

paradigm_shift
people movement



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Autumn 2018

A publication produced by
ANU College of Asia & the Pacific



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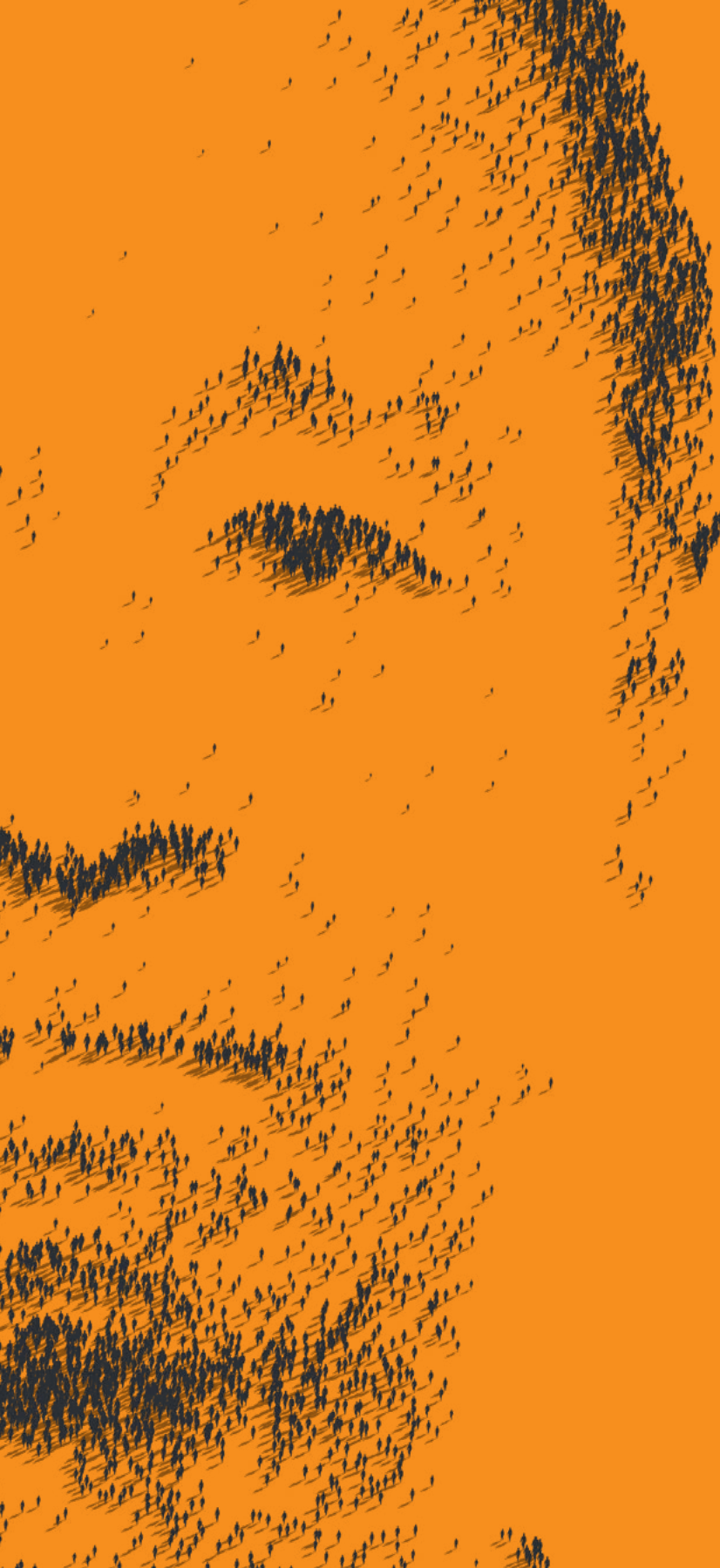
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Dr Nicholas Farrelly

Worlds in motion

Without implying that there is a borderless utopian fix to today's iniquitous landscape of population movement, it may be worth us all thinking harder about what kind of connections we value, and how we can help to ensure that everyone gets the sort of movement that they deserve.

Dr Nicholas Farrelly is the Associate Dean at ANU College of Asia and the Pacific, responsible for development and impact initiatives. In this role, he leads the College's engagement with a wide range of government, business and civil society organisations. After graduating from ANU in 2003 with First Class Honours and the University Medal in Asian Studies, he completed his M.Phil and D.Phil at Balliol College, University of Oxford, where he was a Rhodes Scholar. Since 2011, he has held a number of key academic positions in the ANU College of Asia and the Pacific, including as convenor of the Bachelor of Philosophy (Honours) program. His own academic research focuses on political conflict and social change in mainland Southeast Asia. He has examined these themes across the borderlands where Myanmar rubs against India, Bangladesh and China. While studying these areas, Nicholas has continued to research, write and lecture about Thailand, a country at the heart of some of his oldest academic interests.

In 2017, the world was faced, yet again, by the deeply troubling violence that often precipitates the largescale movement of our fellow human beings. In that case, almost 700,000 Rohingya, a persecuted Muslim minority from western Myanmar, fled their homes seeking sanctuary in Bangladesh. An enormous humanitarian response swung into action, but most of the damage had been done. Villages burned to the ground, families torn apart. There are allegations of rapes and murders too numerous to comprehend. Myanmar government denials have done little to convince sceptical audiences. Their unwillingness to allow independent investigators to undertake their painstaking work in northern Rakhine State has made it hard to start accounting for what happened during those turbulent, disastrous months. The reputation of Myanmar's State Counsellor, Aung San Suu Kyi, has been shredded by her reticent and uncaring response. Myanmar's security agencies have big questions to answer, but the protection offered by Chinese and Russian diplomatic vetoes imply that growing calls for serious scrutiny will be elbowed aside.

The Rohingya – vulnerable, impoverished, unloved – are now huddled together in a thin strip of land between the Bay of Bengal and the mountains that cascade down from the north. As the monsoon rains and storms turn everything to mud, it is difficult to imagine a more miserable situation. On current trends, hundreds of thousands of these Rohingya will be stuck in Bangladesh with no apparent prospects for formal resettlement elsewhere. Some will take to the sea, hopeful of finding a better future somewhere else, maybe Malaysia or Indonesia. Others will strike out overland, looking for opportunities in India, or perhaps beyond.

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A lucky few might have a chance to fly out of Dhaka, throwing themselves on the mercy of people smugglers and border officials. There are no good options for the displaced Rohingya, and even if a program of large-scale and well-resourced resettlement to Myanmar is one day possible, there will always be the lingering prospect of further violence and, therefore, future waves of migration and displacement.

The darkness of this Rohingya conundrum offers lessons about the inadequacy of policy responses to large-scale people movement. Nobody was able or willing to stop the persecution of the Rohingya which forced them from their homes. And, once displaced, the Rohingya have found themselves caught in grand geo-political and geo-cultural battles which limit their chance of a positive outcome. Formal mechanisms – whether grounded in international law, the practices of the United Nations, or the protocols of the Association of Southeast Asian Nations – all appear inadequate. Political activism and advocacy, while it has come in many pro-Rohingya flavours, also seems to have failed, at each step, to shift the equation to the advantage of those now displaced from their homes. A longterm stalemate, with hundreds of thousands of lives in the balance, is probable. In a world on the move, the Rohingya are stuck: without citizenship, without much money, and without many friends.

A longterm stalemate, with hundreds of thousands of lives in the balance, is probable. In a world on the move, the Rohingya are stuck: without citizenship, without much money, and without many friends.

That grim Rohingya predicament should encourage reflection on the contrasts and contradictions of people movement today. For billions of others, including me, the 21st century has unleashed untold opportunities for unprecedented movement and interaction. At any given moment, there are almost 10,000 planes above the earth. Together, moment-by-moment, they are carrying well over one million people. It is a city in the sky. That high technology part of this transport equation naturally gets lots of attention, but we should not pretend that it is only in modern conveyances that people are on the move. The boats from South and Southeast Asia that have featured so prominently in the past generation on the Australian political landscape will never go away. And then think of all the millions of buses, trains, trucks, and more. With billions of cars, too. And then all the people on bikes, on foot, crawling. The volume of movement, everywhere, almost all the time, is a spectacular aspect of the human societies that we have created together.

And the story keeps getting busier. If you ever take a long walk through one of Asia's vast airports, it quickly becomes clear that our standard geographies – of connections to obvious places, well-marked in pop culture and scholarly discussion – are only a fraction of the destinations on offer. Cities that we might consider well off-the-beaten-track now claim huge airports of their own, with the resulting flurry of back-and-forth, in-and-out.





Kate Ausburn/Flickr

Such well-ordered mass transportation, flinging people hither-and-yon, is a revolution in human affairs. It will take time for all the implications to become clear. Indeed, the public health monitoring stations established over recent decades at many major airports are just one weak signal of what may be to come.

Other political and economic stories also need to be told. As the essays in this volume explain, flashpoints across the Asia-Pacific region encourage people to get on the move. Some instances are dramatic and violent; they make for regular headlines. Others get ignored: the product of great social, economic and technological forces that play out on timescales unfit for tight media attention spans. The intensity, scale and scope of human movement this century needs concerted attention, among scholars and across the policy community. All political systems need to

appreciate what people movement means for their longterm success and future prosperity.

In Australia, migration remains a potent political issue, one on which views have hardened markedly over the past generation. The deaths, at sea, of asylum seekers, have forced recent Australian governments to implement policies that seek to break the business models of those who promised desperate people a ticket to a better life on these shores. Too many drowned at sea. Others are now hostage to the principle that to accept resettlement in Australia will only entice further waves to try their luck on the high seas. Australian politicians and policymakers have struggled to find adequate mechanisms to allay fear about being 'swamped' by unauthorised arrivals while still meeting the country's international and moral obligations.

For many people, the government has not found the right balance. Some despair that the longterm off-shore detention of would-be asylum seekers is a black mark against Australia's record of providing a new life to those who need one. Others fear that Australia's capacity to absorb a larger population, particularly when people arrive without official endorsement, is too big a risk. Racism, particularly when combined with hesitations about Muslim migrants, is a further bleak element of political calculations. On such an emotive issue we know that tempers fray easily. Many people feel that there could be an easy fix, but only if the politicians had greater courage.

The Australian situation, of political deadlock and resignation, helps to explain how such ready resolutions are unlikely, perhaps impossible. The scale of people movement today means that every aspect of life, in Australia and elsewhere, is in flux. Often, there is no way of 'fixing' the situation. Looking around the Asia Pacific region, the implications of such assessments are clear. Millions have struggled across borders in the hope of future peace and prosperity. Over the past generation, Thailand alone has absorbed more than two million migrants from Myanmar. In mega-hubs like Kuala Lumpur and Singapore, migrants do all of the jobs now deemed beneath the locals. China's booming cities, of course, are awash with vast streams of rural to urban migrants. Every society has its story of people taking the main chance and hitting the road. As information circulates more widely, as infrastructure improves, and as the cost of long distance travel plummets, one obvious outcome is the unprecedented shifting of human lives.

Making sense of these dynamics will never be straightforward, but, in this volume, we have sought to understand and explain the powerful forces at work. The pushes and pulls of the global migration economy are subtle and often well hidden. There is much money to be made for those who can manipulate conditions in their favour, whether at the individual, communal or national level.

Inevitably, there are winners and losers. And much of what we have tended to understand of people movement has yet to fully catch up with the infrastructure and technology at our disposal. In an era of the blockchain, artificial intelligence, and autonomous transportation, what will the migration story become? Answering this question will require further efforts to research and explore the deep connections and entanglements of a world that continues to shift, often dramatically, as its people get on the move.

With that in mind, our understanding of people movement needs to start and end with the profoundly human dimensions of this issue. The dire situation along the Myanmar-Bangladesh border, one that could prove intractable to the fixes proposed by regional and global deal makers, reminds us that conditions in Australia's neighbourhood are often unkind to the most vulnerable populations. Minorities – ethnic, religious, sexual, physical, political and economic – carved up into all manner of different cohorts, present targets for stronger groups seeking to flex their muscles. It is hardly a recipe for longterm stability. And where people decide that they want to move, the world and Australia will need effective ways to support their ambitions, and perhaps to better share the opportunities that global transportation infrastructure can provide. At a time of such stark disparity, some passports have a much easier time travelling where their bearers need or want to go. Without implying that there is a borderless utopian fix to today's iniquitous landscape of population movement, it may be worth us all thinking harder about what kind of connections we value, and how we can help to ensure that everyone gets the sort of movement that they deserve.

Professor William Maley

Refugees, security and populism

Refugee policy is a classic example of a sphere of international relations profoundly influenced by domestic considerations.

Professor William Maley is based at the Australian National University's Asia-Pacific College of Diplomacy, and is author of *What is a Refugee?* (Oxford University Press, 2016) and *Transition in Afghanistan: Hope, Despair and the Limits of Statebuilding* (Routledge, 2018). Professor Maley is a Barrister of the High Court of Australia, Vice-President of the Refugee Council of Australia, and a member of the Australian Committee of the Council for Security Cooperation in the Asia Pacific (CSCAP). He is also a member of the Editorial Board of the journal *Global Responsibility to Protect*, and of the International Advisory Board of the Liechtenstein Institute on Self-Determination at Princeton University. In 2002, Professor Maley was appointed a Member of the Order of Australia (AM). In 2009, he was elected a Fellow of the Academy of the Social Sciences in Australia (FASSA).

In May 1939, a merchant vessel called the M.S. *St Louis* embarked from Hamburg for Cuba under the command of Captain Gerhard Schröder. On board were over 900 Jewish refugees, carrying with them memories of the so-called 'Reichskristallnacht', the horrendous Nazi pogrom of 9 November 1938 that had seen windows of Jewish shops smashed across Germany by thuggish members of the brown-shirted Nazi paramilitary wing, the Sturmabteilung. But no one, as it turned out, was keen to welcome them. Turned away from Havana, the *St Louis* headed for Miami, but had no more luck. "The German refugees", said a US State Department official, "must await their turn ... before they may be admissible to the United States". Captain Schröder was forced to return with his passengers to Europe. Over a quarter of the passengers were subsequently murdered in the Holocaust. These events were chilling but not especially surprising. Antisemitism was quite common in the 1930s, and at a July 1938 conference held in Evian, France, to address the plight of German Jews, the Australian representative T.W. White, infamously remarked that "as we have no real racial problem, we are not desirous of importing one".

A sense of guilt about the treatment of Jewish refugees in the 1930s, and about the bureaucratic rigidities that left them fatally exposed, underpinned the wording of the 1951 Convention Relating to the Status of Refugees, and especially Article 33.1 which provided that "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

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Until the First World War, those with the wherewithal to do so could travel the world relatively easily without a passport, since for the most part there were no border controls of substance to confront.

Yet, almost two decades into the 21st century, the climate for refugees is once again distinctly unwelcoming. My aim in the following paragraphs is to identify some of the key factors that have contributed to this. There are five, in particular, on which I wish to focus: simplistic ideas about ‘sovereignty’; bureaucratic pathologies; exaggerated security fears; toxic domestic political considerations; and, related to this, a broader drift towards populism in the affairs of countries that are otherwise well positioned to assist the vulnerable.

The idea of sovereignty has found its way into discussion of refugee issues through various channels. A common argument, much deployed by politicians, is that border control is an essential, fundamental dimension of sovereignty. This claim, however, is suspect on both historical and conceptual grounds. The Peace of Westphalia of 1648, comprising the Treaty of Münster and the Treaty of Osnabrück, is often depicted as the point of origin of a European system of sovereign states. Yet it neither used the word sovereignty (which had no specific Latin equivalent), nor concerned itself with border control (as opposed to borders as devices for delimiting spheres of authority).

Indeed, it reaffirmed the right of emigration (*jus emigrandi*) contained in the Peace of Augsburg of 1555. As Charles S. Maier has shown in his magisterial book *Once Within Borders: Territories of Power, Wealth, and Belonging since 1500*, border controls emerged through ragged and laborious processes that followed

different paths in different parts of the world. Until the First World War, those with the wherewithal to do so could travel the world relatively easily without a passport, since for the most part there were no border controls of substance to confront. Furthermore, the notion that the right to exclude people at the border is an intrinsic and inextricable element of sovereignty is at the very least complicated by the existence of instruments of international law such as the 1951 Convention Relating to the Status of Refugees under which states have relinquished any absolute right to exclude certain people. In a globalising world, strict claims of sovereign entitlement are increasingly under challenge. This is not to deny that some states have been trying very hard to avoid some of their obligations under international refugee law, with Australia a recent and egregious offender; the point is rather that conceptually, the idea of sovereignty does not provide a particularly strong justification for such behaviour.

Problems of bureaucracy have also added to refugees’ difficulties. In the rich literature on organisational theory, there is a useful distinction, highlighted by Tom Burns and G.M. Stalker in their 1961 book *The Management of Innovation*, between ‘organic’ and ‘mechanistic’ forms of organisational behaviour. Organic approaches emphasise cutting corners to achieve outcomes; mechanistic approaches emphasise rule-following to promote a predictable environment. The latter has much to offer where one’s main objective is the management of a stable and routinised

situation, but organic approaches are much more appropriate when it is necessary to respond creatively to unexpected challenges. As the case of the *St Louis* showed, the mechanistic application of rules can have disastrous consequences when vulnerable people face extraordinary dangers. Yet state bureaucracies are very often mechanistic in their orientation, and refugees can be among the prime victims of such an approach. This is compounded by another problem. *Denial* – of the reality of the dangers refugees face, or of the need to come to their aid – can easily become part of the organisational mindset within a mechanistic organisation. Such toxic organisational mindsets have the capacity to dominate the moral instincts of those who become cogs within the system; a point made in different ways by Hannah Arendt in her famous and controversial 1963 book *Eichmann in Jerusalem*, and by Guenter Lewy in his meticulous 2017 study *Perpetrators: The World of the Holocaust Killers*. This is true not just of murderous bureaucracies, but of punitive and exclusionary ones as well. This problem is then greatly compounded if a wall of silence is constructed around a problem, either by ensuring that poor treatment of refugees occurs in remote places, or by penalising attempts to blow the whistle on what is happening. This point was made forcefully by Rabbi Joachim Prinz in a speech to the famous March on Washington protest in August 1963:

“When I was the rabbi of the Jewish community in Berlin under the Hitler regime, I learned many things. The most important thing that I learned ... under those tragic circumstances was that bigotry and hatred are not the most urgent problem. The most urgent, the most disgraceful, the most shameful and the most tragic problem is silence.”

