



Foundation House

The Victorian Foundation
for Survivors of Torture Inc.

The human displacement challenge – understanding and framing our response to refugees and asylum seekers.

Presented at the 1st Australia and New Zealand Refugee Trauma and Recovery Conference

Protecting people fleeing war, conflict and persecution is both a moral and legal obligation for a country like ours. Every person should know that they have a right to protection under the refugee convention - every refugee should be confident that as a part of that they will be properly cared for and every persecutor should fear that they will be brought to justice.

Refugee resettlement is about protection, it is about sanctuary from persecution, it is about nation building and it is about justice.

In the context of Australia's contribution to this critical international issue, there is one inescapable starting point for the impact of policy on the protection, settlement and care of refugees.

It is that current policy creates two major classes of people recognised as refugees in Australia, and the different ways in which they are treated have major implications for their wellbeing and settlement.

On one hand, Australia is one of the top three countries in the world for accepting refugees referred by the UNHCR for resettlement.

In addition, we have one of, if not the best, resettlement programs in the world, providing a diverse range of assistance and care to humanitarian program arrivals each year. There is strong bipartisan and public support for this program and it is one that we can be very proud of.

On the other hand, however, the same cannot be said about our historical and current approach to managing asylum seekers.

Human displacement and people movement comprise mixed flows of refugees, people fleeing for other humanitarian reasons and those seeking to move for economic and other migration purposes. The mixed nature of the flow complicates how they are perceived and is often utilised to justify unnecessarily harsh policies.

It is true that not all asylum seekers are refugees but it is equally true that as a signatory to multiple UN human rights conventions, we must treat all people fairly and with dignity.

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The moral and ethical challenges in dealing with such a complex issue can oftentimes feel overwhelming. This is particularly so when those challenges give way to political opportunism and/or ideological entrenchment. Polarised positions have become the norm and as a consequence, achieving agreement on a fairer and more humane way forward remains depressingly elusive.

I want to return to this theme a little later.

Let me turn first to the mind numbing scale of human suffering across the globe. I don't like using figures to describe the plight of human beings but at a time of massive upheaval it helps to convey the magnitude of the situation. These are the latest publically available numbers from UNHCR and IOM based on the situation at the end of 2015. I fear that the numbers for end 2016 to be released mid this year will be even more disturbing.

At the end of 2015, 65.3 million people - equivalent to one in every 113 people on earth, was either an asylum seeker, internally displaced or a refugee. That figure represents a 52% increase over the past 4 years and if they were a nation, they would constitute the 21st largest country in the world. Of the 65.3 million displaced people, 21.3 million are designated refugees with over half of them under the age of 18, an increase of 41% for that age group since 2014.

Forty five per cent of the refugees, almost 9.6 million people, were in what UNHCR calls a protracted situation, defined as one in which 25,000 or more refugees of the same nationality have been in exile for five years or more in a given asylum country. There are 33 such protracted refugee situations – in 1994 the average duration for a protracted situation was 9 years. At present the average duration is about 20 years. A recent UN report stated that in some protracted “refugee situations a third generation of children has been born into displacement”.

In the opinion of the UNHCR, the Syria situation was poised to become the largest protracted refugee and displacement crisis of the decade. The UNHCR estimates that there are over 12 million Syrian people of concern to the agency. Of these approximately 7.5 million are internally displaced and 4.8 million are registered refugees.

According to IOM the number of refugees and migrants fleeing into Europe reduced from 1 million in 2015 to 363,348 in 2016 and yet the number of known casualties from dangerous sea voyages still rose by 35% to 5,091. Nobody really knows how many bodies have sunk to the bottom of the Mediterranean, have washed up on the Libyan coast line or how many warehouses there are containing the bodies of asylum seekers that smugglers could not move and so chose to murder instead but we do know they exist.

Between 2009 and 2013 more than 1,200 people, including babies, children, women and men, perished on dangerous people smuggling ventures to Australia. Again, the true number is likely to be much higher given the reports of attempted ventures that were never detected at sea, never arrived in Australian waters and never appeared to make it back to their port of origin. As the number of people smuggling boats increased so too did the rate of deaths at sea.

