Future Justice

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Refugees and Human Rights

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One of the few philosophical precepts which is practically universal is captured in the Christian teaching: Do unto others as you would have them do unto you. In its original Biblical expression it says: 'Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets'.[1]

Described in the West as the Golden Rule, it is found in many religious and secular philosophies. It is found in Brahmanism: 'This is the sum of Dharma [duty]: Do nothing to others which would cause you pain if done to you'.[2] In Buddhism: '... a state that is not pleasing or delightful to me, how could I inflict that upon another?'.[3] In Confucianism: 'Do not do to others what you do not want them to do to you'.[4] In Islam: 'None of you [truly] believes until he wishes for his brother what he wishes for himself'.[5] And in Taoism: 'Regard your neighbor's gain as your own gain, and your neighbor's loss as your own loss'.[6]

The same principle has been advocated by secular philosophers, including Epictetus,[7] Plato,[8] Socrates,[9] Seneca[10] and Immanuel Kant.[11]

The foundation of the idea is reciprocity and, in this setting, reciprocity is an expression of enlightened self-interest. Little wonder then that the idea is widespread. At its least, it tempers our basest impulses; at its highest, it produces acts of extraordinary altruism.

But the principle of reciprocity, and the Golden Rule that springs from it, sits uncomfortably with selfishness, which is a near-universal human characteristic. The tension between these forces is everywhere to be seen and especially at times of stress. The recent attempt of world leaders to reach agreement at Copenhagen on dealing with the impact of climate change is a useful illustration. The stakes at Copenhagen could scarcely have been higher. Depending on your view of the science, the leaders of all the world's nations were deciding whether human existence on the planet would still be viable for the grandchildren of infants born today.

In the tension between selfishness and enlightened self-interest at Copenhagen, enlightenment did not get a good run. The problem, of course, is that enlightened self-interest is simply selfishness deferred or subordinated in the hope that greater rewards are to be had for ourselves by accommodating the reciprocal claims of others. Our willingness to accommodate the interests of others dissolves quickly when circumstances cast doubt on whether we can collect on the promise. So as time runs out, developing countries see continued CO_2 emissions as their last chance to catch up to the living standards of the developed world. And the developed countries look askance at China and India and complain that their total emissions exceed those of the West, even if the West's per capita contribution tops the charts. Ultimately, selfish considerations triumph because no-one is confident that they can collect what the principle of reciprocity promises. Where the circumstances suggest that the other side will not reciprocate your altruism, enlightened self-interest aligns with unalloyed selfishness.

Establishing a generally acceptable refugee policy faces the same tensions. It inevitably involves striking a balance between the same, mutually incompatible human sentiments: selfishness and enlightened self-interest. At its foundation, our willingness to help others in distress springs from the fear that we may ourselves be in like distress some day, and would wish to be treated kindly. Or else it springs from a sense of guilt that we

have somehow permitted another to suffer in ways which conscience cannot justify. It is no accident that the Refugees Convention was the product of World War II and, especially, the horrors of the Nazi death camps when they were exposed to the World's gaze in 1945. Although most people in most nations must have reckoned as slight their prospects of ever being refugees in like circumstances, the enormity of what had happened persuaded them that they should be charitable. Many countries, including Australia, had avoided doing anything to help Jewish refugees before the war. A combination of guilt and fellow-feeling persuaded the world community to do better in the future, or at least to promise to do so.

Having signed the Refugees Convention, Australia was in the happy position of being geographically remote from most of the places which have, typically, generated refugee flows. We created a modest off-shore resettlement program, under which a fixed number of refugees would be identified in refugee camps overseas and would be offered resettlement in Australia. This had the dual benefits of instilling a sense of our own virtue and, incidentally, enabling us to select refugees in accordance with our current demographic needs and social inclinations.

But is was still, ultimately, about numbers. Clearly enough, after World War II, Australia set out to increase the population, and this objective was helped by migrants and refugees.

Of course, some refugees managed to arrive here apart from the resettlement program, but in such small numbers as never to present any difficulty or, let it be noted, provide any great opportunity for political exploitation. We were, without having to say so, able to decide who came into Australia and the circumstances in which they came.

