

# **‘Fight them on the beaches: Defending the Humanitarian State’**

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### **Abstract**

The identification of western liberal states as ‘humanitarian’ states has been used to support a wide range of policies in western liberal states, from the acceptance of refugees to armed intervention in intra-state conflict. In both Canada and Australia, as well as in many western liberal states, the adoption and implementation of the 1951 Refugee Convention was justified as consistent with and evidence of the state’s humanitarian history. However, the issue of international migration demonstrates that the state’s adoption of humanitarianism does not represent an acceptance of a cosmopolitan ethic, rather a state centric vision of humanitarianism where the protection of humanitarianism is regarded as the greater good than the protection of individuals. In this formulation, humanitarianism is dependent on the maintenance of state sovereignty.

This is evident in the discourse on refugees and asylum seekers. In a few instances, the identification of the receiving state as a humanitarian state has produced results expected of humanitarian states, and has been used to justify offering protection of refugees and asylum seekers. Increasingly however, the humanitarianism of the receiving state has been identified as the object that requires protection, justifying policies inconsistent with the humanitarian treatment of refugees and asylum seekers.

### **Introduction**

The identification of western liberal states as ‘humanitarian’ states has been used to support a wide range of policies in western liberal states, from the acceptance of refugees to armed intervention in intra-state conflict. In both Canada and Australia, as well as in many western liberal states, the adoption and implementation of the 1951 Refugee Convention was justified as consistent with and evidence of the state’s humanitarian history. However, the issue of international migration demonstrates that the state’s adoption of humanitarianism does not represent an acceptance of a cosmopolitan ethic, rather a state centric vision of humanitarianism where the protection of humanitarianism is regarded as the greater good than the protection of individuals. In this formulation, humanitarianism is dependent on the maintenance of state sovereignty.

This is evident in the discourse on refugees and asylum seekers. In some instances, the identification of the receiving state as a humanitarian state has produced results expected of humanitarian states, and has been used to justify offering protection of refugees and asylum seekers. However, in some cases, the humanitarianism of the receiving state has been identified as the object that requires protection, justifying refusing protection to refugees and asylum seekers. If the principle of humanitarianism can be used to justify both types of action, has the principle become meaningless.

In this paper I will examine the news-media coverage and the speech acts of political elites to identify the role of humanitarianism as a legitimizing rhetoric. I do so not only to show that humanitarianism has been used to justify a wide range of practices, but to demonstrate how the adoption of a humanitarian discourse in the popular media and by state elites has produced a fundamental shift in the meaning and practice of humanitarianism. The analysis of discursive practices and the use of a logic of interpretation is a growing and important part of the discipline of international relations and has contributed a great deal to our understanding of international politics.

The analysis of discursive practices is now a sufficiently large body of work to have established methodological principles that guide scholars who engage in this type of work.

As Jennifer Milliken notes, much of the work analyzing discursive practices focuses on how structures of significance (discourses) construct things and give people knowledge about social reality.<sup>1</sup> One of the primary methods employed by scholars to this end has been predicate analysis, which focuses on the 'language practices of predication – the verbs, adverbs and adjectives that attach to nouns'.<sup>2</sup> Most commonly, the use of predicates constructs multiple subjects, by assigning capacities for and modes of acting and interacting. This paper focuses on a particular predicate – humanitarianism – to show how it has been used to construct and define multiple subjects in the realm of international migration.

I employ a predicate analysis across six refugee crises in two western, liberal states: Canada and Australia. I examine multiple crises to show how one predicate, humanitarianism, has been used to construct subjects in different ways over time. I focus exclusively on refugee crises to maintain consistency in the discourses examined. Offering protection to refugees is generally considered a matter of humanitarianism, as indicated by the Preamble to the 1951 Refugee Convention. Thus, we would expect in this field, the principle of humanitarianism to be used in a consistent manner to enhance protection for refugees and asylum seekers. That this is not the case demonstrates that the provisions of the Refugee Convention were based on more than simple humanitarian sentiment, and that the adoption of a humanitarian discourse by states has altered the meaning of humanitarianism.

