than simply moral guidance for reform is partly dependent on the degree to which that larger picture is addressed.

Advocates have identified Australian onshore refugee policies as a significant aspect in that chain of causation of suffering for asylum seekers/refugees (see AJA 2007d for issues remaining to be redressed at a systemic level to provide 'just' policy, in terms of Australia's treatment of those seeking asylum and in terms of Australia's

22 As an example of humanitarian work leading to a rights campaign, see the Asylum Seeker Project website <www.asp.hothammission.org.au> for the 'Right to Work' campaign for asylum seekers in the community.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 166

international actions). In this regard, advocates have felt a particular level of personal responsibility, in an identity as an Australian citizen, to address and achieve redress of that human suffering caused by Australian policies (see Reynolds 2004 for advocates' comments). As David Corlett remarked in 2002, in the context of years of bipartisan political support for a hardline policy, it has been at this level of 'localised interaction' that 'hope for compassionate change' has emerged (Corlett 2002, 358).

At the same time, advocates have been required to operate nationally in an environment described by Sharon Pickering as a 'human rights vacuum' (Pickering 2001b, 220). In such a situation, increased awareness of other local, national and international struggles for asylum seeker and refugee protection, and for human rights, provides important resources for an enlargement of advocacy understanding and effectiveness. Increased awareness of the historical antecedents of asylum seeker policies (McMaster 2001; 2002; Jupp 2002; Neumann 2004); of the circumstances from which people flee in order to seek asylum (see Amor and Austin 2003; Leach and Mansouri 2004 for personal accounts by asylum seekers/refugees; see Neumann 2006 and Sullivan 2006 for analysis of the importance of this knowledge); of the linkages between international interventions, the displacement of populations and the situation of seeking asylum; and of the linkages, noted by Chimni and other scholars, between the continuing growth of global inequities and human rights and humanitarian crises (Chimni 2000; George 2003) — all provide important aspects of knowledge that situate local struggles within an international context and contextualise international struggles for human rights and humanitarian assistance. The discourse and actions of a 'just humanitarianism' would reflect this knowledge.

One of the directions from asylum seekers in Australian immigration detention centres to advocates was for advocates to tell other Australians what was happening (ACHSSW 2006, 59). That task of communicating what is happening, and acting to change what is happening, remains and will remain until systemic protection for human rights is achieved.

Conclusion

Much remains to be undone and redone in Australian onshore refugee policies in order to achieve a just policy and redress the causation of human suffering.[23] Much remains to be developed in Australia in terms of human rights awareness and

23 Major issues, including mandatory detention, excision of Australian territory, the Pacific Solution/Strategy and visa regimes which deny basic human rights to asylum seekers/refugees, remain to be addressed, as does reform of the Australian system of refugee determination.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 167

codification to provide protection that is currently absent.[24] Much more remains to be done in the analysis and address of connections between Australian/international interventions and injustice and harm to asylum seekers/refugees.[25] Yet the old environmental movement adage 'Think globally. Act locally' remains a useful guide for analysis and action. A more recent invocation from an adherent of the environmental movement also provides useful guidance in this process, in the injunction from Al Gore to 'connect the dots' (Gore 2006).

'Connecting the dots' between the suffering of an *individual asylum seeker/refugee* and the *systemic causation* of that suffering, between the need for immediate *humanitarian relief* and sustainable *legislative reform and human rights protection*, and between *local experience* and *international factors* brings us to fuller awareness of the 'wholeness'of this endeavour; the intertwining of humanitarian needs with those for human rights and justice; and the opportunities for effective and linked interventions of these foci at local, national and international points of entry. It also brings us back to Chimni's analysis. The achievement of a 'just humanitarianism' would realise that potential of humanitarianism to act not only as an opening point of awareness of human suffering and as a catalyst for social action to relieve that suffering, but, in conjunction with human rights, as a bridge towards an end point of justice. From humanitarianism and human rights to justice, there is a way to go.

The author thanks all those who contributed critical comment to this article.

References

Australian legislation

Migration Act 1958 (Cth)

Migration Amendment (Detention Arrangements) Act 2005 (Cth)

Migration and Ombudsman Legislation Amendment Act 2005 (Cth)

24 In regard to human rights Acts in Australian states, see the websites of the Justice Project at <www.thejusticeproject.com.au> and New Matilda at <www.newmatilda.com> and see also <www.humanrightsact.com.au>.

