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Australian Humanities Review

August 26, 2001: Two or Three Things Australians Don't Seem to Want to Know About 'Asylum Seekers' …

by Ian Buchanan

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> [N]o, the masses were not innocent dupes; at a certain point, under a certain set of conditions, they *wanted* fascism, and it is this perversion of the desire of the masses that needs to be accounted for.
> - Gilles Deleuze & Félix Guattari, *Anti-Oedipus*

The road to war began with an incident at sea, as it has so many times in the past - the sinking of the *Lusitania*, Pearl Harbour, the Gulf of Tonkin, and so on. History will have to record that Australia's involvement in the 'War on Terror' and the 'War against Iraq' began on August 26, 2001 when the MV *Tampa* rescued 433 asylum seekers from the sinking ferryboat, *Palapa 1*. It will then have to explain how this essentially humanitarian act could trigger so bellicose a response. To do this, it will not be enough to condemn the cynical actions of John Howard and his inner circle of advisers; for what is really at stake is the shockingly high levels of support those actions were given. Guy Rundle is undoubtedly correct to speak of the response to the *Tampa* affair as exposing "some very dark corners of the Australian psyche" - the trouble is, it isn't the backroom machinations that are the most disturbing elements of this whole sorry episode, but what occurred in the open.[1]

The hysteria - for it is nothing, if not that - that has arisen around the issue of the 'asylum seekers'[2] on the conservative side of politics in Australia (but elsewhere as well) points to both a profound amnesia and a profound false consciousness: firstly, it forgets that the bulk of Australians are in fact immigrants or the descendants of recent immigrants, many of whom were themselves 'displaced persons' as they were known in the immediate aftermath of World War II, or 'boat-people' as they were known following the Vietnam War and the Pol Pot regime in Cambodia; and, secondly, it ignores the fact that there is no intrinsic reason to suppose we are immune to the historical forces and processes that have left the 'asylum seekers' without a place in the world to call their own.[3] We like to think we are exempt from history's stone-hearted logic, but if, as Agamben suggests, sovereignty is defined by the right and power to make an exception of anybody it chooses, then there is no reason at all to suppose it couldn't choose us[4]. Our comfort and security in our home is utterly illusory. In other words, we have more to fear than helpless and destitute peoples knocking on our door in search of succour.

Agamben says if there is one thing that's worse than Auschwitz, it is the way the German people acquiesced to the systematic dismantling of their system of rights and laws such that Auschwitz was not merely possible, but fully legal. Daniel Goldhagen's highly controversial

book *Hitler's Willing Executioners* confirms this thesis, giving rise to the ghastly idea that Nazism was born not out of fervour, but dull complacency. He meticulously disproves the 'police state' thesis that for more than five decades has had us believe that ordinary Germans failed to stop the excesses of the Nazi regime out of fear for their own lives. He shows, to the contrary of received wisdom, that one could speak against the regime and one could choose not to kill Jews. This freedom was extended to soldiers as well: the German military code of conduct permitted disobedience in extreme situations. For this reason, the 'following orders' defence was disallowed at the Nuremberg trials.[5] The point is that ordinary Germans - whether civilian or military - did not have to rebel or take a stand against the authorities in order to choose not to participate in the genocide. Without any heroism, they could simply have said - *á la* Bartleby - 'I prefer not to'; what Goldhagen seeks to explain is why the majority did not take this option.[6]

It may seem extreme to compare Australia's attitude to asylum seekers to the attitude of the perpetrators of the holocaust, but in a very real sense intellectuals in Australia are faced with a similar problem: why, in response to the plight of the 'asylum seekers', are Australians not choosing clemency and hospitality? Here, as in Goldhagen's work, it is the day-to-day actions of ordinary people that is at issue, not the culpability of policy makers.[7] For it is their silence, their inattention to the real stakes of what is going on, their thoughtless complicity with the status quo that opportunistic politicians of every stripe feed off. Australians seem not to want to notice that we are dismantling our rights and laws so as to make exceptions of 'asylum seekers' in order to legally intern them in places so awful we have to keep them offshore, not merely to keep them out of sight, but also to exempt them from the laws of the land.[8] The *Border Protection Bill* in its first and thankfully rejected form was to have contained a clause protecting public servants dealing with asylum seekers from prosecution for any crimes they committed against asylum seekers, up to and including murder.[9] That it was defeated is not the issue we should focus on, but rather the alarming thought it was considered feasible to propose it in the first place. It is this point that I think intellectuals should emphasise because even if it is too late to change (white) Australian attitudes towards 'the other', as abhorrent as they are, there might still be time to arouse their self-interest by sounding a wake-up call that we are in real danger of, as it were, 'accidentally' creating a police state. Perhaps this, given Australia's supposed love of freedom, might give people reason to pause and consider where xenophobic policy-making is leading us. For it now seems certain that appeals to compassion alone will not.