By examining the use of this predicate in two states, I attempt to show that the observed phenomenon is not specific to one state, i.e. it is not just Australia or Canada that has altered the meaning and use of the term. The cases I examine are generally considered to be on opposite ends of the spectrum with regard to refugee protection. Australia has implemented a regulatory regime that includes a low acceptance rate of asylum claims, mandatory detention, temporary protection visas, offshore processing, limited judicial reviews, highly restrictive interpretation of the Refugee Convention, excision of state territory for the sake of refugee claims and in one episode, forceful return of boats carrying asylum seekers. Canada on the other hand, has one of the highest acceptance rates of asylum claims, limited detention, permanent protection in most cases, multiple avenues for judicial review and a generous interpretation of the Refugee Convention. Despite these apparent differences in the treatment of asylum seekers, both Canada and Australia regard themselves as humanitarian states as indicated by the preambles to their domestic legislation incorporating the Refugee Convention. Humanitarianism has been interpreted similarly in both states, and has produced a commitment to refugee resettlement and to the international refugee regime.

### **Context**

I am not the first to examine the negative impact of the combination of humanitarianism and the state. Barnett argues that humanitarian organizations are divided over whether the state can and should be involved in humanitarianism, and that a number have expressed concern that state involvement pollutes the entire enterprise.<sup>3</sup> Similarly David Rieff has argued that the current principle of humanitarianism is the equivalent of imperialism and resembles the Christianizing mission of the European

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<sup>1</sup> Milliken, Jennifer. 1999. "The Study of Discourse in International Relations: A Critique of Research and Methods." *European Journal of International Relations* 5:225-254.

<sup>2</sup> Ibid.

<sup>3</sup> Barnett, Michael. 2003. "What is the Future of Humanitarianism." *Global Governance* 9:401-416.

imperial powers.<sup>4</sup> Both authors argue that the state's adoption of humanitarianism has produced a gradual expansion of the concept of humanitarianism to include activities such as nation-building and armed intervention, activities they see as negative developments. Other international relations scholars contend that humanitarian intervention by states represents a positive development consistent with the expansion of international norms.<sup>5</sup> While my paper does not purport to solve this debate of what constitutes humanitarian action and what actors should be carrying out this action, it does contribute to this debate by examining an understudied aspect of the association of the state and humanitarianism.

In this paper I show that states have fostered a sense of humanitarianism in their citizens, which has produced increased protection for refugees and asylum seekers. However, I show that the adoption of 'humanitarian' as a fundamental element of a states' identity leads to the potential securitisation of that identity. Once that identity is securitized, it leads to practices that violate the traditional understanding of humanitarianism.

That Canada and Australia identify themselves as humanitarian and generous, particularly with regard to refugees, is without dispute. The high levels of refugee resettlement in both of these states has been used to support the humanitarian identity claims of political elites in both states. While scholars have pointed out that these resettlement programs have been motivated partially by immigration and international security concerns rather than strict humanitarianism, there are few who would contend that humanitarian sentiment has played no role whatsoever. Even if the resettlement of refugees have been motivated by immigration and international security concerns, it is clear that humanitarianism has played an important legitimizing role for these programs. In the legislation that first introduced refugee resettlement programs in Canada and Australia, humanitarianism was featured in both as a key motive behind the creation of a distinct refugee program. While immigration matters have been a sensitive subject in Canada and Australia, emphasizing humanitarian commitments has permitted these states to admit populations that normally would have been excluded under their migration programs and would have faced significant levels of domestic opposition.

Due to these resettlement programs, Canada and Australia have resettled over 500,000 refugees and persons in refugee-like situations since the Second World War. Next to the United States, Canada and Australia have resettled more refugees than any other states, and on a per capita basis rank first and second in the resettlement of refugees. In addition, these two states have provided hundreds of millions of dollars in financial assistance to the UNHCR for the maintenance of refugee camps that provide protection for refugees. Thus it should come as no surprise that in both Canada and Australia, their historical record of providing protection to refugee figures prominently in their national identity construction.<sup>6</sup> This construction clearly differs however, from the traditional understanding of humanitarianism.