25 See Samson and Elton 2006 in regard to interception and interdiction activities in Australian territorial waters, on the high seas and in neighbouring Pacific nations.

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 168

Personal Communications

Advocate (name withheld) (2005) Author's interview with advocate, 10 August

Samson A (2006) Comments made as Acting Coordinator of A Just Australia at an AJA community consultation, 18 September, Sydney

Other references

A Just Australia (AJA) (2007a) Migration Amendment (Act of Compassion) Bill 2005 [Online] Available: <http://ajustaustralia.com/resource.php?act=attache&id=68> [2007, August 28]

A Just Australia (AJA) (2007b) Migration Amendment (Mandatory Detention) Bill 2005 [Online] Available: <http://ajustaustralia.com/resource.php?act=attache&id=69> [2007, August 28]

A Just Australia (AJA) (2007c) '30 April 2007 — ALP policy change' [Online] Available: <http://ajustaustralia.com/whatshappening_newsletter.php?act=newsletters&id=65> [2007, August 29]

A Just Australia (AJA) (2007d) '10 steps to clean up our Act: policy issues brief 2007' [Online] Available: <http://ajustaustralia.com/resource.php?id=209> [2007, August 22]

Amnesty International (AI) (2005) *The Impact of Indefinite Detention: The Case to Change Australia's Mandatory Detention Regime* (30 June) AI Index ASA 12/001/2005 [Online] Available: <http://web.amnesty.org/library/eng-aus/index> [2007, January 15]

Amnesty International (AI) (2002) *Offending Human Dignity: The Pacific Solution* (25 August) AI Index ASA 12/009/2002 [Online] Available: <http://web.amnesty.org/library/eng-aus/index> [2007, January 15]

Amnesty International Australia (AIA) (1998) *Australia, A Continuing Shame: The Mandatory Detention of Asylum Seekers* AIA, Sydney

Amor M and Austin J (eds) (2003) *From Nothing to Zero: Letters from Refugees in Australia's Detention Centres* Lonely Planet Publications, Melbourne

Australian Broadcasting Corporation (ABC) (2001) 'The inside story' *Four Corners* (13 August) [Online] Available: <www.abc.net.au/4corners/stories/s344246.htm> [2007, August 28]

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 169

Australian Council of Heads of Schools of Social Work (ACHSSW) (2006) *We've Boundless Plains to Share: The First Report of the People's Inquiry into Detention* ACHSSW, Melbourne

Barnhart R (ed) (1995) *The World Book Dictionary* Vol 1, World Book Inc, Chicago

Bem K, Field N, Maclellan N, Meyer S and Morris T (2007) *A Price Too High: The Costs of Australia's Approach to Asylum Seekers* A Just Australia and Oxfam Australia and Oxfam Novib, Sydney and Victoria

Bhabha J (2002) 'Internationalist gatekeepers? The tension between asylum advocacy and human rights' 15 *Harvard Human Rights Journal* pp 155–81

Charlesworth H, Chiam M, Hovell D and Williams G (2006) *No Country Is an Island: Australia and International Law* University of New South Wales Press, Sydney

Chimni B S (2000) *Globalisation, Humanitarianism and the Erosion of Refugee Protection,* Working Paper No 3, Refugee Studies Centre, Oxford University

ComLaw (2005a) *Migration Amendment (Detention Arrangements) Act 2005* No 79 [Online] Available: <www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/2012B2445D1DB887CA257034002A51EE?OpenDocument> [2007, March 5]

ComLaw (2005b) *Migration and Ombudsman Legislation Amendment Act 2005* No 141, 2005 [Online] Available: <www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/2E8922E232CEDF1BCA2570D900196F3A?OpenDocument> [2007, March 5]

Commonwealth of Australia (2006) *Parliamentary Debates, House of Representatives* (9 August) Official Hansard

Commonwealth of Australia (2005) *Parliamentary Debates, House of Representatives* (21 June) Official Hansard

Commonwealth Ombudsman (2006) *Immigration Reports Tabled in Parliament* [Online] Available: <www.comb.gov.au/commonwealth/publish.nsf/Content/publications_immigrationreports> [2006, September 4]

Commonwealth Ombudsman (2005) *Inquiry into the Circumstances of the Vivian Alvarez Matter: Report under the Ombudsman's Act 1976 by the Commonwealth Ombudsman, Prof John McMillan, of an Inquiry Undertaken by Mr. Neil Comrie AO APM,* Report No 03/2005 Commonwealth of Australia, Canberra

