At the moment we are haunted by the events of a dark week. But it has been a week with apparently disjointed but potentially connected events making up its tapestry. On Sunday 9 September there was an assassination attempt in northern Afghanistan against Ahmad Shah Masud, the leader of the moderate anti-Taliban forces. Two Arab journalists who were purporting to film him for an interview detonated a bomb in their video camera. His spokesman was killed, the Afghan ambassador to India was seriously injured, and on 15 September, Masud finally succumbed to his injuries.

Two days after the attack on Masud, we all witnessed the carnage in New York and Washington DC as planes struck the twin towers of the World Trade Centre and the Pentagon. Each of these events bears the hallmark and some would say the fingerprints of Osama Bin Laden’s Al-Qaeda organisation which is hosted by the Afghan Taliban. Yet while everyone’s hearts have gone out in sympathy to the people of the United States, victims of the Taliban who reach Australia’s shores by boat are likely to find that all too often they are scorned, thrust aside and viciously denigrated by self-confident, smug, letter-writers and telephone-callers to talk-back radio who from leafy suburbs and over their last glass of wine and their last biscuit and cheese, complain that their lifestyles are being fundamentally compromised by this security threat.

Now it does seem to me that if one is looking for a security threat, what has happened in New York and in Washington comes closer to a reasonable definition than what we have seen at Christmas Island over the M.V. Tampa. But I have no great optimism that the circumstances which have proved so disturbing in our public life in the last fortnight are likely to change. Some talk-back callers have even suggested that the victims of the Taliban almost by definition (perhaps because of their religion or their ethnicity) must be terrorists, and therefore should be excluded for our safety. This is akin to the argument that German Jews fleeing Nazism could not be trusted because, after all, they were German. As a political scientist I am inclined—indeed, obliged—to make the observation that big-time terrorists rarely include a voyage on a leaky boat as part of their modus operandi. But persuading the fundamentalists in the Immigration Department that this is the case is quite a challenge.

Who are the Afghan boat arrivals? We actually know quite a lot about them. The bulk of those who have been arriving by boat from Afghanistan are members of an ethnic group called the Hazaras. Hazara is the Persian word for one thousand, and the myth of origin of this particular ethnic group suggests that they were descendants of companies of one thousand troops that accompanied Genghis Khan during his conquests of the Eurasian space. They are at the moment extraordinarily vulnerable for two reasons. One is that they are physically distinctive. In contrast to most Afghans who have a Mediterranean appearance, Hazaras have a central Asian phenotype. One could mistake an Hazara for a Korean or a Chinese, and they tend to stand out in a crowd. They are also adherents of the heterodox Shiite sect within Islam rather than the majority Sunni sect, and this has put them squarely in the crosslines of the Taliban’s gun sights. The Hazaras have experienced over a century of discrimination in Afghanistan, but
the worst days that they have endured for many a long year have occurred since the Talibans came to power. From 8-11 August 1998, there was a massacre of Hazaras in Mazar-e Sharif in northern Afghanistan in which, on the most conservative and careful estimate, 2,000 people were slaughtered in 3 days. Earlier this year in the Yakaolang area in Central Afghanistan, in the ancestral lands of the Hazaras known as the Hazarajat, there were quite gruesome massacres of ethnic Hazaras. And to put it bluntly, the vast, overwhelming majority of the Hazara ethnic group in Afghanistan are indisputably refugees within the definition contained in the 1951 Convention Relating to the Status of Refugees. Indisputably.

It is striking that far more Hazaras have arrived in Australia by boat than through the government’s ‘Offshore’ resettlement program, and this has led some people to suggest that they should be characterised as queue jumpers. This characterisation is thoroughly and comprehensively spurious. First, there is no queue. Australia’s basic legal responsibilities under international law are its responsibilities under the 1951 Convention. And those responsibilities are owed not to people outside Australia, but to people who enter Australian territory. The fundamental obligation is one of non-refoulement, or not returning to a place of threatened persecution a person who is a convention refugee. These are our basic responsibilities. Any offshore resettlement programme which the Australian government establishes is over and above its basic legal responsibilities under the 1951 Convention, and the fact that the government by its discretion may have established such a program cannot be used to absolve it of its fundamental international legal responsibilities under the Convention. To suggest that somehow it could is an argument akin to the suggestion that I should be able to avoid paying my income tax if I set up a little soup kitchen in my front garden on a Sunday to feed those I deem deserving. This is exactly the structure of argument with which we are being confronted.

But over and above that, what the offshore program offers—when one looks at it realistically rather than sentimentally—is not a place in a queue but a ticket in a lottery. Let me give you some examples of why that is the case.