One of the key factors contributing to the worldwide enhancing of the powers of border-control bureaucracies to intercept and detain ‘illegal immigrants’ has been the growth of a popular sense of insecurity, especially in the face of the threat of terrorism. At one level, this is not a rational response, since the perpetrators of recent terrorist attacks in Western countries have much more commonly been either homegrown – that is, born and raised in the countries where the attacks have occurred – or legally within the country, as was the case with every one of the 11 September 2001 attackers in the US. Yet, irrational fears can seem terribly real to those in their grip. In Western countries, the risk of a given individual being caught up in an act of terrorism is statistically very low, but as the philosopher Robert E. Goodin has pointed out in his book *What’s Wrong with Terrorism?*, there is a strong human disposition to have greater fear of mass-casualty events (such as terrorist attacks) rather than endemic problems that cumulatively claim far more lives (such as traffic accidents); and to fear dramatic and

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rare events (such as shark attacks) rather than mundane and more common events (such as attacks by domestic pets), irrespective of the objective risks that they may pose. Terrorism has been employed as a political tool for centuries, and there is no reason to think that states in the 21st century have any magic formula for eliminating it. Under such circumstances, however, there is a danger that states will try to disguise their weakness by demonising the unregulated 'outsider', and by seeking to create an *illusion* of effective control of the public space. One way of doing so is to assert the centrality of border control to meaningful counterterrorism policies.

Refugee policy is a classic example of a sphere of international relations profoundly influenced by domestic considerations. Whilst realist theories of international relations often depict 'national interests' as driving forces behind foreign policy, political leaders can easily be driven by cruder calculations about

what policy settings might best enhance their prospects for re-election. In 2009, the opposition Liberal Party of Australia, led by Malcolm Turnbull, attacked the refugee policies of the Rudd government, claiming that asylum seekers were being lured to their deaths on leaky boats. Behind the scenes, however, an informant whom the US Embassy described as a 'key Liberal party strategist' stated to the embassy that the issue was "fantastic" and "the more boats that come the better". This is not, of course, to say that the issue of refugees and boats is necessarily an enormously salient one with the wider public. The 2013 Australian election, won by the Liberal-Nationals coalition, witnessed vociferous promises by Liberal leader Tony Abbott to 'stop the boats'. At the end of the day, however, the Australian Election Study conducted by ANU showed that for more than three-quarters of the electorate, refugees and asylum seekers constituted at most a third-order issue, and

that it added less than one per cent to the Coalition's vote. The problem has rather been that major parties have seen the issue as one with the potential to shift swinging voters, and this has resulted in an amplification of rhetoric around the issue that far exceeds the salience it intrinsically enjoys with the bulk of the public. This problem might fade with the passage of time; but again, it might not.

The impact of domestic politics is likely to be most dangerous when populist currents emerge to challenge centrist parties and movements. Populism has been defined in various ways, but there is much value in the analysis offered by Jan-Werner Müller in his 2016 book *What is Populism?*, in which he points to three characteristic elements of populism: it is *critical of elites*, it is *antipluralist*, and it is a *form of identity politics*. Expanding on this last point, Müller argues that for a "political actor or movement to be populist, it must claim that a *part of the people is the people* – and that only the populist authentically identifies and represents this real or true people". In extreme form this manifests in total dehumanisation, for example through the Nazis' description of Jews and various other people as *Untermenschen* (sub-humans) but it can surface in less obvious but more insidious forms as well, as in the attempt to paint those seeking asylum as somehow criminal. The inclination to paint refugees as sub-human or criminal is very much on display, not only in countries from which refugees have recently been fleeing, such as Myanmar, but in countries to which refugees have fled, with certain politicians in Hungary, Poland and the Czech Republic going to great lengths to denounce, denigrate and deride refugees from places such as Syria and Afghanistan. The danger of populism lies in its ideological character: it can obtain a tight grip on the minds of at least some of the public, even if to give effect to a populist agenda might not rationally be even in their own interest. It can also lock the domestic politics of states into a nasty straitjacket. Courageous political leadership can offer a roadmap away from the abyss of populism, but with the notable exception

of German Chancellor Angela Merkel, such courage has recently been in relatively short supply where refugees' needs are concerned.

The scale of asylum-seeker movements to Australia can easily be exaggerated. Until relatively recently, many more arrived by plane than by boat. Indeed, if every 'boat person' who had arrived in Australia from 1976 onwards were to be seated in the Melbourne Cricket Ground, more than a quarter of the seats would be vacant. Policymakers throughout the Asia Pacific region have become very cynical about Australia's claims to be threatened by refugee movements. The 'burden' of refugees in the modern world is carried mainly by poor countries rather than rich countries, and often by countries such as Pakistan, Bangladesh, Malaysia, and Indonesia that are not parties to the 1951 Refugee Convention. A country such as Australia – girt by sea and thereby insulated from large refugee movement of the kind that regularly occur in Africa, and briefly affected Europe in 2015 – does not have a large-scale problem of unregulated population movements by any reasonable measure. But among some Australians, there is something close to panic about the idea of freer movements of people. As long as this remains the case, and party leaders and strategists see this panic as something that can be exploited, Australia will be incapable of credibly positioning itself as a leader in international policy discussions on refugees.



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Dr Cecilia Jacob

Forced migration, early warning and the prevention of mass atrocities

The significance of local strategies as the primary recourse for survival by threatened civilian populations before international assistance arrives is still under-researched and largely overlooked in international civilian protection policy and programming.

Dr Cecilia Jacob is a Fellow at the Department of International Relations at ANU. Her work focuses on civilian protection, mass atrocity prevention and international human protection norms. Cecilia has a geographic focus on armed conflict and political violence in South and Southeast Asia and has conducted extensive overseas field research. Her books include *Child Security in Asia: The Impact of Armed Conflict in Cambodia and Myanmar* (Routledge, 2014) and (edited with Alistair D. B. Cook) *Civilian Protection in the Twenty-First Century: Governance and Responsibility in a Fragmented World* (Oxford University Press, 2016). Her research has been published in journals such as *Security Dialogue*, *Global Governance*, and *Global Responsibility to Protect*. Prior to completing her PhD, she worked for non-government organisations in France, Thailand and Cambodia, and for an Advisory Group of AusAID, Australia.

Fleeing persecution and seeking asylum in a host country has historically been one of the most effective forms of self-protection and survival for populations at threat of violent conflict. Today, vulnerable populations face many barriers to fleeing violence due to global pressures to contain large population flows within origin countries. However, large-scale population flows can be a strong indicator of atrocity crimes within origin countries, and more attention needs to be paid to the intricate links between forced displacement and atrocity crimes to improve prevention and response in instances of widespread and systematic atrocity.

The international refugee regime under stress

The international refugee regime has its contemporary origins in the post-First World War period with the first High Commissioner for Refugees established by the League of Nations. In the wake of the Second World War, the United Nations High Commissioner for Refugees (UNHCR), now also commonly known as the UN Refugee Agency, originally had a temporary three-year mandate to resettle persons living outside their country of origin as refugees due to events that occurred in Europe before 1 January 1951. The Refugee Protocol came into force in 1967, lifting both these temporal and geographic limitations on the definition of a refugee to address the persistent need for refugee protection in the decades following the original convention.

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The principle of asylum rests at the heart of the international refugee regime. Asylum refers to the totality of protection offered by a state to a refugee who is living on its territory. The principle of non-refoulement, or not forcing people to return to the frontiers of a territory where their life or freedom are threatened, is the most basic level of protection a state can offer a refugee. However, states can offer much more comprehensive protections to refugees claiming asylum on its territory, should it choose. The 1967 UN Declaration on Territorial Asylum, the 1969 Organisation for African Unity (OAU) Convention, and the 1984 Cartagena Declaration all acknowledge that granting asylum is a humanitarian and apolitical act.

These protections, however, are afforded only to persons who have crossed an international border and are able to claim asylum in a host country. Most of the world's population displaced by violent conflict and persecution remain within their own states, where only the non-binding UN Guiding Principles on Internal Displacement, established in 2004, apply. Although consistent with international humanitarian, human rights and refugee law, these principles cannot be legally enforced.

With the number of violent conflicts on the rise, the international refugee system today has become institutionalised and massive. In 2017, the annual budget of the UNHCR rose to an unprecedented US\$7.7 billion,

with 11,000 staff worldwide. According to UNHCR, 20 people are displaced by conflict or persecution every minute. In 2017, the number of people displaced worldwide reached a historic high at 65.6 million, and by far the majority of those displaced (40 million) remain within their own country in situations of vulnerability as internally displaced persons (IDPs). The significant rise in the number of IDPs globally (from 1.2 million in 1982 when first counted to 40 million in 2018) is a worrisome trend, given that access to international protection from state and non-state violence is restricted by government access.

There are several reasons populations may be unable to cross territorial borders to flee persecution; these may be physical barriers due to geographic isolation, difficult terrain or maritime borders, or the closed borders of neighbouring states. However, a final reason that bears on international politics is the increased opposition by many states in the international community, to receiving large numbers of refugees arriving on their doorsteps. The UNHCR was originally established as a purely humanitarian organisation, designed to facilitate the protection and resettlement of refugees. Throughout the Cold War, the UNHCR pursued 'durable solutions' for refugee populations through voluntary repatriation, local integration in host countries, or resettlement in a third country.

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However, in the 1980s, the growing demand for refugee protection generated growing resistance to increased resettlement needs in the Global North, and to local integration solutions in the Global South.

The role and mandate of the UNHCR have therefore adapted to these global pressures, and it has assumed a more political role in the domestic affairs of conflict-affected countries to prioritise early repatriation, rehabilitation and reintegration of refugees in their countries of origin. Michael Barnett argues in his 2001 *International Migration Review* article 'Humanitarianism with a Sovereign Face' that these strategies of 'containment' developed during the 1990s are used as a humanitarian justification to mask the political and security concerns of wealthy states. Such containment strategies have exacerbated the steep increase in numbers of IDPs worldwide and raised concerns that early repatriation violates the basic rights of populations to seek asylum from persecution, as outlined in the Universal Declaration of Human Rights, Article 14(1), 1948.

Civilian self-protection strategies and atrocity crime prevention

Fleeing persecution has historically proved to be one of the most successful forms of atrocity prevention for populations. For example, the United States Holocaust Memorial Museum states that 240,000 Jews living in Germany and Austria had emigrated by 1939 to countries where they were safe from German invasion and the Holocaust. While many lives were saved due to immigration, visa restrictions tightened across Europe, Britain and the US during the Second World War, even as reports of the horrors of the Holocaust became known. Many more asylum seekers were denied protection at a time where the granting of asylum was the only means of survival for hundreds of thousands of Jews queuing up for small numbers of visa placements, or those detained trying to enter Palestine.

Despite the generous intake of Holocaust survivors around the world after the war, and the creation of Israel as a Jewish homeland, the lessons of the Holocaust remain highly salient today. Early openness and genuine compassion by states to grant entry could have prevented a much greater loss of life.

A growing number of scholars are documenting effective strategies that civilians have used in periods of targeted killings to escape and survive violence. Civilian populations use local knowledge and networks to devise strategies for self-protection, as Erica Baines and Emily Paddon have shown in a unique study of civilian self-survival strategies in Uganda published in 2014. Other studies have shown how strategies such as the use of cell phones or ringing church bells, for example, are used by populations as early warning of imminent attacks by militia between villages that give populations time to flee. While Baines and Paddon show that local populations seek to appear neutral, to avoid or accommodate militia groups and ensure their survival, fleeing violence remains a crucial mode of survival when these strategies are ineffective.

The significance of local strategies as the primary recourse for survival by threatened civilian populations before international assistance arrives is still under-researched and largely overlooked in international civilian protection policy and programming. Policy communities should consider further the relationship between forced migration, and the significance of self-protection strategies that include fleeing sites of persecution and targeted killing in the context of their atrocity prevention strategies. Central to these strategies is the need to better protect populations that have uprooted and fled their homes to survive, and to prevent or resolve violent conflicts much earlier.

Forced migration and atrocity crimes

Nearly 700,000 refugees have fled Myanmar since its government's security forces launched 'clearing operations' in the region on 25 August 2017. Military operations were a response to attacks by the Rohingya Salvation Army on an army base and police posts, yet the systematic violence against the minority Rohingya population compounds decades of racial and religious discrimination, and neighbouring Bangladesh has accommodated hundreds of thousands of refugees in camps and as unregistered migrants for many years. The violence against the minority population rapidly escalated, with an estimated 325 villages burnt, thousands killed through brutal violence and mass graves discovered after the commencement of the military campaign.

While international investigations are still being called for, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein and UN Special Rapporteur on human rights in Myanmar, Yanghee Lee, have both publicly stated that the situation in Myanmar may constitute genocide. The rapid displacement of such large numbers of people illustrate the severity of the atrocity, the urgent requirement to make intricate connections between situations of forced migration, and the need for concerted and effective interventions to prevent imminent, or indeed halt ongoing atrocity crimes.

According to Phil Orchard in the *Oxford Handbook on the Responsibility to Protect* in 2016, there are three ways to understand the relationship between forced displacement and mass violence. The first is that forced displacement can be a product of mass atrocities as people flee from widespread and systematic violence. Secondly, forced displacement can be a form of mass atrocity, where involuntary deportation and transfers constitute crimes against humanity and war crimes. Thirdly and finally, where international interventions to halt mass atrocities occur, such interventions will invariably drive further displacement.

Given the interrelationship between these critical areas of international policymaking, where are the opportunities for national and international policymakers to respond? Three areas are highlighted here briefly. First, there is still a need for showing greater generosity towards forcibly displaced populations, including support for the countries that are carrying the heaviest burden. The international community has been pressed to increase funding and resettlement capacity, yet the scale of the global refugee crisis and the heavy economic and social burden being placed on poorer host countries mean that much more giving and burden-sharing is urgently needed to alleviate these pressures, particularly by the world's wealthiest states.

Secondly, there is a need to recognise sudden onset and largescale population flows as early warning signs of pending mass atrocities that require an urgent response. In the case of Myanmar, population flows coincided with rapid and systematic destruction of villages and brutal torture and killings. Young babies were ruthlessly killed in front of their mothers. Women were raped on mass, and many were burnt or killed afterwards. Efforts at diplomacy, refugee protection and international condemnation were simply too little, too late to halt the atrocity crimes committed. States and the international community must have appropriate mechanisms to respond to clear warning signs of atrocity crimes, sufficient resources and capacity to make this possible and the political will to make difficult choices when necessary.

Finally, much greater political priority and effort need to be directed towards prevention. We now have much more systematic knowledge and understanding of the stages of violence escalation and the tools needed to prevent violent conflict and atrocity crimes. While this is not – and may never be – a perfect science, there is much more that can and should be done to prevent violent conflict and atrocity crimes much earlier on.



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Addressing the international refugee crisis must not just alleviate the back-end of the problem, but also needs to deliver on the front end – by preventing new situations of forcible displacement from taking place.

Governments worldwide, including those in the West, have expressed greater willingness and commitment to investing in the prevention of violent conflict and atrocity crimes. International commitments include participation in global and regional networks like the Global Action Against Mass Atrocity Crimes, the Latin American Network for Genocide and Mass Atrocity Prevention, and the Regional Committee on the Prevention and Punishment of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination of the International Conference on the Great Lakes Region. Fifty-nine countries and the European Union have appointed Responsibility to Protect focal points, tasked with implementing atrocity prevention institutions and legal reform in the domestic contexts.

Yet, despite these commitments, the granting of asylum continues to be viewed by states as a security concern and a political process, rather than a humanitarian and apolitical act, particularly by the world's wealthiest states. Globally, the resettlement places available to refugees have doubled since 2012, yet the annual intake of 160,000 refugees worldwide pales to the millions left in limbo. Meanwhile, middle and low-income countries bear the greatest burden, hosting most of the world's displaced population, and the heaviest economic burden falls to many of the world's poorest states, such as South Sudan and Chad, and their local communities.

Not only is greater compassion and generosity required of the international community to help alleviate the current global refugee crisis, but it has a responsibility to deliver on its commitments to conflict resolution, conflict prevention and atrocity prevention. This help to reduce the number of new refugees and IDPs being added daily is needed more than ever before.

Dr Cynthia Banham

Apathy, the mistreatment of non-citizens, and the problem with public accountability

It is a clear, if sometimes awkward truth, that important social connections exist not only between the citizens of a liberal democracy, but also between citizens and those non-citizens affected by their governments' actions that are carried out for their benefit.

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Apathy in the face of human suffering: when it is close to home it is most confounding, even if it does concern the mistreatment of non-citizens. Why don't we care more about the suffering of others, especially when it is within our power to end it?

Like the story of the mother, an Iranian asylum seeker, who needed heart surgery. Without it, she could die, but she was unwilling to leave her son – a minor with acute mental health issues – behind, alone, on Nauru, an island northeast of Australia in Micronesia. Would not any mother, or father for that matter, sympathise with this woman's position? For 18 months, the Federal Government refused to let her bring her son with her to Australia, where doctors recommended she come to have the operation. Instead, she remained in a hot mouldy tent with her son in the isolated detention camp, her life-threatening condition going untreated. Eventually, the woman was flown to Taiwan with her son for surgery. Stories detailing her plight were published in sympathetic media outlets like *The Guardian*. But the screaming headlines about Australia's asylum seeker policies were not about the mother. They were instead about the Australian Border Force Commissioner, Roman Quaedvlieg, who had been on paid leave since May 2017 while he was investigated over his personal conduct and allegations he abused his power to help his girlfriend get a job. In March 2018 – the same week it was reported the Iranian mother was flown to Taiwan – the government terminated Quaedvlieg's appointment for alleged misbehaviour.

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The asylum seeker issue in Australia – the government’s policies and the public’s responses – demonstrate both the fragility of our public accountability systems and the consequences for individual rights that can ensue.

These two examples send conflicting messages about public accountability in Australia in a field that has immense consequences for individual rights and liberties. To understand why Australians don’t care more about the wellbeing of the almost 2,000 asylum seekers and refugees currently detained at the behest of our government in miserable conditions on Nauru and Manus Island, Papua New Guinea – some for over four years – it helps to examine the issue in the context of the common public accountability challenges that liberal democracies face today. The asylum seeker issue in Australia – the government’s policies and the public’s responses – demonstrate both the fragility of our public accountability systems and the consequences for individual rights that can ensue.

