

6 Australia: restricting asylum, resettling refugees

It is our duty to present to the world the spectacle of a rich country with a great people, with an adequate population – with a population which may say justly to the rest of the world: We are here; we propose to maintain our integrity as a nation; and our warrant for that is that we are using the resources which God has given into our hands. The case for migration on a great scale is indeed an irresistible one.

Robert Menzies, Prime Minister of Australia 1950

Australia's interests [fall] . . . in three broad categories: geo-political or strategic interests; economic and trade interests; and the national interest in being, and being seen to be, a good international citizen.

Gareth Evans, Australian Minister for Foreign Affairs 1991

If the view becomes entrenched around the world that it's easy to get into this country, we will have an enormous problem . . . We will have an unbelievable problem trying to control our borders.

John Howard, Prime Minister of Australia 2001

In 1991 Australia's Minister for Foreign Affairs, Gareth Evans, stated that fulfilling the duties of a 'good international citizen' was one of the major objectives of Australian foreign policy (Evans and Grant 1991: 34). International citizenship, he claimed, involved demonstrating a readiness to tackle some of the vast range of global challenges currently confronting the international community. One challenge singled out was solving 'the world-wide problem of refugees' (Evans and Grant 1991: 35). Here, Evans argued, Australia would continue to make a particularly important contribution.

The minister's choice of Australia's treatment of refugees as a way of highlighting the country's preparedness to accept the obligations of membership in the international community was in no way surprising. Between 1945 and the early 1990s Australia had accepted well over 500,000 refugees and other displaced persons for entry, including some 137,000 Indochinese refugees, the highest number per capita of any Western country (Robinson 1998: 151). Since the mid 1970s, the country had

also engaged in resettlement programmes, over and above its obligations not to return (*refouler*) refugees under the 1951 Refugee Convention, allowing between 9,000 to 20,000 refugees and others in like situations to enter annually.

Yet Evans' view that Australian responses to refugees bolstered the country's claim to be a good international citizen would soon look deeply ironic. Within a year of his statement, Australia would put in place the toughest and most wide-ranging system in the world for the detention of asylum seekers. Within a decade, the country would turn around asylum seekers on boats, redefine in legislation the definition of Australian territory for immigration purposes, and house asylum seekers on the remote and barren island of Nauru, all to prevent the country from incurring claims under the 1951 Refugee Convention. While it was still possible in the early 1990s to consider harsh treatment of asylum seekers as a side-show to the country's overall response to refugees, the *Tampa* incident of 2001 had, above all in the eyes of the international community, made Australia's restrictive policies the main event.

In this chapter, I will trace the evolution of Australia's responses to refugees through a series of transitions. Over the last 100 years, Australia has moved from being the country of the infamous 'White Australia' immigration policy, to one with a plausible claim to be a model international citizen in its response to refugees, to its current incarnation as arguably the most unwelcoming country towards asylum seekers in the Western world.

Throughout these different historical incarnations inclusion and exclusion of immigrants and refugees have gone hand in hand: the ability to exclude non-whites was premised upon the need to attract large numbers of European migrants; the embrace of Indo-Chinese refugees for resettlement in the early 1970s was driven by a belief that the employment of such schemes would prevent the spontaneous arrivals of such refugees; current policies which interdict boat arrivals, which have their origins in the 2001 *Tampa* incident, are justified by what the government characterises as the availability of 'legitimate' entrance routes. The paradoxical nature of Australian policy towards refugees and asylum seekers makes it extremely difficult to judge the country's overall contribution to refugee protection.

I will begin this chapter by examining the factors that have influenced the Australian state's entrance policies since 1945. In the first part, I consider the forces that made possible the mass migration programme that led Australia to accept almost 2.5 million immigrants for entrance between 1947 and the early 1970s. In the second, I consider Australian policy between 1975 and 1996. I show how responses to refugees and

asylum seekers were affected by changes in the fundamental assumptions that had guided Australian entrance policy during the mass migration period, as a result of economic downturn, the rise of multiculturalism and challenges to the traditional idea of control. In the final section, I turn to the evolution of policy under John Howard's Liberal government, which came to power in 1996. Through the perspective of the *Tampa* incident of 2001, I examine whether recent developments represent a new departure in Australian policy-making. I conclude by assessing the defensibility of key aspects of the current government's policies.

The state and entrance: 1945–75

Any attempt to understand Australia's current response to refugees needs to consider the range of factors that led to the post-war mass migration programme which lasted until the early 1970s. Throughout much of the last fifty years, refugees have been the fortunate beneficiaries of a general programme of immigration that was motivated by the security and economic needs of the state. Current refugee policy has recently developed a distinct logic of its own, but its fate is still closely connected to that of immigration in general.

What factors influenced the state's response to the admission of outsiders between 1945 and 1975? I shall now outline four features of the Australian state that were crucial in this regard: its quest for international legitimacy; its role as a provider of security; its existence as a capitalist state; and its role as the representative of a political community.

The quest for legitimacy

Britain's initial claim to the territory which was to become known as Australia rested upon the view that the land 'discovered' by James Cook in 1770 and settled by Governor Arthur Phillip eighteen years later was officially unoccupied or *terra nullius*. The claim, which dramatically swept aside any Aboriginal entitlement to the land they had inhabited for thousands of years, rested upon the natural law argument that primitive nomadic peoples who lacked recognisable social structures and failed to cultivate land had no right to object to the appropriation of their territory by those who could use it to support a greater population. Accordingly, New South Wales was, from the perspective of natural law (as interpreted by the British), 'uninhabited' when British representatives laid initial title to it. From the landing of the First Fleet in 1788, the territory passed into the hands of the British sovereign.

The natural law justification for occupation had important implications for the question of who should be allowed to reside in the state. For

the cogency of the European claim that the Aborigines had no right to 'Tracts of ground' that were 'more than the people who dwell on it do or can make use of' (Locke 1964: book II, sec. 45) suggested that white settlers needed to make good use of the land if they were to be justified in excluding others. The ease with which the previous inhabitants had lost control of the territory testified starkly to the importance of populating Australia if the British were to possess the moral right as well as the practical ability to exclude.

Before the 1850s, peopling the territory was not a matter of great urgency, largely because there were no serious challengers to the legitimacy of the British claim. The continent of Australia was insulated from uncontrolled migration by two geographical realities which have strongly shaped the entrance of new settlers in the years since. First, Australia's location 12,000 miles from Europe enabled British and, afterwards, colonial governments stringently to control the flow of settlers to the territory. Second, as an island continent, Australia was protected from the flow of large movements of unwanted people overland. Nonetheless, if geographical destiny had helped insulate Australia, by the 1850s it was clear that it had also thrown forth one serious challenge: the proximity of Asia. The discovery of gold in 1851 led to large flows of entrants from sources more diverse than previously, most notably immigrants from China, whose numbers had reached some 50,000 by the 1880s. The reaction to the Chinese on the gold-fields was hostile and violent: racially restrictive entrance policies were quickly (but often ineffectively) legislated by colonial governments. This legislation was to be the first in a long line of immigration laws reaching up to the 1960s, specifically designed to keep the 'teeming millions' of Asia from Australia's shores.

