

Budget makes asylum seeker vilification official

6 Comments **Kerry Murphy** | 21 May 2014

The Government's vilification of people arriving by boat has now reached the level where the term 'illegal' features in the Budget documents.

Immigration Minister Morrison has insisted on referring to people arriving by boat as 'illegals' for some years. When he became Minister, he directed his staff to refer to people as 'illegal', despite the Migration Act using the less pejorative term 'unlawful non-citizen'.

This is not just a lawyer's linguistic debate; if it were not important, the Government would not insist on the term. 'Illegal' has a connotation of criminal behaviour, and that is why they use it. It is vilifying and dehumanising and is linked to smuggling. 'Unlawful' evokes something more in line with getting a parking ticket.

Using the term 'illegal' in formal documents to describe boat arrivals is like calling people who receive social security payments 'dole bludgers', and insisting that bureaucrats use this term in documents and meetings.

The term in the Migration Act for those arriving without a visa is 'unlawful maritime arrival'. Yet the Budget papers have a section entitled 'Illegal Maritime Arrivals (IMA) Onshore and Offshore Management'. It is ironic that after this deliberate vilification, one of the stated objectives is to 'treat IMAs with dignity and respect'.

We 'treat them with respect' by refusing to give them permanent residence or family reunion. We remove access to funded assistance with refugee applications and to any funded advice whatsoever. Those to whom the Labor Government 'recklessly' granted permanent residence now have the lowest priority in sponsoring spouses and dependent children, which means years of waiting.

The Government has stated its intention to reintroduce some form of temporary protection visa, despite reports by psychologists about the harm such a program caused in the Howard years, and two recent

attempts to reintroduce it by regulation being disallowed in the Senate.

Previously people who arrived by boat or air without a visa and were taken to detention could obtain migration and legal advice. Legal Aid has not been available for asylum seekers for many years, as the funding comes from Immigration. Without funded legal assistance in detention or in the community, people do the case themselves, or rely on pro bono help. A few may have funds to pay for private lawyers and agents.

Now the Government has ceased funding to help people with review cases in the Refugee or Migration Review Tribunal. This cut is short-sighted as it means more unrepresented applicants in a system which is legally complex. Access to justice is a basic right, but now access is seen merely as a privilege for those with means.

Further to all this is the proposed 'Australian Border Force', which sounds like some leftover from Empire on the North West Frontier, like 'Morrison's Border Rifles'. This furthers the militarisation of this humanitarian issue under Operation Sovereign Borders.

Probably the day-to-day work of Customs and Immigration officers will not change with these titles, but there is a legitimate concern about transparency here. Once you refer to issues as a security matter, transparency becomes opaque and the risk of unlawful acts by government increases. Remember Cornelia Rau?

The rhetoric of this and the previous Government is that 'saving people from drowning at sea' is a good thing. But what happens then? We dump them on Pacific processing colonies, and encourage them to return home to what they fled in the first place. Nowhere in Morrison's [speech](#) to the Lowy Institute does the term 'human rights' appear. In fact, 'rights' is only mentioned in connection with 'property rights'. 'Human' does not feature.

In Italy, when boats sink and people drown, they have days of mourning, and the Pope calls it a *vergozna* — disgrace/shameful. In Italy the naval operation is called *Mare Nostrum* and their focus is on rescuing people at sea and bringing them onshore to assess their cases. In Australia we call it 'Operation Sovereign Borders', vilify the asylum seekers and sub-contract dealing with their human rights to poor countries.

In his Lowy Institute speech, Morrison claimed he has 'freed up' 20,000 places in the refugee and humanitarian program over this and the next four years 'by ensuring their places are not taken by those who came illegally by boat'. This is disingenuous, because firstly the Coalition reduced the program from 20,000 places annually to 13,750, a 30 per cent cut. So really they have reduced the number of visas by 31,250 over five

years.

For every person who is granted a visa, whether onshore or in a camp or urban area overseas, thousands miss out. That is the reality. There are 2.7 million Syrian refugees in Jordan, Turkey and Lebanon, few of whom would ever have a chance here, and there are now reports on Australian officials trying to encourage Syrians in Nauru to return to their war-ravaged country.

Maybe in 20 years we will have a judicial inquiry and an apology in Parliament. I would like to see that. In the meantime, the vilification and demonising of a group of asylum seekers continues because it serves a political purpose to have a group in society who are unwanted and can be blamed for our failings. This is our *vergogna*.



Kerry Murphy is a partner with the specialist immigration law firm D'Ambra Murphy Lawyers. He is a student of Arabic, former Jesuit Refugee Service coordinator, teaches at ANU, and was recognised by AFR best lawyers survey as one of Australia's top immigration lawyers.