Are we really creating a police state? Or is this just so much hyperbole? Prime Minister John Howard's so-called 'Pacific Solution' is exemplary in this regard. This is the execrable, hastily executed plan to 'process' asylum seekers on either Nauru or Papua New Guinea (PNG) - rather than on Australian soil - that the Howard government came up with in response to the fateful attempt by 433 mostly Afghan 'boat-people' to land in Australia in late August 2001.[10] Unfortunately for these people, not only was their boat so unseaworthy they required rescuing by Norwegian merchant vessel *Tampa*, its timing was terrible too: it went down in the open sea betwixt and between Indonesia and Australia in the lead-up to an Australian Federal election. Although the port of Merak in Indonesia was the nearest landfall, the desperate souls rescued by the *Tampa* (in accordance with international sea law) had no desire to go to there and insisted they be taken to Australia instead. Concerned about the safety of his ship, the freighter's captain Arnne Rinnan turned the ship about and headed for the Australian held territory of Christmas Island. But with a Federal election looming, the Howard government decided to plumb the depths of the xenophobic vote by making an exception of this particular batch of asylum seekers. Howard knew that to win the election he had to regain a substantial portion of the one million or so votes captured by Pauline Hanson's One Nation party in the previous election.[11] Politically it felt like the move of a desperate man, which given that at State level Labor had a lock on Australian politics it

probably was; but, as it turned out, it was absolutely the correct card to play because a fortnight later - in a spectacular display of the efficacy of what Zizek calls the 'answer of the real'[12] - terrorists supposedly based in Afghanistan were blamed for the for the attacks on the Pentagon and the World Trade Centre. All of a sudden, a Federal election that had been poised on the knife-edge of an ailing economy became a 'khaki' election. Sabre-rattling rhetoric took the place of policy debate and the government made sure that there was always something on the front page to ignite the passions of the redneck in all of us.[13]

Hence the 'Pacific Solution'.[14] Determined not to allow the beleaguered asylum seekers rescued by the *Tampa* any access to the Australian legal system - and having already taken the extraordinary step of mobilising the SAS to board the *Tampa* to prevent it from releasing its 'human cargo' (to use Conrad's apt phrase) onto Australian territory - Howard suddenly hit upon the idea of diverting them to Nauru, a barren virtually bankrupt island devastated by years of phosphate mining.[15] Not only that, according to the CIA, the banks of Nauru are a favourite haven of terrorists, including the Al Qaeda network. A fortunate 132 escaped detention there as they were accepted by New Zealand, and a further 50 were sent to Ireland, but the remainder were stranded indefinitely. Nauru agreed to take the asylum seekers because Australia not only offered to meet the entire cost of transporting, housing, maintaining and processing them, but also to pick up the tab on a number of the island state's more pressing bad debts, such as the $US1.5 million it owed Pacific Petroleum. In total, Australia provided Nauru with an additional $20 million dollars worth of aid. PNG, meanwhile, recouped an aid 're-prioritisation' package worth $34 million.[16] Two points need to be made about this: the first is that in doing so, Australia disregarded its own policy on aid-giving, which in IMF fashion usually extorts fiscal discipline in exchange for financial assistance; but even more problematically, it used this money to induce both PNG and Nauru to ignore their own constitutions and detain people who had not and could not have broken any of their own laws.[17]