On the one hand, the level of interest in the inquiries into the actions of the Border Force Commissioner suggest there are robust checks in place for challenging the questionable exercise of public power. According to its website, this is the agency responsible for “facilitating the lawful passage of people and goods”, for “investigations, compliance and enforcement in relation to illicit goods and immigration malpractice”, and for offshore detention. There was not one but two official investigations into the Quaedvlieg controversy: one by the Federal Government’s Australian Commission for Law Enforcement Integrity, the other by the Secretary of Prime Minister and Cabinet and head of the

Australian Public Service, Martin Parkinson. There has also been intense questioning in Senate Estimates hearings of public officials over the status of the investigations and Quaedvlieg’s ongoing position.

Why so much scrutiny of the Border Force Commissioner? There are no doubt multiple reasons. Foremost among them, however, must be how embarrassing it looks for a government that stakes its credentials on its tough stance on Australian border security to have the future of its top uniformed official under such a cloud.

Lest one conclude from the Quaedvlieg case that public accountability in Australia is in a healthy state, we can consider the diverse ways in which the Federal Government has sought to avoid accountability for the human impact its harsh border security policies have had on individual asylum seekers and refugees. Briefly, these policies, known today as ‘Operation Sovereign Borders’, have evolved over the last 17 years and are supported by both major Australian political parties. Asylum seekers are mandatorily detained and assessed offshore, and are unable to resettle in Australia ever, even after obtaining refugee status. They are also held in conditions so unbearable as to act as a disincentive for others seeking asylum to attempt the same passage to Australia. Meanwhile, new boats are intercepted and turned back by Australian authorities to the country they departed from.

The government’s attempts to avoid scrutiny of these policies have included diffusing and obscuring its exercise of power over the individual asylum seekers and refugees affected by its policies in two major ways. The first involves outsourcing the running of detention centres to private contractors, and the second is by detaining individuals offshore in countries with less robust accountability systems, where asylum seekers and refugees are removed from supportive advocacy networks and the Australian public is less conscious of their presence. The government’s efforts to prevent accountability have been both direct and indirect. For example, it has directly sought to limit the investigative power of national agencies and parliamentary committees as well as international human rights monitors by preventing visits to offshore detention centres. Indirectly, it has militarised the language around the handling of asylum seekers, so that ‘on-water’ matters have become beyond challenge, just like ‘operational security’ matters are for the defence force: which readily bats journalists’ questions away.

Accountability mechanisms can be understood to operate horizontally and vertically. That is, horizontally within government, through the separation of powers and public agencies empowered to restrain the political executive, and vertically, imposed by citizens and civil society from outside government. Again, the government has tried to thwart horizontal accountability of its treatment of asylum seekers by, for example, minimising the courts’ powers to scrutinise its decisions. It also punished the Australian Human Rights Commission for issuing a report that exposed the abuse and harm being done to children inside offshore detention centres, by cutting funding and trying to discredit the agency’s former head Gillian Triggs. The government’s attempts to shut down the effectiveness of vertical mechanisms of accountability have been no less severe. They have included passing laws making it a criminal offence punishable by jail for current or former immigration detention centre staff to publicly raise concerns about matters they witness inside the centres.

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Dr Cynthia Banham

This time, we might ask why the government has put so much effort into avoiding accountability for its treatment of refugees in offshore detention? A possible answer is that if the Australian public does not know the upsetting details of the suffering of individuals inside the centres – the toxic accommodation tents, the suicide attempts, what the actual day of a child kept in offshore detention looks like – it will not question the humanity of the actions the government takes to prevent asylum seekers arriving in Australia by boat. Pursuing such policies would make Australians uncomfortable, but would be accepted by the majority as a necessary evil. Or, as the former prime minister, Tony Abbott, explained to the ‘countries of Europe’ in 2015, it would ‘gnaw at our consciences’ but it was ‘the only way to prevent a tide of humanity surging through Europe and quite possibly changing it forever’.

Something else is going on, aside from the government obscuring the full picture of how asylum seekers are deterred from coming by boat so that, while the public’s conscience is *gnawed at*, it will still accept the measures are necessary and justified. What of the public’s obligation to demand to see the full picture, in all its ugliness, to insist on robust accountability of its elected representatives for policies that damage the physical and mental wellbeing of a minority of others, among them children? Of course, there are many examples of civil society actors in Australia challenging the government over its treatment of asylum seekers. They include refugee advocacy groups, human rights NGO’s, sections of the media, religious groups and some medical professionals. But the offshore detention regime remains in place and, while there have been small victories for advocates, the calls for change have not coalesced into a force strong enough to be of concern to the government at the ballot box.

The question posed at the start of the essay – why don’t we care more about the suffering of others, especially when it is within our power to end it – led me to examine the existing scholarship on public accountability,

looking for a clue. Public accountability is a two-sided relationship between governors and the governed that entails responsibilities on both sides. Sifting through the literature with fellow contributor, Kirsty Anantharajah, we were struck by the lack of close examination of the responsibilities of the governed to demand accountability; most of the focus is on the governors. Flowing from this, there is minimal exploration around the question of what underpins the responsibilities of the governed in the public accountability relationship. This led us to explore the ethical dimension of accountability which, while sometimes (if infrequently) discussed in the literature, is most often considered in relation to the motives of account givers in serving the people who elected them.

What can we say about ethics in the context of public accountability? Ethics has an inherent social quality. As Jean-Marc Coicaud and Daniel Warner write, it is about feeling that our individual lives extend to the lives of others. We recognise that others have rights and acknowledge that there exists a duty to respect them. Proponents of accountability argue it will become more effective when it is understood to encompass an ethics of doing what is right and having a regard for others. However, must this regard for others be limited to fellow citizens? When a public official’s actions encompass harm to a non-citizen, is there no ethical obligation on the part of the citizens who elect that government to demand accountability?

It is a clear, if sometimes awkward truth, that important social connections exist not only between the citizens of a liberal democracy, but also between citizens and those non-citizens affected by their governments’ actions that are carried out for their benefit. Citizens and non-citizens are linked not only by a common humanity, but also by the fact that the world is thoroughly internationalised and globalised. The policies pursued, and privileges enjoyed, in wealthy countries are not without consequence for those in distant, less prosperous or more troubled, places.

What can we say about ethics in the context of public accountability? Ethics has an inherent social quality. As Jean-Marc Coicaud and Daniel Warner write, it is about feeling that our individual lives extend to the lives of others.

To take one example of where a social connection between citizens and non-citizens affected by the Australian Government’s actions has been largely overlooked in public discourse, consider the issue of arms exports. Earlier this year the Federal Government announced it was creating more jobs by increasing the manufacture and export of arms for warfare. Religious-based justice groups pointed out the ethical issues implicit in pursuing national prosperity by growing an industry whose existence depends on ensuring the continuation of wars that terrorise, maim and kill civilians and cause them to flee their homes and countries. There are obvious social connections between Australian citizens profiting from the manufacture and export of such weapons and the populations overseas where these wars will be fought – between us and them. They are connections the government would have voters overlook.

I link the issues of jobs from arms exports to the cruel treatment of refugees because at the core of the ethical case against both is a dimension that is so often missing from public and political discourse in the fields of security, immigration, defence and foreign policy.

Australians don’t often talk about this, but globalisation and internationalisation connect all of humanity, and renders the ethical obligation to have regard for the rights of others in assessing the acceptability of their government’s conduct inescapable. There is a clear deficiency in the way we understand and practice public accountability around the obligations of citizens to make accountability demands of their government, where the rights of others (non-citizens) are concerned.

It was the Iranian journalist and refugee on Manus Island, Behrouz Boochani, who pointed out that Australian citizens have a stake in holding their government to account for its treatment of others. In *The Saturday Paper* he wrote that by failing to do this, the Australian public risked the future of its own democracy. The resistance of refugees on Manus Island against their treatment was:

“in order to return something valuable to the majority of the Australian public, to return what it has lost, or what it is in the process of losing”.

The apathy we have seen with regards to offshore detention is only possible because of a widespread denial by the public of the social connections that exist between citizens and non-citizens affected by its government’s policies. Were such connections acknowledged, it would be much harder to be so dismissive of the wellbeing of others.

Susanna Price

Legislative paradigm shifts for involuntary people movement: an update

Development-forced displacement presents an opportunity to review decades of experience in the processes of rebuilding lives and livelihoods through resettlement and rehabilitation.

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Law can be a powerful instrument for change. There are compelling reasons for enhanced national legislation to protect the forcibly displaced. Their numbers have reached record levels, but these people are currently little recognised or protected in national law. Despite the increasingly protracted nature of displacement for those forcibly uprooted by conflicts and disasters, there is little attention in law to durable solutions. In other cases of forced displacement, laws exist but are inappropriate. Recent calls for a “legislative paradigm shift” in national legislation (Lindsay et al 2017) focus on those forcibly displaced by development projects. Development-forced displacement is, in all but a few pioneering countries, conducted through property and expropriation laws that focus on cash compensation to legal owners, omit resettlement and rehabilitation, and substantively and procedurally fail to address the risks to people displaced. Development investments, therefore, risk further marginalising and impoverishing people who are already vulnerable, and especially those without legal title to the land on which they depend for food security, income and other needs.

This paper briefly examines the definition of forced displacement, its human costs, its projected dimensions in the Asia Pacific region, and its possible solutions, based on compelling research findings of the sociological processes of reconstruction. It suggests some directions based on international standards and conventions and several cases of pioneering country laws.

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New records for forced displacement – and their human costs

Global forced, or involuntary, population displacement doubled to a record 65 million people between 1997 and 2016. The Office of the UN High Commissioner for Refugees (UNHCR) has found that internal displaces – those people who remain within their national boundaries – outnumber refugees crossing their own national boundaries by two to one, reinforcing the case for national law. This total does not include people forcibly displaced by development projects, by disasters, nor by emerging environmental changes nor by climate.

The Asia-Pacific region contains several refugee hotspots and experiences frequent disasters. It faces emerging environment and climate change risks for forced displacement, especially in the low-lying parts of the Pacific; and, in Asia, the arid zones, and densely settled low-lying megacities and deltas of Asia. Growing investment between countries within Asia, and from two new multilateral development banks, are accelerating the pace of development investment in the region, especially for land intensive infrastructure projects which trigger displacement.

Forced displacement stands out from general migration flows. Daily news media capture the moments: a bewildered child surveying a disaster-wrecked house; a crowded refugee boat, bound for oblivion; lines of civilians escaping conflict hotspots with a few meagre possessions; dazed householders evicted from their homes by a development project; bulldozers standing by.

Shock, anger, disorientation, loss, fear and grief predominate, as familiar surroundings fall away, or are catastrophically destroyed. The immediate losses may be bad enough: loss of family providers, shelter, belongings, food security, fuel for cooking and heating, income sources and access to services. The poor, the least food secure, the very

young, the elderly, the disabled, may suffer disproportionately – UNHCR, for example, finds that children comprise a disproportionate share of those who are forcibly displaced.

Beyond these images, forced displacement raises deeper questions of stability, livelihoods, social and political risk, culture and identity, both for people moving, and for people staying. The Internal Displacement Monitoring Centre (IDMC) conceptualises a set of underlying drivers, which trigger displacement and magnify its risks and impacts – poverty and inequality, fragile and weak governance, rapid unplanned urbanisation, climate change and environmental degradation. The extent to which vulnerable people are impacted depends on sociological variables and systems rather than physical forces, in this view. Disasters reflect deeper intersections between social and physical domains. Record numbers are overwhelming UNHCR's traditional solutions for refugees – repatriation, local integration and third country resettlement. New approaches must address protracted displacement. Whether they are internally displaced or refugees, all people forcibly displaced urgently need an injection of innovative approaches to reach durable, sustainable solutions.

What is forced displacement – and how should it be addressed?

The difference between voluntary and forced displacement is best conceptualised as a continuum rather than an immutable divide. 'Voluntary' displacement allows choice between realistic options. The term 'forced' or 'involuntary', in contrast, signals less scope for choice; and a certain measure of compulsion, but there may still be elements of choice that apply, depending on circumstances; where to go, how long to stay away, whether to return; or, if return is no longer possible, what resettlement and rehabilitation options may be feasible and acceptable.

Protracted displacement from a civil conflict may necessitate resettlement, whilst a climate change adaptation project intended to protect vulnerable communities, or a climate change mitigation project intended to reduce emissions, may mimic development-forced displacement and resettlement.

Forced displacement may look similar in its impacts, whatever the cause: disasters, environmental change, including climate change, conflict and development. Environmental factors raise risks of temperature rise, soil erosion, water scarcity and extreme weather events that will forcibly displace more people, especially in fragile contexts. The World Economic Forum awarded top billing to 'large scale involuntary migration' in its 29 most likely global risks for the first time ever, in its Global Risks 2016 report. This global risk came second in 2017 due to the likely continued impact.

Different normative frameworks of guidelines, laws, and regulations, together with timeframes, budgets, actors and agents, apply depending on the triggers; and those displaced face difficulty in exercising choice within a framework of overall compulsion. Development displacement, for example, results from premeditated, planned investments intended for the public good. Constitutions typically give governments power to exercise eminent domain, expropriation or land transfers – 'land takings' – in the public interest or public purpose, providing that there is 'just' or 'fair' or 'equitable' compensation paid to the people in the way, who must suffer – typically, in law, the legally recognised owners of property. Few such laws require assessment of outcomes or impacts on those forcibly

displaced and remediation if the outcome is not 'just' or 'fair'. This premeditation has an upside, however. It opens a timeframe for planning and consultation with the people affected; it assigns a responsibility to project sponsors and those benefitting to finance the re-establishment of those who lost out so that the development can proceed. It may allow, in some circumstances, for negotiation of settlements with the people affected, thereby bypassing the need for formal expropriation.

On closer inspection, however, causes increasingly converge: a disaster may seem indistinguishable from sudden onset climate change. Protracted displacement from a civil conflict may necessitate resettlement, whilst a climate change adaptation project, intended to protect vulnerable communities, or a climate change mitigation project intended to reduce emissions, may mimic development-forced displacement and resettlement.

What does it take to rebuild lives and livelihoods?

Reconstructing living standards and productive livelihoods can be more complex than providing post-disaster emergency humanitarian feeding, health care and shelter, necessary though they may be to keeping people alive.

It augments human rights protections advised in the UN's 2004 Guiding Principles on Internal Displacement and its 2007 Guidelines on Development Forced Evictions. It generally exceeds simple cash compensation to property owners, as legally required in many countries' property and expropriation laws, that may apply in development displacement. What is necessary and sufficient to rebuild the lives and livelihoods of the forcibly displaced?

Development-forced displacement presents an opportunity to review decades of experience in the processes of rebuilding lives and livelihoods through resettlement and rehabilitation. Deeper processes may be triggered: a common pattern emerges – what anthropologists such as Downing and Garcia call loss of primary, or routine culture, to a new dissonant culture, that disturbs generations of negotiations between community members over the organisation of production and community life. Forced displacement, at its most intensive, in longstanding communities: dismantles and redefines productive systems and spatial-temporal and social landscapes, threatening the displaced with a multiplicity of interconnected social and economic risks (Downing, 2015). To avoid further loss and impoverishment, these risks must be painstakingly addressed, and those social, cultural and productive systems carefully rebuilt, through new negotiations which take account of underlying cultural values.

Cernea's Impoverishment Risk and Reconstruction Model maps social and economic risks of development displacement and the means to address them. In addition to the obvious risks of landlessness, homelessness and joblessness, that may be partially compensated in current expropriation and property law, forced displacement may also carry risks of food insecurity, health and psychological problems, which are more difficult to value and compensate – as may be compensation for loss of common property resources which may provide households with critical subsistence and cash. Finally, social marginalisation and disarticulation

may undercut the household's wellbeing and entire productive base, but these processes are, again, difficult to quantify and value for compensation purposes.

Reorienting the legal frameworks

Recognising human rights

The UN's Guiding Principles on Internal Displacement provide a pathway for protecting internal displacees before, during and after displacement from a human rights perspective. Some countries have approved or are writing their own such laws coalescing around these guidelines. The Kampala Convention adopted in 2009 and since signed by many African countries, covers all forms of displacement in a common document, setting out state responsibilities and international coordination mechanisms. The UN Declaration on the Rights of Indigenous Peoples (2007) requires free, prior informed consent (FPIC) before indigenous peoples are displaced or resettled. Such documents could form a basis for new laws, by adding reconstruction of livelihoods and living standards and addressing governance issues.

Conceptualising forced displacement, data collection, monitoring and evaluation

Better global record-keeping would alert decision-makers to the distribution of displaced peoples globally, nationally and locally, as well as their condition. It would help to craft effective preventive measures and responses. UNHCR notes, with concern, that its disaggregated data system has recently deteriorated. Disaggregated data on the numbers, the distribution and characteristics of forcibly displaced people allows better understanding of their risks, vulnerabilities and priority solutions. Development-forced displacement data are rarely aggregated at a national level. Climate change displacement currently lacks legal or bureaucratic categories to enumerate mobility – but laws can make it more visible.

Recognising and addressing climate change displacement

With the Nansen Initiative focusing on data as a basis for formulating policy and law on cross-border refugee displacements, assisting most people who are forcibly displaced internally within country borders remains challenging. Fiji has developed national guidelines on planned relocations as a response to climate change. McAdam and Ferris recommend developing guidelines that cover a wide range of domestic laws on land, housing, property, insurance, employment, anti-discrimination, minorities and restitution, with an emphasis on preventing forced evictions. Policies and guidelines may help, but laws would provide better protection.

Some new national laws in the Asia Pacific address critical issues:

- ▶ **Compensating for all losses in expropriation law:** The new India Land Acquisition, Resettlement and Rehabilitation Act (LARR 2013) requires Social Impact Assessment (SIA) in many cases and a solatium to redress non-tangible – including emotional – costs of displacement. The Indonesian Law 2/2012 on Land Acquisition in the Public Interest also requires socio-economic survey and assessment of social impact of land acquisition and construction. It recognises some non-tangible losses for compensation purposes.
- ▶ **Recognising the non-titled and special needs of vulnerable groups:** India's LARR 2013 recognises compensation claims of people affected without legal title if they have cultivated or otherwise drawn income from the proposed acquired land for the prior three years. The Lao People's Democratic Republic Prime Minister's Decree on Compensation and Resettlement of 2016 recognises and compensates losses, including for the non-titled households; it also requires special efforts to address the needs of vulnerable groups to improve their livelihoods.

▶ **Resettlement and rehabilitation:** India's LARR aims to improve the socio-economic status of those displaced. Resettlement and rehabilitation are integral steps in the Act – but little is yet known of how the LARR will be implemented. The Laotian Prime Minister's Decree on Compensation and Resettlement of 2016 recognises and compensates loss of incomes, including for the non-titled households and provides transitional assistance for re-establishment. It requires special measures to improve the livelihoods of the affected people who are poor and vulnerable.

