St James Ethics Centre

30 June 2011

John Menadue AO

Some Inconvenient Facts

Any sense of our history of generosity to refugees and their contribution to Australia is lost sight of with the misinformation and untruth which is a feature of the current debate. The media has largely gone missing.

On asylum seekers the Coalition and some of the media have invented their own ‘facts’.

* The fiction is promoted that asylum seekers and refugees are illegals. This canard ignores the fact that by enacting in 1954 the 1951 Refugee Convention, the Menzies Government gave protection under Australian laws to asylum seekers who seek refugee status. Justice Merkel in 2002, in a Federal Court decision, referred to ‘their [asylum seekers] lawful entitlement under conventional international law since the early 1950s (which has been enacted into Australian law) to claim refugee status …’ (Al Masri v Minister for Immigration, FCA1009, para 38). It may be irregular migration, but it is not illegal because of our enactment of the 1951 Refugee Convention. Unfortunately dog-whistling about ‘illegals’ leads on to inferences of criminality.
* The Coalition claims that the punitive Howard policies were successful in stopping the boats and asylum seekers. When you analyse the asylum seeker flows to OECD nations in the years after 2001, the ebbs and flow to Australia largely match those to other OECD nations. It is likely that small differences in Australian numbers may well have been caused by domestic policy, but it is obvious that the most significant factor in the number of asylum seekers coming to Australia was the increase and decrease in global asylum numbers. The numbers have ebbed and flowed as a result particularly of wars in Iraq and Afghanistan and the civil war in Sri Lanka. If boat arrivals become more difficult, asylum seekers will come by air or vice versa. The UNHCR doesn’t record different modes of arrival. What is important is the total number of asylum seekers. The trend of unauthorised arrivals under John Howard followed global trends. *(Amelia – could you please put in here the two graphs ‘Australia versus OECED asylum flows’ and ‘Flow of Afghani, Iraqi …’)*
* In the use and abuse of statistics, there is one very important lesson. Just because two things happen at the same time, doesn’t necessarily mean that one causes the other. It is clear that the major reason for the fall in asylum seeker numbers in the early period of the Howard Government was not his government’s policies but a decline in world numbers of asylum seekers. Certainly boat arrival numbers did fall, but the total numbers are what are relevant.
* Some have praised the tough line of the Howard Government on temporary protection visas. One feature of TPVs was that the holders of these visas could not sponsor family. That is why 288 women and children were on board SIEVX which sank in October 2001.
* The UNHCR Report on 2010 Asylum Levels and Trends in Industrialised Countries notes that asylum seeker numbers in Australia ‘have gone up for the sixth consecutive year’, i.e. from 2004 to 2010. The numbers were increasing in the last three years of the Howard Government.
* In the first five months of this calendar year, asylum seekers arriving by boat have declined from 3,010 last year to 1,442, a fall of 52%, due mainly to the end of the Sri Lankan civil war and not any changes in Australian Government policy.
* At the last election Tony Abbott said that we are being ‘invaded’ by boat people. But only about 2% of Australia’s annual migrant intake of about 168,000 (DIAC Fact Sheet 2) comes from asylum seekers and even less as unauthorised boat arrivals. But Tony Abbott is winning with his invented fact. Essential Research (7 June 2010) reported that 25% of Australians believe that 25% or more of our migrant intake is asylum seekers. Only 18% were anywhere near the mark. Asylum seekers who come by boat are a miniscule problem but politicians and the media have fomented public hysteria.
* Pictures of boat arrivals are obviously more newsworthy than the much larger number of asylum seekers who steadily trickle through our airports every day of the year. In the five years 2001-2005, 81% of asylum seekers came by air. In the five years 2006-2010, 71% came by air. For the decade 2001-2010 76% came by air (immi.gov.au/media/publications/statistics/asylum). Only in one year, 2010, did asylum seekers coming by boat exceed those coming by air. They apply as visitors or students, are issued visas, and then apply for refugee status after arrival in Australia. ‘Many use the services of people smugglers to come to Australia’ (Department of Immigration and Citizenship, Fact Sheet 73). Asylum seekers who come by boat are detained. But almost all asylum seekers who come by air live freely in the community. At 11 March this year, there were 6,507 asylum seekers in detention who came by boat. There were only 56 unauthorised air arrivals in detention (DIAC – Immigration Detention Stats 11 March 2011).
* Opinionated but fact-free radio jocks tell us that we have lost control of our borders. But Australia’s 10,955 asylum seekers in 2010 were only 1.04% of the global asylum figure of 1,058,318 (UNHCR Global Trends 2010).
* We are told that asylum seekers should not be allowed to ‘jump the queue’. There were 15 million refugees identified by the United Nations High Commissioner for Refugees in December 2010. (There are almost another 28 million ‘people of concern’ to the UNHCR.) The situation is unfair and quite disorderly. With only 98,761 settled under orderly programs in 2010, less than 1% is re-settled per annum. At this rate, according to the Refugee Council of Australia, a person putting his name on a list today, for consideration as a refugee would wait 170 years for processing. Some queue!
* It is claimed by the hard-liners that mandatory detention is essential to deter asylum seekers and that is why Nauru was mistakenly seen as a success. But as the UNHCR in its ‘Legal and Protection Policy Research Series, April 2011’ on alternatives to detention says ‘Pragmatically, no empirical evidence is available to give credence to the assumption that the threat of being detained deters irregular migration … [it is happening] regardless of increasingly harsh governmental policies on detention. Except in specific individual cases, detention is largely an extremely blunt instrument to counter irregular migration… critically, threats to life or freedom in an individual’s country of origin are likely to be a greater push factor for a refugee than any disincentive created by detention policies in countries of transit or destination.’ (Executive Summary, iii)

John Menadue

Board Member, CPD and former Secretary, Department of Immigration and Ethnic Affairs 1980-83