

What's in a name? The Australian Border Force and its implications for forced migrants

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Australia's immigration portfolio is undergoing a radical restructuring. Its settlement and citizenship remit is being cast aside in favour of the Australian Border Force. These changes institutionalise claims that the border is paramount to the survival of Australian democracy, economy, freedom, and culture. They endorse a view of the border as extending externally beyond the state's physical territory, and internally into every aspect of daily life. The prominent role of the border has been coupled with a conception of 'legitimate migration' based solely on economic benefits. As a result, little space remains for the issue of forced migration, which is, at best, seen as a phenomenon experienced elsewhere. Forced migrants are now at risk of becoming invisible within Australian policy.

Australia's Department of Immigration was established in 1944 with the twin aims of increasing Australia's population by 1 per cent each year and providing resettlement to displaced people from Europe (Chubb 2010). Over the next half century, and notwithstanding a period of racially-discriminatory policies, the Department was motivated by a strategy of nation-building, providing a range of settlement services and a focus on permanent migration (Chubb 2010). From the 1980s to the present, this has included an annual quota of people referred by UNHCR for resettlement. However, since the late 1990s there has been a determined, largely bi-partisan, shift towards restrictive asylum policies, the removal of judicial review mechanisms, and a reduced emphasis on settlement services for migrants (Crock 2004; Phillips 2004; Ruddock 2000).

In 2015, these changes are being solidified through dramatic institutional change at the bureaucratic level, and in corresponding policy frameworks. On 9 May 2014, the then Minister for Immigration, Scott Morrison MP, announced the establishment of a 'single frontline operational border agency... to enforce our customs and immigration laws and protect our border' (Morrison 9 May 2014). This agency, now known as the Australian Border Force (ABF), was formed on 1 July 2015 by the merging of the Immigration and Customs departments. It is to be led by a Commissioner, who will report directly to the Immigration Minister, and who will have 'the same standing as other heads of key national security related agencies, such as the Commissioner of the Australian Federal Police, the Chief of the Defence Force, and the Director General of ASIO' (Morrison 9 May 2014). The militarised structure of the ABF is also reflected in the titles of other senior personnel. For example, ABF functions in Western Australia will be managed by a 'Regional Commander' (Department of Immigration and Border Protection 2015a).

The functions of the ABF have been set out in two policy documents: 'Blueprint for Integration' and 'Plan for Integration' (Department of Immigration and Border Protection 2014; Department of Immigration and Border Protection 2015b). Along with the Minister's May 2014 speech, these two documents evidence an intention to define Australia, not as a

migrant settler state or a multicultural nation, but as a prosperous bounded community. They provide a detailed plan by which the ABF will support and facilitate that change.

A number of key claims concerning the value of the border emerge as central:

- The border is required for democracy: ('Our borders define a space within which, as sovereign nation states, we can ... operate our democracy... create the space for civil society');
- The border is required for economic activity and prosperity: ('a space within which... we can... conduct our commerce, foster free markets, establish property rights');
- The border is required for freedom, liberty and the rule of law: ('a space within which, as sovereign nation states, we can apply the rule of law... and provide for the freedom and liberties of all of our citizens'); and
- The border is required for national and cultural freedom of expression: ('enable expression of culture... Our border creates the space for us to be who we are and to become everything we can be as a nation') (Morrison 9 May 2014).

Thus, according to the Minister, 'our border is a national asset' and, as such, its defence is of paramount importance (Morrison 9 May 2014).

The idea that liberal nation-states require strong and secure borders in order to function is not new. Michael Walzer's prominent account of equality in liberal democracies, for example, maintains that effective border controls are essential for the maintenance of states as political communities within which all those who are legally admitted enjoy the full range of membership rights (Walzer 1983). It is also well understood that in modern liberal democracies, migration controls do not end with entry or admittance decisions but continue to exert a high degree of control over the lives of migrants (Bosniak 2008).

The conception of the border that is now being institutionalised in Australia, arguably goes a step further, extending the border outwards beyond the physical territory of Australia and at the same time integrating it into every sphere of national life. According to the Blueprint, 'our border is not just a line on a map' but rather 'a complex continuum stretching ahead of and behind the border, including the physical border' (DIBP 2014: 10). This statement and the linking of the border with democracy, freedom, prosperity, and culture suggest that the border has a legitimate role in structuring the lives of not just visitors, but migrants and citizens as well.