The total number of resettlement places offered by western developed nations has hovered around 100,000 places for the past 20 years. That figure was higher in 2015 and 2016 with additional ‘one

off' commitments in resettlement places for people fleeing the conflicts in Syria and Iraq. With the US recently announcing a reduction in their quota to 50,000 places, the total number of global resettlement places will be reduced from just over 100,000 places to somewhere in the vicinity of 65,000.

The point here is that even if the international community increased their resettlement commitments 10 times to 650,000 per annum and not one more person became a refugee, it would still take approximately 33 years to resettle today's refugees. The reality is that they will not even double their commitments let alone multiply them by 10. When combined with the number of protracted refugee situations globally, it is little wonder that refugees resort to unscrupulous people smugglers in a desperate attempt to find the security they need.

So, while it is vital to increase global resettlement places and establish fairer refugee protection arrangements, these are clearly not an answer on their own. Dealing with the root causes of conflicts and ending those that already exist provide the only real answers – but those answers have proven to be beyond our grasp.

The former Secretary General of the UN Mr Ban Ki Moon spoke of the world “facing the biggest refugee and displacement crisis of our time. Above all, this is not just a crisis of numbers, it is also a crisis of solidarity” he said.

The UN High Commissioner for Refugees, Filippo Grandi said that “the willingness of nations to work together not just for refugees but for the collective human interest is what's being tested today, and it's this spirit of unity that badly needs to prevail.” I couldn't agree more.

Australian and regional perspective

In terms of receiving referrals from the UNHCR for resettlement, Australia continues to have one of the largest refugee resettlement programs in the world. The program currently has 13,750 places which will increase to 16,250 in 2017-18 and 18,750 in 2018-19. In addition, in September 2015, the Government announced a one off allocation of 12,000 places for people fleeing the conflict in Syria and Iraq (that specific initiative will be completed by the end of June this year).

In praising our resettlement services, the former High Commissioner for Refugees, Antonio Guterras, cited the work of Australia's network of torture and trauma services as an example of how complex and traumatic experiences can in fact be properly supported. He did so in the context of challenging some European countries that were expressing reservations about how effectively they could resettle and integrate refugees. His point was that if Australia can do it then Europe could also.

The role of our torture and trauma agencies helps to make resettlement sustainable and our models of addressing the wider social determinants of mental health, as well as supporting survivors to restore some balance in their internal worlds, is a model that sets a benchmark internationally.

People of refugee origin are profoundly resilient - they have survived the unimaginable, forced to leave their countries of origin because of persecution and violence and experienced considerable

hardship for prolonged periods prior to coming here. For many years now our agencies have witnessed the courage that refugees demonstrate in successfully dealing with the trauma, loss and grief that is tragically common in the refugee experience.

The great majority of people from refugee backgrounds settle quickly with relatively little assistance from government. They find jobs and homes, they set up businesses and they become familiar with how Australia works. Some take longer and need greater assistance to overcome the impact of pre-arrival experiences, to learn English and understand how things are done in a society greatly different from their countries of origin and places of temporary shelter.

Australia has a world-class array of settlement programs for refugees involving expenditure that is proper for programs with a humanitarian foundation. The evidence of the benefits to Australia is also indisputable. Both short and long-term studies demonstrate people of refugee backgrounds have made and continue to make substantial economic and social contributions to Australia.

Let me turn now to the most difficult and contentious dimension of this broad issue – the treatment of asylum seekers, in particular, those who arrive via the exploitative practices of unscrupulous people smugglers.