After the Vietnam war things changed. Large numbers of Indo-Chinese boat people headed this way and — unlike the position in previous wars — the point of displacement was not so far away. The Coalition government of Malcolm Fraser took a stand of clear principle: we had been involved in the Vietnam

war; our involvement was part of the reason people were fleeing; we therefore had a moral responsibility to receive them. And we did, in substantial numbers. They arrived at a rate of about 25,000 a year, but they were absorbed into the community with relatively little fuss. Their children are now doctors and engineers and scientists; their cuisine is now an embedded part of our way of life.

Our response was very different during the Prime Ministership of John Howard, even though the arrival rate was much smaller. During John Howard's time as Prime Minister, the total number of boat people who came to Australia was about 15,000: a smaller total in 11 years than came in each year of the Fraser government.

What the Howard years showed is that the public can quickly be inflamed to fear and hatred of refugees if such a course commends itself to the government. There are three main approaches that will achieve this result: emphasise their 'otherness'; call them criminals; and create the spectre that they are coming in large numbers. The Howard government used each of these devices. Each of them affects the balance between selfishness and enlightened self-interest. If they seem to be very different from us, we will have more trouble getting used to them; if they come in large numbers we will not be able to cope. With attitudes like these, enlightened self-interest suggests that we should discourage or repel them. What good can come of it? And of course if they are 'illegals' then they simply do not deserve our charity.

More recently, the Rudd government has come under pressure about refugee policy. Rudd's Immigration Minister, Senator Evans, abolished the shameful Temporary Protection Visas and announced a new philosophy of immigration detention. A key element of this was that immigration detention should be for as short a time as reasonably possible, and children should not be in detention at all, except as a last resort. This did not cause any grief when it was announced in July 2008, perhaps because very few asylum-seekers were arriving

on our shores. (Australians are capable of great generosity, especially if it is not called on.)

But by the start of 2009, things had begun changing. Afghanistan had convulsed again, with the Taliban's brutality causing a new wave of terrified Hazaras to flee. And in Sri Lanka the ill-fated attempt of the Tamil Tigers to establish their own homeland was finally crushed. Refugee boats began arriving regularly. By the end of 2009, about 2,800 boat people had come to Australia, most of them being taken to Christmas Island for processing. Newspaper headlines emphasised the number of arrivals, and the Federal Opposition began taunting the government with the suggestion that refugees were arriving in Australia as a result of the Rudd government's 'soft line on border protection'. It seems that Christmas Island was used as a place of detention and processing for political and strategic reasons. But Christmas Island is tiny, and its detention capabilities were eventually overstretched, creating an artificial crisis of sorts.

The public reaction was not quite as it had been in 2001 when the Tampa rescued 434 Afghan asylum-seekers from a sinking boat. But the Tampa episode happened just three weeks before September 11, and refugee policy elided with border control and swiftly morphed into border protection. Suddenly we needed to be protected from refugees. This time the reaction was simply a reaction to the numbers. The Opposition started talking up the numbers, creating a climate of panic in the tabloid media in which the numbers could be deployed to poison the public mood. The argument — sometimes explicit, sometimes just conveyed by impressions — was that we must not receive refugees in large numbers because we are a large, but dry, continent; we must conserve our precious resources, especially water; we cannot take all the world's refugees, so we must adopt a firm stance: people smuggling is a 'vile' trade, and we must not be soft on people smugglers. If we are seen as a soft touch, we will be overrun.

It is at this point that the tension between selfishness and enlightened self-interest is tested. Selfishness inclines us to keep

this country to ourselves, and to share it only with people who can benefit us. Enlightened self-interest tells us that refugees, and migration generally, have benefitted Australia in countless ways and it tells us something more subtle about the idea of being true to your values. But concerns about climate change and environmental sustainability of finite resources are readily harnessed as a rational basis for resisting increased numbers of refugees. After all, it is argued, the carrying capacity of this fragile continent is finite and limited. Millions of refugees are on the move, and we cannot take them all. It sounds respectable and rational, especially as we consider the need to take into account the prospect of environmental refugees in the near future. But there are several answers to this which present, and future, governments will have to take into account.

First, the number of boat people getting to Australia at present is still tiny and is likely to remain so. Looking at global refugee flows misses the point that very few of them come here. If numbers are a concern, here are some to consider:

- Australia's population: 22 million.
- Number of visitors arriving in Australia each year (for tourism, business, and so on): 4.5 million.
- Number of permanent new immigrants each year: 185,000.
- Refugee/humanitarian quota per year: 13,500.
- Number of asylum-seekers who come to Australia by air each year: 5,000.
- Number of asylum-seekers who came to Australia by boat in 2009: approx 2,800 (equivalent to 5 days' migration intake).