Early attempts to control migration could not help but raise awkward questions about 'white Australia's' occupation of the land:

Were they to exclude the people of an industrious and civilised race, who in their own country were often exposed to want which was partly the result of a teeming population? The British took this land from the native inhabitants because they could make it more valuable to human beings. By what right did they now attempt to exclude the Chinese from coming for the same purpose? (Willard 1967: 30; original edition 1923)

These sharp questions were not successful in making the country's leaders think again about admitting Asians; one of the first Acts of the Australian Federal Parliament was the Immigration Restriction Act (1901) which provided the initial framework for the unofficial 'White Australia' Policy that operated until the late 1960s. But they did provide governmental officials with the challenge of showing that the land was being used to

its fullest advantage. Australia's leaders chose to meet this challenge, and thus to dampen international criticism, by encouraging the entrance and settlement of British immigrants and by tolerating the entry of settlers from other, less desirable parts of Europe. Increasing the rate of immigration was, by the early twentieth century, a matter of national concern. It was important enough for the Australian prime minister, W. M. Hughes, to remark in the period immediately after the end of World War I:

Australia needs a much larger population. World opinion will not tolerate much longer a dog-in-the-manger policy. We must choose between doing the thing ourselves in our own way, or letting others do it in their way. Our choice lies between filling up spaces with immigrants from Britain, and, if needs be, other countries, and having the matter taken out of our hands and being swamped by the rush of peoples from the over-crowded countries of the world. (Quoted in Willard 1967: 213)

Hughes's remark exemplified the paradox that prevailed in Australian immigration policy in the period leading up to World War II: mass migration was necessary to legitimate the state's exclusion of certain types of outsiders. Once the post-1945 mass migration scheme began, criticism of Australia's right to exclude needy outsiders from entrance became rarer. It was now more difficult to criticise white Australia for failing to use the land at its disposal. Even when the programme was in full swing, however, anxiety about the territorial legitimacy of the Australian state did not completely disappear. No less than Robert Menzies, the man who was to become Australia's longest-serving Prime Minister, argued in the 1950s that a large migration intake was necessary in order to show to the world 'that we are using the resources that God has given into our hands' (quoted in Crowley 1973b: 219).

State of security

William Hughes' concern that questions of entrance might be 'taken out of Australia's hands' did not only reflect the dubiousness of the Australian state's right to exclude; it also reflected doubts as to Australia's practical ability to restrict entrance. His anxiety exemplified another influential factor in Australia's recent entrance history: the need for a population large enough to ensure the nation's military security. Until 1945, Australia was viewed by its leaders as 'a lonely outpost of Western civilisation in a profoundly alien sea. Too far from Britain for easy succour . . . perilously near the . . . storm centres of the world' (Harris 1938: 125). Given this view, it is not surprising most of Australia's apprehensions with regard to security centred directly upon the Asian region to its north. Attempts

to restrict Chinese and later Japanese entrants in the late nineteenth and early twentieth centuries were not only a product of racism. At their most powerful, they reflected a belief that Australia's survival could be threatened 'by the implantation on Australian soil of Asian minorities' (Freeman 1993: 91). These settlers, it was argued, were of dubious loyalty and could well be used as a pretext for intervention in Australian affairs by Asian powers (Freeman 1993: 91).

The long history of Australia's anxiety towards Asia reached its apogee during World War II when Japanese forces swept through South East Asia occupying the island of Timor and landing troops (which were subsequently repelled by Australian forces) on the north coast of New Guinea. While Australia was not invaded, bombs were dropped on Darwin by Japanese forces and a small number of mini-submarines penetrated Sydney Harbour. Moreover, Japan's capture of Singapore vividly demonstrated the vulnerability 'of the British security system in the Pacific on which . . . [Australia] had so long relied for protection' (Hawkins 1991: 31).

The war-time experience convinced political leaders that a population of 7 million was too small to deter or repel any hostile army intent on invasion. With an eye to these concerns, the ruling Labor Party government created Australia's first Ministry of Immigration in 1945. Arthur Calwell, its first minister, was charged with the task of boosting Australia's population through a programme of mass immigration designed to increase the country's population by 1 per cent per year. In November 1946 he outlined his reasons for a huge expansion in migrant intake:

There was a time just four years ago when Australia faced its gravest peril. Armies recruited from the teeming millions of Japan threatened to overrun our cities and broad hinterland. They were so many. We were so few . . . The call to all Australians is to realise that without adequate numbers this wide brown land may not be held in another clash of arms. (Quoted in Crowley 1973b: 158–9)

The implementation of Calwell's programme needed the agreement of the other major parties if it was to be accepted by the Australian public. The link between immigration and the nation's security was crucial in gaining the programme that consent. When the Labor Party lost office in 1949, the incoming Liberal government pursued the attempts to expand Australia's population with equal vigour.¹ By 1978 over 3.5 million immigrants had settled in Australia. The country's population had doubled

¹ In January 1950, the new Prime Minister, Robert Menzies, stated: 'There is one thing upon which we can all agree . . . and that is, that the attack made upon the problem of immigration in this country under Mr Chifley and Mr Calwell deserves the deep gratitude and warm praise of every Australian' (quoted in Crowley 1973b: 218).

within the space of thirty years. There could be little doubt that Australia with a population of 14 million presented a more daunting challenge to any aggressor nation.

Capitalist state

The Australian state's role as a capitalist state, attempting to manage class conflict and ensure economic development, has also influenced its historical response to entrance. The political strength of labour unions (formalised in the world's first Labour Party) and the highly centralised nature of wage bargaining (Freeman and Jupp 1992: 14–17), brought forth policies which protected the Australian economy from foreign labour and goods throughout much of the twentieth century. As Robert Birrell has argued, early restrictions on the entrance of Asians were:

linked to a distinctive feature of the working class accommodation with capital at the beginning of the century. Capital would retain ownership of the productive process, but, in return, workers would be guaranteed work under fair wages and conditions. The outcome was a protected economy – and immigration restrictions to protect against low-cost labour. (Birrell 1994: 108)

Asians were not, however, the only ones restricted from entering in order to protect living standards. *All* migration, even that from Britain, was curtailed during times of economic recession and depression. Hence, periods of low immigrant inflow, such as those between 1890 and 1905, 1929 and 1947 and mid 1974 to 1979, closely corresponded to periods of economic downturn (Freeman and Jupp 1992: 2).

But if governments were not slow to restrict entrance during times of economic recession, they also recognised the importance of expanding the labour supply in order to maximise economic growth. Security reasons alone could not explain the alacrity with which Australia's leaders greeted mass migration programmes in the post-war period. As well as contributing to the country's security, increased migration would, in the words of Calwell, lead to 'the fullest expansion' of the Australian economy (quoted in Hawkins 1991: 32). The desire to supplement the labour force grew out of an awareness in the immediate post-war period that Australia's economy was exceedingly vulnerable to fluctuations in international commodity prices because of its overdependence upon the production of primary goods. A larger supply of labour was necessary if the nation was to construct a strong manufacturing base. In 1947, the immigration minister flew to Europe to recruit immigrant labour. Australia subsequently struck a deal with the newly formed International Refugee

Organization (IRO) to resettle large numbers of European war refugees, including displaced people from the Baltic states. As a direct result of these arrangements almost 200,000 refugees arrived in Australia between 1947 and 1952 (National Population Council 1991: 66), 'the largest planned intake of non-British in Australia's history' (Freeman and Jupp 1992: 5). The Australian government ensured supplies of migrant labour afterwards through intergovernmental agreements with Malta (1948), Italy and the Netherlands (1951), West Germany, Austria and Greece (1952), Spain (1958), Turkey (1967) and Yugoslavia (1970). In addition, refugees were accepted from Hungary in 1956 and Czechoslovakia in 1968 (Freeman and Jupp 1992: 5).