### **Humanitarianism**

Rieff defines humanitarianism as the impartial, independent and neutral delivery of relief based on need and locates the beginning of humanitarianism with the establishment of the International Committee of the Red Cross.<sup>7</sup> According to Rieff,

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<sup>4</sup> Rieff, David. 2002. *A Bed for the Night: Humanitarianism in Crisis*. New York: Simon and Shuster.

<sup>5</sup> Wheeler, Nicholas. 2000. *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University Press.

<sup>6</sup> Dauvergne, Catherine. 2005. *Humanitarianism, Identity, and Nation: Migration Laws of Australia and Canada*. Vancouver: UBC Press.

<sup>7</sup> Rieff, David. 2002. *A Bed for the Night: Humanitarianism in Crisis*. New York: Simon and Shuster.

the Red Cross was initially established to provide medical aid to injured combatants in war, regardless of which side of the war they fought on. The ultimate value was the protection of human life, there was no expectation that the individual receiving humanitarian assistance was an innocent, neutral party – after all they were combatants in war. The only expectation was that they were human beings who would die if left unattended. As Barnett notes, humanitarianism was simply understood initially as the provision of relief to the suffering.

Larry Minear traces the expansion of the principle of humanitarianism to include a wide range of activities such as providing access to medicine, refugee relief, peacekeeping, spread of human rights, banning landmines, development and the introduction of democracy.<sup>8</sup> The expansion of the activities to which the term humanitarianism could be applied occurred due to a number of changes internationally, and resulted in the growth of the number of organizations offering humanitarian relief, including states.<sup>9</sup> The focus of humanitarian work was no longer exclusively defined as providing relief to those dying on the battlefield. It now encompassed offering life-saving assistance as well as the protection of their basic human rights.<sup>10</sup>

A more important shift occurred not in the expansion of the term, but with the adoption of the principle as a fundamental characteristic of those providing the assistance. Thus, it was not just acts or projects that were identified as humanitarian, but the actors themselves who became identified as humanitarian. Fiona Terry provides an example of this in her important analysis of how this shift impacted the ability of organizations and individuals engaged in humanitarian work to critically examine their work.<sup>11</sup> In her work, she demonstrates that the self-identification of aid workers as humanitarian may have psychologically impacted the ability of those individuals to recognize that their work may actually be contributing to the suffering of people, rather than alleviating suffering.

Similarly Barbara Harrell-Bond argues that the identification of refugee relief workers and particular projects as humanitarian may actually have enabled the workers to abuse those whom they are supposed to be helping. In this article, Harrell-Bond shows how the focus of the refugee relief workers on maintaining the day-to-day operability of the project took priority over the provision of relief to individuals.<sup>12</sup> Thus the identification of individuals, organizations and projects as humanitarian has actually resulted in their needs being prioritized over the individuals they are supposed to protect.

This project argues that the same process has occurred in states as well. As states increasingly began to identify their actions and policies as humanitarian, state elites were able to construct the identity of the state and its citizens as fundamentally humanitarian. In many instances, this has resulted in state leaders implementing humanitarian policies they otherwise would have been unable to do. Conversely, it has also meant that the protection of the humanitarianism of the state has been prioritized over the protection of individuals seeking the protection of the state. While it may be comforting for the defenders of the state to note that this has not only occurred in states

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<sup>8</sup> Minear, Larry. 2002. *The Humanitarian Enterprise: Dilemmas and Discoveries*. Bloomfield: Kumarian Press.

<sup>9</sup> Barnett, Michael. 2003. "What is the Future of Humanitarianism." *Global Governance* 9:401-416.

<sup>10</sup> Minear, Larry and Ian Smillie. 2004. *The Charity of Nations: Humanitarian Action in a Calculating World*. Bloomfield, CT: Kumarian Press.

<sup>11</sup> Terry, Fiona. 2002. *Condemned to Repeat? The Paradox of Humanitarian Action*. Ithaca: Cornell University Press.

