

Labor's Operation Sovereign Borders dilemma

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The dreadful tragedy suffered this past week by Rohingya asylum seekers trapped at sea prompted an eventual softened response from Australia's neighbours. But there was no change from Australia's PM, who resolutely declared late on Thursday: 'I'm sorry. If you want to start a new life, you come through the front door, not through the back door.'

The week's events provide a fresh challenge to Labor to rethink its support for the Abbott Government's Operation Sovereign Borders (OSB) 'stop the boats' policy, which has successfully used strong-arm methods to stop boat people reaching Australia or entering Australian custody, by means that so seemingly has not involved loss of life.

The current government's record stands in sharp contrast to that of Labor Governments between 2007 and 2013, when around 1100 people died while trying to reach Australia or Australian custody. We need to ask ourselves honestly how and why this happened, and if Labor in government could prevent it from happening again?

If, on regaining government, Labor did what most of its supporters would like it to do – instruct OSB to end its regime of aggressive, secret, internationally illegal forced returns of all asylum-seeker boats or their passengers to Indonesia, and close down the offshore detention camps now housing around 1500 men, women and children in terrible punitive conditions in Nauru and Manus, and letting those people out into the Australian community – what would be the consequences?

Clearly, the Abbott Government, for as long as it is in power, will continue to run Operation Sovereign Borders maritime operations under the present forced return protocols, *and* will keep everyone now in offshore detention locked up there indefinitely. The latter is a dreadful prospect which Labor must oppose vigorously.

But I would like Labor, as a first step towards fruitful public policy discussion of this issue, to be more honest about why those 1100 people died in the years of Labor in power. They only have to [study the history](#) of each awful drowning event in our adjacent waters. Those 1100 people did not die because they were sent in unsafe overcrowded boats by ruthless irresponsible people smugglers – the 97 per cent who arrived safely were sent by the same kinds of people smugglers in the same kinds of boats.

The three per cent who died, did so because Labor's operational model for border protection and rescue of people in distress at sea, which tried to be consistent with international and Australian laws and maritime rescue best practice, broke down.

By the end, a demoralised and confused Australian border protection and maritime rescue system had lost the plot of what it was supposed to be doing out there in that 200 mile wide strip of international waters between Java and Christmas Island. Under Labor, Australia finished up with a failing model of irresolute maritime border control that encouraged people smugglers to keep sending out boats, and a failing model of second- class rescue at sea that mostly worked but sometimes broke down.

How could Labor prevent the same patterns repeating themselves? And what would Labor for Refugees want Bill Shorten and Richard Marles to advocate, as they seek government in the next election?

I don't see how a Labor government could ever again responsibly put itself in the situation as it was in 2013 – where it could credibly be accused of running a system of second-class Australian rescue response to asylum-seeker distress at sea. I would not wish it on Labor to go back to the conflicted, irresolute policy environment it sustained in those awful three years 2011-13, when so many people drowned at sea who could have been saved if available rescue options were more swiftly and decisively exercised by Australia.

Why didn't the responsible agencies BPC and AMSA do so? We can only guess at what sorts of political pressures might have been coming down to them in phone calls from the Prime Minister's office: While the boats were still in international waters, to hold back from rescue for as long as

possible. To try to persuade boats to turn back to Indonesia, and to try to induce unwilling Indonesian authorities to come out and retrieve them. So Australian rescues were deliberately delayed until the last possible safe moment, and then some.

Under such pressures, and goaded by constant criticisms from Scott Morrison, a culture of moral indifference and angry resentment against asylum seekers took root at high levels of BPC and AMSA. We know this from the two major inquests, into SIEV 221 the Christmas Island shipwreck in December 2010, and SIEV 358 which sank in June 2012 after many hours of tracking and phonecalls with Australian agencies. The detailed work of researcher [Marg Hutton](#) and myself on those two tragedies tells a harrowing tale of rescues that were, deliberately, too little and too late.

This toxic culture reached its nadir on 8 June 2013, when passengers on a becalmed boat without engine power 26 miles from Christmas Island were observed by a BPC surveillance aircraft to be waving in large numbers from the deck. By every accepted international maritime rescue convention, this was a probable distress call that required immediate checking. Yet Australia did not send out a BPC ship to intercept the boat for 14 hours by which time it had disappeared in the strong westerly current driving it away from Christmas Island. It was never seen again but floating bodies and a submerged floating hull were observed from the air two days later. No retrieval operations took place. The most awful memory I have of that event – it is all documented on Marg Hutton's website – is the shameful media conference on 9 June, when the head of Border Protection Command and the Customs Minister misled the media by saying that 'the vessel was stationary but did not appear to be in distress', and 'there was no immediate concern for the state of the vessel'. I never want to see a Labor Minister and a border security agency head put in that dreadful situation again.

If we are honest, we will accept that the constituent agencies in Operation Sovereign Borders – BPC, AMSA, Customs, Defence – seem comfortable with OSB's present operational protocols. Our personnel in these agencies would prefer to break maritime law, intercepting by force at sea and up

close to Indonesian waters, turning boats back by force, providing throwaway lifeboats when needed to get people safely back to Indonesia, even trespassing into Indonesian maritime sovereign waters to get people back safely – than to delay rescues till the last moment, or to have to fish bodies out of the water.

I suspect that by June 2013 the system's morale was at breaking point. As Admiral David Johnson then Head of BPC hinted at that media conference: 'These activities are difficult ... They do take a toll on us, we are humans, and the human dimensions of these circumstances are very difficult to deal with'.

Labor cannot go back to that corrosive maritime regime.

Of course, Labor must robustly call for immediate closure of the offshore detention camps and release into Australia of their inmates.

But I am tending to the view that Labor should quietly live with the present operational protocols for OSB. As long as OSB goes on working, there is no need for or logic in the superfluous deterrent of offshore detention. Offshore detention should never have been initiated by Labor. It was a cruel and reckless policy. It needs now definitely to be abandoned.

Looking further ahead, Labor must commit now to working hard for regional diplomatic solutions to refugee flows like the present one out of Burma. Australia must soften its now notorious hardline policies towards boat people, if it is to have any hope of joining the ASEAN regional dialogue now getting underway on ways to help them. Labor must commit to detaining any future maritime arrivals not offshore but within Australia, and for as short a time as possible. Labor should put in place workable in-community monitoring systems. And Labor in government should let OSB get on with the job it is doing now.