The Blueprint is primarily focused on promoting this expansive view of the border and does not explicitly discuss immigration policy in detail. When it does refer to immigration, it is to assert that migrants are to be selected on the basis of their potential economic contribution, and that immigration and citizenship decisions are to be based on Australia's social and economic needs (Blueprint 2014:11). In the wider political discourse, Australia's status as a settler nation is linked to the strength of the border and this qualified idea of 'legitimate' immigration:

Border security is the platform upon which we enable the seamless flow of people and goods legitimately across our borders that is critical to Australia's success as an open trading economy and that has arguably made us *the world's most successful immigration nation*. Maintaining our border as a secure platform for legitimate trade,

travel and migration is what border protection is all about (Morrison 9 May 2014, emphasis added).

Across these texts there is resounding silence on issues relating to forced migration and displacement. The unmistakable message is that migrants who are not selected by the ABF on the basis of their potential economic contributions have no claim to entry. They cannot be part of our successful immigration nation and consequently *they will not be here*. No policies are needed because, in the world of the nation constructed by the ABF, unauthorised presence has disappeared.

On the other hand, the government continues to recognise that forced migration exists *in other lands*. In his Refugee Week speech, Minister Morrison noted that 800,000 'refugees and others in need of humanitarian assistance' had settled in Australia since World War II and spoke at length about Australia's resettlement programme and, in particular, the Women at Risk programme (Morrison 18 June 2014). Given that the Minister was speaking in the context of Australia's current practice of interception, tow-backs, and offshore processing, the clear implication was that refugees and other forced migrants belong elsewhere, and it remains an option—although never an obligation—for Australia to 'select and/or authorise' some of these for entry (Morrison 18 June 2014).

The government's ongoing assurance that Australia will retain a resettlement quota is welcome. However, given that the overwhelming emphasis in the Blueprint and Plan is on developing, strengthening, and extending the power and reach of the border, and that immigration is only referred to as an economic strategy, one needs to ask how long that assurance can be relied upon. When the discretionary admission of a small number of humanitarian migrants is not considered to be economically or socially advantageous, there will no longer be a policy rationale for continuing the programme. The days of the immigration portfolio being paired with 'ethnic affairs', 'multicultural affairs', 'Indigenous affairs' and even citizenship are long gone. Today, with an Australian Border Force that 'touches every part of Australian life' and requires an economic justification for every entry and transaction it oversees, the space for humanitarian migration has become very small indeed.

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BOSNIAK, L. (2008) *Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press).

CHUBB, I. (2010) Inaugural Annual Address on Immigration and Citizenship, Speech at Australian National University, 17 March 2010. Available from <http://www.immi.gov.au/about/speeches-pres/_pdf/2010-03-17-inaugural-annual-address-immi-and-citizenship.pdf> (Accessed 28 April 2015).

CROCK, M. (2004) 'Judging Refugees: The Clash of Power and Institutions in the Development of Australian Refugee Law', *Sydney Law Review* 26: 51.

- DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION** (2014) *Blueprint for Integration*. Available from <<http://www.customs.gov.au/webdata/resources/files/BlueprintWEB.pdf>> (Accessed 21 April 2015).
- DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION** (2015a) *Portfolio Structure Chart*, 9 March 2015. (Available from author upon request).
- DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION** (2015b) *Plan for Integration*. Available from <<http://www.customs.gov.au/webdata/resources/files/PlanforIntegration-web.pdf>> (Accessed 21 April 2015).
- MORRISON, S.** (2014) 'Refugee Week Speech', Speech at Parliament House Canberra, 18 June 2014. Transcript available from <<http://pandora.nla.gov.au/pan/143035/20141222-1032/www.minister.immi.gov.au/scottmorrison/media/speeches-and-transcripts/2014/index.htm>> (Accessed 28 April 2015).
- MORRISON, S.** (2014) 'A New Force Protecting Australia's Borders', Speech to the Lowy Institute for International Policy, Sydney, 9 May 2014. Transcript available from <<http://pandora.nla.gov.au/pan/143035/20141222-1032/www.minister.immi.gov.au/media/sm/2014/sm214247.htm>> (Accessed 28 April 2015).
- PHILIPS, J.** (2004) *Temporary Protection Visas: Research Paper No 51* (Parliamentary Library, Parliament of Australia).
- RUDDOCK, P.** (2000) 'Refugee Claims and Australian Migration Law', *UNSW Law Journal* 23(3): 7.
- WALZER, M.** (1983) *Spheres of Justice*, United States, Basic Books.