



Showing will, not wasting lives

All wars are contests of will and end when one side gives up. Whatever the governments contributing forces to the UN-endorsed coalition in Afghanistan might privately think, they must undertake no public actions that risk giving the enemy the impression that coalition will may be faltering to the point of giving up entirely. This is obviously difficult in liberal democracies where political debate on military commitments is legitimate and usually necessary — and where, unfortunately, much public debate is rarely tempered by individual or collective concerns that undisciplined, lazy or intellectually self-centred debate can pose unnecessary risks to our troops on the ground.

Over recent years the ADA has regularly criticised Australian governments of both political hues for failing in their duty to explain to the Australian people what is at stake in Afghanistan, what we are actually doing there, and how long and how hard the associated military and other nation-building tasks will probably be. Much of the decline in popular support for our Afghanistan commitment is not informed opposition. It results from government failures to refute simplistic, erroneous, contradictory or plain mythical arguments against the war mounted by many of its opponents. False or misplaced analogies with the Vietnam War are the latest fads among the defeatists and the doctrinaire.

We now run the significant danger of sharply contrasting views between the ADF and the wider Australian community it protects. It is still rare to meet a veteran of the Afghanistan war who does not believe that our efforts there are justified and useful. Moreover, our veterans' understanding of conditions and trends in Afghanistan is almost invariably much better informed than most general public commentary and debate in Australia. Their views are levels of magnitude better informed than what tries to pass for debate on most Australian blog sites.

There is no doubt that the UN-endorsed international assistance mission in Afghanistan faces complex problems, not least that Afghan civil society is still fracturing rather than uniting against the Taliban. The recent flawed first round of the presidential elections and the continued ineffectiveness of the Karzai "government" undoubtedly complicate matters further.

But Australia should never fight any war that we do not intend to win. If we somehow do not intend to win we should not be there. If escalation of our force levels and efforts are required to win then we should do so — just as we did successfully in 1942 when the Japanese were beating us and as we and our Commonwealth allies threatened to do as Indonesia's confrontation with Malaysia extended into the mid 1960s.

Soldiers risk their lives and fight for their mates and an ideal. Accepting some form of strategic stalemate with the Taliban is not an acceptable objective for any government contributing troops to ISAF. Nor is risking digger's lives merely to preserve our alliance with the US — especially when the US grows increasingly disappointed at the burden-shedding, denial and diplomatic double-speak of its ostensible allies in Afghanistan and elsewhere. Condoning essentially defeatist advice from bureaucratic advisers or purporting to "re-evaluate" a war's objectives by embracing electorally expedient compromises are not ideals worth fighting for either. Put simply, if the Australian government is no longer prepared to help win the war in Afghanistan then we should not be risking the lives of our diggers just to save strategic face. ●

What age should weary them?

Recent argument about lowering the voting age to 16 reflects the long years of peace and Australia's dimming community memories about war since the last reduction in the voting age qualification from 21 to 18 in May 1973. A major argument in favour of lowering the voting age for both state and federal elections during the latter 1960s and early 1970s was that the then liability for national service in the ADF (by males only) through selective conscription was 20 — and the minimum age for combat service as a volunteer was then 19. "Old enough to fight, old enough to vote" was the most common and probably the most compelling argument for many.

By the 1970s, after Australia's near-continuous involvement in World War II and subsequent regional conflicts since 1939, there was a much better understanding that full rights as an Australian citizen naturally incorporated commensurate citizenship obligations to help defend Australia in combat — as a volunteer and, when strategic circumstances justified it, compulsorily. Three aspects in this regard have changed — women voters now shoulder this responsibility too, the combat qualification age is now 18, and conscientious objection provisions have widened even further — but the core citizenship responsibility to help defend Australia remains unchanged.

But the logic of the reciprocal onus, "old enough to vote, old enough to fight", seems to have slipped by many Australians — and is perhaps being deliberately overlooked by those concentrating only on the perceived partisan advantage of lowering the voting age.

The 2002 *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, which Australia implemented in October 2006, sets 18 as the minimum age for direct participation in combat and for compulsory recruitment into their military forces by governments.