The real nub of the matter, though, and this is the point that I particularly want to emphasise, is that the 'Pacific Solution' came about precisely to avoid having to abide Australia's own laws. If there is anything worse than dismantling one's own legal system so as to lawfully act inhumanely towards others, it is absolving oneself of the need to even heed one's own legal system so as to lawfully act inhumanely towards others. And that is, at bottom, what the 'pacific solution' amounts to. The implication here that we can hardly fail to draw is that on-shore detention centres like the now defunct Woomera were deemed inadequate to the specific exception-making needs of the government, even though they, too, strictly speaking, were already outside the law. In contrast to our prisons, the detention centres for nonlawful entrants into Australia are outside the law because the *Immigration Act* places them under administrative control not adjudicative authority.[18] The difference is that whereas the latter is subject to review by the courts, the former is not. Indeed, there is specific legislation in place to prevent the courts from reviewing, much less overturning decisions made by the department.[19] Only the High Court retains any jurisdiction. So although the rights of asylum seekers on Australian soil are minimal at best, in opting for the 'Pacific Solution' the government showed itself to be reluctant to continue to concede even that much. My point, though, is that since the 'Pacific Solution' was enacted in the lead-up to a Federal election one must assume it was mandated, which begs the question: why are Australians so hostile to asylum seekers that they re-elect a government for promising to brutalise them?

What is noteworthy, then, about the present situation is just how modest a crisis of legitimation the 'Pacific Solution' actually poses. The sad truth is the moment to oppose it, the moment to literally try to de-legitimise it passed with the 2001 election. In what may well turn out to have been the Australian Labor Party's last opportunity to win not only a national election, but legitimacy itself in the eyes of its traditional support base, Kim Beazley fatally

chose not to oppose the Howard government's position on either the so-called '*Tampa* affair' or the 'children overboard affair' (or a 'certain maritime incident' as the select senate inquiry later described it) and consequently offered no real alternative to an electorate that at State level had clearly shown it was ready for a change. As a result, Labor succeeded in doing what everyone thought impossible: it seized defeat from the jaws of victory and lost an election no-one gave the Liberals a hope of winning. At first glance, it might seem that the problem was simply a strategic error on Beazley's part. He propelled Labor into the deadly middle-ground in an era, or rather a moment, when political vision and leadership was desperately wanted; or, to put it even more starkly, at a time when following September 11 the middle-ground had ceased to exist - evidence of its disappearance is to be seen in the way in the U.S. and elsewhere the debate around the 'war on terror' is thoroughly polarised: one is either a hawk or a dove, there's no place left for owls or crows or whatever bird it is that represents the middle. But the problem runs deeper than that. The sudden and radical excavation of the middle-ground exposed Labor's centrist policies for what they really are, a cynical betrayal of its supposedly Leftist values.[20]

It would have been far better for Beazley to have condemned Howard's actions as openly and roundly as they clearly deserved, even if knew it would cost him the election (this was clearly another one of those issues worth losing an election for, as Beazely supposedly said about his unpopular stance on the 'Stolen Generations' in the lead-up to the 1998 Federal election);[21] at least then, the Labor party might have preserved enough dignity to function as a genuine opposition party and so keep alive the notion of a genuinely democratic system of government.[22] But even that may not have been enough to keep alive a viable opposition as we learned when it was finally made public that the Navy did not report that the asylum seekers had thrown their children overboard, but rather observed them escaping a sinking ship. Public outcry at this revelation was muted at best; certainly there were no resounding calls for an inquiry, much less any demands that Howard be impeached as would surely have been appropriate had it been shown he was in some way involved in the cover-up. On the contrary, the general feeling was that it might have happened the way it was originally narrated because it would just be like those people to do such a thing. In other words, the logic was patently that of (as Zizek puts it) 'I know very well it isn't true, but all the same…': 'I know very well the asylum seekers didn't really throw their children overboard, but all the same that's still no reason to let them into the country'; or, 'I know very well the asylum seekers are unlikely to be terrorists, but all the same that's still no reason to let them into the country'. Must one conclude, with Zizek, that democracy is in fact dead and that the only living politics these days is the Populist Right?[23]