There is little doubt that the post-war migration was generally beneficial to the Australian economy. Migrant labour led to an expansion in the country's manufacturing base and, according to the immigration minister in 1951, 'greatly assisted in breaking bottle-necks in the production of iron and steel, bricks, tiles, cement and other building materials' (quoted in Crowley 1973b: 239). The fact that early migrants signed agreements with the government to undertake directed labour for the first two years of their residence maximised these benefits. Indeed, directed labour offered advantages similar to Western European guest-worker schemes; under both, migrant labour could be used as a 'manoeuvrable resource'.² Economic expansion during the 1950s and 1960s was far greater than in the first half of the twentieth century; GDP rose at a rate just below 5 per cent, which was higher than corresponding rates in Britain and the US, though lower than that achieved by West Germany (Bolton 1990: 90). Moreover, any adverse effects of the migration were muted by low unemployment (it was never higher than 3.2 per cent and as low as 1.2 per cent in August 1965) and a rapid expansion in average weekly earnings (these grew at 4 per cent in real terms, five times the average rate between 1901 and 1940) during this period (Bolton 1990: 90).

Nation-state

I have already noted how until 1945 entrance policies were constructed with the specific intention of excluding non-European and, to a lesser extent, non-English-speaking migrants. This exclusionist tradition was underpinned by a particular vision of Australian society whose two major elements came together in the idea of a 'White Australia'. The founders of

² It also assuaged union fears that the incoming labour would depress wage levels. This was a particularly important consideration for Labor governments.

Australia aimed to create a society that while clearly British in its culture and institutions strove to realise a distinctively egalitarian and demotic ideal. Robert Birrell accurately captures the dominant ethos:

the White Australia Policy was an expression of the social aspirations of both Liberal and Labour leaders who dominated Australian politics during the foundational years of the Federation which extended from the 1890s to World War I. Their central idea was the creation of a nation free of the old world social and religious cleavages in which all could live a dignified lifestyle. It was believed that the importation of migrants who were Asian and Pacific Islanders would undermine these ideas by degrading the dignity of manual labour. (Birrell 1994: 107–8)

The creation of an exclusively ‘white Australia’ was viewed by its defenders as a necessary prerequisite for a socially progressive society sensitive to the needs of the ordinary ‘working man’ and not simply a statement of racial superiority. Importing non-British stock would undermine civic equality and, through the availability of cheap labour, lower the Australian standard of living, such that, according to one Labour leader, ‘in a very short time social legislation would be ineffective’ (quoted in Crowley 1973a: 15). In this view, it was ‘the forces of Toryism and reaction’ (*The Worker Magazine* quoted in Crowley 1973a: 14) and not the general public that had an interest in non-discriminatory immigration policies.

Early immigration policies were thus designed to ensure the survival and development of a socially progressive ‘British’ nation in an unfamiliar and seemingly hostile environment. Essential to the realisation of this goal was the state’s provision of subsidised travel arrangements to British settlers. Before 1945, those coming from other European states were rarely prevented from entering, but they did not receive assisted passages. When this changed in the 1940s, however, so did the cultural trajectory of Australian society. Rising employment opportunities in Britain at the end of the war meant that the UK could not supply enough immigrants to satisfy Australia’s post-war needs. If these needs were now to be met, the Australian government would have to actively recruit immigrants from the non-English-speaking countries of Northern, Central and Southern Europe. The economic and security needs of the state and the desire for a British political community were potentially in conflict. The government’s response was to try to reshape public opinion in order to avoid the potential for a backlash against the new migration. It launched a range of campaigns which publicised the benefits of mass migration and, in a ‘remarkable piece of innovation’ at the time (Hawkins 1991: 32), it encouraged local community participation in bodies (such as the ‘Good Neighbour’ Councils) that helped integrate the new settlers. Both of these measures proved remarkably successful.

The architects of the post-war scheme did not believe that the mass migration would jeopardise the Britishness of Australian society (Jupp 1991: 96). Throughout the 1950s and 1960s immigrants were encouraged and expected to assimilate as quickly as possible into Australian ways and customs. The Immigration Minister in 1969, Billy Snedden, bluntly expressed the official view:

We must have a single culture . . . if immigration implied multi-cultural activities within Australian society, then it was not the type Australia wanted. I am quite determined that we should have a monoculture, with everyone living in the same way, understanding each other, and sharing the same aspirations. We don't want pluralism. (Quoted in Bolton 1990: 106–7)

By the early 1970s, however, it was quite clear that, for better or for worse, pluralism was what Australia had got. The government had abandoned the policy of assimilation by the mid 1970s because of its unpopularity amongst immigrant groups. As an alternative, the Whitlam government embraced a rather vague multicultural vision of Australian society which stressed (not strongly enough according to its critics) shared civic values but celebrated the different cultural backgrounds of citizens.

How are we to explain Australia's extraordinary success in integrating huge numbers of immigrants and refugees between 1945 and 1975? It is evident, first of all, that the various *roles* occupied by the state in the post-war period were favourable to a policy of mass (European) migration. Forceful arguments could be made from the perspective of the state's security (because of the World War II experience); from the capitalist perspective (because of structural weaknesses in the Australian economy and the strong economic growth that occurred during the 1950s and 1960s); and from the perspective of the state's desire to legitimate its appropriation of the continent to justify its exclusion of non-European migration. Furthermore, the political community, that had previously been hostile to non-British migration, had many of its concerns assuaged by an interventionist state keen on using a range of measures to convince the public of the necessity of increased numbers of immigrants and refugees. The case for embarking upon a programme of mass migration in the 1940s and 1950s was, if anything, overdetermined.

Another essential element was the stringent *control* governments exercised over who entered during the programme. This control was practised in two primary ways. The intake of new migrants, first of all, specifically excluded those of non-European ancestry. There was nothing coincidental about the fact that state officials eager to boost migration pursued the White Australia Policy with increased vigour during the 1950s and early

1960s (Bolton 1990: 56). They wished to send a message to the public that the programme would not threaten the European-ness of Australian society. Governments also made sure that migrants accepted for entrance would not be a burden on the community. Only those young and fit enough to contribute to the nation's economic development were recruited, and once they arrived they were often required to undertake directed labour. Clearly, the success of these aspects of control was greatly assisted by the favourableness of Australia's geographical isolation, which insulated the country from the overland movement of people.

Australia's achievement in combining mass migration with tight entrance control between 1945 and 1975 contrasts strongly with the post-war experiences of Britain and Germany. In Germany there were certainly influential forces acting upon the state, particularly those deriving from the desire for economic expansion, which encouraged immigration. But these forces were not powerful enough to neutralise the country's exclusionist conception of nationhood. What resulted was the compromise position of temporary worker migration – foreigners were allowed to work in Germany but not to become citizens. Like Germany, Australia had an exclusionist national ethos but, unlike the Federal Republic, it needed to boost the size of its labour force *and* (for security reasons) the size of its citizenry. While Australian entrance policy aimed for mass migration along with racial restriction, Germany wanted to increase its labour supply without gaining permanent settlers. The Federal Republic failed to achieve this objective because, while it could control the entry of migrants into the state, liberal democratic norms constrained the ability of governments to ensure their departure. The failure of the *Gastarbeiter* programme left the Federal Republic with a substantial ethnic population that its governments had made no attempt to integrate into the political community.