If an Australian of 16 is still regarded legally and practically as a boy or girl in terms of being too young to render military service in combat, they are surely still too young to vote in elections. Especially in elections that help decide such weighty matters as whether and how Australia goes to war. ●

Asylum — national security implications

As an apolitical organisation the ADA treads carefully when commenting on refugee policy issues but their frequent intersection with national security matters means we cannot ignore them entirely — especially in the modern globalised age of national security threats from non-state actors such as terrorists and trans-national criminals. Nor can the direct and indirect effects of refugee flows be ignored when they have become an enduring factor in Australia's overall strategic relationships with our neighbours, particularly Indonesia, Papua New Guinea and Malaysia.

Our position has also long been informed by the constitutional and professional principles that our defence force should not be employed in assisting with domestic law enforcement unless there is no viable alternative — and even then the civil power must remain paramount. The ADA therefore supports the concept and operations of Border Protection Command (BPC) as a joint agency of the Australian Customs and Border Protection Service and our defence force.

But a great deal of the frontline burden of combating people smuggling, and encountering and processing asylum seekers who arrive by sea inevitably falls on our navy. Such tasking has at times involved political controversy leading to ignorant, sensationalist or defamatory criticism of the ADF. As a result the duties involved can be demoralising on a day-to-day basis and have detrimental effects on ADF professionalism and personnel retention. On occasion such border protection duties also involve danger to ADF life and limb when would-be asylum seekers arriving by sea employ physical violence against themselves or defence force personnel, or require safety-of-life-at-sea intervention, due to desperation and/or calculation. ●

Asylum — treat causes not symptoms

How we regard and process those seeking asylum in Australia — whether they come over the sea unannounced or by overstaying or otherwise misusing some form of temporary visitor visa once here — encapsulates serious moral, legal, and strategic dilemmas internationally. It can also encompass significant fiscal, economic, social cohesion and immigration equity problems domestically.

Instead of addressing such complex and inter-related issues based on the facts and a first-principles approach, what passes for public debate on the umbrella subjects of immigration, refugee policy and border protection is usually bedevilled by arguments and claims fuelled by emotion, ideology or perceived party-political advantage.

Much, probably most, discussion is consequently about the short-term symptoms of the asylum problem rather than its long-term and enduring causes, both historical and actual. It also means that many of the solutions proposed either way are simplistic or concerned only with current aspects of the problem as presently perceived (or both). That much debate unduly concentrates on the supposed and real effects of current “push” and “pull” factors in international affairs and domestic policy respectively demonstrates this short-term focus.

Public advocacy about the provision of asylum also often tends to reflect overall political allegiances (and moral self-images). Even then it is prone to concentrate narrowly on the results (arrival of so-called “boat people”) or secondary causes (people smuggling, allegations of queue-jumping, incidence of world conflicts, etc). Moreover, both main political parties share more common understandings than differences even when their rhetoric over policy may seek to portray the opposite impression.

But a major vulnerability of current policies in the long run is their reliance on short-term expediency, community tolerance and the eternally fluctuating co-operation of neighbouring countries such as Indonesia. The most efficient way of regulating and screening would-be asylum claimants, by either air or boat, is for regional countries such as Malaysia and Indonesia to better police entry procedures at their airports. Current Australian policies seek to achieve this by financial and other assistance but effectively leave us as a perpetual hostage to strategic and diplomatic fortune in both countries. And even where regional governments try to co-operate, corruption, misplaced religious sympathies and outright anti-Australian racism by some officials at the coalface pose insurmountable obstacles in the long run.

The current numbers of those seeking asylum by air or boat can be absorbed as part of the immigration mix, perhaps at some economic and social cost, and this is undoubtedly humane. However, longer-term policy should surely address, and in a consistent and sustainable manner practically and morally, what would happen if the numbers arriving by boat or air increased substantially — and the risk of this becoming an escalating effect whereby the numbers constitute a major threat strategically or to community harmony and political stability domestically. ●

Road to hell paved with good conventions

Too much debate on asylum seeking revolves around detention not convention. As the international law scholar Bernard Roling noted, the road to international hell is paved with good conventions. Applying the 1951 Refugee Convention (and even its 1967 Protocol) to the circumstances of 2009 is increasingly difficult, not least because of the tendency to concentrate on those intentions that are convenient and ignore, downplay or deny complementary ones when they are inconvenient. This means that several root-cause problems of the 1951 Convention remain unsolved and are growing worse.