<sup>12</sup> Harrell-Bond, Barbara. 2002. "Can Humanitarian Work with Refugees be Humane?" *Human Rights Quarterly* 24:51-85.

but also humanitarian organizations and individual aid workers, this process is somewhat more troubling for states simply because states have a much greater capacity to cause harm.

### **Humanitarianism and the Protection of Refugees**

The construction of states and their citizens as fundamentally humanitarian has enabled state leaders to offer protection to a greater number of people than it otherwise could have. This has been evidenced in the area of refugee protection. The principle of humanitarianism was the legitimizing rhetoric behind the creation and implementation of the 1951 Refugee Convention as well as the establishment of refugee resettlement programs in both Canada and Australia. In addition to these permanent policy changes, the principle of humanitarianism has been used to produce and justify an extraordinary response to individual refugee crises. Thus, in Canada and Australia during the 1979 Indo-Chinese refugee crisis, humanitarianism was used to push for and ultimately defend the large-scale resettlement of refugees.

In referring to the large number of Indo-Chinese refugees who had settled in Australia between 1976 and 1979, Michael Mackellar, the Immigration Minister, stated that Australia had resettled the refugees not due to Australia's responsibility for the Vietnamese refugees but as a result of 'a humanitarian commitment to assist people out of any great danger'. Additional admissions above and beyond the stated resettlement numbers for 1979 were also justified as a humanitarian response. Mackellar announced that Australia would take about 100 Kampuchean refugees with close relatives in Australia from camps in Thailand because of 'special humanitarian factors as the refugees were believed to have been in danger of being pushed back into Kampuchea by Thailand'. And again, when the Australian government announced the decision to increase the number of refugees it would resettle in 1979 from the previous mark of 10,500 to 14,500, the decision was justified on the basis that Australia wanted to 'make a humanitarian gesture'.

The Australian government also claimed to act in a humanitarian manner when it accepted a boatload of asylum seekers that had been rescued by an Australian vessel in the South China Sea. Though the Australian authorities were hesitant to accept the rescued asylum seekers aboard the Australian vessel for fear of setting a precedent, the government ultimately agreed to accept them 'on humanitarian grounds'. And it was not only the Australian government that made the connection between humanitarianism and the resettlement of refugees in Australia. Newspaper editorials asserted that the most pressing task for the international conference was 'humanitarian', defined explicitly in one editorial as 'expanding quickly and vigorously the present inadequate resettlement measures'. The UNHCR also supported the association of humanitarianism and refugee resettlement. The UNHCR called for a doubling of the numbers of refugees resettled based on 'humanitarian arguments'. The Australian Council of Trade Unions also called on government to consider humanitarian as well as economic reasons in setting the migrant intake, which was interpreted as giving refugees and family special consideration in setting the migration quota.

That humanitarianism was associated with resettlement was made explicit by the distinction between humanitarian solutions and political solutions. According to the Australian government, and media, a political solution was one in which the political cause of the refugee exodus, Vietnam's policy of expelling its Chinese minority, was addressed. The Australian Foreign Minister, Andrew Peacock, announced that the Australian government would attend and support an international conference to increase the level of resettlement of Indo-Chinese refugees, but announced that he 'firmly believed that such humanitarian gestures alone will not solve the critical

problem'. Peacock on several occasions called for the international community to address the political as well as the humanitarian issues associated with the refugee crisis.

The association of humanitarianism and the resettlement of refugees became entrenched in the Australian discourse. Thus, when the Australian government faced domestic or international criticism over its refugee policies, the Australian government defended its humanitarianism by emphasizing its resettlement rate.