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 170

Coombs A (2004) 'Mobilising rural Australia' 3 (Autumn) *Griffith Review* pp 125–35

Corlett D (2005a) *Following Them Home: The Fate of the Returned Asylum Seekers* Black Inc, Melbourne

Corlett D (2005b) 'The forgotten asylum seekers' (September–October) *Australian Quarterly* pp 27–32

Corlett D (2002) *The Politics of Exclusion: Australia and Asylum Seekers,* unpublished PhD thesis, Department of Politics, La Trobe University, Bundoora Australia

Crock M and Saul B (2002) *Future Seekers: Refugees and the Law in Australia* The Federation Press, Sydney

Crock M, Saul B and Dastyari A (2006) *Future Seekers 11: Refugees and Irregular Migration in Australia* The Federation Press, Sydney

Darcy J (2004) 'Human rights and humanitarian action: a review of the issues', background paper prepared for the Workshop on Human Rights and Humanitarian Action convened by the IASC Sub-Working Group and co-hosted by UNICEF, the UN High Commissioner for Human Rights and ICVA, Geneva, April [Online] Available: <www.odi.org.uk/rights/Publications/HPGBackgroundPaperforIASC.pdf> [2007, May 2]

Dauvergne C (2000) 'The dilemma of rights discourses for refugees' 23(3) *University of New South Wales Law Journal* pp 56–74

Dauvergne C (1999) 'Amorality and humanitarianism in immigration law' 37(3) *Osgoode Hall Law Journal* pp 597–623

Douzinas C (2000) *The End of Human Rights* Hart Publishing, Oxford

Every D (2006) *The Politics of Representation: A Discursive Analysis of Refugee Advocacy in the Australian Parliament*, unpublished PhD thesis, School of Psychology, University of Adelaide

Fiske L (2006) 'Politics of exclusion, practice of inclusion: Australia's response to refugees and the case for community based human rights work' 10(3) *The International Journal of Human Rights* pp 219–29

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 171

Gale P (2002) 'Asylum seekers and the politics of fear', paper presented at *Fear of Strangers: Wogs, Refos and Illegals in the Popular Imagination*, Art Gallery of South Australia, 6–7 December

George S (2003) 'Globalizing rights?' in M Gibney (ed) *Globalizing Rights* Oxford University Press, Oxford

Gibson J (2006) *Refugee Protection or Border Protection? An Overview of the Last Decade,* Asia Pacific Centre for Military Law (APCML) Monograph, Law School, University of Melbourne

Glendenning P, Leavey C, Hetherton M and Britt M (2006) *Deported to Danger II: The Continuing Study of Australia's Treatment of Rejected Asylum Seekers* Edmund Rice Centre for Justice and Community Education, Sydney

Glendenning P, Leavey C, Hetherton M, Britt M and Morris T (2004) *Deported to Danger: A Study of Australia's Treatment of 40 Rejected Asylum Seekers*, Edmund Rice Centre for Justice and Community Education, Sydney

Goot M (2002) 'Turning points: for whom the polls told' in J Warhurst and M Simms (eds) *2001: The Centenary Election* University of Queensland Press, Brisbane

Gordon M (2005) *Freeing Ali: The Human Face of the Pacific Solution* University of New South Wales Press, Sydney

Gore A (2006) *An Inconvenient Truth* [Online] Available: <http://climatecrisis.net> [2007, August 29]

Gosden D (2006a) 'What if no one had spoken out against this policy? The rise of asylum seeker and refugee advocacy in Australia' 3(1) *Portal: Journal of Multidisciplinary International Studies* [Online] Available: <http://epress.lib.uts.edu.au/ojs/index.php/portal/issue/archive> [2007, February 20]

Gosden D (2006b) 'Advocates can influence outcomes', paper prepared on behalf of Australian Refugee Rights Alliance (ARRA) for UNHCR Excom meeting, Geneva [Online] Available: <www.crr.unsw.edu.au/documents> [2007, February 20]

Gosden D (2005a) 'What can ordinary people do? Reflections on advocacy' 27(3) *Migration Action* pp 26–32 [Online] Available: <http://ajustaustralia.com/informationandresources_researchandpapers.php> [2007, August 29]

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 172

Gosden D (2005b) 'Making connections: The significance of empathic identifications and personal connections with asylum seekers and refugees, in recent social action opposed to Australia's on-shore refugee policy', paper presented at the Australian Sociology Association (TASA) conference, Hobart