Let us take Islamabad as an example, since that is the capital city of the country to which many Hazaras have to flee. There is an office of the United Nationms High Commissiooner for Refugees (UNHCR) in Islamabad, and the Australian Minister for Immigration and Multicultural Affairs on occasions has implied that ‘good’ refugees should go to that office and seek to be resettled. But there are several problems. First, the locally-employed Pakistani staff may ask for a significant bribe—a bribe which may be higher than the total cost of being smuggled to Australia by a people smuggler. Numerous complaints to this effect have been drawn to the attention of the authorities. The office is also hopelessly under-resourced, to the point that in September 1999 the office actually requested through a public statement (reported by Reuters) that refugees not approach it for possible resettlement because it was unable to cope and refugees approaching it were interfering with its important work on behalf of refugees.

So if we put that particular avenue to one side, let us now consider the Special Humanitarian Program (SHP) which the Commonwealth Government also operates as part of its offshore refugee programme. There are several striking points about this programme. The first is that the current waiting time for the processing of an SHP visa in Islamabad is one hundred and twenty two weeks, two and a half years, more or less. And one could reasonably argue that if an applicant can afford to wait for two and a half years, he or she does not need to be resettled. The people whose situations are the most desperate will simply not be able to take the risk of being engulfed in Pakistan by Taliban-like phenomena which could well, within two and a half years, threaten the stability of that country in a fundamental fashion.
Furthermore to be eligible for a special humanitarian program visa, one needs to have a sponsor in Australia. It has never been clear to me why, if our objective (as we are endlessly told by ministers) is to help the very neediest, somehow there is a magical process by which the very neediest will always have relatives in Australia. The reason that that provision is there, of course, is that the Australian government can thereby avoid paying the airfares of people who receive special humanitarian program visas, or meeting many of the resettlement costs which are involved in assisting such people. This is a particular type of humanitarianism. It is humanitarianism on the cheap.

Third, the requirement that one have a sponsor in Australia inadvertently excludes groups such as the Hazaras who have experienced decades of discrimination, because one form of discrimination which the Hazaras historically experienced in Afghanistan was very limited opportunity to travel abroad, for example as graduate students. The consequence of this is that that particular ethnic group is vastly less likely than almost any other Afghan ethnic group to have relatives in western countries who would be in a position to file such a sponsorship.

When one puts together the requirement for sponsorship, the processing time, and the fact that one need not even be a refugee under the 1951 Convention in order to be eligible for an SHP visa, one can see how preposterous is the claim that our offshore programme helps the neediest and that those who arrive by boat and are then able to pass the most stringent test of all, namely that required to be a Convention refugee, are taking places away from needier people. That is simply not the case.

I would note as well that we see a great deal of argumentation to the effect that those who arrive by boat are undeserving because they can afford to pay the people smugglers. Yet those who can are very often beneficiaries of the generosity of a large extended family. Lots of people will typically pool what are pathetically small life-savings, but which, if accumulated, will be enough to get one young man out of Afghanistan through a people-smuggling network. Given that we do require SHP visas holders to be able to produce the funds to get to Australia by hook or by crook, where is the legitimacy of the argument that those who have money should not be able to assist their families in whatever way they choose?

In conclusion if we are haunted by the events of the last week, we should also be haunted by more remote times. Here it is very important to recall that majority opinion can back great evil, and that the rule of law, and judiciaries which are not buffeted by public opinion, can provide vital protection against rampant majoritarianism. We saw the dangers of unconstrained majorities in Germany in the 1930s and one of the great evils that Germany experienced at that time was the obliteration of any kind of independent judiciary. But recollections of what happened in the 1930s should also assist us to put in context different types of rhetoric, particularly the anti-Muslim rhetoric which we have been hearing in various fora in the last fortnight. A thought-experiment which I sometimes undertake when reading letters to the editor at the moment is to remove the word ‘Muslim’ and put in place the word ‘Jew’, and see how the letter resonates. The implications of this experiment are profoundly disturbing. In July 1938 there was a conference held in Evian in France at the instigation of President Roosevelt to try to confront the problem of forced migration by Jewish people from Nazi Germany. The Australian delegate at that conference was the former member for Balaclava, and the then minister for Home Affairs, T. W. White. When he came to give Australia’s statement, he stood up and said the following:

It will no doubt be appreciated that as we have no racial problem we are not desirous of importing one.

History has not been kind to T. W. White and it is unlikely to be any kinder to John Howard or Philip Ruddock.