

Australia's Asylum Seeker Dilemma – Julian Burnside

Asia Rising podcast

Matt Smith

Welcome to Asia Rising where we discuss the news, views and general happenings of Asia states and societies. I'm your host Matt Smith, and joining me today is Australian barrister and human rights advocate, Julian Burnside. Thank you for joining me, Julian.

Julian Burnside

G'day.

Matt Smith

Today we'll be discussing Australian actions and attitudes towards asylum seekers, an issue which affects domestic politics and society as well as our relationship with neighbouring Asian countries.

Julian, it's a large topic that we're going to wade into a bit today but if you had a few limited words to describe the current situation, how would you?

Julian Burnside

It's pretty bad. What Australia does, in order to prevent the entry of the typically very small number of informal asylum seekers who come to Australia, what we do is deliberately mistreat them, in order to persuade them that it's better to stay where they are and face persecution than try and come to Australia for protection.

It's ostensibly justified by the idea that we're worried about them drowning, but our response is that if they don't drown we'll punish them.

Matt Smith

Is it reasonable to assume then that we're trying to be the bigger monster?

Julian Burnside

I don't think we're trying to be the bigger monster but we are clearly trying to persuade people not to bother, coming and asking for our help. It is, in my view, shameful because Australia is trashing human rights in a way which we really ought to know better.

Matt Smith

Can you put the asylum seeker in a bit of context? Where are people coming from to seek asylum, and what are they going through to try and get to Australia if they were successful in getting here?

Julian Burnside

It varies from time to time, but let's take the past fourteen years from 2001, which was a definite turning point. Since then, a majority of boat people coming to Australia have been Hazaras fleeing Afghanistan or more recently, fleeing Pakistan, and a fairly significant number of Iraqis, Iranians, recently Sri Lankan, especially Sri Lankan Tamils, and a smattering of people from other countries, more widely spread. But broadly speaking, it is people coming from that sector to the northwest of Australia who come down into Malaysia or Indonesia and then from Indonesia, get on a people smuggler's boat in an attempt to get to Australia.

Now, it's important to bear in mind, between leaving their country of origin and trying to reach Australia, they don't pass through any country that has signed the Refugees' Convention. Australia is the first country they can get to that has signed the convention, and that's important because if for example, they get entry to Indonesia, on a one month visa, and they overstay that one month, then they live in fear of being jailed or sent back to wherever they've come from, or other ways

mistreated, so many of them make the choice that instead of hiding in the shadows, for ten or twenty or thirty years, they'll risk their lives and hop on a boat and try and get to Australia which has signed the Refugees' Convention. Overall though, because we try to dissuade them from coming, what we're doing is setting an extremely bad example in our region for the way in which boat people should be dealt with.

Matt Smith

While it's framed as being a problem for Australia, the amount of boat people coming here, we never really had a huge problem, did we, compared to a lot of other countries?

Julian Burnside

No, that's exactly right. The number of boat people coming to Australia, the number of asylum seekers coming to Australia, has always been quite small and it's not really surprising that there's not so many boat people because we're an island. It's hard to get here – it's dangerous. To give you some idea, between the early 1980s through to 2001, the average arrival rate of boat people in Australia was between one and two thousand people a year. It peaked in 2001, when just over four thousand boat people arrived in Australia, which most countries, if they only had four thousand boat people a year, would be pretty happy. In the years from 1980 to 2015, the largest ever arrival rate of boat people in Australia was 25,000 people, in 2012. Even that is not a very big number compared to our permanent migration rate of about 200,000 people a year. So, no, it's never been a big problem numerically and in fact one of the difficulties in Australia is that because of our rather crude politics here, the public have been persuaded to see boat people as a problem, whereas in truth they're an opportunity. You know, Australia's been built on people who come from elsewhere. And people who've got the initiative and the courage to risk their lives escaping persecution, should be seen by Australians as an opportunity rather than a problem.

Matt Smith

When Tony Abbott became Prime Minister in 2013, he did so on the back of a three-word slogan, Stop The Boats, and since then he has very much come through on that election promise. In order, it's buying the boats, turning back the boats, putting our asylum seekers on Nauru, later resettled in Papua New Guinea and Cambodia now I believe.