▶ **Participation, consultation, grievance redress, appeals:** Whereas traditional expropriation laws provide only for notification and, perhaps, appeal, several Asia Pacific countries such as Indonesia and India offer new legislation that improves prospects for consultation and negotiation with people in the way to avoid forced displacement, and, where displacement is unavoidable, identify rights, understand land and livelihood impacts; and presents avenues for the forcibly displaced to secure fair pay.

Laws are made effective and implemented through political will, capacities, budgets and planning cycles – but legal texts are an essential first step. Drawing on these pioneering steps, a legislative paradigm shift could formalise social compact making and bring visibility and rights protection in law for all people who are forcibly displaced. This could legislate their rights to full rehabilitation; increase the cost of noncompliance; open human rights and equitable bargaining spaces; foster accountability and governance and assign roles to international, national and local agents. Conceptualising 'missing' groups such as climate change internal displacees, international conventions and standards, and rare new expropriation laws, such as India's LARR, may create opportunities for serious co-ordination of types of forced displacement that have, until now, been treated very differently – if at all – in law and practice.

Dr Luke Bearup

Migrating to the blockchain: exploring the implications for the recognition of Others

In its most elementary form, recognition relates to one's re-identification by another, or otherwise the acknowledgment of another as a human being.

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Whether one is shopping, banking, or borrowing a book, either in person or online, it is routinely necessary to produce various forms of identification, or to enter one's PIN code, network key or password. To exercise our freedoms and access social goods, therefore, we require recognition by others, and frequently, centralised authorities. The aggravations associated with being required to produce one's identification are greatly exacerbated, of course, for those who are routinely denied recognition within contemporary social life. Such denials are exemplified, for example, in the inequalities between the Global North and the Global South, and in the enduring hardships and insecurities experienced by asylum seekers, stateless persons and undocumented migrants. We inhabit a gated world whose physical and digital borders reflect inequitable systems of governance and trade. Recently, however, a range of disruptive interventions have emerged which aim to facilitate access to social goods and recognition between discrete parties, without recourse to centralised authorities. Drawing on blockchain or distributed ledger technology (DLT), these digital developments have transformative implications for migration, economic markets and the burgeoning global public sphere. This essay aims to explore these developments, in relation to struggles for recognition, freedom and social justice.

A host of technology driven start-ups have developed which aim to disrupt sectors as diverse as banking and finance, insurance, manufacturing, domestic services and humanitarian assistance. Whilst related to developments in artificial intelligence, robotics and automation, these interventions are generally powered by blockchain technology, whose transformative potential is often compared to that of the Internet.

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Yet, whereas the Internet serves to reduce space and time between human beings by facilitating far-flung connections and near-instantaneous communication, the blockchain makes it possible for discrete parties to invest greater trust in these interactions and in a single, verifiable version of the truth. Best known as the underlying technology for Bitcoin, a blockchain is literally comprised of a chain of blocks that each contain information held on a distributed ledger amongst many nodes in a network. As the information stored is immutable, and blockchains are decentralised and not located on a central server, they are less vulnerable to hacking and fraud. Given the development of blockchains which can store additional data, such as biometric information and executable smart contracts, this technology allows for a broader suite of peer-to-peer transactions to be performed without reliance on trusted intermediaries or centralised sources of authority. Moreover, given the proliferation of smartphone technology, the necessary hardware is already in the hands of a substantial proportion of the global population.

The disruptive potential of DLT is evidenced in the ability of peers in the Bitcoin network to engage in international financial transactions outside the purview of traditional banking institutions. Through the possession of unique wallet addresses (which consist of a string of unique identifiers), peers can send and receive Bitcoin, or an alternative cryptocurrency of their choice (there are now more than 1,500 on offer). Blockchain technology is gradually being adapted, moreover, to connect disparate buyers and sellers of a broad array of goods and services, thereby linking employees and employers, consumers and producers, tenants

and landlords, and debtors and creditors. As a result, decentralised online platforms are appearing which allow for the trading of goods and services directly through the blockchain. Individuals – without prior relations and limited financial history – can agree on the terms of loans, including the collateral to be forfeited in the case of a default, all of which can be facilitated by a decentralised platform and smart contracts. Similarly, this technology is being developed in relation to manufacturing and agriculture, with the aim of promoting efficiencies and enabling factory owners and farmers to practice commerce without relying on the large corporates who monopolise the supply chain. Even self-employed domestic workers, it seems, may one day be empowered to connect with prospective employers via decentralised applications (Dapps) that will allow for the execution of smart contracts on the blockchain between them and their employers. In each of these examples, the potential of blockchain technology is demonstrated in its capacity to allow direct transactions between peers in a network, without recourse to mutual trust or reliance on established intermediaries.

Given these developments, the prospect of mainstream adoption of DLT signals a potential paradigm shift in processes of recognition, away from reliance upon centralised authorities; posing a daunting mix of regulatory challenges and opportunities. This technology raises high hopes, concerning its potential for realising free market ideals, promoting financial inclusion, challenging global economic inequalities, and encouraging greater accountability and transparency in governance and public confidence in

The disruptive potential of distributed ledger technology is evidenced in the ability of peers in the Bitcoin network to engage in international financial transactions outside the purview of traditional banking institutions.



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democratic processes (as trialled with expatriates who voted via the blockchain within Colombia's referendum on the peace process in October 2016). Yet, it also raises serious concerns about the expedition of processes of automation that threaten existing industries and forms of employment, the weakening of centralised authorities, and the potential for criminal misuse and tax evasion. These developments raise fascinating and alarming questions, particularly in relation to processes of gatekeeping and recognition. For example, interventions being considered by the United Nations, which relate to the gathering of biometric information from refugees, heighten concerns about the risks of control and coercion. Yet simultaneously, the technology promises to augment existing efforts to promote universal access to a legal identity (as, for example, within Goal 16.9 of the UN's Sustainable Development Goals).

Traditional development projects aim to promote legal identity through birth registration and the promotion of identification for poor and marginalised populations. The application of blockchain technology, however, significantly raises the stakes: rather than merely establishing national forms of

identification, recipients of blockchain-based identification may potentially be further enabled to be recognised and to participate more broadly, within the global economic market and the emerging global public sphere, as discussed further below.

Given these potentialities, identity-related questions are quickly emerging as a key governance issue. Foremost amongst those working on these issues are groups such as Web of Trust 2.0 and ID2020, who aim to promote consensus around the principles and the next steps towards developing the necessary preconditions for promoting the emergence of digital self-sovereign identity (see their work at www.github.com). These efforts to promote self-sovereign identity stand in stark contrast to our present digital lives.

Right now, on the Internet we are highly reliant on centralised powers who preside over the recognition of our identities and trade our personal information as a commodity. Proponents of self-sovereign identity, however, are user-centric and individualistic in emphasis, whilst acknowledging that the realisation of self-sovereignty depends upon a supportive social environment.

Towards this aim, there is a broad consensus around the need for developing a thoughtful set of guiding principles. Such an attempt is reflected in the ten principles outlined by the group Web of Trust. These affirm the notion of an enduring I, or the self (1); and the importance of: maintaining control over the expression of one's identity (2); having complete access to one's own data (3); transparency, in regards to the systems in which an identity is constructed (4); the persistence of identities over time (whilst maintaining a distinction between an identity and its claims, allowing for mutability, and maintaining a 'right to be forgotten') (5); the portability of services and information about one's identity (6); interoperability – or the importance of developing identities that can travel and are widely usable across boundaries (7); consent, in regard to the sharing of all personal information (8); minimalisation, in terms of the amount of personal information that must be divulged in order to access a service (9); and finally, the protection of users through the decentralisation of their information (10).

These above-described developments, related to both the application of blockchain technology and the promotion of self-sovereign online identities, have significant implications for the global poor, asylum seekers and stateless persons, and the world's "excess population" that Zygmunt Bauman attributes to processes of modernisation. Moreover, the shift away from reliance on centralised authorities can be productively interpreted, drawing on Axel Honneth's theory of recognition, freedom and social justice. In its most elementary form, recognition relates to one's re-identification by another, or otherwise the acknowledgment of another as a human being. This seems to equate with the first principle proposed by the Web of Trust, which relates to re-identification or the mutual recognition of one's enduring 'I', which is the basis of self-sovereign identity.

Beyond this, however, Honneth theorises that recognition is reciprocally communicated through the expression of respect, esteem, and love, in accordance with local norms, within social institutions such as the public sphere, the marketplace and within

intimate relationships. It is through reciprocal recognitional encounters, in the light of shared norms, that human beings may be affirmed in their identities and common humanity, and thereafter develop self-respect, self-esteem, and self-confidence. For Honneth, it is our struggles for recognition that serve to advance human freedom and social justice.

Honneth's framework of recognition sheds light on these developments related to DLT and collaboration towards the establishment of shared social norms that will foster self-sovereign identities. Marginalised subpopulations such as the global poor, asylum seekers and so-called "economic refugees" have been persistently denied basic recognition and legal recognition. Accordingly, pushbacks, arbitrary detention and instances of re-foulment, constitute the denial of basic recognition and access to human rights. By contrast, the denial of protective status and residency after due process, represents the lawful withholding of legal recognition within the public sphere, which in modern liberal democracies has been traditionally constructed as a national space reserved for citizens, primarily based on their place of birth. Citizens, therefore, traditionally afford each other recognition as equal legal subjects under national laws.

Through processes of globalisation, however, including global market capitalism, the penetration of the Internet and smartphones, and now blockchain technology, the opportunities for relations of recognition are expanding well beyond national boundaries. For example, when the organisation known as Bitnation intervened within the Syrian migration crisis, they did more than provide humanitarian assistance. Through providing refugees with blockchain backed IDs and bitcoin debit cards, they symbolically affirmed the status of these refugees as global citizens, entitled to recognition in the global public and economic spheres. Their global forms of identification were issued without the approval or endorsement of any nation state. These developments, and the intentional efforts

to develop cultural norms that are supportive of self-sovereign identities, arguably signal an expansion of the public sphere – and of the corresponding social norms.

As observed by Robert Ackland, in his 2013 book *Web Social Science*, at the turn of the 21st century there emerged two contrasting perspectives on the impact of the Internet. The first, associated with Castells, hoped for a rejuvenated participatory democracy. The second, associated with Putnam and Sunstein, warned of increasing isolation, the erosion of a common political discourse and an increasing experience of cyberbalkanisation. Given the present challenges associated with the centralisation of power on the Internet (for example, with Google and Facebook), it may appear that it was the latter more cautionary perspective that foreshadowed our present circumstances. Our preference for convenience has led to greater centralisation. Nevertheless, with the narrowing of the digital and biological divide, blockchain technology appears to provide us with a second opportunity to embrace an open decentralised web, and a broadened global public sphere. These developments, related to blockchain technology and the ideal of self-sovereign identity, have significant implications for contemporary relations of recognition, established boundaries, and centralised sources of authority. While the implications of these developments remain difficult to foresee, they raise a host of sociological questions about the implications of this technology, cultural norms related to self-sovereignty, and the emergence of a global public sphere, with significant regulatory implications for the development of public policy, governance, and the pursuit of global social justice.



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Professor Helen James

Urbanisation and rural development: interrogating changing socio-economic realities in contemporary Myanmar

In the very poor area of Northern Pakokku, where climate change is resulting in arid lands crisscrossed by gullies down which flash floods occur in the monsoon season or when there is a cloud burst, a novel approach is seeking to stem the tide of people movement to the urban areas.

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Everywhere across Asia, rural populations are 'On the Move', to borrow a phrase from the Asian Development Bank (ADB) in 2011. They leave behind impoverished agricultural communities to seek better economic and educational opportunities in large urban conurbations. These are often in coastal areas which have been able to benefit from the advantages of the globally integrated economic order over the past several decades. Such movement is contributing to the urban congestion experienced in many large cities. The ADB has estimated that right now almost 50 per cent of the global population lives in cities. The longer term impacts of these significant population movements are still to be defined, although researchers have already identified the consequences for resources consumption, health and lifestyle impacts, water quality, transport gridlock and communications strategies.

Myanmar is no exception to the emerging policy imperatives deriving from this mass movement of people. According to the 2014 Myanmar Census, around 70 per cent of its 52 million people still call the countryside 'home' and the ADB estimates agriculture still accounts for around 62 per cent of the national economy. This movement of people nonetheless raises critical questions about the sustainability of rural communities.

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In the villages of the Delta, rising sea levels are resulting in soil salination which cannot sustain the crops of rice and legumes that provide the staple income for small farmers.

It also raises concerns about how these communities will adapt to the socio-economic imperatives of climate change, and how they will interface with rapid industrialisation as transitional political landscapes encourage greater personal freedoms. While the countryside may be home, as set out in official residential documentation, often this data overlooks the fact that many of these people have left to go elsewhere in search of employment and better opportunities.

Rural-urban migration in Myanmar is of three types. The first is internal, including domestic movements from countryside spaces to cityscapes in Yangon, Mandalay and the smaller regional towns such as Patheingyi, Monywa, Taunggyi and Kengtung. The second is international movement around the Asian region to Malaysia, Thailand, Indonesia, Taiwan or even India. In some cases, this kind of migration takes in destinations even further afield such as Europe, the United Kingdom, the United States and Australia. The third type is what is called 'circular migration'; that is, return migration which involves Myanmar people who have gone abroad for a limited time, before returning to their home villages. On return, they often invest their savings in building better, more substantial homes; equipping them with modern electrical conveniences (where electricity is available); and even buying cars. Once expended, these circular migrants then often return abroad to work remotely from their homes in low paid jobs (this kind of work is known as

3D in Thailand – for being dangerous, dirty and demeaning) among people who barely tolerate their presence, to put aside funds for the next tranche of investments in their home villages. Domestic migrants are similar, but they can access lower amounts of funds. These are often the younger people, male and female, below 30 years of age, who move to the larger cities to work on construction sites or in factories in the newly industrialising estates. People movements are thus changing the face of rural communities in terms of availability of, and access to a more modern lifestyle.

But there are many emerging downsides to this narrative of apparent increased prosperity arising from rural-urban migration. In the villages of the Delta, rising sea levels are resulting in soil salination which cannot sustain the crops of rice and legumes that provide the staple income for small farmers. Their plants grow, then wither and die leaving the farmers without a crop for food or income. Increasing poverty means that they must seek alternate sources of income such as fishing, making thatch from nipa palm, and weaving. Families separate as the young adults leave for the construction jobs in Yangon. Those family members remaining behind continuously seek alternate income generation opportunities. The movement of young adults, both male and female away from such rural communities is resulting in depletion of workforce capacity to support the productivity of agricultural communities. As the local workforce decreases, day wages for casual labor increase; this,



Professor Helen James

in turn, is attracting a different socio-economic group of casual farm labour to marginal areas to fill these shortages. Similar developments are seen in villages around Pantanaw in the Maubin district; however, circular migration here is having the effect of keeping the overall population relatively stable, according to the 2014 Myanmar Census, and additional funds coming in to the area are assisting with livelihood options.

In the central dry zone around the Bagan-Nyaung-Oo area, income generating activities benefit from tourism and new agricultural developments arising from non-government organisation capacity building schemes, particularly in the provision of water drawn from wells and irrigation. New market gardens and fruit orchards suggest increased vitality in this traditionally arid area. However, not all benefit. Movements of adults to cities or overseas often leave children with elderly grandparents. In some cases, indigent parents neglect their offspring or force them to leave school early to work in menial activities to earn a meagre income to support the remaining adults. A famous monk in the area has developed an early intervention scheme which keeps children in school and facilitates their employment as apprentices, for example as mechanics, when they complete their studies. His program includes a focus on compelling the parents to allow the children to remain in school. It recognises that for many people in rural areas, education and the opportunities it may generate, offer not only an important path to a better life but may also assist in curbing the population loss from rural communities. Such an approach, however can only be effective if there are indeed employment and income-generating opportunities in rural communities to meet the growing expectations of Myanmar's population. Significant impoverishment of large sectors of the population since the socialist era, has not yet been substantially ameliorated in the age of democratic transition. Frustration with this situation has been increasing as the high expectations people have of their

democratically elected government largely remain unrealised. NGO's, aware of these critical socio-economic issues, seek through development approaches to install integrated rural development programs, although these can only meet some of the population needs.

In the very poor area of Northern Pakokku, where climate change is resulting in arid lands crisscrossed by gullies down which flash floods occur in the monsoon season or when there is a cloud burst, a novel approach is seeking to stem the tide of people movement to the urban areas. Villages in this area were first provided with reticulated water to each household from a large horizontal earthen dam set in a niche between gullies. The water freed the women of the villages from the back-breaking task of physically carrying water each day for their family's needs. Secondly, irrigation from the dam enabled the people to generate two rice crops per year instead of only one, thus increasing their food security. Thirdly, goats – animals that can survive in these arid conditions with little vegetation – were brought in to provide meat and increase people's protein intake. Integrated health, education and income generation schemes such as craft work, weaving and pottery then addressed some of the socio-economic needs of women in the villages. The most innovative part of the project was to build eco-tourism facilities in the hills around the dam site.

These now attract large numbers of visitors from Europe, Japan and other parts of Asia. In its first year of operation in 2016, the scheme brought in US\$100,000 to these villages. In its next year of operation, the scheme netted US\$1million. This approach is now being applied to other aspects of village development, for example, training villagers as tourist guides, to enhance the self-sufficiency of the villages of Northern Pakokku and alleviate the need for their young people to move away to the larger urban areas.

The Northern Pakokku projects may be an anomaly in the overall complex environment of Myanmar undergoing political, economic

and social change. It is not probable that such an approach could be replicated in many other areas of the country. However, the basic principle of seeking to develop alternate industries through innovative approaches which appeal to young people in rural communities could be worthwhile for local and provincial office holders, if it is considered necessary to stem the tide of rural-urban migration.

This of course may be a Sisyphean task. The state may prefer not to inhibit this movement of people, given that much of this mobility contributes to the cheap labor available for Myanmar's newly industrialising sectors and its increasing urbanisation. Circular migration is particularly valuable for the additional funds and remittances it generates. As with many other developing countries, the movement of people into the global labour market is an indicator not only of changing social and economic circumstances in the transitional state, but also of the greater

political openness which fosters this capacity for individual endeavour. People movement is part of necessary engagement with the global community and Myanmar's people are 'On the Move' as shown in the heavily patronised airlines in and out of Asia and to Europe. The energy on display in Myanmar as it comes to grips with the many socio-economic and political issues arising from the democratic transition will eventually generate innovative solutions to some of the societal issues arising from these significant rural-urban population movements and their consequences. In an uncanny way, urbanisation may eventually be the key to some of Myanmar's people movements as economic opportunities increase in peri-urban areas closer to the larger cities. These in turn develop diverse types of rural-urban mixed economies which may sustain their population groups in desired lifestyles without the need to move elsewhere.



