



ARRA

Australian Refugee Rights Alliance

“No Compromise on Human Rights”

Draft Discussion Paper

**Racism in Refugee Policy: an
Australian Case Study**

2007

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This paper traces how historic overtones of racist policy can resonate in modern times. This has a negative impact on asylum policy and the treatment of refugees. There is a need for States to examine history to ensure that policies with racist overtones are not cultivated.

Background

At the time of Federation in 1901 with the institution of the White Australia Policy Australia's Constitution embedded ongoing opportunities for systemic racism. This was a deliberate attempt to create a land 'for the finest products of the Anglo Saxon race'.ⁱ For the Indigenous Peoples of Australia and the non-Anglo-Saxons of the time, white superiority was legalised. With the need to populate this great land mass white non-Anglo-Saxons were encouraged to migrate after the Second World War. However following Australia's participation in the Vietnamese War Australia was morally obliged to accept non-white Asians. By the time the White Australia Policy was officially dismantled in 1975 Australia had been tarnished by the fact that Australia's borders had been historically racialised and premised on whiteness.ⁱⁱ

Australia's founding Federation myth of white superiority surfaces again and again in the continual development of Immigration policy which endeavours to deter non-Anglo-Saxon people intending to arrive unofficially and make life very uncomfortable for those who succeed.

Article 1 of the *International Convention on the Elimination of All Forms of Racial Discrimination* states that:

In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Key Issues : This history shows itself in the following ways.

- The attitudes, fears and rhetoric around the refusal of peoples rights to seek sanctuary in Australia has resonance with the attitudes, fears and rhetoric that existed in Australia one hundred years ago.
- Refugees challenge the colonial construct which allowed white privilege to remain a fairly intact fantasy position and now the fear of the collapse of unitary and imagined identities made dominant by British colonialism are at stake.
- People who apply for protection at the border are regarded primarily as illegal immigrants, and only secondarily as asylum seekers, and the exclusionary purported illegality of their entry has become the primary factor in the way they are treated by the state, rather than their need for protection.
- Categorising people as for example, 'illegals' or 'possible terrorists' has a biasing and filtering effect on perceptions resulting in discrimination by the wider community.

- There is little recognition of the unique cultural backgrounds of refugees from Africa and South of the Sahara where there are significant cultural differences to those of Asia and Europe.
- The government devises policies and use rhetoric that appeal to racist sentiments in the community.
- When one class of people is constructed as a 'folk devil' capable of evil so that the home society can feel good, 'moral panic' occurs.
- While it is reasonable and uncontroversial that states should have the right to control entry into their country, it is unreasonable and unjustifiable to make that right absolute. The rights of any individual or community are conditioned by the moral claims made by other human beings and groups.

Case Studies

a) Racism and Xenophobia

The government has not denounced people like Pauline Hanson who claimed that Asians do not assimilate and that particular Asian nationalities were 'fiercely anti-white and anti-one another'ⁱⁱⁱ. Other politicians have claimed that refugees are criminals some of whom have children that could bite and spit on other people's children and grandchildren, and others present a risk of spreading tuberculosis, malaria and other diseases. Over the years we have heard the Prime Minister and other Ministers refer to people seeking asylum with misleading titles such as 'queue jumpers' when there was no possibility of forming a queue, and 'illegals' when, according to International law it is legal to seek asylum in another country; and, throwing their children into the sea, when the boat had actually broken apart and parents were struggling to keep children afloat. Politicians and some journalists also single out certain cultural groups as being particularly violent.

Australia has policies where community members are encouraged to actually seek out and report or 'dob in' foreigners who might only look 'illegal' or behave somewhat differently. People in the community are actually encouraged by the government to be suspicious of each other!

b) Policies appealing to racist sentiments in the community

The government designs policies that appeal to xenophobic sentiments for electoral support. The Palmer Report^{iv} found that an Australian permanent resident could not be lawfully mandatorily detained without a criminal conviction, for an indefinite period of time, or without review. However the Australian Migration Act allows all of the above for men and women who are not deemed to be Australian permanent residents or citizens, who arrive by boat. When recognized as refugees many are given temporary protection with restrictions that prevent them from being with their wives and children, the norm for all other Australian families. In Australia no realistic procedure exists for processing non-convention asylum seekers with a non-*refoulement* claim, resulting in whole families existing in the community for a very long period of time without work rights or access to Medicare benefits even for mothers and children. Some are forced to return to dangerous

situations. Some are offered money to return, despite the danger.

c) Defacto Racism

Aifton Doe from Liberia was accused of rape by the non-African woman with whom he was terminating a relationship and was given a 10 year jail sentence. Kuol Agag from Sudan died in 2006 as a result of being beaten up by non-African men who were given only 3 year jail sentences. The non-Africans who killed a man were given a far lighter sentence than the African who raped a woman.

A young Sudanese woman, raped in a refugee camp arrived in Australia as a woman at risk. In a traumatized state she was persuaded by the Department of Social Services to have the child adopted out. A short time after the delivery she realized what had happened to her baby. She fought for custody of her child in the courts for more than three years and lost the right to parent her four year old child on the grounds that the child had now bonded with the white couple.

Recommendations

1. That where applicable, states recognise the influences of a colonial past and work towards dismantling white superiority and inherent racialised policies through Rights-based policies for people seeking asylum.
2. That states commit to UN Human Rights obligations, including the *Convention on the Elimination of All Forms of Racial Discrimination* with the same fervour that they commit to Extradition and Trade Treaties.
3. That states take positive steps to combat racism and xenophobia at all levels of refugee and migration policy.
4. That states be alert to the lack of cultural understanding and long term consequences of practices such as adoption and the misdiagnosis of culture shock and mental illness.
5. That states commit to orientation of refugees to policies regarding social integration that will affect family cohesion, family ties and cultural values.
6. Rather than alienating and marginalizing particular ethnic groups or instilling fear into communities states are encouraged to foster greater respect for refugees through public-awareness campaigns and ensuring the adequacy of reception facilities.^v
7. Whilst respecting the rights to control borders states develop a perspective that is inclusive of the moral claims of other people who seek asylum.

ⁱ The Opposition Leader in the House of Representatives, Parliament House 1901.

ⁱⁱ Tascon, S.M. 2002. Refugees and asylum-seekers in Australia: border-crossers of the postcolonial imaginary. *Australian Journal of Human Rights* AJHR 9.

ⁱⁱⁱ Australian Hansard, 1996

^{iv} Palmer, M.J. 2005. Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau Report.

^v *Agenda for Protection* 2003 p. 11