Julian Burnside

It's truly bizarre. It's recently emerged that there are plausible reasons to believe that Australia has been paying people smugglers to take their passengers back to Indonesia. You can have whatever view you like about our asylum seeker policy and there are plenty of Australians who think it's a good thing to keep boat people away, so let's suppose you think it's a good policy. Nevertheless, paying people smugglers to take their passengers back to Indonesia is Australia being involved in people smuggling, in breach of our own laws. Equally, the fact that we take people off asylum seeker boats that are sinking and put them into expensive orange lifeboats and push them back to Indonesia, that also involves Australia in breach of its own law against people smuggling because it is facilitating the entry into Indonesia of people who aren't Indonesian nationals and side-stepping their entry requirements. That's the definition of people smuggling in our law.

Now, whether you think the Australian laws in relation to boat people are good, bad or indifferent, the fact is, no government should be breaking the law, engaging in criminal conduct, in order to give effect to its policies. And I don't care whether it's a good policy or a bad policy – you don't conduct criminal activities in order to give effect to government policy.

Matt Smith

So you say we are breaking the law. Is it the kind of thing that can have repercussions?

Julian Burnside

Taking the payment allegations at their face value, the suggestion has emerged that the payments might have been made by members of the intelligence apparatus of Australia, in which case, the people who made the payments might not be exposed to criminal prosecution. But that's because they have an indemnity from prosecution – they're allowed to commit crimes. They're still crimes and they're crimes committed against Australian law, at Australia's request.

As for the orange lifeboats, putting people into orange lifeboats and pushing them back to Indonesia, is also people smuggling and there's no suggestion that's been done by members of the security service, so the idea of an indemnity wouldn't apply. But most Australians don't care, just as long as the boat people are kept away, and the reason for that is that for fourteen years the Australian public have been told that boat people are illegal. You know, it's really a part of Australian consciousness that these people are illegal, which they're not and so most Australians, I suspect, believe that what the government is doing is protecting us from criminals. And that's not true. If it was true, then it might make sense, to mistreat them, isolate them, ship them away, but it's not true.

Matt Smith

Simply on a humanitarian standpoint as well, you'd hope that we'd have a more compassionate reaction, illegal or otherwise.

Julian Burnside

You would hope that. On the other hand, taking a sort of practical approach to it, we know that living in prison is less comfortable than living in the community, so there might be a breach of human rights involved there. Well, does that matter? Ah, no, they're only criminals. But if boat people are treated as criminals, then what looks like a breach of human rights is a plain breach of human rights. We are deliberately mistreating people in order to persuade others not to try and get protection from Australia. The fact that we're engaging in criminal conduct to give effect to that, I think just makes it all the worse. There's nothing that could be said in favour of what the government is doing at the moment.

Matt Smith

You use the word 'practical' there. Can we take another practical standpoint here? Does it make good economic sense to go to the extent that we are, when wouldn't it actually be saving Australia money just to settle these people, maybe even buy them a house and put them on Centrelink payments, considering the amount that we're spending, imprisoning them in Nauru, employing guards, giving financial aid to other countries in favour of dealing with our problem. That's a lot of money.

Julian Burnside

It's a huge amount of money. Australia is spending about five billion Australian dollars a year in order to keep asylum seekers away. One alternative to this – let's suppose we abandon the Pacific Solution and if boat people arrive in Australia, we put them in detention. I'm not into open borders. But I'd limit their detention to one month and use that one month of detention for preliminary health and security checks, and after that, release them into the community, in Australia, with an interim visa that has four key conditions. The first is, they have to stay in touch with the Department of Immigration so they can't just disappear. The second is, they're allowed to work. The third, they're allowed full access to Centrelink and Medicare benefits, and the fourth, crucially, is that until their refugee status is resolved, they must live in a specified regional town or city. If that was done, and if the unprecedented peak arrival rate of 2012, 25,000 people in one year, if that became the new normal, and if every one of them remained on full Centrelink benefit, which is vanishingly

unlikely, it would cost the Federal economy five hundred million dollars a year. But all of that would be spent in the ailing economy of regional towns and cities and of course their economies are ailing because they're losing population to the coastal capitals. I think it's probably better to spend five hundred million dollars a year doing good to refugees and doing good to the regional economy, than spending five thousand million dollars a year, doing harm to everyone who comes in touch with the system.