It is hard to understand why anyone can be much troubled by an unauthorised arrival rate of 2,800 per year. Or 5,000 or 10,000. In the abstract, it makes sense to be concerned about the number of unauthorised arrivals each year: but as a matter of practicality, there can be no rational basis for concern unless the numbers are demographically relevant which, in Australia, they clearly are not. The Australian situation is very different from that in other countries: some Asian and African countries

receive millions of unauthorised arrivals each year; many European countries receive tens of thousands of unauthorised arrivals each year.

We have never had that problem in Australia, nor are we likely to. The arrival rate of asylum-seekers in Australia is never likely to be very great, largely because the voyage is difficult and dangerous. Our geography insulates us, as our history demonstrates.

It is vital for the future of Australia that we understand these matters clearly, because there is another predictable source of quasi-refugees in the foreseeable future: people from Pacific Island nations which become uninhabitable because of climate change. Global warming is a fact. Only contrarians and the lunatic fringe are putting up any real opposition to the idea that the IPCC reports are accurate, but possibly conservative.

Whether or not we manage to co-operate globally to reduce greenhouse gas emissions, the polar ice-caps are melting, glaciers are retreating, and the Greenland Ice Shelf is at serious risk. Apart from regional effects on arable land and the consequent effects on world food supplies, population in low-lying areas will be profoundly affected by rising sea levels.

A sea level rise of one to two metres, coupled with the effect of tidal surges and storms, will displace tens of millions of people around the world. Displaced populations in the coastal areas of continents and large islands will likely move inland. Depending on the continued viability of coastal cities, the movement is likely to be slow — it will likely happen over a number of decades. Abnormal weather events, like Hurricane Katrina, may cause sudden displacement of large populations, although they will probably not be permanent displacements.

Pacific islands present a different challenge. Many of them already have fragile economies. Many of them are low-lying. As a matter of certainty, a number of them will disappear or become unlivable if sea levels rise between one and two metres. Their inhabitants will look to Papua New Guinea, Indonesia and (especially) Australia.

Although we think of them in prospect as 'environmental refugees', this is not accurate as a matter of law. A refugee is a person who meets the criterion in the Refugees Convention of 1951, that is: a person who, being outside his or her country, is unable or unwilling to return to it because of a well-founded fear of persecution on grounds of race, religion, nationality, politics, and so forth.

Environmental refugees may be unwilling to return — and if their country has disappeared, they certainly will be unable to return — but not for fear of persecution. They are not refugees within the Convention definition. But we refer to them as refugees because of the obvious analogy between their position and that of other refugees.

Environmental refugees may turn out to be the greatest challenge facing Australia in the domain of refugee policy during the next generation. What will we do to prepare ourselves to meet the challenge? And what is the right response to the challenge? For reasons set out later, I do not think the demographic challenge associated with environmental refugees is terribly difficult. What may be more difficult is the ethical challenge. Put simply, will we turn them away and let them drown? Or will we receive them and treat them humanely?

The Copenhagen Conference ended in failure. What was seen by many as an opportunity for the human race to respond in a united way to a global threat which has no equivalent in recorded history has generated no agreement, no united front: it has been dominated by national selfishness. There seems to be general agreement that the problem is important and real, but the response brings to mind the unhappy image of a philosophical debate between the pilot and the navigator as the 747 heads spectacularly towards a mountain. The seriousness of the matter was well expressed by Christina Ora from the Solomon Islands. She published in *The Age* newspaper an account of the speech she gave at Copenhagen. She said:

> I am 17 years old. For my entire life, countries have been negotiating a climate agreement. My future is in front of me. In the year that I was born, amid an atmosphere of

> hope, the world formed the United Nations Framework Convention on Climate Change to solve the climate crisis.
>
> In the Solomon Islands, my homeland, communities on low-lying atolls are already being displaced by rising sea levels. Communities have lived on these atolls for generations. Moving from one province to another in the Solomon Islands is not just like moving house. Your land is your identity. It is part of your culture. It is who you are.
>
> I am scared, and so too are the people from these atolls about what this means for our culture, our communities and our identity …

There are great technical questions involved in our response to climate change, and great political questions involved in responding in a way which will be effective. But Christina Ora got directly to the heart of the moral problem when she wrote those words. Her home and her identity are threatened in the most fundamental way. What are we going to do about it? At present, the answer seems to be: nothing useful.