I have worked intensely on these issues for over 25 years across all governments regardless of their political colour. The environment and global context have changed dramatically over that time and as a consequence demand new thinking and approaches – approaches that would enable us to meet the challenges we now face without compromising our principles or humanitarian obligations. I've always held the firm belief that people smuggling has flourished not because asylum seekers have a preference for using them but because the international community is yet to develop a system that would make what smugglers offer unnecessary and therefore irrelevant – a system that would stabilise populations, properly care for them and process their claims in a timely manner. In that context the growing phenomenon of people smuggling and increasing death toll from such ventures are a consequence of both criminal exploitation by smugglers on the one hand and the hopeless inaction of governments on the other.

The strategies of Governments and Oppositions of the day have for years been dominated by a desire to generate electoral capital by presenting themselves as unwaveringly tough on border protection. This emphasis holds precedence over responding to the protection needs of asylum seekers and therefore compounds their situation and amplifies their suffering. This makes for bad policy.

Importantly, policies proposed by understandably and appropriately concerned advocates (such as myself and others), academics and community members that fail to appreciate the full scale of this issue, the dangers that people smuggling generates and the reality of regional and domestic politics are also badly flawed. Advocating policies that fail to acknowledge these practical and political dimensions will inevitably lead to higher death tolls and diminish public confidence in how we manage these issues. This too makes for bad policy.

The debate and policy thinking has become a binary argument, predicated on an assumption that there is an inextricable necessity for harsh, punitive measures as the means to prevent people

smuggling – this is simply untrue. Treating people seeking asylum humanely and preventing people smuggling are not mutually exclusive exercises. They are in fact complementary. Given such realities, coupled with the wider global picture outlined earlier, on what basis and with what emphasis should policy be formulated?

Firstly, as a member of the then Prime Minister’s Expert Panel on Asylum Seekers in 2012, we articulated the importance of policy formulation needing to ensure that: *practicality and fairness should take precedence over theory and inertia and no single focus can provide an effective basis for policymaking. This is true whether the focus is on better protections for asylum seekers or on ways to discourage them from taking dangerous maritime voyages. Strategies need to shift the balance of Australian policies and regional arrangements to give greater hope and confidence to asylum seekers that regional arrangements will work more effectively and rather than denying asylum seekers the 'right' to take terrible risks, there is a responsibility to create opportunities that would enable their claims to be processed more fairly and effectively in ways that make those risks unnecessary... To do nothing when there is the capacity to do more is unacceptable.*

This remains my position.

In my view, the harshness of current arrangements are not necessary to achieve the objective of “stopping the boats” nor do they guarantee success in that regard. Measures such as arbitrary detention, harsh living conditions and lengthy delays in processing are not effective or necessary components in tackling people smuggling - people smugglers don’t care about such measures anyway and the conditions many people are fleeing are far worse. The only guaranteed outcome from such approaches is that they inevitably generate acute distress and disturbance (including sometimes violence) and cause severe psychological harm with tragic consequences.

The government can rightly claim it has curbed people smuggling ventures to Australia and more importantly prevented further deaths at sea. This is a good thing and important to acknowledge but it should not be achieved at any cost. A guarantee that responses will treat all people humanely and decently is just as important.

So what should we strive for in this area in the future?

Firstly, any policy initiative must accord with our international human rights obligations including credible mechanisms built in to monitor compliance with this principle. We should invest significantly in financial, diplomatic and aid and development terms towards building the regional architecture that would form the basis of an effective regional protection framework.

Such a framework would draw on aid and development principles and be geared towards stabilising populations, providing them with legal protections and an entitlement to reside safely where they are, with an ability to work, attend school and live independently. Such a system should guarantee timely status resolution and provide a range of appropriate durable solutions for themselves and their families.

Decent treatment and conditions with a positive focus for the future would provide asylum seekers with a sustaining sense of hope rather than extinguishing it as the current arrangements have done.

Had such a system been in place in 2015 it could have swiftly responded to the plight of 8,000 Rohingya adrift and dying in the Andaman Sea as opposed to allowing many to perish before action was begrudgingly taken to rescue them. Australian policy would also be more credible and sustainable in practical and humanitarian terms if it were to fully embrace the development of a regional approach with such an emphasis.