Howard's response to the 'Tampa Affair', both in his rhetoric and in his policy choices, was populist in the way it played on a powerful combination of two ideologically potent fantasies, that of 'the common enemy', and that of 'the state of emergency'. In spite of the fact that it was patently not the case that Australia was in immediate danger of either invasion by a hostile band of terrorists or inundation by vast numbers of asylum seekers, Howard nevertheless managed to act as though both of those eventualities were imminent. Without so much as a murmur of disapproval from the opposition, Howard was able to put in place a range of repressive policies designed to make the life of would be, but also existing, asylum seekers greatly more uncomfortable than it already was. Opinion polls backed him every step of the way. The unity the polls appeared to articulate took the paradoxically divisive form of one group of Australians pulling together so as to decide who can and who cannot consider themselves covered by the term Australian.[24] Now, either Beazley knew he couldn't fight this fantasy, or he was as seduced by it as everybody else; either way his fate was sealed when he chose not to denounce it. Of course, his hands were tied, to a certain extent, by the fact that the policy of mandatory detention for unlawful entrants into Australia was introduced by Labor.

But we must ask, just what type of unity it is? Is it the dawning of some new form of collectivity long dreamt of by utopians everywhere? Or, is it something else, something more sinister? The fateful outcome of the 2001 election suggest that as the spectre of the Jew did for Nazi ideology, so the figure of the asylum seeker enabled the ruling party to conceal the gaping cracks and fissures of real social antagonism beneath the glossy patina of what Benedict Anderson calls the 'imaginary community'. The asylum seekers appeared at just the right time to allow us, by power of their very exceptionality, to perceive the social totality of Australia as an organic whole.[25] I tempted to say, therefore, that the treatment of the asylum seekers was deeply and passionately desired for precisely this reason: they created the opportunity for a sense of unity and belonging that was perceived missing. For the real social antagonism did not go away: wages were still low, job prospects poor, and so on, and large sections of the community felt dejected. Thus what this moment made possible was the re-interpellation of a disenchanted and disenfranchised populace: to put it in Lacan's terms, it gave them their own 'ex-timate' figure with which to conjure their own re-incorporation into the organic whole of Australia.

But as I have already suggested at the outset, Agamben has shown that this opposition between those who are included and those who are excluded by a society is false. His thesis is rather that we are all excluded, all reduced to 'bare life' by the democratic system. The point is not that they - the asylum seekers - are human like us, which is the position taken by humanitarians, but rather that we are as disenfranchised as they, only we can't see it.[26] In this sense, we are all like the father in Freud's dream who does not know he is dead - democracy continues only because no-one has noticed its death.[27] The question we have to ask is how far are we prepared to go to prevent the news of this particular death reaching anyone's attention? The crux of Agamben's recent work, a series of books written under the general rubric of "Homo Sacer", which is also the title of the first volume, is the delineation of a "'vertical' distinction" - as Zizek puts it - "between the two (superimposed) ways of how *the same people* can be treated", which is to be contrasted to the more customary 'horizontal' distinction between the included and the excluded.[28] This distinction has its origins in a curious and in its own way emblematic lexicological lacuna detected by Agamben. "The Greeks had no single term to express what we mean by the word 'life'. They used two terms that, although traceable to a common etymological root, are semantically and morphologically distinct: *zoe*, which expressed the simple fact of living common to all living beings (animals, men, or gods), and *bios*, which indicated the form or way of living proper to an individual or a group."[29] For the Greeks, it was unthinkable to even discuss zoe, or 'bare life', in relation to *bios*, so far apart were they in the political imaginary; indeed, zoe was precisely what had to be excluded so as to produce bios. The political is, in other words, the product of an exclusion; bare life is excluded for the sake of bios.

> 'August 26, 2001: Two or Three Things Australians Don't Seem to Want to Know About 'Asylum Seekers'' … continues in part 2