After the domestic implementation of the 1951 Refugee Convention, abiding by its principles and norms were also used to support the state's humanitarian claim. In 1992, when the Australian government announced that it intended to deport failed refugee claimants to war-torn Cambodia, it faced significant criticism from within that it was not acting humanely. The strongest challenge to Australia's humanitarianism came from domestic actors, including refugee advocacy groups and the Australian Council of Churches. In defense of Australia's humanitarianism, the Prime Minister, Paul Keating, declared that Australia's refugee determination process was 'the fairest in the world'. Gerry Hand, the minister for Immigration, claimed Australia's policies were 'just and fair'.<sup>13</sup> Hand defended Australia's humanitarian identity by emphasizing that all asylum seekers had 'received a hearing' and were given 'extensive legal assistance'.<sup>14</sup> According to the immigration minister, all of the government's actions were 'consistent with Australia's international obligations'.<sup>15</sup> Thus by 1992, the Australian government's claim to humanitarianism rested on its resettlement of refugee as well as fulfilling its international obligations under the refugee regime, which was interpreted as meaning giving asylum seekers a fair hearing with access to legal assistance.

The association of the state's humanitarianism with the resettlement of refugees and fulfilling one's international obligations was most clearly enunciated during the Tampa Crisis of 2001, in which the Australian government implemented a number of measures designed to prevent the arrival of asylum seekers on its shores. The response both domestically and internationally was intense, with many actors openly questioning Australia's commitment to its international obligations and its humanitarianism. The response of the Australian government was to defend its humanitarianism by trotting out its refugee resettlement numbers. Sounding a familiar refrain, Philip Ruddock and John Howard repeatedly emphasized that on a per capita basis, Australia was the most generous country in the world. On a prominent talkback radio program Prime Minister John Howard defended Australia's humanitarianism by stressing that 'we take more refugees per capita than any other country in the world, except Canada'.<sup>16</sup> Both the Prime Minister and his immigration minister, Philip Ruddock, made this claim repeatedly throughout the crisis. In response to criticism in the Norwegian Press, Australian newspapers and talkback radio commentators commented on Norway's resettlement rates compared with Australia's. According to one newspaper editorialist, the Norwegians' questioning Australia's humanitarianism was a clear case of those living in glass houses throwing stones.

In addition to using their refugee resettlement rates to demonstrate their humanitarian commitment, the Australian media and government justified their response on the basis that their policies did not violate their international obligations.

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<sup>13</sup> Easterbrook, Margaret. 1992. "Hand to stay firm on Migration rules." Pp. 6 in *The Age*. Melbourne.

<sup>14</sup> Millet, Michael. 1992. "Boat People get their Ticket Home." Pp. 1 in *Sydney Morning Herald*. Sydney.

<sup>15</sup> Taylor, Lenore. 1992. "Refugee law violates human rights: lawyers." Pp. 1 in *The Australian*. Sydney.

<sup>16</sup> Howard, John. 2001a. "Mitchell interview with John Howard, August 31." Pp. Radio Transcript, edited by N. Mitchell. Melbourne: Radio 3AW.

The asylum seekers would still be given a fair hearing, just not in Australia. Additionally, the Australian government increased their financial commitment to the UNHCR and highlighted the cooperation of the UNHCR in their newly implemented Pacific Solution, in which asylum seekers would be processed by the international refugee agency in third countries such as Papua New Guinea and Nauru. In addition to highlighting the compromised role of the UNHCR due to its dependence on member states' for financial support, this episode also demonstrated that humanitarianism to Australia had come to be associated with not violating its international obligations under the international refugee regime. Thus humanitarianism had come to mean a very particular thing in Australia, refugee resettlement and non-violation of international obligations – obligations that were cleverly reconstructed and reduced by the Australian government.

This interpretation of humanitarianism was not unique to Australia. A similar discourse is evident in the Canadian context as well. In response to the 1979 Indo-Chinese refugee crisis, the Canadian media and society played a lead role in associating humanitarianism with the resettlement of the refugees. Editorials and letters to the editor in Canada's major newspapers claimed that the Canada was a 'humanitarian' state and a 'good international citizen' with an obligation to help those in need. As a result of this identity construction, the Canadian government was encouraged to resettle a larger number of refugees. The editorials and letters emphasized that 'Canada, as part of the civilized world, has to act', to 'show we are humane' and to 'show universal human love'. Not taking in more refugees was represented as 'being mean spirited', and 'acting unjust(ly)'. According to this discourse, 'decency required more than present tokenism'. Another theme was to emphasize Canada's role in international affairs and to identify the Canadian state as a good international citizen.