Britain was a different case altogether. Its experience of immigration in the 1950s and 1960s was the result not of the active recruitment of migration but of changes in the international environment that interacted with established entrance provisions. Correspondingly, the state was widely and for the most part correctly perceived by the public as lacking control over the flow of the immigration. New Commonwealth immigrants arrived in a political community that was unprepared for their arrival. Under these circumstances, it is perhaps not surprising that many in the political community, often influenced by racism, viewed the new entrants as a threat to their own interests. Britain did, however, share one thing in common with Australia – governments had far-reaching legislative powers with which to change immigration law. By the late 1960s, UK governments had aggressively used this power to wrest back control over entrance.

Responses to refugees between 1975 and 1996

So far I have said little about Australia's dealings with refugees. This is not because the state failed to respond to their plight during the post-war period. Indeed, between 1945 and 1975, well over 350,000 refugees (broadly defined) and displaced persons were accepted for entrance (Price 1981: 101). The Australian government had been one of the first countries to sign the 1951 Refugee Convention in 1954 and acceded to the 1967 Protocol in 1973, thus committing itself legally to respect the principle of *non-refoulement*. Moreover, by 1975, Australia had given substantial financial support to the Intergovernmental Committee for European Migration and the UNHCR (National Population Council (NPC) 1991: 66–7).

Yet the history of Australia's responses to refugees was more mixed than these actions suggest. The country had done little in the face of Nazi Germany's persecution of the Jews, arguably the twentieth century's most devastating refugee crisis. Australian officials rejected requests to take large numbers of refugees at the 1939 Evian conference with the response, 'we have no racial problem [and] we are not desirous of importing one by encouraging any scheme of large-scale foreign migration' (NPC 1991: 65).³ Furthermore, while Australia was a signatory to the UN Refugee Convention, the Article 33 prohibition of *refoulement* had virtually no effect on its policies. The Refugee Convention was not incorporated in domestic law (Goodwin-Gill 1983: 167). Geographical isolation made the prospect of applications for asylum at the border nugatory, and virtually all of the refugees accepted by officials entered pre-screened, as part of broader resettlement schemes that the government was free under international law to operate at its discretion.

Accepting large numbers of refugees, moreover, did not prevent the motivations of government officials being called into question. In the late 1940s, Australia was criticised by the International Refugee Organization for being 'less interested in helping the unfortunate than in finding healthy and industrious "factory fodder" for its population and development programmes' (Price 1981: 101). But if economic and demographic reasons encouraged a response to the plight of refugees, so also did ideological and strategic concerns. The entry of substantial numbers of refugees from the Soviet bloc, notably from Hungary and Czechoslovakia, was a sign that Australia was, like other Western countries, prepared to play its part in the Cold War struggle against the Soviet Union in return for protection under the US's security umbrella.

³ Under a great deal of international pressure, Australia eventually accepted 15,000 refugees for entrance.

When the needs of refugees and the economic, demographic or foreign policy interests of the Australian state parted company, the contingent commitment of officials to refugees became apparent: non-European refugees, the aged and the infirm, typically were excluded from entry. If European states are justified in describing as 'bogus refugees' economic migrants who claim asylum, Australian officials could be said to have operated a bogus refugee policy. Hundreds and thousands of forced migrants, to their good fortune, were simply swept along by a wave of state interests that made mass migration profitable.⁴

The admission of large numbers of refugees before 1975, then, posed no threat to the consensus that governed broader post-war Australian immigration policy. Indeed, it was easy to see the entry of refugees as reinforcing three pillars of the implicit pact on immigration between government and the public: refugees contributed to the state's economic, demographic and foreign policy goals; they did not challenge the state's national identity as a European country; and they entered in a manner that could be strictly managed and controlled, namely, through resettlement programmes.

The consensus was not to last, however. Two years after US forces had pulled out of Saigon in 1975, signalling the victory of the communists of the North in the Vietnam war, a small boat of Vietnamese refugees arrived in the waters of northern Australia. The boat had, remarkably, navigated its way across the hazardous South China and Timor seas in search of its destination. By the middle of 1978 a total of fifty-one boats carrying over 2,000 boat people arrived on Australia's northern shores (Robinson 1998: 152). A number of other boats made similar trips over the next four years, bringing to northern Australia some 2,000 Indo-Chinese refugees, without visas, passports or entry permission.

The arrival of the Vietnamese, which signalled the early stages of the movement of more than 1 million refugees out of the now-communist country, quickly rekindled long-established public concerns over Australia's ability to insulate itself from the 'poor and overcrowded' nations of Asia. Popular newspapers, conservative commentators and sections of the Labor party did not greet the entrants warmly, for an array of reasons ranging from concerns over diminishing sovereignty, the putative conservatism of those fleeing from a communist regime and the belief the Vietnamese refugees were primarily the US's responsibility (Viviani 1988: 174–6).

In the face of a highly anxious public, however, the Fraser government's response demonstrated a good deal of *sang-froid*. Recognising in

⁴ Until 1975 there were no settlement programmes specifically for the purpose of taking refugees (NPC 1991: 121).

part a duty to respond to refugees whose plight had been inextricably connected to Australia's through involvement in the Vietnam war, the government 'spearheaded' international discussions with the UNHCR and the United States to resettle refugees from Thailand and later Malaysia (Robinson 1998: 153; NPC 1991: 76). These discussions, which led eventually to the establishment of an orderly departure programme for Vietnamese refugees, attempted to prevent future arrivals by boat by giving potential boat people an official route to enter Australia, along with other Western countries, notably the US. By 1981, around 50,000 Indo-Chinese had been allowed to enter Australia as refugees. The government had also committed itself to accepting approximately 15,000 more annually (Viviani 1988: 177).

The experience with the Vietnamese brought about a new era in the understandings governing Australian responses to refugees, and to immigrants more generally. From the moment of their arrival, immigration and refugee matters became more divisive subjects in Australian society, paving the way for the *Tampa* controversy of 2001. The landing of the Vietnamese boat people in 1976 was, in some respects, analogous to the US's Mariel boat crisis of 1980, which transformed American attitudes to Cold War refugees. The arrival of the Vietnamese in Australia challenged, and ultimately resulted in the reformulation of, the pillars of the post-war migration consensus.

A European nation?

The refugees from Vietnam (and those who arrived later from Cambodia) posed an obvious challenge to those who viewed Australia's national identity purely in European terms. To be sure, on the official level the presumptions and policies of White Australia had been publicly renounced in 1973, and much of the machinery allowing racial discrimination in admissions discarded some years before. But the immediate effect of the end of the 'White Australia' policy was not a profound transformation in the character of migration to Australia. Indeed, the number of overall immigrants accepted by the state fell after Whitlam's declaration of White Australia's demise to their lowest levels in years, partly due to the country's poor economy. The arrival of Indo-Chinese boat people was thus a first visible sign to many Australians of the implications of ending racial discrimination in entrance.

Significantly, Indo-Chinese migration also emerged at a time when the ethos behind integration policies towards immigrants in general was in flux. The Labour government of 1972–5, assisted by its flamboyant immigration minister, Al Grassby, had officially renounced the complete assimilation into a predominantly British national culture as a goal for

new immigrants. The policy of assimilation (or 'monoculturalism' to use Snedden's term) had not been considered a success, often serving to alienate new migrants from the public culture. In its place the Whitlam government advocated a way of cultural integration which stressed 'the contribution of migrants to Australia . . . and the need to recognize, rather than dismiss, their distinctiveness' (Collins 1988: 232). The next government, that of Malcolm Fraser, also embraced multiculturalism. As a matter of policy, it 'officially encouraged assisted migrants in maintaining their distinctive cultural identities, including languages, and declared that Australia was a multicultural society' (Freeman 1993: 94).

