Between the devil and the deep blue sea: a reflection on what turns a person into a boat person

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One of the most extraordinary quirks of the refugee debate in Australia is the enduring power of the ‘illegal’ myth. The right to seek asylum is not only enshrined in the UN Convention Relating to the Status of Refugees and the Universal Declaration of Human Rights, but also reflected in section 36 of the Australian Migration Act 1958. Fact: there is nothing illegal about the act of seeking asylum.

The truth is available for those who seek it, that more than 90 per cent of asylum seekers arriving in Australia do so by air. Of that number, around 10 per cent are found to be genuine refugees. Boat arrivals account for about 10 per cent of those arriving to seek asylum, with a massive 90 per cent of that number found to be genuine refugees (at least until recently — but more about that later). Fact: those who arrive by boat are many times more likely to be genuine refugees than those who arrive by plane.

Further, the overall numbers of people arriving in Australia by boat is a tiny drop in the Pacific Ocean. Australia continues to receive around 0.3 per cent of the world’s refugee movement: a modest 13,500 per year. This figure encompasses the entirety of Australia’s humanitarian and refugee intake, including resettlement from overseas refugee camps as well as boat arrivals. Fact: with the exception of peaks in 2000 and 2010, boat arrivals into Australia have numbered about one thousand per year.

At any one time, there is a constant pool of around 52,000 true ‘illegal migrants’ living in Australia. These are visa overstayers, predominantly backpackers and students, most likely to be white, European, familiar and inconspicuous. The 13,500 humanitarian arrivals make up a part of Australia’s annual permanent migration intake of around 200,000. The thousand people per year (on average) who arrive by boat constitute about half of 1 per cent of our annual migration intake. But these are the ones who inspire fear, suspicion and hostility, and who are the unwilling beneficiaries of around a billion dollars a year in offshore processing and repulsion mechanisms. What prompts these people to become boat people?
During a trip to Indonesia in July 2009, I had the dubious privilege of witnessing firsthand the detention of around 250 asylum seekers in eleven places of detention across the archipelago. There were diverse conditions of detention across the country. As we hopped across the islands we saw single men, families and unaccompanied children detained in anything from comfortable hostel-style accommodation to jail cells with mildewy concrete floors and steel bars, from stark but livable compounds to a converted grain storage room crawling with rodents, snakes and cockroaches and totally unfit for human habitation.

During conversations with people in those places, we immediately got the sense that Indonesia represents a crossroads; not just geographically, but in the life stories of entire families. We heard stories of loss and grief from a couple whose entire family on both sides had been wiped out in a Taliban attack. We met a nine-year-old girl who described to me the Taliban’s practice of hammering nails into the skulls of Shi’a people, and her disgust at three of her teachers—all women—being killed as punishment for the egregious crime of educating girls. We met a fourteen-year-old boy whose entire family had been killed for converting to Christianity, and a young man in his twenties who had watched his father’s body take sixteen bullets from a Taliban AK-47. By the time people reach Indonesia, the devil is behind them, and only the deep blue sea lies ahead.

Having been involved in refugee advocacy for almost a decade, I wasn’t expecting to hear anything that surprised me about the things that had brought people to this juncture. The activities of the Taliban, the fear and uncertainty of day-to-day Iraq and the extreme difficulty of life as a Tamil are all familiar territory. I thought I had this journey—and its driving motivations—well understood. But I could not have been more wrong.

Each and every person we spoke to revealed to us that they had not come to Indonesia to get on a boat. This surprised me enormously: I had presumed that coming to Indonesia and taking a boat for the onward journey to Australia was the standard itinerary of asylum seekers in the South-East Asian region. However, as the days rolled by and we collected more and more conversations, it became apparent that getting on a boat was absolutely the last resort, and was seen by most people as a measure to be avoided at all costs. People were fully aware of their vulnerability to exploitation by smugglers, the possibility of being intercepted and dragged back to Indonesia and, of course, the salty, seasick spectre of a boat bobbing on the tossing ocean for two weeks.

People had come to Indonesia because it is the threshold to Australia. It is a place where—rumour had it—asylum seekers could go, register, and wait to have their claims processed according to law. They saw Indonesia as the doorstep to Australia; not so they could kick down the door, but so they could knock and wait to be admitted. In the common parlance—ironically!—they had come to stand in the queue.
In the first week of October 2009, a tired, rotting boat chugged into the ocean along the south of Indonesia, heading for a piece of Australian soil. It was heavily laden with Hazara families—105 people leaving unspeakable things behind them.