Canadian political elites accepted and encouraged this association as well. Announcing that the resettlement figures would be increased to 50,000 refugees in 1979 based on a shared public/private sponsorship scheme, Ronald Atkey, the Canadian minister for immigration, said that this extraordinary figure was set to 'challenge the generosity and humanitarianism of Canadians'. According to Atkey, resettling so many refugees represented a clear demonstration of Canada's humanitarianism to the world and it was hoped that Canada's humanitarianism would catch on. When Atkey and Flora MacDonald, the Canadian foreign minister, announced their participation in the Geneva conference on the refugees, they stated that the need for increased resettlement places was 'a humanitarian problem of daunting proportions'. In Canada, and across the whole world at this time, humanitarianism and the resettlement of Indo-Chinese refugees were synonymous. Canada's extraordinary response was used, and is still used today – 27 years later – as evidence of Canada humanitarianism.

Similar to Australia, the implementation of the 1951 Refugee Convention into Canadian domestic law in 1976 meant that humanitarianism toward refugees and asylum seekers also meant fulfilling the state's obligations under the international refugee regime in addition to resettling refugees. Thus when 174 Tamil asylum seekers arrived by boat in 1986, the Canadian Prime Minister, Brian Mulroney, repeatedly emphasized Canada's humanitarian tradition in dealing with refugees. In the face of public opposition to accepting the asylum seekers, Mulroney urged 'Canadians to show compassion' to the Tamil refugees and argued that 'Canada's humanitarian traditions

dictate that they not be turned away'.<sup>17</sup> He later compared the Tamils to Jewish refugees in World War Two and explicitly stated that 'refugees are welcome in Canada and we will open the doors'.<sup>18</sup> According to Mulroney in 1986, humanitarianism in Canada meant fulfilling international obligations to not turn away asylum seekers. This interpretation of humanitarianism was supported by the other political elites: Ed Broadbent of the NDP stated that 'providing refuge was the only option' for a humanitarian state like Canada while the Liberal leader John Turner stated that 'the Tamils had to be given temporary shelter in Canada'.<sup>19</sup>

The next year, 1987, the Canadian government introduced Bills C-55 and C-84, both of which were designed to tighten up the refugee determination process and increase penalties on those illegally transporting 'illegal migrants'. The legislation was introduced in response to a perceived influx of false refugee claimants following another boatload of asylum seekers arriving in the summer of 1987. The two pieces of legislation faced significant domestic opposition in the media, from the Liberal and NDP opposition parties, as well as NGO's and faith based groups. The opposition to this legislation was based on the claim that it was 'inhumane' and 'violated Canada's humanitarian tradition'. Like the Australian government in 1992, the government defended its humanitarianism by demonstrating its commitment to the international refugee regime by increasing the number of refugees it would resettle, by increasing aid to the UNHCR and by claiming that the new legislation did not violate Canada's international obligations. The government supported this claim by showing how the new legislation still ensured that asylum seekers would receive a fair hearing, with legal assistance and access to judicial review of the decision. These three minimal commitments were interpreted as fulfilling its international obligations, and by association retaining its humanitarian identity.

This interpretation of humanitarianism continued throughout the 1990's and early 2000's, as evidenced by the 1999 refugee crisis. In the summer of 1999 the arrival of five boats carrying Chinese asylum seekers arrived off the west coast of Canada. The Canadian government, by now a Liberal government led by Prime Minister Chretien, was confronted with a hostile response to the asylum seekers from segments of the media, the public and by their political opposition, the Reform Party. Lucien Robillard, the immigration minister at the time of the first boat arrival, emphasized that Canada would not turn the boats back because 'Canada must abide by international agreements'. Robillard stated that the government would clamp down on smugglers, but would not do so at the risk of sending back refugees.<sup>20</sup> Eleanor Caplan, who replaced Robillard as Immigration Minister shortly before the arrival of the second boat, emphasized Canada's humanitarianism and stated that the asylum seekers aboard the second boat would be treated 'the same as the first boat, in line with Canada's reputation as a humanitarian country'.<sup>21</sup> When members of the Reform party publicly called on the government to recall Parliament to implement the notwithstanding clause to allow the government to forcibly turn back the boats, Caplan again stated that Canada, in keeping with its humanitarian tradition, wouldn't force boats back nor

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<sup>17</sup> O'Donnell, Joe. 1986. "Show compassion for Tamil refugees Mulroney urges." Pp. 1 in *Toronto Star*. Toronto.