Grewcock M (2003–04) 'Irregular migration, identity and the State — the challenge for criminology' 15 *Current Issues in Criminal Justice* pp 114–35

Human Rights and Equal Opportunity Commission (HREOC) (2004) *A Last Resort? National Inquiry into Children in Immigration Detention* HREOC, Sydney

Ife J (2005) 'A culture of human rights and responsibilities', the Alice Tay Memorial Lecture at Parliament House, Canberra, 25 May [Online] Available: <http://info.humanrights.curtin.edu.au/papers.cfm> [2007, April 26]

Ife J and Fiske L (2003) 'Institutional and residual conceptions of human rights', paper presented at the Activating Human Rights and Diversity Conference, Byron Bay, NSW, July [Online] Available: <www.info.humanrights.curtin.edu.au/papers.cfm> [2007, April 26]

Jupp J (2002) *From White Australia to Woomera* Cambridge University Press, Cambridge

Kevin T (2004) *A Certain Maritime Incident: The Sinking of the SIEV X* Scribe Publications, Melbourne

Kinslor J (2002) 'Killing off international human rights law: an exploration of the Australian Government's relationship with United Nations human rights committees' 8(2) *Australian Journal of Human Rights* pp 79–99

Leach M and Mansouri F (2004) *Lives in Limbo: Voices of Refugees under Temporary Protection* University of New South Wales Press, Sydney

Maley W (2004) 'Refugees' in R Manne (ed) *The Howard Years* Black Inc Agenda, Melbourne

Manne D (2006) 'Boatloads of extinguishment — proposed offshore processing of boat people' 28(1) *Migration Action* pp 6–14

Manne R (2004) 'The Howard years: a political interpretation' in R Manne (ed) *The Howard Years* Black Inc Agenda, Melbourne

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 173

Manne R and Corlett D (2004) 'Sending them home: refugees and the new politics of indifference' 13 *Quarterly Essay* pp 1–95

Marckwardt A, Cassidy F and McMillan J (eds) (1984) *Webster Comprehensive Dictionary: Encyclopedic Edition* Vol 1, J G Ferguson Publishing Company, Chicago

Mares P (2002) *Borderline* University of New South Wales Press, Sydney

Mares S and Newman L (2007) *Acting from the Heart: Australian Advocates for Asylum Seekers Tell Their Stories* Finch Publishing, Sydney

Marr D and Wilkinson M (2003) *Dark Victory* Allen and Unwin, Sydney

McMaster D (2006) 'Temporary protection visas: obstructing refugee livelihoods' 25(2) *Refugee Survey Quarterly* pp 135–45

McMaster D (2002) 'White Australia to detention: restriction and racism' 21 *Mots Pluriels*

McMaster D (2001) *Asylum Seekers: Australia's Response to Refugees* Melbourne University Press

McNevin A (2005) *Seeking Safety, Not Charity: A Report in Support of Work-Rights for Asylum-Seekers Living in the Community on Bridging Visa E*, prepared for the Network of Asylum Seeker Agencies Victoria (NASA-Vic)

Moore B (2004) (ed) *The Australian Oxford Dictionary* (2nd edn) Oxford University Press, Oxford

Neumann K (2006) 'Refugee advocacy and the sound of good intentions', paper presented in La Trobe University Refugee Health Research Centre seminar series [Online] Available: <http://latrobe.edu.au/rhrc/conferences.html#past> [2007, August 24]

Neumann K (2004) *Refuge Australia: Australia's Humanitarian Record* University of New South Wales Press, Sydney

Newspoll Market Research (2006) No 060507 (May) [Online] Available: <www.freewestpapua.com.au/news.php> [2006, September 5]

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 174

Palmer M (2005) *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau* (July) Commonwealth of Australia, Canberra

Pickering S (2001a) 'Common sense and original deviancy: news discourses and asylum seekers in Australia' 14(2) *Journal of Refugee Studies* pp 169–86

Pickering S (2001b) 'Immigration detention centres, human rights and criminology in Australia' 13(2) *Current Issues in Criminal Justice* pp 219–23

Pickering S and Lambert C (2002) 'Deterrence: Australia's refugee policy' 14(1) *Current Issues in Criminal Justice* pp 65–86

Prince P (2005) 'Migration Amendment (Detention Arrangements) Bill 2005' (23 June) No 190, Law and Bills Digest Section, Department of Parliamentary Services, Parliament of Australia, Canberra