A founding principle of the Convention is that refugees should be sheltered, and if necessary resettled as a last resort, in their own regions of the world and as close to their homes as possible so they can eventually return home. It was never intended that refugee flows or refugee camps should be permanent. The Convention deliberately focuses on temporary, regional, refuge so neighbouring countries have strong incentives to quickly settle the disputes that cause the refugees in the first place — and on a regional and sustainable basis. It is worth noting that Chapter 8 of the UN Charter is similarly motivated in seeking to prevent conflict by collective regional action.

This principle is now tragically forgotten or ignored by many who trumpet the universality ideal of the Convention in a world where most countries have actually rejected it. The price is perpetuating international disputes and refugee situations interminably. Furthermore, that many countries steadfastly refuse to sign the Convention, and large regions of the world have very few or no signatories, poses a potentially fatal vulnerability to the ideals and practicality of the Convention over the long term. ●

Shared regional solution required

Party-political claims that the Rudd Government has or has not adapted, undermined or rejected the previous government’s “Pacific Solution”, and whether this is or would be morally justified or not, are essentially irrelevant. The fundamental strategic and moral problem for Australia remains that there is no region-wide solution to what is and should be a universally shared strategic and humanitarian burden. Nor is there any incentive for regional countries to share the burden or to help resolve the problems causing the refugee flows.

Only six of the thirty or so countries between the Aegean and Arafura seas are signatories to the 1951 Refugee Convention. Four of them, Iran, Afghanistan, Yemen and East Timor are more often sources of refugees and conflict rather than respecters of the Convention (or international humanitarian law generally). A fifth, Cambodia, was so in the past. The sixth signatory is Israel, a country that has probably the world’s best record per capita for accepting refugees, but which also faces significant strategic, diplomatic and unresolved displaced person problems stemming from the UN’s partition of Palestine in 1947.

Most past and current refugee flows to Australasia are from other regions of the world and usually quite distant ones. Not only are Australia and New Zealand two of the very few signatories to the Refugee Convention in the whole Asia-Pacific region, they are the only countries in that wider region that have longstanding, mass immigration and refugee resettlement programs — and a culture of permanently and totally assimilating settlers (including refugees) in large numbers. Indeed they are two of the half-dozen or so countries in the whole world with established reputations in this regard. Both Australia and New Zealand are also highly attractive countries for those seeking resettlement on economic, social, political and environmental grounds. Moreover, Australia is between New Zealand and the source of the major population flows and is more attractive than

the latter (even for many Kiwis). A regional problem has therefore become very much Australia's problem alone.

Is it any surprise then that the remaining 25 or so countries of the Middle East, West Asia, South Asia and South-East Asia have no moral, political, legal or strategic incentive to solve refugee flows or combat people smuggling. Or to properly address their humanitarian and legal responsibilities under customary international law. They have in fact the opposite incentive as it often seems many of them regard Australia as a large part of the permanent solution to all their refugee problems.

Offering asylum to refugees is surely either a universal, or at least widely shared, responsibility or it is not. But most countries across the world — including most in our immediate and wider regions — continue to reject the Convention, ignore their vaunted responsibilities in this regard, and often cause or exacerbate refugee flows with little or no incentive to do otherwise. As a consequence it remains foreseeable, if not yet likely, that Australia might one day have to suspend our adherence to the 1951 Convention until it becomes genuinely universal.

Currently, the numbers of those seeking asylum are not large, at least in absolute terms. It is also still not too difficult to screen out those whose claims are not genuine in terms of the 1951 Convention or indeed commonsense. Such a status quo-based approach, however, is more likely than not to become unsustainable if the numbers of asylum seekers rise dramatically or there are other timescale or strategic pressures. It would surely be better to prepare and plan for such a situation now, and in a manner more consistent with Australia's longstanding strategic and moral stances. Leaving this until the situation deteriorates markedly, or a large-scale crisis hits, risks strategic logic and moral balance being compromised by contentious or expedient political, social and no doubt ethno-centric opinions.

There are obviously far-reaching legal, moral and strategic implications of such a last-resort step as temporary withdrawal from the Convention. It may at some stage, however, become the more sustainable and humane measure in the long run rather than risk current international and Australian arrangements breaking down under the pressure of overwhelming numbers of asylum seekers — and no decrease in the number of countries bludging on our goodwill and capacity for some immigration.