As an idea and a policy, multiculturalism proved a 'lightning rod' (Freeman 1993: 98) for criticism. Concern was expressed throughout the 1970s and 1980s that the concept of multiculturalism reflected the overweening influence of ethnic lobby groups, militated against a set of civic principles pertinent to all Australians, or was simply vacuous (Betts 1993: 223; Jupp 1993: 215–17). Much as debate had already raged before their arrival, the acceptance of the Vietnamese, by promising an even more ethnically diverse society, served merely to deepen controversy about the terms on which migrants should be integrated.⁵

By the beginning of the 1980s, immigration had become synonymous with the entrance of Asians for some sections of the Australian public. The number of Asians entering was multiplied by the fact that Indo-Chinese refugees used family reunion entitlements initially devised for Southern European migrants to bring their relatives to Australia, as did new migrants from the Philippines and Hong Kong. By the mid-1980s, immigrants from Asia (including business migrants) had come to comprise almost 40 per cent of all new entrants.

Asians still constituted a very small proportion of Australian society (by the early 1990s, 600,000 Australian residents were of Asian descent, 3.5 per cent of the total population). But this did not prevent the well-known historian Geoffrey Blainey from sparking a debate in 1984, which rumbled throughout the rest of the 1980s, when he criticised successive governments for allowing Asians to enter at a rate far in excess of what the public would tolerate (Collins 1988: 212–21). There was little doubt that Blainey's comments tapped into the feelings of discomfort over immigration policy felt by substantial sections of the public, not least in rural areas. It was less than clear, however, what proportion

⁵ The 1988 report on immigration commissioned by the Australian government, which became known as the 'Fitzgerald report', was particularly critical of the government's implementation of multiculturalism arguing that most citizens saw it as 'something for immigrants and ethnic communities only, and not for the whole of Australia' (CAAIP 1988: 10).

of the public was hostile to immigration on the grounds of racism, rather than antipathetic to high levels of immigration in general (Collins 1988: 304–5).

Despite a brief flirtation with restrictions on Asian migration by the conservative Liberal opposition, the major political parties were reluctant to pander to discriminatory views, or to call into question the central principle of White Australia's abolition, the rejection of racial discrimination in entrance policy. Indeed, a year before the debate had begun in earnest, in 1983, Bill Hayden, then the Minister for Foreign Affairs, argued that it was both inevitable and desirable that Australia would eventually become a 'Eurasian country' (Sherington 1990: 170). His comment was one of the first articulations at high level of a vision of Australian identity that challenged the Europeanist view.

By the beginning of the 1990s, there was little evidence that the Australian public was solidly behind Hayden's new conceptualisation. Yet no one could disagree with Nancy Viviani that 'something of a revolution' (Viviani 1988) in Australian entrance policy had occurred since the mid-1970s in terms of Asian migration. It was clear that the social and political goal of preserving a singularly European (and, even more so, British) identity had given way first to principle (in the abandonment of White Australia) and now to reality (in the existence of a substantial and growing Asian–Australian minority). Nonetheless, the lack of agreement on an alternative vision of national identity was obvious.

National interests and refugee admissions

While European refugees after 1945 had benefited from the fortunate coincidence that their need for protection served Australia's security, economic and demographic interests, the Vietnamese boat people could not rely on such good fortune. By the late 1970s, the traditional arguments in favour of mass migration had become dubious, raising the question how – if at all – the admission of refugees could be justified in this new environment.

When the Australian economy was performing well in the 1950s and 1960s, there was no reason to doubt the existence of a favourable causal relationship between immigration and living standards. From the early 1970s, however, Australia began experiencing, like other OECD countries, sustained periods of low economic growth and high rates of inflation and unemployment. Consequently, governments began to vary immigration levels. In the mid to late 1970s, consecutive Labor and Liberal governments reduced new settler intake to its lowest levels since 1945 (Viviani 1983: 136).

Immigration rose again, averaging almost 100,000 annually during the 1980s, largely due to the continued influence in official circles of forceful economic arguments.⁶ However, dissenters, particularly from the ranks of environmentalists and economists, could increasingly be heard. These critics linked high levels of immigration to ecological damage and 'capital shortage, a reduced standard of living, inflation and balance of payments difficulties' (Collins 1988: 101). More important in influencing government policy was hostility from the general public to high levels of immigration during periods of substantial unemployment. As unemployment figures spiralled upwards from the beginning of the 1990s – in 1992/3 unemployment was nearly 12 per cent – the Keating Labor government began to cut immigration levels drastically.

If the economic benefits in favour of refugees became more disputed, the security and demographic ones receded entirely. While deterring an enemy invasion was a pressing reason for Australia boosting its intake in the immediate post-war period, population growth in the years since then has undoubtedly increased the country's security. By the beginning of the 1970s, Australia's population was already almost twice as large as in 1945; by the mid 1990s, it was 17.5 million, two and a half times the post-war level. Furthermore, as numbers grew, developments in military technology reduced the importance of population size to national security. Katherine Betts has noted that a range of influential reports on Australian security in the 1970s and 1980s showed that '[d]efence experts did not foresee any shortage of manpower for the armed forces' and argued that Australia's population was more than adequate to meet its security needs '[g]iven the technological basis of modern warfare' (quoted in Freeman 1993: 88). As a result, security arguments ceased to provide support for high immigration levels.

The demise of traditional justifications brought to the fore new reasons for accepting immigrants and refugees. The importance of establishing good relations with other Asian countries has been one such reason. The end of 'White Australia' in the early 1970s reflected more than simply a moral awakening on the part of the Australian community to the evils of racism. The viability of 'White Australia' had always depended upon Australia's key economic and security interests being tied to Europe and North America. By the beginning of the 1970s, however, with Britain a member of the EEC and with the US reluctant to intervene further in Asia after Vietnam, Australia's connections to the Northern Hemisphere weakened. Simultaneously, Asia commenced its rise to global political

⁶ The Fitzgerald report, for instance, came out strongly in favour of using mass migration to boost the amount of skilled labour in Australia (CAAIP 1988).

and economic prominence as the region's newly independent states began 'the most intense episode of economic growth the world has ever seen . . . [turning] East Asia, within four decades, from one of the world's problem regions . . . into one of the world's three greatest centres of economic production and trade' (Garnaut 1994: 227).

Australia turned increasing attention towards Asia in response to the rise in the region's fortunes. It hoped to reap some of the area's abundant opportunities for trade and investment by becoming more politically and economically integrated into the region. Integration did not prove easy. The need to overcome long-established mutual suspicions and cultural differences made it crucial that Australia show that it had left behind the racism that had tarred its immigration policies historically and that it was willing to share some of the region's burdens as well as its benefits. Here, the resettlement of Vietnamese refugees took on great significance. For Australia's inclusive response had the advantage of challenging the country's image as racist while simultaneously illustrating to powerful Association of South East Asian Nations (ASEAN) members (like Thailand, Malaysia and Indonesia) that the country was willing to cooperate to resolve the region's problems. By the mid 1990s, 53 per cent of all Australia's trade was being done with Asian countries. Good relations with its regional neighbours did not always benefit refugees, however. Australia was reluctant to recognise as refugees those fleeing oppressive rule in East Timor and Irian Jaya so as not to offend Indonesia (Ayling and Blay 1989: 263–5).