Matt Smith

That sounds like a really good investment.

Julian Burnside

The reason we're not doing it, is because from 2001, the time of *Tampa* and 9/11, the rhetoric of illegals has become part of the furniture of Australian minds. Both parties seem to be locked in on the fact that boat people are criminals and Australians need to be protected from them. It's no accident that the Department of Immigration was renamed from Immigration and Citizenship to Immigration and Border Protection. What are we being protected from? People who are desperate and children. We are being protected from children. What a brilliant idea.

Anyway, I think both major parties think that it would be politically impossible to do an about-face now and say, oh, actually, they're not illegal, we don't have to be frightened of them, we don't have to mistreat them, we should treat them properly. They can't do that. Even though there may be some people in both parties, I think, are philosophically inclined to take a more rational and decent view, they can't do it, because they think it would be politically damaging, which is a rather sad thing, to think that in Australia it would be politically damaging to start treating defenceless human beings decently.

Matt Smith

The current stance is Tony Abbott is now fond of the term 'by hook or by crook' stopping them by evoking I believe a shepherding metaphor. But it also insinuates that we're a long way from being more compassionate towards these people and it's going to take serious societal change before it even gets better, but it's more than likely to get worse.

Julian Burnside

The 'by hook or by crook' comments of course were Abbott's way of side-stepping questions about having paid money to people smugglers.

I think the real depth of the problem was illustrated by the campaign that led up to the September 2013 Federal election where, for the first time in Australia's history, we saw both major parties trying to out-promise each other on the cruelty with which they would deal with boat people. Both were promising cruelty. Now imagine if they'd promised cruelty to animals. That would not have worked electorally. But they both perceived an advantage in being seen to promise greater cruelty than the other party in relation to refugees.

Matt Smith

And the one who promised the most was the one who won.

Julian Burnside

Yes. And they're intent on delivering the most.

I recently spent time with a doctor who spent a year working on Manus Island, with international health and medical services, and that doctor has spent most of his professional life in the prison system in Australia, working as a doctor in the prison system. So he's no shrinking violet, he's no

bleeding heart. You know, he knows that things can be tough. He told me that when he arrived at Manus Island and went to the compound, his first inner reaction was, this is what Auschwitz must have been like. After a year there, he said that the way people are treated on Manus Island, and the conditions in which they are held, are a hundred times worse than anything he's seen in any Australian prison. And his final reflection was, that the way that the system is run on Manus Island, it is calculated to break the spirit of asylum seekers, so they'll abandon their claim for protection and return to face persecution instead.

Now, the fact that Australia has embarked on that sort of conduct, I think, is shameful beyond words.

Matt Smith

Definitely the sort of thing that in the future, we will have to, we will want to, apologise for.

Julian Burnside

Yes, I hope so, although there's another thought that's been nagging at me and I'm going to write something about this soon. Modern human rights discourse started in the wake of the Second World War, when the concentration camps of Europe were opened up. The world was genuinely shocked. All the great international human rights conventions came into existence in the wake of all of that. It was all going pretty well until September 11, 2001, and then the tide turned, I think. And I suspect it is possible, I hope it doesn't happen, but it's possible, that in twenty or thirty or fifty years from now, people will look back and say, oh yes, the second half of the twentieth century – they used to think about human rights back then. Now we look back to the 1920s and say, oh yes, they used to talk about eugenics back then. No one talks about eugenics anymore, because Hitler gave eugenics a very bad name. In the 1890s people used to think about spiritualism. We don't any more. So spiritualism and eugenics are two branches of human thinking that have simply been air-brushed off the intellectual map. It's possible that human rights will join them, which would be a tragedy if it happens, but it's possible. We shouldn't overlook that possibility.

Matt Smith

Julian Burnside, thank you for your time today.

Julian Burnside

Thank you.

Matt Smith

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