

Posing the Unthinkable: Resettling Refugees in Australia

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If we require a shield [against people smugglers] we should leave that up to Australian Border Force, our Navy, the AFP and our intelligence services.

Paris Aristotle, Lateline, Sep 5, 2016.

Unthinkable, that is, in Australia. Unthinkable to finally accept that the international pathways of asylum seekers and refugees can know no discrimination, and that each country duly receiving them should do all within their powers to facilitate their rapid process and exit into the community. Unthinkable to not shift the burden of processing and settlement to impoverished, or poorer countries.

Several outstanding features of international refugee law somehow taper out by the time Australian officials come to the party. That, for instance, of *non-refoulement*, explicitly prohibited by Article 33 of the UN Refugee Convention.

Officials in Canberra have for some years shown a certain indifference to returning refugees or those being determined as refugees to a place where they might fear persecution, torture, cruel, inhuman or degrading treatment or punishment, or arbitrarily deprived of life.

As pointed out by Jane McAdam, “Australia is the only country whose law explicitly says it is ‘irrelevant’ whether or not our *non-refoulement* obligations are engaged when removing an asylum seeker” (*Guardian*, Sep 6).

The corpus of international refugee law, in fact, has trouble getting a look in when it comes to Australia’s domestic legislation, which insists on designating “irregular arrivals” persona non grata. This sets the tone for the distinctly punitive approach towards those who end up in such legal lacunae such as Nauru and Manus Island. (The latter will, in due course, be mercifully closed as illegal under Papua New Guinea’s laws.)

The *Migration Act 1958* (Cth) remains a poor excuse on that score, feeble in its nods to international precedents. That said, the odd provision does guide ministerial discretion, which is not tyrannically absolute. This was the case when the sordid exercise known as the Malaysia Solution came to a dramatic halt in the Australian High Court’s *M70* 2011 decision, which found the immigration minister’s decision to deem Malaysia a safe relocation destination for Australia’s refugees questionable.

Offshore detention became the obscene moral incentive to combat the idea of “people smuggling” when it was merely a political move to give the electorate the muscular impression that Canberra was regaining control of its borders. The language in combating

such illegal arrivals became packed with military metaphors.

The camp solution was packaged by political spin experts as a moral conversion of the left faction in the Australian Labor Party then in power, after the deaths of 50 arrivals on the rocks of Christmas Island in December 2010.

Targeting an abstract market supposedly populated by ruthless criminals, Australia proceeded to attack those deemed beneficiaries of it. It could hardly be those making money from it. After all, Canberra occasionally sponsors smugglers to move refugee arrivals to Indonesia in atrocious conditions. As always, it was those essentially placed outside the protective frameworks of states that have long abandoned them who would continue to suffer.

On Monday, one of the architects of the ghastly program, Paris Aristotle of the Victorian Foundation for the Survivors of Torture, made the trite point that terrible miscalculations had taken place. It was evident that he lacked that worthiness of the Greek philosopher of his name, described by Dante Alighieri as being, "Il maestro di color che sanno" (The master of those who know).

Portrayed in Australian media as a gritty visionary with oodles of compassion (another convert to the Christmas Island deaths in 2010), his perspectives have shown a distinct lack of imagination, making much hay from the notion that offshore processing in poorer states would somehow be a good idea. And it would save lives.

"It was never envisaged," he claimed gravely, "that we would leave people there for long, long periods of time without giving them a sense that we were working towards providing them with a decent resettlement outcome."

Aristotle reminded the interviewer on ABC's *Lateline* program that there was a necessary priority in dealing "with people smuggling... we also then can't resort to strategies ultimately that enable children, women and men to be used as some form of a human shield against people smuggling." [1]

Aristotle has, it would seem, been re-converted. Or he simply made a mistake. A closer look at it reveals otherwise: Aristotle remains, for all his grief, convinced that some form of processing in such theatres is permissible as long as it is done quickly. The line parrots that of the ALP, which has no desire to relinquish the "turn back the boats" policy or outsourcing Australia's refugee obligations. Do not, in other words, come to Australia.

More shocks to the system will be needed; more successful legal challenges mounted against the offshore idea; a spate of gruesome whistleblowing revelations that further reveal the conditions of camp brutality and human degradation. A return to the normality of onshore processing and settlement is required; in other words, a return to what has become the unthinkable.

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Note

[1] <http://www.smh.com.au/federal-politics/political-news/dont-use-refugees-as-human-shield-against-people-smuggling-warns-paris-aristotle-20160905-gr9h15.html>

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