

MANDATORY DETENTION

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The Terrifying Debate

By Andrew Bartlett

When the Government changed our detention policy it didn't want too many people to notice, writes Andrew Bartlett

Responses to the Federal Government's [recent reform](#) of Australia's immigration detention policy have once again shown that debate over immigration issues in Australia is drenched in symbolism, political posturing and ideology, obscuring the human reality beneath.

On the one hand, it is hard to imagine how it could be contentious for a government to state that we should *not* lock up people for long periods when they have not been charged with any offence, unless there are compelling reasons to do so. But as soon as you mention asylum seekers or refugees - let alone bring up loaded and misleading terms like "illegal immigrants" - at that point simple, humane common sense seems to go straight out the window.

Ezequiel Trumper quite rightly [expressed amazement and dismay](#) that a decision by the Government to reassert such a basic aspect of the rule of law was done with so little fanfare. He was also angry that there was so little condemnation of the policies that were being discarded, and no "moral censure of the perpetrators of these horrendous human rights violations".

Yet in announcing what should turn out to be a historic realignment in national immigration policy and law, the Labor Government has been as keen as anyone else to keep it low-key. Despite (or because of) the political significance of the issue, the announcement was made by Minister Chris Evans, not by the Prime Minister - even though the issue is ideally suited to Kevin Rudd's pre-election characterisation of John Howard's "Brutopia", and is also perfectly in tune with Mr Rudd's own [praise of Pastor Dietrich Bonhoeffer](#) and his notion of the Christian duty to support "the marginalised, the vulnerable and the oppressed".

Despite some standard criticism by Chris Evans of the previous government's policy, he also made it very clear - in line with Labor's official policy - that "mandatory detention" was being retained. Indeed, Evans emphasised that number one of the Government's "seven key immigration values" is that "Mandatory detention is an essential component of strong border control".

Labor has junked the old form of mandatory detention, but at the same time has been keen to retain the label, and also to keep linking it to other phrases such as "border control". In fact, the arrival of asylum seekers by boat has nothing to do with effective control of our borders, nor do any of the other tough terms deployed in this debate have any real value except to play on security fears in the community. The people who might threaten our security are those who try to sneak in undetected or use false pretences to avoid scrutiny of their intentions. By contrast, asylum seekers deliberately seek to be detected, and then undergo more rigorous assessment, including police and security checks, than any of the literally millions of other people who enter Australia every year.

To some extent, one could say the Government's relatively quiet reform is just another example of politicians trying to use language that will appeal to both sides of an issue. But the underlying politics and community attitudes regarding immigration and refugee issues should not be underplayed.

Labor's cautious approach on this, and the generally low-key political responses so far, are not just due to the psychological and political scars from 2001's Tampa election. We cannot ignore the fact that significant antagonism towards asylum seekers, refugees and migrants still exists in the wider community. While Ezequiel Trumper lamented how little coverage such a potentially momentous policy shift received in the newspapers, it was certainly sufficient to generate some heated comment on anti-migrant blogs around the world. There was

also plenty of vitriol among the many reader comments left on mainstream media sites such as [this one](#) at *The Courier-Mail*.

This can't just be dismissed as a venomous online fringe. Not long after Chris Evans's announcement regarding immigration detention, [a survey](#) found over 60 per cent of respondents believed Australia's past policy towards asylum seekers was either "about right" or "not tough enough". Only 24 per cent thought it was "too tough".

Andrew Norton [pointed to](#) a number of other polls, including the 2007 Australian Election Survey, which also suggest that the level of public sympathy for refugees is not as strong as human rights campaigners might like to think.

It is fair enough to say that governments shouldn't pander to such attitudes, and certainly the tactic from the Howard era of deliberately inflaming community antagonism towards refugees and migrants for political gain must continue to be condemned.

But in shifting away from such past policies, it is asking a lot of any government to expect them to tackle such antagonistic attitudes head on - particularly if there is not a strong movement at community level also seeking to shift such attitudes.

Major party politicians will only go so far in adopting measures which fly directly in the face of general public opinion. The more solid the public support for basic human rights to be equally available for migrants, the further governments will go in acting on this.

Politicians do sometimes do the right thing just because it is the right thing to do. But contrary to popular opinion, politicians are human beings, and like anyone else, they are more likely to do the right thing if there is a reward rather than a punishment in doing so. The task of a human rights and migrants' rights movement is to try to make it politically rewarding to do the right thing.

Articles that did appear in the mainstream media attacking Chris Evans' announcement recycled the same old baseless smears about security and terrorism risks from "softer" detention policies. The smear term "illegal immigrant" continues to be used regularly in the mainstream media, despite many efforts over a long period to educate editors and journalists about its inaccuracy.

Ross Fitzgerald, a regular writer for *The Australian*, [is one example](#) of the continuing effort to use baseless innuendo about terrorism threats and the Howard-era propaganda line that a "softer" policy might "send a message to people smugglers that Australia is open for business again". Fitzgerald even came up with a term which would do *The Hollowmen* proud, talking of "potential illegals" and the possible dangers of allowing them to live in the community (ie they might be terrorists who will disappear if we don't keep them locked up). "Potential illegal" is the sort of term beloved of the spin doctor - basically meaningless and misleading, but perfect for playing on public fears and implying wrong-doing even when there clearly is none.

It is hard to think of another policy which has been such a clear vote winner as Howard's detention "deterrent", despite it failing on virtually every measure normally used to assess the adequacy of a policy. It's not often mentioned, but it's definitely worth remembering that in simple policy terms, mandatory detention was a very expensive failure which did not achieve its stated goal of reducing the number of boat arrivals.

Boat arrivals didn't drop until a decade after mandatory detention was brought in, partly as a consequence of the Government adopting the Hanson policy of using the military to push the boats back, along with changing trends in global refugee movements and evolving cooperation with UNHCR, Indonesia and other nations in our region.

Mandatory detention cost billions of taxpayer dollars, caused major harm to many innocent children and adults, seriously undermined fundamental components of the rule of law underpinning our democracy, and caused serious degradation in standards of public administration

But the main goal of the mandatory detention policy was always a political one, not a policy one. It was not so much about reducing the number of asylum seekers, but rather about appearing "tough" on them once they'd arrived (although I have never figured out how it can possibly be tough to pick on some of world's most powerless people).

The excesses of the Howard era, culminating in the shredding of the rule of law following the Tampa rescue, the pre-meditated brutality of detention policy and Temporary Protection Visas (also laudably scrapped by Minister Evans), galvanised the refugee rights movement in Australia, which played a huge role in stemming and slowly turning the tide of public opinion on this issue. But we should not kid ourselves that the task is anywhere near done, or that it only relates to refugees.

The statements of people in government and other positions of leadership and influence are crucial in shaping public understanding and attitudes. Those of us who believe that refugees and migrants should have the same rights and respect as the rest of the community have a crucial role over the next few years, a role which will include encouraging government to adopt a more realistic rhetoric, to help build a clear majority in favour of a more just attitude. Only then can we be confident of a permanent shift in that direction in government policy and migration law.