<sup>18</sup> Ruimy, Joel. Ibid. "People trust me despite the polls, Mulroney says." Pp. 12.

<sup>19</sup> Press, Canadian. Ibid. "Canada right to accept Tamils, Turner declares." Pp. 6.

<sup>20</sup> Beatty, Jim and Petti Fong. 1999. "Hunger Strike by Chinese migrants leads to lockdown: refugee claimants protest at quality of food served while in detention at CFB Esquimalt." Pp. 1-2 in *Vancouver Sun*. Vancouver.

<sup>21</sup> Staff, Editorial. Ibid. "Refugee laws make Canada vulnerable." Pp. 18.

would the government use the notwithstanding clause to strip asylum seekers of the right to a refugee hearing.<sup>22</sup> Prime Minister Chretien, defending the government's humanitarian response argued that 'Canada's laws are fair' and that 'Canada is a generous country'. He claimed that it would remain this way, even if it meant encouraging illegal immigrants to make false claims.<sup>23</sup> According to the government's discourse, maintaining Canada's humanitarianism was more important than preventing a few false refugee claims.

As the Canadian and Australian cases demonstrate, offering protection to refugees has played an important role in the construction of the state's identity as humanitarian. In turn, humanitarianism has been interpreted by these states as maintaining a refugee resettlement program and abiding by their international commitments under the international refugee regime. While the exact commitments under the international refugee regime have been interpreted differently in Canada and Australia, and indeed in most western states, there is a shared understanding of what those international commitments are: refugees should not be refouled, or sent back to a state where they face persecution, asylum seekers should receive a fair hearing with access to legal counsel and a review of a negative decision.

This interpretation of humanitarianism differs significantly from the traditional view of humanitarianism espoused by scholars such as David Rieff and Larry Minear, or of humanitarian NGO groups such as the International Committee of the Red Cross or Medecins sans Frontieres. While the re-interpretation of humanitarianism by states has resulted in the implementation of policies that do not uphold the traditional humanitarian principle of the impartial, independent and neutral delivery of relief based on need, it has actually produced an international refugee regime that offers protection to millions of the world's refugees, and the resettlement of hundreds of thousands of these refugees that would otherwise have been condemned to long periods of time, in some cases life, in refugee camps. The watering down of the pure principle of humanitarianism has produced an imperfect system of protection, however, that is not the full extent of the problem of the adoption of the principle of humanitarianism by states. The adoption of humanitarianism as a fundamental character of the state and its citizens has rendered it capable of being securitised by political elites.

### **Defending Humanitarianism**

The admission of refugees on humanitarian grounds played a crucial role in confirming and reifying the identity of the state as good, prosperous and generous.<sup>24</sup> However, the state's response to refugees and asylum seekers was not the only tool used to reify the state's identity as humanitarian. Other commitments, such as foreign aid and abiding by international humanitarian agreements such as the Geneva Convention also served to reify the state as humanitarian. Once humanitarianism became accepted as a fundamental character of the state and its citizens, it became an essential part of the state's identity, one that could be manipulated and that required protection. Thus political elites would be justified in implementing extraordinary measures to combat any development that was constructed as threatening the humanitarian nature of the state.

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<sup>22</sup> Laghi, Brian. 1999. "Ottawa won't force ships to turn back; Caplan refuses to endanger smuggled humans." Pp. 1 in *Globe and Mail*. Toronto.

<sup>23</sup> Stewart, Edison. 1999. "Laws partly to blame for Migrants: PM, Chretien, China's Jiang discuss smuggling ships." Pp. 6 in *Toronto Star*. Toronto.