The role of regional interests as a motivating factor for accepting refugees should not be overstated. During the 1980s and 1990s, refugees from all around the world benefited from Australia's resettlement policies, as public justification for accepting refugees began to be more closely tied to the virtues of humanitarianism. Between the mid 1980s and mid 1990s, in spite of wide variations in the rate of unemployment, Australia took in between 10,000 and 12,000 refugees each year. This was somewhat down on the number of admittances in the early 1980s (at the peak of the boat people crisis), but it represented a significant increase on the kind of numbers entering in the mid 1970s.

It was evident by the early 1990s that Australian governments had pulled off quite a remarkable feat. They had in little more than a decade managed to disentangle refugee policy from its traditional security, economic and demographic justifications and provide it with a humanitarian rationale, albeit one that was supported by a range of new regional interests. The influential Fitzgerald report of 1988 gave its imprimatur to this transformation. It found 'no significant opposition to refugee resettlement' in its wide-ranging submissions and consultations (CAaip

1988: 69). The foundation for the country's responses to refugees was, the report found, that 'helping refugees is part of Australians' view of themselves' (CAAIP 1988: 69).

Controlling entry

If two of the pillars of the post-war immigration consensus had been refashioned by the middle of the 1990s, the promise of control remained. When faced with the unplanned arrival of the Indo-Chinese boat people from 1976, the Fraser Liberal and later the Hawke Labor governments, anxious to placate public concerns, sought a compromise. In agreements that called upon Thailand and Malaysia not to deflect boat people on to Australia (the Orderly Departure Programme of 1979) and for Vietnam to crack down on illegal departures (the Comprehensive Plan of Action of 1987), these governments pledged to resettle Indo-Chinese refugees. Recognising the value of the appearance of order, government officials accepted large numbers of quota refugees in return for actions that would prevent unplanned boat arrivals.

The trade-off appeared to work. Throughout most of the 1980s, boat arrivals at Australia's northern shores were few, and refugees from Indo-China benefited from being able to claim refuge in a Western country without travelling enormous distances by boat. But by the end of the decade, 'on shore' asylum claims began to grow again. Whereas in the three years between 1982 and 1984 only 520 such claims were made, the number rose to 27,117 between 1989 and 1991 (JSCMR 1992: 38). The dramatic rise was partly due to a large one-off offer to consider for refugee status Chinese students living in Australia in the aftermath of the massacre at Tiananmen Square. However, it was evidence also that Australia was not immune to the rising numbers of 'jet age' asylum seekers that had generated controversy in Europe and North America. Refugees from as far afield as Somalia, Afghanistan, Ethiopia and Iran were now seeking asylum in Australia (JSCMR 1992: 36).

No one could say that these numbers constituted a challenge of German proportions. But the upward trajectory in asylum claims did alarm the government. When asylum numbers were boosted by the arrival of more boat people, this time Cambodians in 1989, it was apparent that the hope that Australia could buy itself out of first asylum duties through resettlement quotas was in tatters. In response to rising claims, governments cut back on refugee resettlement entries (JSCMR 1992: 37) and attempted to control entry through harsh new prevention and deterrent measures.

In 1991 the Hawke government created a new detention facility for asylum claimants in the remote town of Port Hedland in Western Australia. A year later the Labor government propelled the 1992 Migration Amendment Act through Parliament. The Act contained highly illiberal detention powers, requiring that 'any person who arrived by boat in Australia after November 19, 1989 . . . be kept in custody until he or she left Australia or was given an entry permit' (US Committee for Refugees 2002). The new focus on preventing Australia from becoming a country of first asylum did not spell an end to the use of resettlement schemes. Throughout the 1990s, these schemes continued to allow entry to around 10,000 refugees and other humanitarian cases per year, many of whom were selected because they had preexisting ties with Australia or were sponsored by relatives. Increasingly, however, the existence of resettlement served as an excuse to criticise asylum seekers as 'queue jumpers', pushing their way past other refugees waiting to enter Australia legitimately. The 1992 Act, the immigration minister of the time proclaimed, 'puts it beyond all doubt' that if you want to come to Australia 'you'll have to enter in a proper way' (quoted in ABC 7.30 Report 2002).

If the 1992 Act was motivated by an attempt to win back control over entry from asylum seekers arriving spontaneously, it also signalled government intentions to constrain the power of the courts in immigration matters. Before the 1980s, the decision-making authority of the Department of Immigration was subject to very little judicial constraint. The 1958 Migration Act did not detail selection criteria for entrants, enabling governments to change 'policy at will, often without informing the public' (Birrell 1992: 25). Indeed, when the Vietnamese boat people initially arrived on Australia's shores the Immigration Minister had no domestically enforceable legal obligation even to hear their claims. Primarily to tackle the bureaucratic challenges of dealing with the volume of new claims, the Liberal government established the Determination of Refugee Status Committee (DORS) in 1977 to advise the minister on claims for protection under the Convention (Crock 1998: 127).

The establishment of DORS coincided closely with a wide-ranging overhaul of administrative law in Australia, designed to make government bureaucracies more open and accountable. The Administrative Decisions Judicial Review Act of 1977 gave the courts new powers to oversee that state decision-making was consistent with standards of procedural fairness and natural justice. The implications of these reforms for decision-making in refugee matters were not immediately obvious. However, it soon became apparent that, in spite of their uncertain status, asylum seekers would now have 'real and viable' (Crock 1998: 38) access to the

courts to appeal unfavourable decisions. A steady rise in the number of reviews of refugee status decisions in the courts ensued.

Judicial intervention in refugee matters did not reach its apogee until 1989, however, when the courts called into question the criteria on which officials determined refugee claims. In that year, the High Court ruled in *Chan vs. Minister for Immigration and Ethnic Affairs* that the government had interpreted eligibility for the UN definition of a refugee too narrowly. In a 'change from the test being applied by the DORS committee in the late 1980s', the court found that in order to meet the standards of 'well-founded fear' of persecution to receive refugee status it was necessary only that the applicant face a 'a real chance of persecution' and that could be 'as little as a 10 per cent chance' (Crock 1998: 136).

The increasing involvement of the courts in the asylum process enraged governments. The whittling away of the traditional discretionary powers of the minister was interpreted as a challenge to the public desire for strict control over the entry of asylum seekers and illegal migrants. As well as calling into question established practices, the access to review procedures for applicants made the processing of asylum claims more time-consuming and expensive. In 1992 the secretary of the Immigration Department estimated that processing an individual asylum claim in Australia cost Aus\$28,000, one hundred times more than the cost of processing one overseas (*The Age*, 22 June 1992). The legal empowering of asylum seekers was viewed as frustrating the state's attempt to deter unwanted arrivals.

Learning from previous failures, governments began to craft legislation with an eye to reducing the room available for judicial interpretation of legislation. The 1992 Migration Amendment Act was the apotheosis of such new law. Not only did the legislation spell out explicitly the procedures that needed to be followed by asylum decision-makers in order, according to the Labor government Immigration Minister of the time, Gerry Hand, to 'replace the somewhat open ended doctrines of natural justice and unreasonableness' (quoted in Ruddock 1997), but, in requiring mandatory detention for asylum seekers, it forbade courts to order the release of individuals so detained (US Committee for Refugees 2002).

In 1996 the government of Paul Keating lost office, bringing to an end thirteen consecutive years of Labor governments begun by Bob Hawke. These governments – and the Fraser government of 1975–83 that had preceded them – had a mixed legacy in terms of asylum and immigration policy. They had, on the one hand, reconstructed aspects of the post-war migration consensus. Australia's transition to a multicultural society with a strong Asian influence was, by the beginning of the 1990s, undeniable, even if it was not welcomed in all quarters; the argument for accepting

refugees had come to rest on a humanitarian footing, in public justification, if less so in reality. These were important developments and, in many respects, achievements.