Nekbakht and her two boys, Reza (ten) and Abbas (seven) were among them. Five years previously, Nekbakht’s husband had been killed by Taliban, along with their three daughters and two sons. Reza and Abbas were all that were left in Nekbakht’s universe. She sold everything she had and fled Afghanistan in pursuit of a future for her sons. When I met her, Nekbakht’s exhaustion and despair were etched unmistakably on her face.

Jaffar, seventeen years old, travelled with his brother Mukhtar (thirteen) to Indonesia without their parents. They had only each other. They asked me—quietly, unobtrusively—to help them come to Australia. I told them that, despite being sick with frustration and powerlessness, there was nothing I could do to help them.

Golafroz, 45 years old, lost her husband and two sons to the Taliban. She fled Afghanistan, and spent four months in an Indonesian prison with her only remaining son, Sajjad (seventeen). When I met her she clutched me, kissed my hands, wept into my shoulder and begged for my help, and God’s. She pleaded with me to find a way for her to reach Australia. In the course of one of the hardest conversations of my life, I told a sobbing widow there was nothing I could do to help her.

That boat—and its passengers—never reached land. Reports suggest that Australian officials received terrified calls of distress as the boat disintegrated in a dark ocean. I have since received calls from families in Australia, Indonesia, Pakistan, Afghanistan and Iran, desperately seeking information about their missing loved ones, and begging me to dispel their worst fears. I clearly cannot.

Nekbakht and her boys, the young brothers Jaffar and Mukhtari, and Golafroz and her son Sajjad perished in their pursuit of freedom. These were people so vulnerable, so haunted, so desperate to find safety that they were willing to die trying. That truth—and the echoed pleas of these women and their sons—should pierce the minds of our policy makers and inform every last detail of Australia’s approach to asylum seekers.
Each person we spoke to had sought to undertake the following process upon arrival in Indonesia: registration with the UNHCR, interview with the UNHCR, processing by the UNHCR, refugee status determination by the UNHCR, and recommendation by the UNHCR for resettlement in Australia. Whether that process took five months or five years, people were willing to wait. By the time we got to Indonesia, though, the wheels had fallen off that process. People were being resettled in Australia at a rate of 35 to 50 people each year. The number of asylum seekers waiting for resettlement was 2100 and rising. A quick juggle of the numbers revealed that people would be waiting between 40 and 60 years for resettlement to Australia. They would be waiting a lifetime.

Panic was rising among the asylum seekers. One young man had already become legend: he was The-Man-Who-Has-Waited-Nine-Years. We heard tell of him, both before and after we had met him for ourselves. He was the embodiment of what people feared would befall themselves and their families. He was the cautionary tale, the worst-case scenario, the whispered ‘What if that happens to us?’

Perhaps a decade of waiting would be bearable if the opportunity existed for people to work, to send their children to school and to move freely in the country without fear of arrest and detention. But Indonesia is not a signatory to the Refugee Convention. It has no obligations to asylum seekers, and it behaves accordingly. Arbitrary arrests and brutal beatings are commonplace, and in recent months even a UNHCR certificate has not protected people from being dragged to jail if they are found in public by police.

As weeks stretch to months and months stretch to years, with no apparent progress in their cases, hopes of coming to Australia ‘the good way’ (their words, not mine) fade into the distance. News from home confirms that going back is not an option. So they must look forward. The boat option comes into sharp focus as the only way to resolve their protracted situations of limbo. They start to look for a smuggler. They get on a boat. The next part of their journey pops up on the front page of the tabloids with yet another headline about ‘queue jumpers’. What a spectacular misunderstanding of the reality of the situation.

Meanwhile, life in the land they left behind gets harder and harder. The Afghan Rights Monitor has stated that 2010 has been the most violent of the past nine years of war in that country. By mid-July 2010 more than one thousand civilians had already been killed under the banner of ‘collateral damage’. Targeted ethnic cleansing has wiped out many hundreds more. In late June the Taliban stopped a van carrying eleven Hazara people in the Uruzgan province, and beheaded each of the passengers. In mid-August, a group of Taliban-backed Kochi nomads rampaged through south-west Kabul, shooting Hazaras. In the demonstration that ensued, Afghan police shot dead another 25 Hazaras. Even in the traditional city of refuge, Quetta (Pakistan), Hazara people cannot leave their houses without
fear of ethnically motivated killings. After the accidental war casualties and the targeted ethnic cleansing, there still remain the random insurgent attacks, suicide bombings in public places (especially markets) and roadside explosive devices.