The civilized nations of the world need to recognise the fact that environmental refugees are human beings who deserve a place to stand and a chance to survive, because they, like us, are members of the human race. But their claim for our help is stronger than that. The wealth of the developed world, the wealth we enjoy today in Australia, was created by the very activities which have caused global warming. The conditions we enjoy today came at a price to the environment, a price we have been able to recognise for at least the time since Christina Ora was born. We cannot decently expect the Pacific Islands to pay the price for us. The life we enjoy so much in Australia has had its impact on Christina Ora's country: an impact which may prevent her from having a place to live. She wrote:

> Because of climate change, I am uncertain about what is to come. How can I feel that my future is safe? How can I be sure that my home village won't disappear in 10 years' time? How can I be sure that my community won't have to find a new home? How can I be sure that I will be able to raise my children in the same place that my mother and father raised me? I am not sure. I am scared and worried."

We owe her.

Apart from all the other steps which need to be taken, we need a new international treaty which recognizes environmental refugees as people who are entitled to protection. It is a global problem and calls for a global response. This is no revolutionary idea: it is a matter of simple decency. It is the Golden Rule in action. Unfortunately, apart from trade and commerce, we are not good at global co-operation. Australia can, and should, develop its own framework for the protection of environmental refugees who arrive on our shores. Ideally, it should be done in co-operation with our Pacific neighbours.

Australia is well placed to take constructive steps to help protect environmental refugees from the Pacific. It will certainly need careful and sensitive planning, because environmental refugee flows are likely to have features which are not shared by traditional refugee flows. In particular, their escape to safety is likely to be more planned, and much less hurried, than is typical among those fleeing persecution. The threat can be seen long before it hits. Entire communities are likely to move. Resettling them should take account of that reality. This brings with it an increased need to help preserve their cultural integrity as far as possible.

The prophets of doom will, of course, raise the spectre of Australia being engulfed by a tide of environmental refugees. In truth, the likely numbers will not be very great in demographic terms. For example, the population of all the islands comprising Micronesia is a total of about 575,000 people. The population of all of the islands comprising Polynesia is a total of about 662,000 people. The population of all of the Pacific islands, is about three million people. Even in the unlikely circumstance that all of those three million people had to be absorbed into the Australian population over the course of 10 years, it would be manageable, although it would have a significant demographic impact. On present trends, regardless of climate change, we are likely to receive, voluntarily, about two million permanent new migrants over the next 10 years.

Of course it is highly unlikely that the entire population of the entire Pacific would need, or for that matter choose, to move to Australia. So the numerical size of the problem will certainly be less than three million people. A more realistic way of looking at the matter is to consider which Pacific islands are most likely to become uninhabitable over the next decade. That restricts the range to the smaller islands. If we adopt a population of 50,000 or less as indicating smaller islands which are more likely to be inundated and made uninhabitable by rising sea levels, the picture becomes much simpler. There are 11 island nations in Oceania with populations smaller than 50,000. Their combined populations total 87,000 people. That number of people could be absorbed into the Australian community in a single year with no discernable difficulty at all.

As a matter of ordinary human experience, people are generally reluctant to leave the place of their birth unless they have to. If the population of low-lying islands in the Pacific are forced to move because their homeland becomes uninhabitable, the scale of the problem is one which Australia can manage, and the nature of the problem is one which Australia ought to manage. We should be prepared to recognise them as people who deserve protection, and grant it to them without resentment.

It may be objected that all of this sounds like a lot of trouble. Perhaps we will ask the rest of the world to shoulder the burden for us, as we did while we held Afghans and Iraquis on Nauru under the 'Pacific Solution', or as we did, even more brazenly, when we asked the rest of the world to take care of 78 Tamils held on the Australian Customs vessel Oceanic Viking in November 2009. But it is not as simple as that: it is not just a transient embarrassment that the international community thinks poorly of us for a time.

Our response to the legitimate claims of environmental refugees will define us. If we respond by shutting our doors, or by denying that environmental refugees have legitimate claims to our help, we declare ourselves to be selfish and

thankless, just as surely as we showed ourselves to be callous and xenophobic when we embraced, for a time, the refugee policies of John Howard.