Dr John Funston

Malaysia and the Rohingya – humanitarianism and domestic imperatives

The plight of the Rohingya refugees has attracted widespread sympathy in Malaysia, from non-Muslims as well as Muslims. But policy has often been driven by an attempt to enhance Malaysia's international standing, and obtain domestic benefit.

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Malaysia has been an outspoken critic of Myanmar's persecution of its Rohingya minority. During a public demonstration in Kuala Lumpur on 4 December 2016, Prime Minister Najib Razak set aside the customary Association of Southeast Asian Nations (ASEAN) policy of non-intervention in internal affairs of neighbours, describing Myanmar's policy as 'genocide'. He called on Asian neighbours and the world to step up pressure to stop the violence. He described the persecution of the Rohingya as an insult to Islam and stated; "I will not close my eyes and shut my mouth".

Malaysia has a long history of diplomatic involvement with Myanmar and the Rohingya. During the 1990s, it was a staunch supporter of Myanmar joining ASEAN (which it achieved in 1997), rejecting the arguments of those opposed to the country's human rights record by emphasising support for the doctrine of non-intervention in the internal affairs of others. Malaysian diplomat Tan Sri Razali Ismail was the United Nations Secretary-General's Special Envoy to Myanmar between 2000 and 2005, concerned mainly with supporting the political rights of Aung San Suu Kyi. Malaysia's focus on Rohingya matters became more pronounced when the Organisation of the Islamic Conference (OIC) appointed Minister of Foreign Affairs Syed Hamid Albar (1999-2008) a Special Envoy for Myanmar from 1999 to 2016.

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Since Najib's outspoken criticisms, Malaysia has pursued a high-profile international role in defence of the Rohingya, particularly to the OIC, ASEAN and the UN. It convened a special meeting of OIC foreign ministers in Kuala Lumpur in January 2017. Opening the meeting, Najib urged Myanmar to stop all discrimination and attacks and repeated calls for the free delivery of aid and safe return of refugees. He also declared the conflict no longer Myanmar's internal affair, as it had fuelled an exodus of refugees that could destabilise the region, and warned that if the violence continued, militants, including the Islamic State group, could infiltrate and radicalise the Rohingya.

On 24 September 2017, Malaysian Foreign Minister Anifah Aman took the highly unusual step of dissociating his nation from an ASEAN Chair's statement on the situation in Rakhine state, following a meeting of ASEAN foreign ministers on the sidelines of the UN General Assembly. The Chair's statement, Anifah declared, failed to specifically mention the Rohingya, over 430,000 of whom had fled since the military's 'clearance operations' in late August. Malaysia called on the Myanmar government "to end the violence, stop the destruction to lives and properties, allow immediate unimpeded access for the delivery of humanitarian aid to the Rohingya and all affected communities, and to resolve the Rohingya refugee problem".

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Najib had also raised this issue in discussions with United States President Donald Trump a week earlier, although the communique made no direct reference to Rohingya, referring only to the need to end violence against "civilian populations".

Malaysia has mobilised several relief efforts to help the Rohingya, often in concert with local non-government organisations. A 'Food Flotilla' mission in February 2017 delivered 2,300 tonnes of food and other essential goods for the Rohingya in Myanmar and Bangladesh. In September, 12 tonnes of food aid and other necessities were sent to Chittagong, Bangladesh using two air force aircraft. Malaysia also began planning a 50-bed field hospital in Bangladesh and commenced operating it in November.

Seeking Islamic leadership – international and domestic

These diplomatic and aid activities were no doubt motivated by genuine concern over the plight of the Rohingya. But they would also have been influenced by Malaysian interest in projecting its role as an international Islamic leader and ally of Middle Eastern Islamic countries. Malaysia has long presented itself as a leading proponent of moderate Islam – a position sometimes at odds with domestic support for a rigid, conservative Islam. It sponsored a UN General Assembly resolution

Domestic concerns also seem to have been at the forefront on three further issues – the treatment of Rohingya refugees in Malaysia, policies against accepting Rohingya boat refugees in May 2015, and action against mass graves found in January 2015.

in support of moderate Islam as recently as December 2017. And a notable aspect of field hospital aid has been cooperation with the United Arab Emirates (UAE) and Saudi Arabia, two countries at the forefront of Malaysia's recent Middle Eastern diplomacy. Saudi Arabia in particular has become a major focus of Malaysian interest, with a flurry of high-level visits, joint participation in high profile Islamic conferences, Malaysian participation in Saudi-sponsored military exercises, and the establishment of the King Salman Centre for International Peace in Kuala Lumpur following the visit of the Saudi ruler in early 2017.

International promotion of Islamic causes has also long been used to appeal to Malaysia's politically dominant Malay Muslim community. In the past, the ruling United Malays National Organisation (UMNO) used this to enhance its position against the Islamist Pan Malaysian Islamic Party (PAS), but in this case its aim was to secure PAS support and wean it away from the opposition coalition. While part of the opposition in general elections in 2008 and 2013 PAS had taken away important support from UMNO, causing UMNO and coalition partners in the National Front to lose their customary two thirds majority in 2008 (required for parliamentary votes to amend the constitution), and to lose even more seats in 2013 and the popular vote (47-51%). Since 2013, UMNO has wooed PAS by promising sympathetic consideration of its plans to introduce Islamic criminal law (*hudud*) and allowing PAS leader

Abdul Hadi Awang to present a private members bill to parliament to amend Act 355 – a crucial step towards *hudud*. In December 2015, Najib and Hadi, dressed in identical pink clothing, jointly headed an Al-Azhar Alumni Regional Seminar, during which both pledged to work towards Muslim unity. Almost one year later, Najib and Hadi, and all top UMNO and PAS leaders, participated in a 10,000-strong rally in which Najib made the emotional remarks mentioned above. Such megaphone diplomacy suggests that domestic concerns were at least as important as diplomacy in this exercise. PAS formally withdrew from the opposition coalition in 2017, has since reiterated its support for UMNO on the Rohingya and other issues, and was a defacto ally of UMNO in the May 2018 general election.

Politics over compassion?

Domestic concerns also seem to have been at the forefront on three further issues – the treatment of Rohingya refugees in Malaysia, policies against accepting Rohingya boat refugees in May 2015, and action against mass graves found in January 2015.

Rohingya refugees began making their way to Malaysia from the 1990s. They are not officially recognised as refugees but as illegal immigrants. Malaysia is not a signatory to the UN Convention relating to the Status of Refugees, but it has allowed the UN High Commission for Refugees to register Rohingya refugees for resettlement



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in third countries. More than 35,000 had been registered by 2014, but the number had escalated to 67,000 by January 2018. Unregistered numbers are larger, perhaps some 100,000. Illegal immigrants in total number between 2.5 and 4 million. Although better off than some non-Muslim refugees, conditions are harsh. The Rohingya do not have a secure status in the country and cannot access government education. By contrast, 3,000 Syrian refugees, invited by Najib at a speech to the UN in October 2015, have been provided with temporary residence status, along with permission to work and attend government schools.

The Rohingya – and other migrants – serve several useful purposes. First, as cheap labour. Although officially not allowed to work, they can find employment in the informal sector, such as on plantations and in restaurants. Promises have regularly been made to issue one year employment visas, as was earlier

done for refugees from Aceh in Indonesia and the southern Philippines, but these have never been implemented. In 2017, Malaysia announced a plan for three year working visas, but this will be confined to only 300 people. A second purpose is that they can be made scapegoats for other problems like crime and assorted social problems, and for taking the jobs of Malaysians during times of economic slowdown. Mass arrests and deportations often follow. Third, researchers have noted some Rohingya were given temporary identity cards, valid only for a few months, to enable them to vote in the 2013 election. It is not clear how widespread this was, but such practices have been common for Filipino Muslim refugees in Sabah state.

In response to yet harsher Myanmar policies against the Rohingya in Myanmar, and Thailand's closing of the overland trafficking route, the number of boat refugees surged. By early May 2015, some 8,000 refugees

were stranded in seas adjacent to Malaysia and Indonesia. Both countries declared they would no longer accept new arrivals. Malaysia said it would use tough measures, including turning back the boats to send the “right message”. The ones who had already arrived would be sent home. Media reports confirm that some 800 refugees were turned away from Penang and Langkawi on 13 May. In response to international condemnation and domestic criticisms, Malaysia and Indonesia said in a joint statement on 20 May that they would offer resettlement and repatriation, a process that the international community must complete within a year. Malaysia eventually agreed to accept 1,100 people, of which around 400 were identified as Rohingya (the rest were Bangladeshi, presumed victims of human trafficking). The Rohingya were placed in detention under extraordinarily harsh conditions. A year later, around 50 refugees had been ‘put forward’ for resettlement to third countries.

Shortly after Malaysia agreed to accept limited numbers of boat refugees, police announced the discovery of 139 mass graves and 28 temporary camps at Wang Kelian, some 500 metres from Malaysia's northern border with Thailand. The revelation followed the discovery of mass graves on the Thai side of the border on 1 May. Victims had clearly been tortured, and most were understood to be Rohingya people trafficked by organised syndicates. Prime Minister Najib and police head Khalid Abu Bakar declared their absolute determination to find and punish whoever was responsible.

In fact, the situation was even worse than the initial reports suggested. On 20 December 2017, the UMNO-linked *New Straits Times* published a detailed exposé, drawing on a confidential briefing given by now-retired police head Khalid, revealing police had known about the mass graves as early as 19 January 2015 – not 25 May – and had destroyed the camps before they could be processed by forensic experts. Another camp had been discovered in March and in a police raid, five people had

been arrested. Why authorities had delayed so long before making these details clear, and why the camps had been destroyed before forensic investigation had been conducted, remains a mystery. But analysts agreed that such activities could not have been carried out without official complicity. Police investigations – which have been highly efficient in dealing with the like of communists and Muslim extremists – have made no progress. To date, only four people have been prosecuted, all of them non-Malaysians. Remarkably, however, the US found that Malaysia had made progress in anti-trafficking efforts and upgraded it from a category of ‘Tier 3’ to ‘Tier 2’ in the State Department's Trafficking in Persons (TIP) report, in June 2015. (Many noted the US was at the time wooing Malaysia to join the Trans-Pacific Partnership trade organisation, and that this required Tier 2 status.)

The plight of the Rohingya refugees has attracted widespread sympathy in Malaysia, from non-Muslims as well as Muslims. The government response has in part been a reaction to this humanitarian disaster. But the crisis has also been used to project Malaysia's image as a leader of the Islamic world. And the use of this crisis to strengthen UMNO-PAS ties, the harsh conditions imposed on Rohingya refugees in the country, the initial rejection of Rohingya boat refugees, and an inadequate response to the discovery of mass Rohingya graves in Malaysia, suggest that domestic politics has also been an influential driver of Rohingya policy.

Postscript: The ruling UMNO-led coalition was defeated by Pakatan Harapan (Alliance of Hope) in the 9 May election. No pronouncements on Rohingya matters have been made at the time of writing, but Harapan's manifesto promised it would lead international efforts to resolve the Rohingya problem, instead of inflaming false emotions for short term political gain. Unravelling the circumstances of the mass graves could well be an early focus.

Dr Rizwana Shamshad

From persecution to safe haven? Rohingya asylum seekers in Melbourne

The settlement process of the Rohingya asylum seekers in Melbourne is complex and ongoing. Further research is required to understand the settlement issues confronting the Rohingya in Melbourne and in other parts of Australia, leading to constructive policies and practices that can foster positive outcomes.

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Melbourne hosted approximately 500 Rohingya asylum seekers, as of 5 March 2018. The majority live in the Springvale and Dandenong areas in Melbourne's south-east, while a few are scattered in other parts of the city. Rohingya are a relatively new community in the city of Melbourne. They typically arrived in 2013 or before. Often described as the world's most persecuted community, Rohingya people from Myanmar have been on the run, seeking asylum in other countries, for over four decades.

This essay is based on interviews conducted between 3 and 9 March this year with a small number of Rohingya in Melbourne who have been living in the city for three years or more. The aim of the interviews was to understand the settlement experiences of the Rohingya, including their education, employment situation and social lives. I interviewed five Rohingya in Melbourne – four males and one female. I used pseudonyms for the interviewees for confidentiality.

For those people who come by boat (known as illegal maritime arrivals), there are two visa options initially available to them. The first is the Temporary Protection Visa (TPV), a three-year visa which allows people who arrived illegally in Australia to live, work and study in the country. The applicant needs to apply for another TPV or a second visa I will describe below before the first TPV expires. TPV does not now allow the applicant to apply for permanent residency. Special Benefits and monetary assistance are paid to the applicant under this visa.

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The second option is the Safe Haven Enterprise Visa (SHEV) a five-year visa which allows applicants to live here and work or study – or do both. SHEV holders must live in regional Australia. They are required to work without accessing Special Benefit payments and/or study in regional Australia. SHEV holders subsequently can apply for certain other visas but not Permanent Protection Visas (PPVs) if they meet the SHEV pathway requirement for at least three-and-a-half years (42 months) while on a SHEV.

The settlement experiences of the people I interviewed varied greatly according to their visa status. Of the interviewees, three have PPVs, and are therefore permanent residents. The other two are on TPVs. Only one interviewee came by plane; the rest came by boat. The usual route by boat was from Myanmar to Bangladesh and then from Malaysia or Indonesia to Christmas Island in Australia. All of those who arrived by boat were in the detention centres for between six months and two years. Prior to moving to Melbourne, all the interviewees initially lived in other Australian cities, including Brisbane, Darwin and Sydney. The main reason for moving to Melbourne was the desire for community connection with fellow Rohingya. In this respect, four interviewees came because they felt isolated in other cities, while one moved after marriage.

Interviewees on PPVs are Munira (female, 24 years), Anowar (male, 43 years) and Hafiz (male, 35 years). The interviewees on TPVs are Shahed (male, 30 years) and Naser (male, 36 years).

Munira, came to Australia when she was 14. She was born in a Rohingya refugee camp in Bangladesh and came to Australia in 2009 with her mother, grandmother and two sisters, while her brother came later. She went to a high school in Brisbane for three years and speaks fluent English. She initially worked as an interpreter. She relocated to Melbourne after her arranged marriage with her husband.

She could not continue further study after the marriage despite her willingness to pursue higher education in nursing. She is now a mother of two children (a six-year-old and a four-year-old). She moved to Melbourne three years ago but relocated again to a regional Victorian town with her family. The main reasons for moving to regional Victoria were affordability and to buy a house. Her husband is also a Rohingya. He does not have any formal education and works as a lawn mower operator. Munira continues to work occasionally as an interpreter and plans to open a grocery store with her brother this year in her area of residence. All of her family members are in Australia; mainly in Brisbane and Melbourne.

Anowar currently manages a restaurant owned by a Rohingya in Springvale. He lived in Bangladesh for three years before and can speak Bengali. Anowar came to Australia from Malaysia by boat in 2012. Although he does not have any formal education, he considers himself proficient in building design and worked in building design and construction for 25 years in Myanmar, Bangladesh and Malaysia. However, he could not use these skills in Australia and worked as a construction worker before his current job.

Hafiz came to Australia from Indonesia by boat in 2009. He holds a bachelor's degree in accounting from a northeast Indian university. He was held in a detention centre in Indonesia for a year and on Christmas Island for six months prior to receiving his PPV in 2011. He lived in Sydney for a year, but was unable to find a job, before finding employment in a meat factory in Wagga Wagga, a regional town in New South Wales. Hafiz claimed that he and other workers were exploited in the meat factory – they would work for eight hours but were only paid for three hours of work. He also felt isolated without other Rohingya there. He then relocated to Melbourne in 2012 and pursued a diploma in community services. He eventually found employment as a client support officer with a non-for-profit organisation and has been working

Rohingya asylum seekers in Melbourne on TPVs do not receive any government funding or fee waivers for vocational or tertiary education because of the current visa regulations.

there ever since. Moreover, he is a registered interpreter and works in this capacity occasionally. Although Hafiz has permanent residency, local education and a job, he still feels unsettled without a family in Melbourne. He thinks he would feel more settled if he got married and started a family. However, it is difficult for him to get married as, traditionally, arranged marriage formalities are initiated and performed by parents or other family members – but he does not have any family in Melbourne.

Naser arrived in Australia in 2009 and Shahed came in 2013. They both came by boat and have been on TPVs since their arrivals. Shahed's family lives in Myanmar. He has a son and the last time he saw him was five years ago. He lived in a detention centre for three-and-a-half months after coming to Australia. Naser also lived in a detention centre for two years after coming to Australia. Both Shahed and Naser have tertiary qualifications and are proficient in English. They hid their Rohingya identity to study in Myanmar; Shahed holds a bachelor in philosophy from a university in Yangon, while Naser has a bachelor in electrical engineering from Myanmar. Both are now working in the informal sector and hold more than one job to make ends meet. They are actively engaged with the Rohingya community in Melbourne.

Most Rohingya did not have access to school in Myanmar or as refugees in other countries, so the majority do not have any formal education and speak limited English. Nevertheless, in Australia they have had access to a small number of English language classes through the Adult Migrant

English Program (AMEP), which provides up to 510 hours of English language tuition to eligible migrants and humanitarian entrants to help them learn foundation English language and settlement skills.

Rohingya asylum seekers in Melbourne on TPVs do not receive any government funding or fee waivers for vocational or tertiary education because of the current visa regulations. They mostly work as labourers in construction, agricultural, packaging and farming industries. Many have more than one job to support their families. A few are entrepreneurs, some starting their own small businesses such as restaurants and grocery stores. Only those who have permanent visas or can afford to pay tuition fees are able to enrol and get a local qualification. This small number of educated Rohingya with local qualifications and proficiency in English work in professional occupations as interpreters and community guides at local community service organisations. Generally, Rohingya men are the breadwinners of their families. Women largely stay at home and look after the children and households. The researcher met a Rohingya woman who came to Australia with her three children and without a husband. She started a restaurant business in Springvale and is the breadwinner of her family.