Yet the governments of this period continued to embrace the assumption that Australia should, under no circumstances, become a country of first asylum, particularly to boat arrivals. However, the kind of measures governments were prepared to use to avoid taking on such a role evolved dramatically. In the transition from Fraser to Hawke to Keating, government measures to prevent unplanned arrivals became increasingly harsh and illiberal, culminating in mandatory detention. The defeat of Keating's government brought to power the Liberal government of John Howard, and a continuation in the trajectory of government practices.

Tampa and beyond

Despite Australia's considerable achievements in building a multicultural society and in resettling refugees, it seems likely that international attitudes towards the country will, for the foreseeable future, be defined by a singular act of exclusion. The government's refusal to allow the Norwegian freighter, *MV Tampa*, carrying a few hundred Iraqi and Afghani asylum seekers, to land in 2001 brought Australia's response to asylum seekers to international attention. And the image beamed to the world was one of a country extremely hostile to refugees.

Upon taking office in 1996, the Howard government inherited the same focus on control as its predecessors. But its focus was sharpened by a vivid lesson in the politics of immigration. Between 1996 and 1998, Pauline Hanson, a former Queensland shopkeeper, and her 'One Nation' party led a populist political campaign centred on the putative injustice of 'special services' for Aborigines and immigrants and the failure of governments to construct immigration policies consonant with the wishes of the Australian public. 'We are', Hanson argued in her maiden speech to Parliament, 'in danger of being swamped by Asians . . . They have their own culture and religion, form ghettos and do not assimilate . . . I should have the right to have a say in who comes into my country' (Hanson quoted in Jupp 2002: 130).

Hanson's campaign appealed to limited constituencies, never gaining great support in Victoria or Tasmania. Yet in 1988 Federal elections for the Senate, One Nation gathered around 1 million votes, establishing itself as the most successful party behind the Liberals and the ALP (Jupp 2002: 135). As is common with anti-immigration parties, One Nation was soon beset by internal divisions and leadership scandals that reduced its capacity to garner votes. By the end of the 1990s, it was in serious,

arguably terminal, decline. However, the party's (albeit short-lived) success had shown that hostility to immigrants and asylum seekers played very well with parts of the electorate. Moreover, the blunt language of its representatives had created a new space to express views on immigrants and asylum seekers that bordered on the racist.

The peak of One Nation's success in 1998 came just before a new stream of boat arrivals. Between 1999 and 2001 over 10,000 asylum seekers, mostly Iraqis, Afghans and Turks, made their way to Australia (Hugo 2002: 37). The Howard government's response was nothing if not forceful. New regulations were introduced in October 1999 to mandate that 'unauthorised arrivals' in Australia determined to be refugees would no longer receive permanent residence. Instead, they would be eligible only for temporary visas, enabling them to work but not to apply for family reunion or long-term stay.⁷ In the 1999 Border Protection Amendment Act, the government added to its powers to prevent arrivals by enabling itself to reject the claims to asylum of those arriving in Australia who could have applied in what was deemed a 'safe third country' (US Committee for Refugees 2002). Philip Ruddock, the Immigration Minister, defended the legislation as necessary to prevent Australia from being viewed as a 'soft target by forum shoppers and the increasingly sophisticated people smuggling rackets' (Ruddock 1999). Despite the new measures and Ruddock's uncompromising style, the boat arrivals kept coming.

The Tampa incident

It was in the context of the dramatic election successes of One Nation a few years before, a growing sense by the government that previous policies had proven inadequate in deterring boat arrivals, and near the start of a new Federal election campaign that another boat of asylum seekers set off from Indonesia in August of 2001. The 20 metre wooden fishing boat was soon in serious distress and, after responding to an alert by Australian coastal officials, a Norwegian freighter, the MV *Tampa*, rescued the 438 asylum seekers on board. The freighter, now carrying a human cargo well beyond its safe capacity, initially headed for Indonesia, but, at the request of its new passengers, turned around and charted a course for Christmas Island, where the asylum seekers would be able to make a

⁷ The operation of the Kosovan refugee programme, while involving resettled refugees, gave some indication of the government's seriousness. While the initial entry of some 4,000 Kosovans between May and June 1999 was trumpeted as an act of humanitarian concern, when conditions were deemed safe for return, the government applied direct and indirect pressures, ranging from the cutting of services and threats of removal to detention centres, to get the refugees to leave (US Committee for Refugees 2002).

demand for asylum incumbent upon Australia. Wishing to prevent just such a scenario, Australian government officials telephoned the captain and warned him not to enter Australia's territorial waters. The captain, in charge of a dangerously overloaded and underresourced ship, ignored the requests and entered Australian waters. Within hours, forty-five SAS troops from the Australian Defence Force boarded the ship. The ensuing stand-off (resulting from the refusal of Australian officials to let the ship land) attracted international attention. Defending Australia's actions, the Prime Minister, John Howard, stated that 'we simply cannot allow a situation where Australia is seen around the world as a country of easy destination' (BBC News 2001a).

After several days a resolution of sorts was achieved when the asylum seekers were forcefully transferred to another ship that took them to Papua New Guinea and the barren and impoverished Pacific Island of Nauru. The Australian government had reached a financial deal for these countries to hold the asylum seekers until other states could be convinced to give asylum to those determined to be refugees. In the event, only New Zealand and Ireland agreed to resettle the asylum seekers. The government's efforts to resolve the crisis by drawing upon resettlement options in other states became known as the 'Pacific Solution'.

Throughout the events surrounding the *Tampa*, public support for the government's position was extraordinarily strong. In one poll for the *Sydney Morning Herald*, 77 per cent of respondents expressed support for the government's policy of refusing the asylum seekers entry (Burke 2001: 323). While the issue provoked sharply divided reactions, the vast majority of the public accepted government characterisations that the boat people were 'queue jumpers' (bypassing the normal route of entry via refugee resettlement schemes) and the thin end of a great wedge of asylum seekers ready to enter Australia's territory with the help of smugglers.

The strong public reaction enabled the government to enact legislation to provide retrospective legitimacy to its actions in preventing boats from landing. In addition, new legislation 'excised' a number of Australian island territories (Christmas Island, Ashmore Reef and Cocos Island) from the country's 'migration zone'. Asylum seekers landing on these territories would no longer be deemed to have landed in Australia for the purposes of immigration law, denying them access to the protection of the Australian courts.

The chord the actions of the Howard government struck with the public was evident on election day, 10 November 2001. The government comfortably defeated the ALP, reversing a huge deficit in the polls before the *Tampa* incident. The ALP opposition, led by Kim Beazley,

had supported the principles surrounding the government's response to the *Tampa*, though it did challenge specific aspects of the government's legislative proposals. The mood of the time, however, was unfavourable to nuance. The Liberal Party's unequivocal position enabled them to ride the anti-asylum seeker wave to electoral triumph.

A sea change?

The policies of the Howard government have been widely characterised as constituting a radical departure – a 'sea change' (US Committee for Refugees 2002) – in Australia's responses to asylum seekers. Yet, as we have seen, consecutive governments have consistently rejected the mantle of Australia as a country of first asylum since the mid 1970s. The 'Pacific Solution' simply represented a new solution to an old problem. While the previous government of Paul Keating had attempted to deter asylum seekers by making detention mandatory and reducing the prospects for judicial review, the Howard government, finding policies of deterrence inadequate, shifted its response to the direct prevention of arrivals through interdiction. This was a cruel development for the asylum seekers concerned. But the movement from deterrence to direct prevention was perfectly consistent with the trajectory of policy-making since the late 1970s.