Given the scale of the major problems, it might be thought that individual goodness and national reputation count as trivial. But they are not. They go directly to a fundamental existential question: Do we think that we, as a nation, can survive while being true to our values? Do we genuinely believe the things we have for generations said about our ethics and ourselves? Or do we think that, when the crunch comes, it's everyone for themselves? These questions involve much more than issues of presentation and packaging; they are matters of identity: Who are we?

If we take global warming as a reason to pull the drawbridge up, we will betray the entire accumulated legacy of human civilisation which, with all its flaws, has always aspired to goodness even while falling short. We will betray the identity we have hewn for ourselves out of this tough country since the time of white settlement.

The moral rebranding of a nation goes to the heart of inter-generational justice, just as surely as our environmental legacy does. But this is easily overlooked. It involves more than issues of deceptive packaging. We are handing over to the next generation a world beset by problems which are unique in human history and which do, without exaggeration, involve challenges for the continued survival of the human species and civilisation as we understand it. We should avoid saddling the next generation with a tarnished national reputation to add to these burdens. But more than that, we should try to hand over a country which has had the decency to be true to its declared values.

Individuals and groups have faced equivalent tests before this. Many people have seen the film *Hotel Rwanda*. It is set against the backdrop of the genocide that occurred in Rwanda in the first half of 1994, when Hutu rebels slaughtered 900,000

Tutsis in the space of 100 days. The central figure in the film is Paul Rusesabagina.

Paul is a Hutu married to a Tutsi woman. He is the manager of a hotel in Kigali. When the Hutu uprising begins, the world turns its back on the slaughter. Paul turns the hotel into an ad hoc refugee camp for almost a thousand people, and keeps them safe at immense personal risk. He calls in favours, he bribes corrupt officials and he witnesses unspeakable horrors. There is a key moment in the film where he has a chance to escape to safety, but decides, on the instant, to stay at the hotel until the refugees are safe. We see it immediately as an act of heroism but also of madness — Who in their right mind would risk taking on the Hutu mob?

The remarkable thing is that the film is entirely true. Paul Rusesabagina commanded personal resources beyond imagining. He succeeded in saving the 1,000 refugees who crowded into his hotel; with them, he escaped to safety; he now lives in Belgium. He has been given Amnesty International's 'Enduring Spirit' award, and in 2000 he received the Immortal Chaplain's Prize for Humanity.

He brings to mind Primo Levi's friend Lorenzo, in Auschwitz. Levi wrote of him:

> … he constantly reminded me, by his presence, by his natural and plain manner of being good, that there still existed a just world outside our own … a remote possibility of good, but for which it was worth surviving …

The events in Rwanda developed with astounding speed: no-one recognised in advance the direction things would take; no-one imagined in advance that the Hutu uprising would be so swift and so savage.

It is not possible for any of us to know how we would respond in similar circumstances. It is undeniable however that some people have the strength to recognise that there is a time to say, regardless of the cost, 'this cannot happen'.

Paul Rusesabagina held true to his principles at the point when it mattered most; in Auschwitz Primo Levi's friend

Lorenzo did the same. Most of us would like to think we could act with similar decency, even if we had not the same courage. But soon we will be tested. The circumstances will not be as dramatic; it will not be the occasion for epic heroism. But our choices will decide whether our neighbours in the Pacific have a chance of living, or will be left to drown as their islands disappear. We will choose between selfishness and decency. Our response to the plight of climate refugees will tell the next generation of Australians who we were. Will we be true to them? Will we be true to ourselves?

If we had to answer the question right now, as commentators rake over the embers at Copenhagen, then the answer would be disappointing. So it is time to stand up and declare ourselves. Australia can cope with the predictable number of climate refugees likely to seek a home here. We like to think that it is in our decent and generous nature to help those who need our help. We can do it. We can do it and survive.

For the sake of future generations of Australians, let us hope that we will we be true to ourselves when it counts.

Endnotes

1 King James Bible, Matthew 7:12.
2 Mahabharata, 5:1517.
3 Samyutta Nikaya v. 353.
4 Analects 15:23.
5 Number 13 of Imam Al-Nawawi's Forty Hadiths.
6 T'ai Shang Kan Ying P'ien.
7 'What you would avoid suffering yourself, seek not to impose on others.'
8 'May I do to others as I would that they should do unto me.'
9 'Do not do to others that which would anger you if others did it to you.'
10 'Treat your inferiors as you would be treated by your superiors.'
11 'Act as if the maxim of thy action were to become by thy will a universal law of nature.'

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