The interviews revealed that the level of connection and solidarity within the Rohingya community in Melbourne is strong, with members supporting each other in their vulnerability. They regularly interact with their country fellows, and their social lives

are restricted to other Rohingya because of cultural and language barriers. This is particularly the case for women. Organisations like the Australian Burmese Rohingya Organization (ABRO) and Arakan Rohingya Community of Australia (ARCA) regularly organise social and religious events for the whole community. They collect small sums of money to fund community celebrations such as Eid, the largest Muslim festival.

The social lives of the Rohingya in regional Australia are rather limited. Munira who recently moved to a regional Victorian town from Melbourne mentioned that there were only six other Rohingya families in the same town and they engage with each other socially and help each other when needed. Her son goes to the local primary school. Munira finds the local community in the town warm, welcoming and friendly.

Rohingya typically come from a traditional and conservative society. Munira, wears a hijab (traditional head covering). It took her some time to understand and adjust to Australian culture. She eventually realised that everyone can practice their individual faith and cultural activities in Australia in a culture of mutual respect. She respects and appreciates this attitude of the wider

Australian society. Similarly, Anowar, a restaurant manager in Springvale, experiences a culture of respect and equal opportunity in Australia that he has never experienced before.

Anowar's experience of settling in Australia has been positive. His children are going to school, and he dreams of a stable and secure future for them. He also mentioned that he had lived in fear throughout his life, but he no longer feels this way after coming to Australia. In the words of Anowar in his interview on 5 March:

"When I was in Burma, I was always fearful that the military or someone would kill me. When I was in Malaysia, I lived in fear, scared of the police, but when I came to Australia, my fear was gone. I do not live in fear anymore."

For Munira, who was born in a refugee camp in Bangladesh, Australia has given her hope for a new life and future. She aspires to study nursing when her kids grow up and become a nurse, thereby pursuing her earlier dreams from before her marriage. Hafiz found freedom in Australia after he was released from the detention centre, saying:

"All other countries before coming to Sydney were like detention centres. I feel free now."

Rohingya youth like Shahed and Naser on TPVs would like to participate in Australian higher education and widen their employment options. Shahed talked about vocational training and skills development courses for Rohingya. Earlier this year, a corporate body sponsored a skill learning and enhancement workshop for the Rohingya community. According to Shahed, a community leader and one of the workshop organisers, such programs benefit the community, particularly the youth who felt more integrated with the wider society and Australia through attending the workshop.

Naser talked about the stigma around Rohingya in Melbourne. He and other Rohingya people face stigma in their daily lives when seeking jobs and accessing assorted services. He mentioned that people outside of their community often call them 'boat people' in a derogatory way.

Given the temporary nature of their visas and a perception of uncertainty about their futures, Shahed and Naser, who are on TPVs, and many other Rohingya like them in Melbourne do not feel settled in their new surroundings yet. Some feel that they are still living in some form of virtual detention or in limbo. Many do not feel confident to apply for a SHEV because of their deficiency in English, lack of (or unrecognised) skills and education, inadequate support in finding employment and anxiety about social isolation in regional Australia. They prefer to live in Melbourne on TPVs, close to other community members instead of in relative isolation and insecurity in regional towns.

The majority of Rohingya in Melbourne came to Australia in or before 2013. They arrived in the country before the world recognised that Rohingya were subjected to ongoing persecution and violence in Myanmar, possibly tantamount to genocide after the recent spate of violence since 2016. After fleeing extreme persecution and engaging in a precarious sea journey seeking haven in Australia, the Rohingya in Melbourne remain vulnerable. Commonly known as

boat people, they are insecure, lacking formal education and technical skills, yet manifesting strong community solidarity.

All the interviewees have immediate or extended family members in Bangladesh and Myanmar. Everyone had one or more immediate or extended family member who had been killed by the Myanmar army or in conflict with other ethnic Burmese during the past two decades. Fear and persecution are still very much a part of the narrative of the Rohingya in Melbourne. According to Hafiz, many Rohingya women still are not able to go outside of their home on their own and work because of the trauma and torture inflicted on them by the military in Myanmar.

This research explored settlement experiences of the Rohingya in Melbourne through interviews with a small number of people, but their experiences are indicative of the predicament others facing in their wider community. What transpired from the interviews is that when a visa status is stable, the settlement outcomes and experience are more positive. The restrictions of TPVs make the status of those visa holders ambiguous, leading to uncertainty. While SHEVs can be a more stable visa option, the provision of living in regional Australia is challenging for this community, because of the language and education barriers, lack of confidence in finding employment and fear of isolation. If the Rohingya (and other newly arrived refugee communities) are to be settled in regional Australia under SHEVs, clear policies and services, including help finding jobs, gaining English proficiency, education and community support are necessary.

The settlement process of the Rohingya asylum seekers in Melbourne is complex and ongoing. Further research is required to understand the settlement issues confronting the Rohingya in Melbourne and in other parts of Australia, leading to constructive policies and practices that can foster positive outcomes.



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Assistant Professor Yasuko Hassall Kobayashi

From non-immigrant country to de facto immigrant country: recent shifts in Japanese immigration policy

Although the Japanese government carefully avoids the term 'immigrant' and uses the terms 'human resources/human capital' instead to maintain a façade, these imported resources live amid Japanese society alongside Japanese.

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Japan is known as a proverbial non-immigrant country, and the Shinzo Abe government has also been denying that Japan has turned into an immigrant country. Contrary to this denial, Japanese demographic change has begun to reveal visible shifts on various fronts. The number of non-Japanese residents has continued to climb since 2012. The Ministry of Justice (MOJ) revealed the total population of non-Japanese residents in Japan reached a high of over 2.47 million as of October 2017, with an increase of approximately 80,000 from 2016 according to the MOJ. Tokyo, the Japanese capital, has 21 per cent of its population as non-Japanese residents, according to the Ministry of Health, Labor and Welfare (MHLW) in 2017. MHLW also stated in 2017 that the Japanese labour market also reveals growing numbers of non-Japanese workers. In 2017 the figure climbed to a total of 1,278,670, which is 18 per cent higher than in 2016 and the highest record since 2008). At university level, the number of international students enrolled in Japanese universities reached a record high of 267,042 as of May 2017, according to the Japan Student Services Organization (JASSO). These recent phenomena are not happenstance but are results of a shift in Japanese immigration policy, and a set of laws that was revised around the turn of the 21st century to promote an influx of high skilled and low skilled migrants to Japan. This policy trend will continue in 2018.

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Like in other advanced countries, the Japanese Government also strategically manipulates migration governance (or control) to enhance Japanese economic productivity and competitiveness in the global market.

On 20 February 2018, the Prime Minister Shinzo Abe held the second meeting of the Council on Economic and Fiscal Policy at the Prime Minister's Office and during this meeting he stated that the government will be promptly conducting studies of system reform to accept foreign personnel with specialised and technical skills, to fill the shortage of labour. Yet, in the same statement, he pronounced that “the Abe Cabinet has no intention of implementing so-called ‘immigration policies’. We stand firm on this point”.

A question to be asked is how the Japanese Government makes sense of this contradiction: declaring Japan to be a non-immigration country, while promoting flows of migration? This article will attempt to investigate recent migration policy shifts and disentangle this contradiction. First it will explore the recent migration policy changes to demonstrate that Japanese immigration control is neither strict nor closed but, rather, strategically manoeuvred to suit Japan's economic and social needs and demands. Then it will show how the Japanese Government justifies this reality against its simultaneous claim to have “no intention of implementing so-called ‘immigration policies’”.

Japan's migration governance

Bringing immigrants in to cope with the double assault of super-ageing and the world's lowest birth-rate sounds a logical solution, as suggested to Japan by Lee Kuan Yew, the founding father of Singapore about a decade ago in the *Sydney Morning Herald* on 11 Dec 2009. Singapore has strategically and successfully engineered its migration policies to enhance its economic competitiveness in a neoliberal global order since the beginning of the century. Now Japan is following in the footsteps of that predecessor in the region and instigating influxes of migrants through various types of visa categories. The long-held common view about Japan as a non-immigrant country and hence a mono-ethnic country needs to be contested. Like in other advanced countries, the Japanese Government also strategically manipulates migration governance (or control) to enhance Japanese economic productivity and competitiveness in the global market. The recent policy shifts in various categories of migration governance has created pull-factors.

Regarding high-skilled migrants, a portent of changes in the policy appeared around the turn of the century. In 1999, the Economic Planning Agency and the Ministry of Labour reiterated a greater emphasis on the need for skilled migration. A need for skilled migrants became clearer in a concrete sense in 2001 when a new IT strategy for the 21st century was announced. Its aim was to “make Japan the world's most advanced

information technology (IT) nation within five years”. The actual target was four-fold: 1) building an ultra-high-speed Internet network and providing constant Internet access at the earliest date possible, 2) establishing rules on electronic commerce, 3) realising an electronic government and 4) nurturing high-quality human resources for the new era. In 2001, the Council for the Promotion of Regulatory Reform (CPRR) recommended reviewing the admission rules for IT engineers to hasten Japan's transition into a digital era. In 2003, a national policy to improve technology development in Japan's IT sector (the E-Japan Strategy II) was implemented, including the acceptance of 30,000 IT workers as highly skilled migrants by 2005 to roll out the IT network in Japan. To enable Japan to receive high-skilled migrants, immigration law was revised in 2006. This was the first policy attempt by Japan to increase its number of highly skilled migrants (Oishi 2012). This trend then was continued to create further influxes of highly skilled migrants.

In 2008, a proposal for a Japanese Style Immigration Policy was submitted by the members of Parliament Alliance of the Liberal Democratic Party to the then prime minister, Yasuo Fukuda. This policy proposal suggested that Japan should utilise immigrants and develop them as a human resource, and hence should accept international students and young professionals. The proposal included measures to help them integrate into Japanese society. In actual terms, the proposed target was to accept 10 million migrants by 2050, and this direction was endorsed by the Japan Business Federation, Onishi outlines. In the following year, the Japanese Ministry of Justice (MOJ) expressed similar views. A report published by the Fifth Immigration Control Policy Council of the Japanese MOJ discussed proactive immigration policies to attract high skilled migrants and international students. Under the then prime minister Naoto Kan, the New Growth Strategy was inaugurated, which included Japan's most open and aggressive

immigration policy, for example, doubling the number of highly skilled migrants and raising the number of international students from 200,000 to 300,000 by 2020.

In 2012, a point system for highly skilled foreign workers (known as High Skilled Professionals) was introduced for the first time to attract global talent to enhance Japanese competitiveness on various fronts. Occupations in this visa category are researcher, engineer, investor and business manager. Applicants who manage to score 70 points or more qualify for this visa scheme and can bring family and maids. Their spouse is allowed to work, and they may apply for permanent residence after five years in Japan, Akashi outlined in 2014. Despite this state endeavour, the pace was slow in increasing the number of immigrants under this category. To attract further global talent, an extra incentive was added to this scheme. The waiting period to apply for permanent residence was cut radically from five years to one year. And a government-funded advertisement was released outside Japan by Bloomberg entitled “Japan: The Rising Magnet for Foreign Talent”, to attract these high skilled professionals to Japan.

Low-skilled migration is also on the rise. Low-skilled immigrant workers increased 22 per cent in 2017, states the MHLW. This category of immigration is tricky as the Japanese Government does not, in theory, accept low skilled migrants or ‘simple labour’ (*tanjun rodo* 単純労働), and the Abe government makes this point unwaveringly. Also, legally there are no visa categories to accept low skilled migrants or simple labour (*tanjun rodo*) in Japan. However, foreign workers have already been working in specific sectors in Japan, such as construction, shipping, and care-giving (for example, aged-care nursing). The trick is that the Japanese Government strategically brings in the necessary human resources by using other visa categories. There are two side-door categories to supply such a labour force: the Technical Intern Training Programme (TITP) and Designated Activities.

The official purpose of the intern training program is to provide opportunities for trainees from developing countries to learn technologies from the advanced country, Japan, and transfer such knowledge and skills back to their home countries and subsequently to contribute to the economic development of those countries. However, this scheme is not open to every industry, but limited to selected industries such as construction, shipping, care-giving and agriculture that face a severe shortage of labour supply in Japan. The beauty of this visa category for Japanese employers is that these 'trainees' need to be trained but at the same time are legally allowed to work as part of their 'training', at a 'trainee' salary. Various industries suffering from a labour shortage have requested the government to enable their industries to accept trainees and the latest example, in 2017, was the agricultural industry. The government approved the acceptance of trainees only in selected prefectures called National Strategic Special Zones. Another industry also suffering from a shortage of labour supply, the 24-hour convenience store industry, also recently requested government approval to accept foreign trainees, in December 2017.

The other side-door category for visas, Designated Activities, is to allow intern trainee visa holders to continue to stay and work on specifically designated activities after the expiration of their trainee visa. In practice, this is a way to prolong the duration of the trainee visa for specifically selected (designated) types of work. The 'designator' is the Japanese Government and designated areas are predictably ones suffering from a pressing labour shortage, such as the construction and care-giving sectors. In the face of the 2020 Olympics, the government approved the inclusion of construction work under this category and therefore, after construction trainees complete their training in Japan, they can continuously stay on and work in Japan until 2020. A similar modification was also applied to the care-giving sector in 2016 and came into effect in 2017. International students of care-giving training schools will be able to obtain resident status in Japan after being certified as care workers by the Japanese Government.

Care-workers from the Global South are now taking care of Japanese elderly people like they do Singapore and elsewhere. This legal change has spurred a rapid enrolment of international students in Japanese nursing schools.

Why are they not immigrants?

A riddle to be untangled is how then the Japanese Government manages to state that Japan is not an immigrant country. What is the logic behind this contradiction? The Japan Revitalization Strategy under the Abe government aims to reinvigorate Japan by strategically utilising immigrants where and when needed. One of Abe's key phrases, when he makes public announcements regarding immigration policy changes, is "to ensure that these (policy) changes are not regarded/mixed up as immigration policy", and this phrase has repeatedly been used in government official materials created and publicised by various ministries. But if the increasing number of non-Japanese residents in Japan through different visa schemes are not immigrants, what are they? The Japanese term for immigration is 'i-min' (移民). The term '移' is mobility and 'min' (民) means people. 'I-min' (移民) means those who have moved elsewhere to settle down or stay in a destination place for a sustained period. In contrast to this term, the different term used by the Japanese Government to represent immigrants is 'jin-zai' (人材), meaning human (人) resources/capital (材).

The logic of the Japanese Government is that these immigrants are not people (mi=民) but resources or capital (zai=材) to enhance Japanese global competitiveness and to revitalise Japan. These commodified human beings are resources and hence are mobile and tradable like goods and other forms of capital. They are brought to Japan when needed to fulfil various needs of Japan. For instance, Japanese global university rankings are declining, and non-Japanese foreign human resources/capital in the form of foreign talent are imported to halt this decline.

Through Technical Intern Training Programme (TITP) visas and Designated Activities visas, much-needed labour forces are imported to take up 3D jobs (meaning dangerous, dirty and demeaning) in Japan, including the massive construction work for the 2020 Tokyo Olympics. The bottom line is that they are mobile and disposable resources/capitals. Hence when the government's aims have been met, it is technically possible to send them back to where they come from without regret or remorse. To reinforce this point, the visa schemes as a border-control tool are designed to prevent these people establishing roots in Japan. Most visa categories don't allow immigrants to bring their families and allow them to stay in Japan only for a limited time with little prospect of changing their status from immigrant through denizen to citizen. Less protection and benefits are provided for low-skilled visa holders than for high-skill visa holders, to keep resources/capitals exploitable and to save the state 'distribution costs' (costs for family members of immigrants such as education and health) – similar to other global migration governance ploys in today's neoliberal world. And Japan is no exception in this policy landscape. Japan as the latecomer in this landscape presents no false hopes to immigrants but a clear-cut message: we are neither letting you stay nor letting you become part of Japanese society but rather utilising you as a resource/capital in the manner that serves Japanese economic priorities.

Although the Japanese Government carefully avoids the term 'immigrant' and uses the terms 'human resources/human capital' instead to maintain a façade, these imported resources live amid Japanese society alongside Japanese. They might wish for more beyond being resources or capital, like the well-known Swiss playwright and novelist Max Frisch's quip in 1965 about guest workers, "We wanted workers, but we got people instead". This question awaits further exploration in the near future.



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Associate Professor Katerina Teaiwa

Moving people, moving islands in Oceania

Over thousands of years, most island groups were settled and complex cultures that Europeans classified as ‘Melanesian’, ‘Micronesian’ and ‘Polynesian’ arose speaking over a thousand different languages. Together with Aboriginal Australian languages, these constitute almost twenty percent of all the world’s languages.

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The wayfinders

The Pacific has always been characterised by movement. From the ancient peoples who crossed the continent of Sahul that once connected mainland Australia, Tasmania, the Torres Strait Islands and Papua New Guinea (PNG) over 8,000 years ago, to the Austronesians of East and Southeast Asia who travelled from around 6,000 years ago and eventually settled the whole island region, people have been on the move in Oceania for millennia. As archaeologist Matthew Spriggs has argued about ocean travel and exchange in deep time, even during the Ice Age and up till 6,000 years ago, materials such as obsidian were traded across what are now PNG and the Solomon Islands. About 3,000 years ago, Spriggs says, the Lapita cultures, whose distinct pottery appeared across island Melanesia and central Polynesia, took just eight to 10 generations to settle islands covering over 4,500 kilometres of ocean. This took significant navigational and voyaging skill. But while movement is an inherent part of the Pacific way, simultaneously there are values and practices that ground and embed Pacific peoples deeply in their ancestral landscapes and seascapes. Diaspora and indigeneity are both important in Oceania. In this essay, I discuss historical and contemporary features of Pacific migration and how these illustrate certain dimensions of Pacific agency and resilience.

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In a 2008 lecture for the Australian Association for Pacific Studies, Spriggs stated that, “all Pacific Island cultures derived from two great population streams; from that of the Papuan speakers some 40,000 to 50,000 years ago, and from the spread into the area from Southeast Asia some 3,400 to 3,300 years ago of Austronesian speakers”. He said that in between, events such as the flooding of the Sunda – now Malaysia, Borneo, Java and Sumatra – and Sahul shelves, would have led to further population movements.

Scholars such as the late Professor Greg Denning described the islanders who crossed thousands of kilometres of ocean as ‘wayfinders’. Unlike Europeans who came to the region much later and used navigational instruments, wayfinders were explorers who could read the position of stars in a changing night sky, the wind, waves, currents, clouds and the flight of seabirds to locate small pieces of land in a massive ocean that covers one third of the planet. This history was the basis for the animated Disney film *Moana*. The filmmakers travelled to French Polynesia, Hawai‘i, Samoa, New Zealand and Fiji to consult scholars, artists and communities on their past and present seafaring practices. While these communities did not gain any significant financial rewards from the US\$150 million production (it earned US\$643 million), along with revitalised sailing practices across most Pacific countries, stories of Pacific maritime prowess and skill have now entered the space of global popular culture.