As an important contribution to this, Australia's humanitarian program should be increased to an annual quota of approximately 30,000 places incorporating a commitment to reducing the waiting times for family reunion. We could further expand on this figure by making places available in our general migration program for skilled and trained people caught up in refugee situations. For example, many people fleeing the Syrian conflict are highly skilled professionals and trades people who could have qualified under a number of skilled and other migration categories.

Germany's response to the flow of people from Syria and Iraq was driven largely by humanitarian intent. However, it is also clear that they have received some of the most skilled professionals within that population due to the scale and timing of their response. While there has been significant political and social unrest arising from the size and pace of the movement into Germany, it is also true that some German politicians have argued for even more people in order to support an economy experiencing labour shortages and an aging population.

I would now like to say a few words about the inescapable issue of how to deal with cases where smugglers continue to convince people to circumvent a functioning regional system and risk their lives on dangerous boat journeys. This aspect is often avoided by many people outside of government regardless of the evidence and associated risks. It represents one of the most confronting aspects of this classic 'wicked problem' because of the moral and ethical conundrums it presents.

So, I've talked about the critical issue of governments taking responsibility for establishing regional arrangements that properly care for and process asylum seekers as the most important shift in current settings. If that was accepted, one flow on challenge that Governments could not ignore is what to do when smugglers convince people to circumvent that system. Governments simply can't ignore that dimension and if they did the edifice of regional arrangements would eventually collapse. As a consequence, we, as supporters of refugees, need to confront this dimension as well if a decent regional arrangement is to prevail.

So in response to this I would suggest that the only disincentive needed to address people smuggling would be that if a person chose to bypass a credible regional system via people smuggling networks then they would be transferred back into that system safely. Once there, they must then be treated humanely, cared for properly, processed fairly and provided with a durable solution in a timely and equitable fashion along with others in the regional process.

It is important here not to consider this as somehow being related to timeframes at a global level. They would be timeframes associated with the regional arrangements and supported by a multitude of decent durable options. Those options could include local integration, temporary stay and work arrangements, alternative migration pathways or permanent resettlement to name a few. In the case of those found not to need protection then a safe and supportive return program would be offered.

There is obviously a great deal more detail and other elements that would need to form part of such a template which I do not have time to elaborate on today. However, I hope we can talk about them over the coming few days and think carefully about how our collective expertise and capacities may be able to inform such policies and programs in the future. Preventing the exploitation of vulnerable people by people smugglers is an important part of the human displacement challenge but it is by no means the only one and should not be the dominant objective – saving lives should occupy that mantle.

In this area of public policy, we would be very naïve to think that what is on offer is a choice between the good and the bad. Either explicitly or implicitly, by design or necessary consequence, all the policy packages which have been seriously proposed have harsh aspects, almost always many more than is necessary, much more severe than is required or acceptable and guaranteed to cause harm. As a consequence, they also struggle to withstand rigorous scrutiny as to their feasibility domestically or internationally or both.

I think the scope for proper, detailed discussion of the issues within Australia (and indeed Europe) has been unduly constrained – too often people of different views hurl assertions and insults rather than patiently listening to each other in respectful dialogue. It's not enough to simply point out what we don't like - that part is easy. We must also be prepared to present ideas about what should be done instead and have those ideas tested against the evidence.

I am not suggesting that such dialogue will produce consensus. Nor should it aim to do so. Of course people will continue to have legitimate differences of view about competing ethical considerations as well as judgements about the likely consequences of any course of action.

But the quality of political decision-making can only improve if participants allow for the possibility that those with whom they disagree are not necessarily evil bastards or simpletons, but may be making points that warrant consideration.

In concluding, some of the questions that confront us all in this field include; how many people must continue to subsist and suffer for years in perpetual fear of their lives, around the world, in our region and in our country before we take action? How many people must die from perilous journeys or suicide before all parties in this debate come together and identify credible and fair compromises? Finally, how can we achieve those compromises together, without eroding our humanitarian responsibilities or blocking real progress by allowing the perfect to become the enemy of the good?

Thank you.