In Sri Lanka, Tamils are still targeted, imprisoned, discriminated against, disappeared and subjected to extrajudicial killings. In May 2010 Amnesty International reported that more than 80,000 Tamil civilians remained detained in military-run internment camps, while more than 11,000 suspected Tamil Tiger combatants (including 500 children) are being held by the state in so-called ‘rehabilitation centres’ (the Orwellian undertones of that label will not be unpacked here).

These two groups—the Hazaras and the Tamils—are the groups whose protection applications were suspended by the Rudd government in April 2010. In the government’s own fact sheet, the rationale is explained: ‘The government suspended processing as a result of evolving conditions in both Sri Lanka and Afghanistan’.

What world of mystery is contained in the notion of ‘evolving conditions’. This phrase represents a powerful political diktat over the life experiences of millions of people. Despite declarations from those in the know that Afghanistan is worse than ever and going downhill from there, evidence from Christmas Island shows that in the months since these ‘evolving conditions’ were identified, acceptance of claims from Hazaras being processed on Christmas Island has dropped significantly, from around 90 per cent to around 30 per cent at first instance. It appears that Australia’s method of coping with an increase in boat arrivals in 2010 is simply to convince itself that they don’t require protection.

Anecdotal evidence from lawyers and migration agents working on Christmas Island paints a frightening picture of an island excised not only from the ‘migration zone’ but from common sense, where evidentiary standards are not upheld, lawyers don’t have access to the internet, and asylum seekers are not given a chance to respond to unsubstantiated country information stating that home is now ‘safe’. Deeply alarming is the badly-kept secret that the Department of Immigration has developed a habit of relying on a ‘security map’ issued by the government of the Islamic Republic of Afghanistan as a basis for assuring people that they’ll be safe if they go home.

Stories of unfair and comically illogical refugee status determination do trickle back upstream to Indonesia, and they do affect the timing of when people choose to get on boats—to a degree. Recent governments have claimed that cruel deterrence policies have ‘stopped the boats coming’. This is simply not a reality. At any one time, asylum seekers in Indonesia must juggle competing factors. Whatever is the least worst option is the option they will pursue. They must rank the threat of Taliban, an indefinite
stay in Indonesia (in conditions ranging from not good to unbearable), and a frightening boat journey alongside the prospect of a long stint in an Australian detention facility. For some, home beckons and they return to uncertainty and danger. Others sit tight in Indonesia until something shifts in their circumstances and they simply cannot stay any longer. Others throw in their chips and get on a boat. These factors are subject to an enormous range of complex variables, and any politician who claims to have stopped boat arrivals by policy alone fails utterly to understand the reality.

When I contemplate this matrix, I ask myself what level of inhospitality it would really take to deter asylum seekers. I suggest that until people fear bad treatment by Australia as much as they fear the Taliban, they will keep arriving by boat. Australia’s restrictive and draconian measures will only serve to punish vulnerable people who—due to the horrific push factors behind them—have no viable option but to seek asylum in Australia. The simple calculus is this: until our cruelty surpasses that of the Taliban, the boats will keep coming. Given that no party aims to cross that ignominious threshold, would it not be more humane and economically prudent to accept these inevitable refugees graciously?

Australia is paying many millions of dollars to international agencies and the Indonesian government to facilitate interception, arrest and imprisonment of asylum seekers who have set out—mainly from Afghanistan, Iraq and Sri Lanka—to reach safety in Australia. They have not embarked on these journeys for fun, or to find a better job or a bigger house. The decision to leave home is invariably characterised by grief, loss and fear. It is not taken lightly, and its aftermath is life-long. When a boatload of asylum seekers bobs onto the horizon at Ashmore Reef, or in the waters surrounding Christmas Island, we are not witnessing the final chapter of a ‘choose your own adventure’ story; we are receiving the human fallout of the worst conflicts and human rights violations on the planet today. It is a failure of human compassion and government leadership that as a nation we do not discuss refugee policy in these terms.

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