Moving between islands

Over thousands of years, most island groups were settled and complex cultures that Europeans classified as ‘Melanesian’, ‘Micronesian’ and ‘Polynesian’ arose speaking over a thousand different languages. Together with Aboriginal Australian languages, these constitute almost twenty percent of all the world’s languages. The cultural divisions did not represent how islanders saw themselves on the ground and added to a problematic ranking of racialised status that privileged the more hierarchically organised Polynesians

over Micronesians and Melanesians. Across and between these areas, islanders had moved regularly for marriage, trade, exploration, to visit kin, or due to war. The practice of circular migration – where people spent long periods away from home and eventually returned – was common and continues today. Even while moving, islanders created powerful origin stories of their links to land and place that continue to form the basis for contemporary territorial claims. In her article ‘Imagining Oceania’, Margaret Jolly has written that in these stories and genealogies, “the relation between people and place is posited not as ‘ownership’ or human possession but as mutual possession. The land is seen as active not inert, as possessed of people, living and dead. This imbrication of body and land is palpable in language and in corporeal practice”.

So, while the ancestors of Pacific Islanders may have come from somewhere else, they developed cultures and communities that were deeply integrated with Pacific lands and waterways. So much so that islands, including the flora and fauna, were experienced and described as kin. Such integration provided the basis for cultural, political and environmental resilience over thousands of years until Europeans arrived and dramatically changed Pacific life through the introduction of Christianity, capitalism, colonial governance and devastating diseases that greatly impacted island populations. By the early 1900s, most of the Pacific was carved up between France, Britain, Japan, the United States and the Netherlands with New Zealand and Australia often taking on administration on behalf of the British.

Colonial administrators, missionaries and other European settlers created additional pathways for movement that were shaped by new economic and political schedules and priorities as mission stations, towns, plantations and mines were established. The Pacific experienced great labour mobility, some of which was forced, in the form of blackbirding of Melanesians (South Sea Islanders) to work in Australia; Polynesians and Micronesians

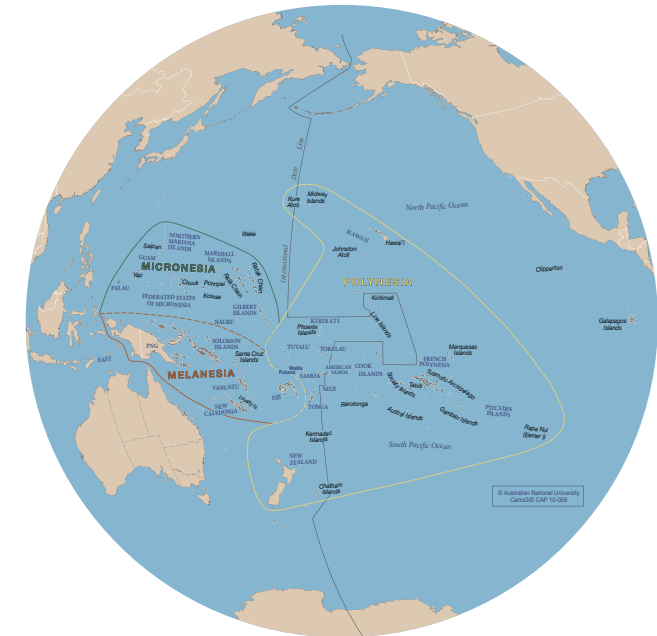


Figure 1: Contemporary Pacific map showing cultural sub-regions based on the work of French explorer Dumont D'Urville in 1832. Map by CartoGIS Services, College of Asia and the Pacific, The Australian National University.

to work in mines in South America, as well as the displacement of Chamorro by the Spanish, the Marshallese because of American nuclear testing, and the Banabans to Fiji as a result of British, Australian and New Zealand phosphate mining. Other communities were moved because of actual or imminent overpopulation, such as the Tuvaluans from Vaitupu who now live in Fiji, and the Gilbertese in the Solomon Islands.

Unlike pre-European circular migration, the new contexts and agendas shaping population movement unraveled some key cultural, political, economic and spiritual practices and values that had significant impacts including on gender relations and the agency of women and girls. While a gendered division of labour and roles was customary throughout Oceania, women’s political agency particularly changed with the introduction and eventual widespread adoption of patriarchal

Christianity. Change was accelerated by the Second World War, which affected islands in most parts of the region, but particularly the western and northern Pacific. Towns, seaports and airports were established that became the coastal metropolitan hubs and capital cities of the contemporary Pacific. An influx of cargo and canned food dramatically altered diets. Except for the French territories, decolonisation of many islands followed the war and indigenous bureaucracies developed in place of colonial centres of administration.

While the circuits travelled by populations became shaped primarily by employment and educational needs, indigenous land tenure systems that were, for the most part, retained, even under colonial rule, ensured that communities continued to have and access land and other natural resources that were linked to their ancestral roots. However, contemporary land grabbing by way of

conferring long term leases, particularly to investors, expatriates, tourism developers, mining and other extractive industrial companies, has now alienated many indigenous Pacific populations from their thousands-year-old resource base. This reality has changed the nature and some capabilities of once sustainable and resilient populations and environments. But while modern nation-state boundaries have limited certain kinds of mobility across the region, Pacific Islanders have still found ways to keep moving while remaining connected to their homelands.

The contemporary Pacific diaspora

Due to the nature of post-colonial migration agreements, opportunities and restrictions, migration is experienced quite differently by Melanesians compared with Polynesians and Micronesians. There are similar levels of intra-Pacific travel by Melanesians, Micronesians and Polynesians across and between islands, and far more migration by Polynesians and Micronesians to centres outside the islands, particularly to the US, New Zealand and Australia. This table shows estimates for Pacific populations in the respective countries (excluding Indo-Fijian populations). Most migrants in the US are Hawaiians, followed by Samoans and Chamorro. In Australia, it is Maori followed by Samoans and Fijians, and in New Zealand the largest groups are Samoans followed by Cook Islanders.

The motivations for migration include employment pathways, most commonly for New Zealand, territorial access in the case of

Hawaiians, Chamorro and American Samoans who are all residents of US territories, and in Australia the cross-Tasman travel arrangement which allows for citizens to move freely between the nations, as well as along sport, education and employment pathways. Polynesian males feature significantly in American football, and rugby sevens, rugby union and rugby league codes in all three countries. The seasonal worker scheme that links islanders in certain countries to short term employment in Australian and New Zealand agricultural sectors, provides limited economic and resettlement opportunities. Migration pathways exist for residents of countries under a Compact of Free Association (COFA) with the US including the Marshall Islands, Federated States of Micronesia and Palau. In exchange, the US maintains full defence authority over those countries and their waters. The agreement also allows for service in the US military which has resulted in disproportionately high rates of Micronesian recruitment and casualties. The flow of COFA residents into Hawai'i has created large homeless Micronesian populations which the state is ill-equipped to understand and support.

Amongst all these communities are unique methods of maintaining Pacific cultural identities and values through the building of new communication networks, establishment of proxy institutions such as church, dance or language learning communities that become new 'villages', and the remittance of income and material goods to home communities, which helps maintain kinship links and land rights. Indeed, migration

Migrant Population	United States (incl. Hawaiians)	Australia (incl. Maori)	New Zealand (excl. Maori)
Pacific Islanders	1.3 million (2015)	331,103 (2016)	295, 941 (2013)
% of total population	0.4%	1.3%	6.9%

Figure 2: Estimates of Pacific migrants in three major destination countries. Source: US Dept. of Health and Human Services, office of Minority Health, National Institute of Demographic and Economic Analysis, 2016 Australian Census.



Figure 3: Image by Jeff Tan and courtesy of 350 Pacific.

in some countries such as Samoa, Tonga and Fiji have become a critical dimension of cultural identities in the 21st century.

Environmental displacement

The impact of climate change in Oceania has been severe, with rising sea levels, floods, droughts, and the pollution of fresh water sources particularly threatening the residents of coastal areas and atoll islands. It is widely accepted amongst Pacific leaders, policymakers and many scientists that climate change will result in future environmental migration, particularly from those in low-lying countries such as Kiribati, Tuvalu and the Marshall Islands. To prevent forced migration, institutions such as the World Bank have called upon Australia and New Zealand to plan for and allow open access migration from

those countries most urgently threatened. At the same time, Pacific countries have pushed back against discourses of victimhood and vulnerability and called for countries that consume large amounts of fossil fuels, such as Australia, to reduce carbon emissions and better understand the need for support, agency and dignity for Pacific populations. A slogan of climate movements across Oceania, particularly amongst those supported by global activist network 350.org, is "We're not drowning, we're fighting".

While thinking about such a future characterised by increased environmental displacement between and beyond Pacific Islands, it is important for policymakers to look back at previous incidences of mass relocation or migration and learn from historical experiences. The Banaban and Tuvaluan



Figure 4: My cousin Temamarara Teruamwi Teaiwa fishing in an outrigger canoe off the coast of Rabi Island in Fiji. The Banabans were relocated en masse from Kiribati to Fiji in 1945 and constitute a minority population there. Photo by Katerina Teaiwa.

populations in Fiji, and the Gilbertese in the Solomons, for example, represent a variety of policy mistakes and successes which need to be studied and understood if any planning for future movement is successful. Similarly, policymakers and politicians need to engage with and pay attention to the experiences, and the cultural, political and economic strategies of Pacific diasporic populations in centres like Honolulu, California, Utah, Auckland, Wellington, Sydney, Melbourne and Brisbane.

In Australia, most Pacific research is funded by the Australian Research Council, focused on discipline-specific approaches (such as linguistics or anthropology), and through the Department of Foreign Affairs and Trade, focused on policy, aid, governance and development for the Pacific ‘out there’ in the islands. The business of understanding Pacific communities here in Australia is left to states and little knowledge is transferred to the federal level. Research on the Pacific diaspora in Australia is low, even though they constitute an important segment of our culturally and linguistically diverse (CALD) communities. The lack of in-depth understanding of the Pacific diaspora in Australia must change if the World Bank’s call for structured migration is to become a viable option. Furthermore, such researchers and policy advisors should – like in New Zealand which has a more robust and targeted system of support, and the US where tertiary education participation rates are higher compared with Australia – be Pacific Islanders themselves.

Routes and roots

The migration and travel patterns of contemporary islanders continue to reflect the spirit of their ancestors. Anthropologist James Clifford described how islander identities and values are shaped by both “routes and roots”. These are the pathways, networks and circuits of economic, political and cultural activities and kinship articulated across terrestrial and oceanic spaces in combination with deep attachment or ‘roots’ in specific indigenous landscapes and seascapes.

What European explorers such as the Spanish in the 1500s and the British in the 1700s saw as small, limited and isolated islands in a far sea, was rather, what one of the Australian National University’s most famous Pacific Islander graduates, the late Professor Epeli Hau’ofa, called in 1993, “a Sea of Islands”.

In spite of many challenges including urbanisation, unemployment, affordability and quality of health and education, and a brain and labour drain of many Micronesian and Polynesian citizens to centres in Australia, New Zealand and the US, the spirit of exchange, kinship, creativity, migration and indigeneity that characterised ancient Pacific cultures endures in contemporary populations.

For the Banabans, for example, who are a minority Micronesian population in Fiji, identity is now a multi-sited affair. Our ancestors are from Banaba (Ocean Island) in Kiribati, our relatives are mainly on Rabi in Fiji, as well as other parts of Fiji and Kiribati, and as a result of 80 years of phosphate mining that removed up to 50 metres of rock in some parts of the six-square kilometre island, our lands were spread as superphosphate fertiliser across Australia, New Zealand and elsewhere. Neither the displacement of land nor people has reduced the attachment of Banabans to their ancestral home. Banaban identity has expanded to encompass a ‘Fiji Islander’ identity and thus become more complex as it has for other Pacific migrants across and beyond Oceania. Islanders have always been resilient. They’ve survived for thousands of years in a challenging oceanic environment. Contemporary challenges such as climate change are further expanding our cultural, political and economic tools for creative survival.

Dr Sverre Molland

Beyond anti-trafficking? Rethinking migration management in Asia

A central tenet of law enforcement strategy is deterrence: the idea that if enough traffickers are prosecuted it becomes too risky for them, resulting in an overall decline. Yet, experience to date shows that even with abundant anti-trafficking resourcing and relatively efficient and non-corrupt police, translating this strategy into reality is difficult.

Dr Sverre Molland's overarching research interests examine the intersections between migration, development and security in a comparative perspective, with specific focus on governance regimes and intervention modalities in mainland Southeast Asia. He has close to two decades of research and programme experience on human trafficking, development and mobility in the Mekong region. He has published widely on human trafficking responses and migration governance, and is the author of *The Perfect Business? Anti-Trafficking and the Sex Trade along the Mekong* (University of Hawaii Press, 2012).

Human trafficking – the non-consensual recruitment of a person for exploitation – has become a central policy concern for Australia and its regional neighbours. The Mekong region is frequently singled out as a 'hotspot' for trafficking, but it is also where many anti-trafficking initiatives originated in the 1990s. This year marks the 20th anniversary of regional anti-trafficking, which invites reflection on the status of these initiatives. Despite the commonly held belief that human trafficking constitutes an emerging challenge, anti-trafficking interventions within the Mekong region are in decline. This essay explicates the reasons this is so. Considering the decline in anti-trafficking in relation to a range of emerging nomenclature, such as 'modern slavery' and 'safe migration' points to a paradigm shift in how migration is addressed within the development aid sector.

The end of anti-trafficking?

Anyone who follows media reporting would be forgiven for thinking human trafficking is a hot policy issue. However, a closer look at the Mekong region reveals a complex picture. In the early 2000s, no less than six United Nations agencies implemented regional projects specifically targeting human trafficking. In addition, several non-government organisations and government agencies implemented anti-trafficking activities. Today, none of these six regional projects exist and only two UN agencies implement projects with a specific anti-trafficking focus. In some Mekong countries, aid projects specifically targeting human trafficking have halved.

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This is not to say that anti-trafficking has disappeared. Several organisations maintain a focus on trafficking, but they do so under the auspices of broader migration programs which address a range of challenges beyond a trafficking focus. The United States State Department's annual Trafficking in Persons (TIP) report, which ranks countries on their anti-trafficking efforts, remains a powerful – yet highly unpopular – political influence on Mekong governments. Several NGO's remain committed to anti-trafficking and bilateral donors do at times provide renewed injections of funding into the sector. For example, USAID recently launched a trafficking initiative in the Mekong region – though with considerable reduced funding compared to initial plans. Australia maintains a strong financial commitment to funding anti-trafficking activities, in contrast with several other donors who have moved away.

Despite these ongoing efforts, current anti-trafficking efforts appear lacklustre compared to the 2000s. Key donors have discontinued their funding of large regional efforts. In addition to a noted 'loss of steam', open self-criticism occurs within the sector. As a senior International Organization for Migration (IOM) official put it: "the anti-trafficking candle is burning down". What explains this apparent anti-trafficking meltdown?

Reasons for the decline of anti-trafficking interventions

There appears to be at least eight notable challenges that have emerged over the years within the Mekong-based anti-trafficking sector:

The blurring of immigration and labour policies

Despite the official claim of aiming to assist trafficked migrants, anti-trafficking interventions – which combine migration with labour exploitation – have often worked against the very people they claim to assist.

For example, linking workplace conditions to immigration regulations has proven to be a powerful weapon for scrupulous employers to subjugate migrant workers, as complaints regarding employment conditions can result in deportations. This has also made trafficking hotlines ambiguous, as such 'helplines' can result in deportations. Similarly, despite the rhetoric of putting traffickers 'out of business' anti-trafficking practitioners and academics alike have raised concerns that strengthened border controls create markets for migrant brokerage where risk and cost is passed onto migrants thereby increasing their vulnerability to trafficking.

Protection as social control

Although repatriation services and shelters for victims may sound like laudable initiatives, they have proven problematic. At times, trafficked victims have ended up in shelters – against their will – for long periods. Ironically, in the shelters that are meant to assist trafficked victims overcoming their trafficking, peoples' experiences sometimes replicate their captivity. Similar critiques have been made regarding rescues of trafficked victims, which sometimes exacerbate the troubles they face.

Law enforcement and deterrence?

A central tenet of law enforcement strategy is deterrence: the idea that if enough traffickers are prosecuted it becomes too risky for them, resulting in an overall decline. Yet, experience to date shows that even with abundant anti-trafficking resourcing and relatively efficient and non-corrupt police, translating this strategy into reality is difficult. For example, as the Australian Government's *Seventh Report of the Interdepartmental Committee on Human Trafficking and Slavery* shows, the Australian Federal Police received 588 referrals between 2004 and 2015, which resulted in only 17 successful prosecutions (i.e. 2.8 per cent of cases). Although recent legal amendments may improve this statistic, one would be hard-stretched to suggest that a strike-rate of less than three per cent constitutes 'success'.

Research in Cambodia suggests that police corruption as well as an overrepresentation of poor people in jails may be one of several unintended consequences of anti-trafficking efforts with a law enforcement focus.

Law enforcement and 'convenience targeting'

Law enforcement efforts are linked to concerns regarding the harm of vulnerable migrants. For example, although it may well be that certain traffickers present themselves as 'guardians' to traffic Cambodian children for begging, Thai street children NGO's profess frustration at how poverty-stricken Khmer parents who beg with their children on Bangkok streets get arrested under anti-trafficking laws. Such interventions sometimes result in the separation of parent and children. Such 'convenience-targeting' may be an easy way to influence trafficking statistics but can also be linked to rent-seeking practices. Training and resourcing of police to investigate crime can be a two-edged sword: give a police officer a law to enforce and you are also providing opportunities for bribery. Research in Cambodia suggests that police corruption as well as an overrepresentation of poor people in jails may be one of several unintended consequences of anti-trafficking efforts with a law enforcement focus.

Anti-trafficking scandals

Closely related to law enforcement efforts have been the actions of a range of NGO's who have engaged in a 'raid and rescue' approach. Some of these organisations have gotten into hot water due to the fabrication of stories relating to alleged rescued victims in their care. Cambodia's Somaly Mam Foundation is perhaps the

most well-known case, which resulted in a damaging front-page exposé in *Newsweek*. Similarly, Australia's The Grey Man is another NGO comprising of ex-commandos undertaking covert rescue operations, which has been subject to similar scrutiny.