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1 Rundle 2001: 6.
2 On my usage 'asylum seeker' refers to entrants into Australia who apply for residency once here on grounds of asylum.
3 "Of the 6 million people who have migrated to Australia since the end of World War II, almost 600 000 have settled here under humanitarian programs" (Mares 2002: 1).
4 Agamben 1998.
5 Agamben 1999: 97.
6 For a useful summary of the book's arguments see Goldhagen 2002.
7 In this respect, Julian Burnside QC, in his "Foreword" to Heather Tyler's *Asylum*, lets too many people of the hook when he draws up his shortlist of people responsible for the mistreatment of the asylum seekers and doesn't

include in it the majority of Australian voters.
8 The US have used their military base at Guantanomo Bay in Cuba for similar purposes.
9 MacCallum 2002: 55.
10 Although hastily executed, the speed with which it was executed gives us reason to suspect that it had existed as a plan in someone's mind or desk drawer long before August 2001.
11 Jupp 2002: 199. It is worth mentioning, too, that Howard's gambit of retroactively excising Christmas Island from Australia's 'immigration zone' was in fact first suggested by Pauline Hanson. Not only that, the stance taken against the asylum seekers was precisely the one articulated by Hanson: if I have the right to decide who enters my home, then so do I have the right to determine who enters my country. My thanks to Nina Puren for reminding me of this point. See also MacCallum 2002: 65.
12 Zizek 1991: 28.
13 As Mungo MacCallum put it, if "the *Tampa* had not existed, John Howard would probably have invented it; and to a large extent that is what happened anyway" (2002: 47).
14 Mungo MacCallum suggests the phrase 'Pacific Solution' sounds disarmingly pleasant, conjuring images of "scantily clad natives" and the politics of the "Pacific Way" (2002: 52). Yet, to my mind, it recalls nothing so much as the "Final Solution" - certainly its intent is little different, which history tells us was (in the first instance) to have been the exiling of all Jews to the remote island of Madagascar.
15 Does it need to be said that the worst camps like Auschwitz and Birkenau were in Poland, not Germany?
16 Mares 2002: 127-30.
17 "Article 5 of Nauru's constitution states that no person 'shall be deprived of his personal liberty' unless convicted or charged with an offence, or unless reasonably suspected of 'having committed, or being about to commit an offence'" (Mares 2002: 131). The PNG constitution makes similar guarantees
18 It is worth noting, too, that the detention centres are privately run, profit-driven entities managed by a wholly-owned subsidiary of U.S. security giant Wackenhut Corrections Corporation, Australasian Correctional Management (ACM). ACM reported 250% growth in revenues and 350% growth in profits between 1998 and 2000, suggesting that Australia's mandatory detention policy is, if nothing else, good for business. Mares 2002: 77.
19 McMaster 2002: 83.
20 Doubtless the strong showing of the Greens in this election owes a great deal to voter disaffection with both sides - Liberal voters unable to support Howard's stance, but similarly unable to bring themselves to vote Labor voted Green, as did Labor voters disappointed with Beazley, but loyal enough to Labor not to want to vote Liberal. In this sense, the rise of the Greens should be treated as a symptom of the demise of democracy because it owes more to the loss of choice than the exercising of freedom: if neither Liberal nor Labor are regarded as viable options, then voting Green has the character of what Zizek calls a 'forced choice' (1989: 165).
21MacCallum 2002: 55.
22 The sad fact is Labor acted according to its own polling on the issue which gave the clear message: support for the asylum seekers would be political suicide. In this regard, they were trapped in the proverbial 'lose-lose' situation. But, as Peter Mares (2002: 262) reminds us, it is a trap of their own-making: mandatory detention was after all a Labor policy initiative.
23 See Zizek 2002: 151.
24 As the founder of the Australian Arabic Council Joseph Wakim has pointed out in an 'Op Ed' piece in *The Age* (1/1/03), the ASIO act stipulates that it is mandated to protect Australia and its people, without exception. Yet, paradoxically, it is this agency that is doing the most to promote and indeed enact the present 'exceptionalism' Arab peoples in Australia are being forced to endure. Against this perfectly reasonable view, Agamben's point is that this situation should not be misconstrued as paradoxical, for in reality it is business as usual - the exception is the rule. In other words, what should concern us is how natural such paradoxes as the one Wakim points to in fact feel to the majority of citizens.
See Zizek 2002: 32.
25 See Zizek 2002: 32.
26Thus, as well-intentioned as it is, the position adopted by Heather Tyler, namely that the asylum seekers are people just like us (the motto of her passionate and disturbing book, *Asylum: Voices Behind the Razor Wire*), should be resisted in favour of the starker position outlined by Agamben.
27 Zizek 1991: 44.
28 Zizek 2002: 32.
29 Agamben 1998: 1

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