Arguably more remarkable was the way the Howard government used the *Tampa* issue as a tool to garner support and ultimately achieve electoral victory. In recent years, asylum has tended to find its way into the domain of the electoral politics of Western states because opposition parties have seized upon a particular crisis or rising numbers as a way to criticise the policy-making failures of governments. The asylum issue has thus typically placed governments on the defensive and given them an interest in taking it off the political agenda as quickly as possible (to wit, the Carter Administration with the Mariel incident in 1981; the Clinton Administration with Haitian boat people in the mid 1990s; and the Blair government during the 2001 UK election).

The events of 2001, however, departed from this script. For it was clear from early on that the Howard government saw public anxiety over the boat people as something it could use to its own electoral advantage. Through a combination of its tough stance, extremely negative characterisations of the asylum seekers concerned and illiberal policies, the government grasped a political opportunity to fuel a widespread public view that the asylum seekers constituted a serious threat to the Australian nation. The strategy was amazingly successful. Not only did it twist the ALP in knots, but it established the Liberals as the party for the million

or so voters who three years before had voted for Pauline Hanson and One Nation (Jupp 2002: 1999). The Australian elections of 2001, in other words, were the site of a new government-led *offensive* politics of asylum.

The question of justifiability

Were the Howard government's response to the MV *Tampa* and its new strategies of prevention justifiable? The government put forward a number of reasons in defence of its policy of not allowing the boat people asylum in Australia. It argued that 'queue jumpers' should not be rewarded when there existed legal ways to enter the country. Officials also stressed the importance of not allowing human smugglers successfully to ply their trade or doing anything that might encourage other asylum seekers (already milling in Indonesia, according to Ruddock (BBC 2001b)) to embark upon potentially perilous boat passages to Australia. At other times, it was claimed that the asylum seekers should have applied for asylum in other safe countries they had passed through (most commonly, Indonesia). After 11 September officials even hinted at the need to prevent boat arrivals to protect the country from infiltration by terrorists.

Many of these arguments have drawn the scorn of more critical observers. Government worries about terrorism were risible because the policy of mandatory detention gave officials more than enough time to screen new arrivals before release into the community. The argument that the asylum seekers should have sought protection in Indonesia is weakened by the fact that as the country is not a signatory to the 1951 Refugee Convention and has a poor human rights record, it seems ill-placed to be able to provide refugee status determinations of high quality (Crock and Saul 2002). Characterising boat arrivals as 'queue jumpers' conveniently, as William Malley has pointed out, ignores the fact 'that there is no "queue" in the international refugee system to jump' (Malley 2002: 7). The resettlement system operated by Australia is not a proper substitute for claiming asylum in-country because officials use characteristics in addition to need to choose entrants (preference goes to 'the educated rather than the skilled, the healthy rather than the disabled, the quiescent rather than the "troublesome"', as Malley has put it (2002: 7)). Finally, the vision of unending flows of asylum seekers making their way to Australia's northern shores encouraged by the successes of others seems hard to credit given the relatively small numbers that have followed the route over the last twenty or so years.

These rebuttals are strong and, in some cases, compelling. Equally, there is no doubting that the Howard government, while arguably staying

within the boundaries of international refugee law, demonstrated an insouciance towards asylum seekers worthy of condemnation. Nonetheless, critics of the government's response often ignore the difficult questions posed by boat arrivals. In the face of rising numbers, even a government far more sensitive to refugees would have faced an agonising choice about whether to put in place preventative strategies if they truly believed that their policies were encouraging increasing numbers of people to head towards Australia on dangerously unseaworthy craft. Moreover, while specific aspects of the 'Pacific Solution' raise genuine human rights (and even *refoulement*) concerns, it is an interesting question whether, if circumstances more favourable to asylum seekers could have been arranged, it is legitimate for rich countries, like Australia, to pay poorer ones temporarily to host asylum seekers and refugees. Finally, the *Tampa* incident brings home powerfully the question of the ethical legitimacy of Australia's trade-off between resettlement and first asylum. It is true that Australia's current resettlement scheme is so permeated by morally irrelevant considerations that it provides an imperfect substitute for on-shore access to asylum. But would such a trade-off be justifiable if need was made the only consideration, or if the number of refugees accepted through such schemes was to be dramatically increased?

Conclusion

When considered together with the United States, Australia's dealings with asylum seekers over the last few decades provide ample evidence for the view that traditional countries of immigration are as hostile to becoming countries of first asylum as their European counterparts. Indeed, if the case of Australia is representative, immigration countries may see themselves as justified in implementing even harsher deterrent and preventative policies than 'non-immigration' countries because they offer (on paper at least) avenues through which refugees might enter legally.

Yet if the specific policies employed by Australia appear harsher than those of European countries, the difference is mostly one of degree. The trajectory of Australia's asylum policies since the 1980s (when it became clear that resettlement would not put an end to all spontaneous arrivals) may have been one of increasing radicalisation in the measures used to deter and prevent arrivals, particularly of boat people. But this kind of radicalisation in the face of policy measures deemed ineffective has been evident in every country we have looked at. Germany moved from mild reforms in its asylum procedures in the early 1980s to whole-scale constitutional change in the early 1990s; in the 1960s, the US tried to manage Cuban arrivals with organised resettlement schemes but, by the 1980s,

was employing interdiction. The UK, faced with unprecedented numbers of asylum seeker arrivals after 1999, stated that, in addition to continuing its policies on detaining and restricting welfare to asylum seekers, it was now considering the 'Australian style' turning back of 'illegal' migrants in the Mediterranean.

What, then, is distinctive about the Australian response to refugees? It could be argued that while all of the countries we have looked at have gone through asylum 'crises' and used fairly similar measures to reduce entrant numbers, Australia is remarkable because so few asylum seekers were needed to provoke a 'crisis'. Whereas the US, Germany and the UK have faced tens of thousands of applicants or more on an annual basis, Australia has at most faced a few thousand. Australia's particular historical fears about invasion from the populous nations to its North no doubt played a part in explaining the degree of controversy generated in 2001, as perhaps do lingering doubts about the legitimacy of European claims to the land. Another distinctive feature of the Australian case has been, as I have suggested, the appearance of a new type of government-led, *offensive* politics of asylum. Other administrations (notably the Kohl government in Germany in the early 1990s) have flirted with using the asylum issue as a way of exposing the weakness of their opponents. But no Western government in recent decades can claim as direct a link to their re-election and the issue of restricting asylum-seeking as the Howard government in 2001.

By way of conclusion it is worth mentioning one other notable feature of the Australian case. Discussions of asylum in Australia have been peculiar for how little importance has been attached to the distinction between 'economic migrants' and 'genuine refugees'. While debates in most liberal democratic states have generally turned on the 'abuse' of refugee systems by economic migrants, in Australia asylum seekers have more commonly been characterised as 'queue jumpers'. This sobriquet takes for granted that asylum seekers are in fact refugees (and hence should join the 'official' queue). Notwithstanding problems with the term's accuracy, the Australian approach has its virtues. For, unlike European governments that pretend that their preventative policies impact only upon economic migrants, Australian officials have been ready to admit that all unauthorised entrants are unwelcome, regardless of whether or not they are refugees. This is honesty, albeit at its most brutal.