Impact?

It has proven extremely difficult to measure impact and success. After two decades of anti-trafficking efforts, practitioners and academics are still struggling to define the trafficking concept – let alone agree on appropriate responses and measure program success.

Individuation, reductionism and de-politicisation

Anti-trafficking tends to individuate and be reductionist: one must fit into the category of either a 'trafficked victim' or 'trafficker' to trigger a policy response. A key lesson over the years has been that a lot of exploitative practices relating to labour migration fall outside these legal categories. Hence, anti-trafficking interventions may contribute to maintaining the status quo, as the structural reasons for abuse are left unaddressed because labour exploitation often falls outside the remit of policy interventions.

Donor architecture

Since the advent of regional anti-trafficking programs in the 1990s, there have been critical changes to donor funding. Today, donors are more likely to support systems-strengthening interventions as opposed to small-scale, stand-alone projects. Sometimes practitioners caustically refer to trafficking interventions as ‘boutique projects’. Relatedly, concerns are raised that trafficking only constitutes a small fraction of a much broader policy challenge which relates to migrant health, remittances, and structural changes to labour markets. Within this environment, anti-trafficking appears even less appealing than in the past.

Given all of this, there appears to be few positives, or clear instances of overarching success, derived from anti-trafficking interventions. The anti-trafficking agenda, therefore, has arguably been a disappointment for activists and aid workers who thought that anti-trafficking constituted a promising platform to advocate for the advancement of migrant workers’ rights and work conditions.

Beyond anti-trafficking?

Given these challenges and shortcomings, it is perhaps no surprise that alternative terminology has emerged. Although a discourse of ‘slavery’ has always been part of anti-trafficking vernacular, and sometimes employed interchangeably, an accentuated focus on ‘modern slavery’ has gained momentum over the years. Whereas anti-trafficking has arguably been state-centric

(border control, law enforcement, bilateral funding), modern slavery places emphasis on the private sector. Rather than an explicit focus on border control and law enforcement, modern slavery echoes an older corporate social responsibly discourse through a renewed focus on supply chain governance. Australian mining-baron, Andrew Forrest, and eBay founder Pierre Omidyar exemplify corporate donors who are committed to eradicating modern slavery. This does not mean that the state is absent (both Australia and the UK are at the forefront of introducing modern slavery legislation). Yet, it constitutes an interesting move away from the state towards the market, both in terms of discourse and actors.

Modern slavery has also been subject to fierce critique. For example, Anne Gallagher – a central advocate for an anti-trafficking approach – has convincingly critiqued new initiatives, such as the *Global Slavery Index* not only for being sloppy and dilettantish on scientific grounds, but also for having depoliticising effects (yet, one may note her critique can just as easily be applied to anti-trafficking). Although giving lip-service to addressing structural reasons for why labour abuse takes place, ultimately modern slavery – critics say – has more to do with a self-congratulatory ethos which equates capitalist entrepreneurialism with morals. Combating modern slavery, it is claimed, is ‘good business’.

Alongside human trafficking and modern slavery, agencies also refer to ‘safe migration’ and migration governance. Safe migration is itself a vague term, but in most cases refers

Rather than an explicit focus on border control and law enforcement, modern slavery echoes an older corporate social responsibly discourse through a renewed focus on supply chain governance.

to the need for creating easier pathways for legal migration, coupled with a range of assistance mechanisms for migrants. As with trafficking and modern slavery, the safe migration approach also comes with its problems. For example, the Mekong governments have established various memorandum of understandings to create legal pathways for labour migrants. The resulting costs, however, remain prohibitive for migrants, which may result in significant upfront costs creating debt-bondage arrangements. Consequently, migrants often simply choose to go around these legal but expensive pathways. Nor do safe migration approaches necessarily escape some of the problems that have been described above.

Although it is important to maintain healthy scepticism regarding many of these approaches, certain characteristics are worth attention in the context of the Mekong region. The move from ‘state’ to ‘market’ has fascinating political implications. For example, whereas Thailand has for years been troubled by the US TIP report due to its harsh criticism of the country, the main political cost for Thailand has been loss of face. When anti-trafficking efforts are linked to a discourse of supply chain governance, however, then this has much more serious economic consequences for Thailand (for example, potential consumer boycotts). Currently, the European Union and others are threatening a boycott of Thai seafood due to alleged ‘slavery at sea’ coupled with grave environmental concerns due to overfishing. Thai authorities seem unsure of how to respond to such market-based political pressure.

Safe migration may be similarly illusive to trafficking and modern slavery terminology (safety is after all defined through its absence), yet has important scalar implications. In contrast to anti-trafficking’s tendency to produce individuated responses, safe migration does not depend on any category of ascription. If, say, you want to request assistance from an NGO for unpaid overtime in the prawn-peeling factory, you don’t

depend on being labelled a trafficking victim or modern slave. Current migrant assistance efforts in Thailand are quite remarkable in that regard, as compensation claims, and wage dispute cases can involve dozens, sometimes hundreds of labour migrants. This is in stark contrast to trafficking cases which typically only involve a few individuals. Safe migration shares some of the state-centrism of trafficking but is less preoccupied with a carceral humanitarianism and instead tries to introduce systems and networks that prevent abuse.

A paradigm shift?

So, are we seeing a paradigm shift where modern slavery and perhaps safe migration will replace trafficking? Evidence to date suggests that they may continue to coexist within the increasingly complex policy vernacular, as they do within the UN’s newly adopted Sustainable Development Goals. Placed in a broader perspective, all the nomenclature developed around labour migration are comprised of a myriad of competing policy imperatives. Aid programs always have to face uphill battles: how do you advocate for policies which support migrants in a policy environment that is generally hostile to migration, despite the dependence of national economies on migration? Whereas modern slavery and trafficking transform labour migration into moral sentiment (it is easier to have empathy with a slave than an illegal migrant), safe migration appeals to a discourse of order (regular migration), without causing offence to neighbouring countries that are sources of ‘illegal migrants’. As such, the decline of anti-trafficking must be understood within this tension between economic, political as well as humanitarian arguments for and against migration. Although the proliferation of terminology may contribute to increased obfuscation, it may have the positive effect of broadening debates regarding how abuse of labour migration might be addressed.

Kirsty Anantharajah

The achievements of the Manus Island resistance

Manus and Nauru represent the frontiers of Australia's hardline immigration policy. Since 2013, people seeking asylum through unauthorised maritime journeys to Australia have been repatriated or forcibly transferred to the detention centres on Manus and Nauru.

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"The refugees have been able to reconfigure the images of themselves as passive actors and weak subjects into active agents and fierce resisters. The concept of the refugee as a passive actor was an ideal instrument in the hands of power and could be exploited by Australia's political machinations; it formed the refugees into something that could be manipulated and leveraged for the Australian government's own purpose."

These are the words of Behrouz Boochani a Kurdish Iranian refugee, in an article in *The Saturday Paper* on 9 December 2017 titled 'A letter from Manus Island'. At the time of publication, Boochani, a journalist, human rights defender and film maker, had been held at Australia's Regional Processing Centre (RPC) on Manus Island, in Papua New Guinea (PNG), for four years.

It has now been six months since the conclusion of the onsite resistance by refugees at the RPC on Manus. While the cohort consists of those with processed claims for refugee status, as well as those who have claims yet to be determined, this essay adopts the terminology often used by the resistance and identifies this group as refugees. The resistance, existing in some form since the reopening of Manus RPC, and enduring in various loci since its formal closure, is arguably one of the most powerful examples of non-violent resistance in Australia's recent history.

On superficial assessment, the resistance did not achieve their objectives; none of the refugees have been resettled in Australia, and the refugees in Manus RPC are currently enduring a situation of exile and indeterminacy, as described by Boochani in his article. This essay challenges this perception and explores how the Manus resistance reconfigured certain power dynamics underpinning Australia's deterrent policy of offshore detention.

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Manus and offshore detention: deterrent politics

Manus and Nauru represent the frontiers of Australia's hardline immigration policy. Since 2013, people seeking asylum through unauthorised maritime journeys to Australia have been repatriated or forcibly transferred to the detention centres on Manus and Nauru. Locating the centres in PNG and Nauru, an island country in Micronesia, represents an extra-territorialisation of domestic immigration functions. This complexity is heightened by privatisation; the centres on Nauru and Manus are run by private corporations contracted by the Australian state. The operations of these centres have been shrouded in secrecy, facilitated by the legislative architecture of this policy. These factors, among others, have sought to engineer a situation where the day-to-day lives of the men, women and children detained on Manus and Nauru are out of reach of public scrutiny. However, the little information we have access to, in large part from leaks, has shown us something of the disturbing reality of asylum seeker and refugees' lives. According to the Melbourne-based policy information hub Asylum Insight, eight men have died in Australia's care in Manus and Nauru RPCs. One of these men, Reza Behrati, 24-years-old, was murdered in February 2014 when PNG police and locals stormed the RPC in a violent riot. At least two men on Manus have committed suicide. The cache of leaks to *The Guardian* newspaper, termed the 'Nauru files', reports extensive incidence of abuse, sexual abuse and self-harm. Jessica Bloom, a former worker at the RPC made a submission to an April 2017 Senate Inquiry, documenting the culture and institutional policy of dehumanisation in the RPC and it was recorded that:

"any staff members who deviated from using language which dehumanised the detainees was 'instantly suspect' and would be questioned and monitored by others for not having 'professional boundaries'. She stated that despite attempts by management to ensure that staff referred to

detainees by their names, they would generally be referred to by their boat identification number. She also alleged that refugees and asylum seekers would be taunted, provoked and humiliated by Australian staff, pushed and subjected to verbal abuse ... and physically crowded by guards and sexually assaulted."

In 2015, the United Nations Commission on Human Rights (UNHCR)-commissioned Special Rapporteur on the Convention against torture, Juan Mendez, reported that Australia has violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment.

Despite the lack of transparency surrounding Australia's offshore detention facilities, the government has been consistent and vocal about their purpose and political function: offshore detention is designed to deter future asylum seekers from attempting the journey to Australia. Harm is a component in such a deterrent policy, as noted by Michael Grewcock in his 2017 article, "Our lives is in danger: Manus Island and the end of asylum", physiological harm experienced by the men on Manus, augments the deterrent quality, and thus, the success of the policy. He cites a survey conducted in 2016 by the UNHCR on Manus of 181 asylum seekers and refugees (most of whom did not have pre-existing psychiatric issues) that after entering Australia's care, "88 percent were suffering from a depressive or anxiety disorder and/or post-traumatic stress disorder...".

In creating a deterrent narrative, the Australian Government has attempted to take the agency of these men; some had spent around five years in detention. The Turnbull government even refused an offer made by New Zealand late in 2017 to resettle 150 asylum seekers. This was a particularly telling political move. The men on Manus have a political function; and that is to be in Australia's power, and for their powerless bodies to convey a message of hopelessness to the rest of the world.

The men in Manus have not been willing participants in this political framing of their lives: they chose a path of resistance. They have undermined this policy at its most critical points: they have reclaimed their agency, refused to be silenced, and transformed powerlessness into power.

The Manus Island resistance

In April 2016, the PNG Supreme Court delivered a ruling that the RPC was illegal and must be closed. In August 2016, the Australian government announced that the RPC would indeed close, however, this announcement came with the explicit declaration that resettlement in Australia would not follow. There were no adequate settlement options offered to the men on Manus. One option was that those determined to be refugees could move to a temporary facility in Lorengau or to the centre in Nauru. Many saw this as simply being moved from one prison to another. Another option – settlement in the PNG community – was also met with reluctance, considering the often-violent interactions between locals and the refugees, such as the riot that led to the death of Reza Barati. The Australian Government began to cut off power and water to the centre. On 1 August 2017, a targeted resistance by hundreds of refugees on Manus began, consisting in part of peaceful protests where the resistance would gather

together, kneel and cross their wrists above their heads, refusing to leave or be moved.

Following the official closure date, 31 October, a siege situation developed, with officials preventing food or water entering the compound, though local Manusians did manage to smuggle some supplies in. This lasted just over three weeks, ending in police and immigration officials invading the compound, beating the refugees and asylum seekers and violently loading them onto buses. They also killed a beloved dog.

This violent end to the Manus resistance is consistent with realist notions of power, which largely see military might, and essentially violence, as a chief measure of power, as outlined by Brian C. Schmidt. Non-violent resistance, exemplified by Gandhi's Satyagraha and the US civil-rights movement, challenges the hegemony of this type of power. While the lack of Australian resettlement and the continuation of harm in Manus RPC might lead us to see the resistance as a failure, from a closer look at some of the events and practices of the resistance, it is apparent that the successes of the resistance were in fact significant. These successes, essentially subversions of realist power embodied in deterrent policy, will be briefly outlined here.

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Refusal to be passive actors

Power can be conceptualised as a relationship; in expressions of power, there is a level of consent or subordination that occurs. In the 2009 work 'Power as Subordination and Resistance as Disobedience: Nonviolent Movements and the Management of Power', Stellen Vinthagen states that:

"Resistance is concerned with breaking up the power relations where humans are made into 'tools' for external interests or servants in oppressive hierarchies. Non-violent movements' use of disobedience and noncooperation thus attacks the very foundations of power."

The Manus resistance's refusal to be made a 'tool' in Australia's policy of deterrence is made explicit by one of their most vocal members, Behrouz Boochani. In his *Saturday Paper* article, he writes:

"The concept of the refugee as a passive actor was an ideal instrument in the hands of power and could be exploited by Australia's political machinations; it formed the refugees into something that could be manipulated and leveraged for the Australian government's own purpose. The refugees have established that they desire to exist only as free individuals. They desire only an honourable existence. They have established this in confrontation with the proliferation of violence in the detention centre, one that is implemented by a mighty power structure. Up against the determination of this monolith, the refugees have, ultimately, vindicated themselves."

Here, Boochani poignantly describes the imbalance of realist power between the Australian state and the refugees. The operation of the RPC was designed to convey this power: the lives of the refugees were controlled on a day-to-day basis, often through expression of violence. To most, the opportunities for asserting agency appear non-existent. However, as Vinthagen states:

"Even if power is everywhere, it is not everything. Power is not total."

The refugees interrogated the totality of state power in their resistance and found opportunities for agency in situations designed to create a sense of abject powerlessness. This was exhibited in large actions, such as continuing to protest in large numbers on site for weeks after food, water and services were cut off from the RPC. By protesting transfer during this period, they refused to let their bodies and their futures become political pawns, essentially moved from one prison to the next, or resettled somewhere their security was threatened. This interrogation was also exhibited in seemingly minor events of the resistance; not least, when power was cut off to the compound a detainee managed to rig a connection from a neighbouring building so that the action could continue, proving that even the smallest action could be declaration of agency.

Refusal to be silenced

The policy of offshore detention has attempted to keep the voices of the refugees silent; this is evidenced by the near impossibility of members of the public accessing the centres, and the intended gag laws applicable to service providers working on Manus and Nauru. The refugees have refused silence, they have told their stories, and their voices have resonated globally – and spectacularly.

Boochani, beyond writing regular articles for publications such as *The Guardian* from Manus, co-directed a documentary film that was released in 2017, *Chauka, please tell us the time*, with Arash Kamali Sarvestani. Boochani shot the footage in secret on Manus on his mobile phone. This film was screened at the international BFI London Film Festival and nominated for a Grierson Award.

Abdul Aziz Muhamat, another key figure in the resistance, formed a relationship with journalist Michael Green, and would send Green voice messages about his struggles, situation and the day-to-day events of the RPC. Green, with Melbourne's Wheeler Centre, pieced these together to form

The Messenger, a hugely successful podcast. *The Messenger* was a winner at the New York Festival's International Radio Program Awards.

Many of the men detained in Manus contributed their stories to *They Cannot Take the Sky*, an edited collection, managed by oral history project Behind the Wire. Filled with humour, sadness and humanity, it goes some way to bringing the human cost of offshore detention to the consciousness of the mainland. It won the Australian Human Rights Commission Media Award in 2017.

Beyond these highly successful projects, the individuals in the resistance connected with members of the Australian public, via social media, forming interpersonal bonds and keeping the mainland informed. The resistance not only made their voices heard, they ensured that the wrongs that occurred in the RPC could not exist in the shadows; they were brought into the public domain.

Reconfiguring powerlessness: moral courage

The question we are perhaps most concerned with is how – how did the resistance find the strength to mobilise in such a seemingly hopeless scenario?

Judith White's exploration of the concept of moral courage in 'A Model of Moral Courage: A Study of Leadership for Human Rights and Democracy in Myanmar' is potentially illuminative here. Moral courage, such as that exhibited on Manus, can have immense power:

"Acts of moral courage, through confrontation, resistance, and exposing truth and injustice, can result in saving thousands of lives, preventing harm to thousands of people, and initiating major political and social change."

Rushworth Kidder argues that there are three key motivators of moral courage: recognition of the danger or risk, the willingness to endure hardship and moral principles. We see all three expressed in Boochani's 'Letter from Manus Island'. He expresses a deep understanding

of the risk and the hardship: by resisting they were "risking their lives and bodies".

The question of morality has long been absent from Australian political decision-making vis-à-vis asylums seekers and refugees. Moral principles were, however, a key motivator for the resistance. As noted by Boochani:

"I think the only thing that helped us persevere for the long stretch of time was our dedication to principles of humanity and human values...."

*Feelings of friendship.
Feelings of compassion.
Feelings of companionship.
Feelings of justice.
And feelings of love."*

The achievements of the Manus Island resistance are profound. The resistance effectively challenged the foundations of the deterrent policy of offshore detention. A lack of agency, silence and powerlessness were successfully resisted and replaced with a powerful declaration of humanity.

Another product of the resistance regards its resonance on the mainland. The resistance on Manus has no equal amongst the Australian public in terms of mobilising against Australia's inhumane system of offshore detention. The public stance, with some exceptions, is characterised by moral powerlessness and apathy in the face of deterrent refugee policy. The resistance has, however, proven to us that the most monolithic and intractable models of power can be resisted, and must be resisted in the case of Australia's offshore detention regime. Whether or not the Manus resistance will influence the public consciousness, however, is yet to be seen.

"Our resistance is the spirit that haunts Australia. Our resistance is a new manifesto for humanity and love." — Behrouz Boochani



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The College combines disciplinary expertise with regional and policy focus to explore, understand and answer the challenges facing society now and into the future.

Research and teaching at the College is centred around five key themes that are designed to support transformative social change:

- ▶ Development
- ▶ Security
- ▶ Governance
- ▶ Sustainability and Prosperity
- ▶ Culture and Identity

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