Reynolds M (2004) *Australians Welcome Refugees: The Untold Story*, report to the 60th Session of the United Nations Commission on Human Rights (April), United Nations Association of Australia [Online] Available: <http://safecom.org.au/welcome-report.htm> [2007, August 29]

Said E (2000) *Reflections on Exile and Other Essays* Harvard University Press, Cambridge

Samson A and Elton Z (2006) 'Exporting the "Australian model" — creating a new international norm on interception, refoulement and the prospects for effective protection', paper prepared for UNHCR Excom meeting, Geneva [Online] Available: <www.crr.unsw.edu.au/documents> [2007, February 20]

Saunders D and Gardiner J (2003) 'The protection of human rights — time to re-open the debate' 77(4) *Law Institute Journal* pp 36–41

Senate Legal and Constitutional Legislation Committee (SLCLC) (2006) *Inquiry into the Provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006* (June) Parliament House, Canberra [Online] Available: <www.aph.gov.au/senate/committee/legcon_ctte/migration_unauthorised_arrivals/index.htm> [2006, September 12]

Smith S (2006) 'The migration bill — edge of the human rights precipice' (submitted 14 August) *Webdiary — Founded and Inspired by Margo Kingston* [Online] Available: <www.webdiary.com.au/cms/?q=node/1600> [2007, March 5]

AJHR vol 13.1 articles 30/11/07 2:34 PM Page 175

Steel Z (2003) 'The politics of exclusion and denial: the mental health costs of Australia's refugee policy', paper presented at the 38th Congress of the Royal Australian and New Zealand College of Psychiatrists, Hobart, 12–15 May

Steel Z, Mares S, Newman L, Blick B and Dudley M (2004) 'The politics of asylum and immigration detention: advocacy, ethics and the professional role of the therapist' in J Wilson and B Drozdek (eds) *Broken Spirits: The Treatment of Traumatised Asylum Seekers, Refugees, War and Torture Victims* Brunner-Routledge, New York

Sullivan N (2006) 'Le Dernier Caravanserail (Odyssees): a case study of cosmopolitan space between borders' 11(2) *Crossings* [Online] Available: <http://asc.uq.edu.au/crossings/11_2/index.php?apply=sullivan> [2007, August 28]

Surawski N, Pedersen A and Briskman L (under review) 'Stress, vicarious trauma and coping: a study of Australian refugee advocates', School of Psychology, Murdoch University

Tascon S (2005) *Refugees and Volunteers in Australia: Deconstructing Borders, Reshaping Compassion,* unpublished PhD thesis, School of Social and Cultural Studies, University of Western Australia

Taylor S (2006) 'The Designated Unauthorised Arrivals Bill and beyond' 28(1) *Migration Action* pp 3–5

Taylor S (2001) 'The importance of human rights talk in asylum seeker advocacy: a response to Catherine Dauvergne' 24(1) *University of New South Wales Law Journal* pp 191–99

Taylor S (2000) 'Do on-shore asylum seekers have economic and social rights? Dealing with the moral contradiction of liberal democracy' 1(1) *Melbourne Journal of International Law* pp 70–97

Taylor S (1998) 'Weaving the chains of tyranny: the misrule of law in the administrative detention of unlawful non-citizens' 16(2) *Law in Context* pp 1–33

Tazreiter C (2004) *Asylum Seekers and the State: The Politics of Protection in a Security-Conscious World* Ashgate, Aldershot

United Nations High Commissioner for Refugees UNHCR (2006) *Submission of the Office of the United Nations High Commissioner for Refugees to the Senate Legal and Constitutional Legislation Committee* [Online] Available: <www.aph.gov.au/senate/

committee/legcon_ctte/migration_unauthorised_arrivals/submissions/sublist.htm> [2007, January 28]

Vas Dev S (2006) *Questionnaire Results from Organisations Engaged in Asylum Seeker Advocacy in Australia and Malaysia*, unpublished draft, School of Politics and International Studies, Flinders University of South Australia

Weller P (2002) *Don't Tell the Prime Minister* Scribe Publications, Melbourne

Zifcak S (2005) 'No way out: the High Court and children in detention' *New Matilda* [Online] Available: <www.newmatilda.com/home/articledetail.asp?ArticleID=418> [2007, March 5]

Zifcak S (2003) *Mr Ruddock goes to Geneva* University of New South Wales Press, Sydney