Our difficulties with how to process genuine asylum seekers humanely, but still deter and combat people smuggling and uncontrolled economic migration resolutely, have had some tragic consequences. But these remain symptoms rather than causes of, or cures for, the overall strategic and moral problem.

More countries, especially in the area between the Aegean and Arafura Seas, need to sign and respect the 1951 Refugee Convention (and its 1967 Protocol). The refugee problem is not widely shared at all regionally. There is no genuine "Pacific solution" or indeed "Asian solution" because it is just too easy to keep passing the moral and practical buck to Australia. ●

Strategic chickens should go home to roost even in a field crowded with sacred cows

In the case of Sri Lankan Tamils applying for asylum in Australia, for example, why is the rejectionist stance of neighbouring India not the focus of international criticism? Why is India not providing asylum to every Sri Lankan Tamil seeking it — and why does India refuse to sign or indeed effectively respect the 1951 Refugee Convention nearly 60 years later? After all, the Indian state of Tamil Nadu closely adjoins Sri Lanka and genuine Tamil refugees have a far safer journey and more appropriate refuge there. Not to mention a better prospect of eventually returning home in sustainable circumstances if India did the right thing.

As the Convention (and the UN Charter) intend, India hosting Sri Lankan refugees (of any ethnicity) would greatly influence the Indian and Sri Lankan governments to resolve the issues that cause, or purport to cause, Sri Lankans (of all ethnicities) to seek foreign asylum in the first place.

The Sri Lankan civil war is, after all, now over. This was a particularly nasty, ethnically-based, secessionist war from an ostensibly multi-ethnic but increasingly intolerant state. Over two decades the Tamil Tigers ruthlessly employed actions that extensively contravened the laws of war and wider international humanitarian law. Being designated a proscribed terrorist organisation by the UN and many countries was an inevitable result of such a record of atrocities — as was shrinking international support for the Tamil cause. Some initial policies and subsequent actions of the Sri Lankan government during and since the war have also been rightly criticised. Not least of these currently is its ban on international supervision while those Tamil combatants and civilians detained after the final mopping-up operations are appropriately screened and separated.

Ascribing victimhood on one hand and guilt or complicity for war crimes on the other in this civil war are complex and nuanced concepts. Obviously not all Tamils are implicated in atrocities and most cannot flee Sri Lanka as refugees anyway. The international community will need to monitor their situation and ensure they are adequately protected. The Sri Lankan government also needs to prevent any resurgence of Sinhala chauvinism and this too must be monitored by the international community.

There are also disquieting national security implications for Australia stemming from the lobbying, and perhaps criminal conspiracy to circumvent our immigration laws, by Australian residents of Sri Lankan Tamil origin. Their efforts to seek apparently limitless entry to Australia for Tamil asylum claimants has the potential to pose a serious threat to community harmony and domestic security in Australia. At the very least, the attempts by some Sri Lankan Tamil sympathisers to take their lobbying to the degree that it denies or obfuscates the terrorist tactics of the Tamil Tigers, or the contribution that such institutionalised terrorism played in causing or exacerbating the circumstances underlying Tamil fears of retribution or persecution, need to be weighed appropriately when considering their views. ●

Refuge but at what long-term price internationally and to those left behind

Finally, there is the delicate issue that it is neither morally sound, or strategically viable in the long term, to offer refuge reflexively, continually and permanently to all those asylum seekers (such as professionals and the educated) who are most needed to heal and rebuild the broken civil societies of their own countries (particularly when they are the ones generally most able to flee and be accepted internationally). Offering asylum is not an end in itself.

While humane in an individual or family sense to offer temporary or permanent asylum to those genuinely needing it, for the larger numbers of that society left behind the result can often be very inhumane or worse. In particular, offering asylum and then permanent resettlement — rather than temporary refuge until it is no longer needed as the Convention intends — too often comes at the strategic and moral cost of exacerbating and perpetuating strife and instability in the source country of the refugee flow and consequently strategic instability internationally.

Furthermore that by offering asylum we might, for example, partially solve Australia's shortage of doctors or tradesmen in a sort of reverse and perverse Colombo Plan, hardly obviates the serious international moral dilemmas and long-term strategic problems involved overall. ●