<sup>24</sup> Dauvergne, Catherine. 2005. *Humanitarianism, Identity, and Nation: Migration Laws of Australia and Canada*. Vancouver: UBC Press.

But what developments could be constructed as threatening to a state's humanitarianism? As Buzan and Waever note, a state's or a society's identity can be threatened by a number of developments, including horizontal competition, vertical competition and migration.<sup>25</sup> According to Waever and Buzan, migration threatens to alter the demographic composition of society and potentially its values, thus producing a change in its identity.<sup>26</sup> Unfortunately, Buzan and Waever focus exclusively on external threats and fail to note that a society's identity may also be threatened from within. As I have noted elsewhere, the identification of external threats is always accompanied by a corresponding identification of internal threats. In the case of humanitarianism and refugee protection, it is the internal threat that has been most significant.

In all refugee crises, fear of a public backlash has been a prominent concern. In Australia in 1979, public backlash to the admission of Indo-Chinese refugees was identified as a threat to Australia's new non-racist identity. The media and political elites claimed that a public backlash threatened 'a return to the White Australia policy'. When the Labor Party, then in Opposition, announced that they favored establishing transit camps in Australia for Indo-Chinese refugees, the media and government responded quickly and harshly. The government claimed the Australians would 'not accept concentration camps on Australian soil' and that the existence of such camps would represent a 'return to White Australia'. The camps also represented a threat to Australia's identity as a country of resettlement. The Secretary of the department of Immigration, Mr. Engledow, put in bluntly when he stated that the idea of refugee transit camps were inconsistent with Australia's identity. He stated that 'Australia is a country of settlement not refuge'.<sup>27</sup>

The public backlash feared in response to an increase in the number of Indo-Chinese refugees threatened to reverse recent positive changes to Australia's identity. Essentially, it was racist elements in the Australian society that represented a threat to Australia's identity, and it was the arrival of large numbers of Indo-Chinese asylum seekers that were responsible for triggering the backlash. Nancy Viviani observes that the Australian government was confronted with a difficult dilemma, resettling a larger number of refugees from Malaysia and Indonesia to prevent the arrival of asylum seekers that would generate some hostility in the Australian public or refuse to resettle more refugees and face the consequent increase in the number of boats arriving on Australian shores, which would undoubtedly produce a strong racist backlash.<sup>28</sup>

Future refugee crises accepted and built on this distinction between defending one's humanitarianism and behaving in a humanitarian fashion. In future crisis the Australian state's humanitarianism was identified both as an essential identity trait but also as a potential weakness. In 1992, the minister for immigration Gerry Hand introduced new legislation designed to tighten up the refugee determination process. Hand defended the new legislation on the grounds that his previous generosity had been abused. The lawyers who represented asylum seekers through the process were described by Hand as 'manipulating the system' and as 'rorters'. Media commentators

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<sup>25</sup> Buzan, B, O Waever, and J de Wilde. 1998. "Security: A New Framework for Analysis." Boulder: Lynne Rienner.

<sup>26</sup> Waever, O.; Buzan, B; Kelstrup, M and Lemaitre, P. 1993. "Identity, Migration and the New Security Agenda in Europe." Copenhagen: Center for Peace and Conflict Research.

<sup>27</sup> Molloy, Susan. 1979. "Immigration Rejects Australian transit camps for refugees." Pp. 3 in *Sydney Morning Herald*. Sydney.

<sup>28</sup> Viviani, Nancy. 1996. *The Indochinese in Australia 1975-1995: From Burnt Boats to Barbecues*. Sydney: Oxford University Press.

and the opposition described the behavior of asylum seekers and their supporters as 'exercising moral blackmail', while immigration minister Gerry Hand referred to the appeals and protests of the boat people as 'antics for photographers and television cameras' and as 'other such stunts'.<sup>29</sup> Hand accused the asylum seekers and their legal representatives of using 'delaying tactics to gain sympathy'.

According to this discourse Australians were identified as both generous and sympathetic to refugees. However, it also identified the asylum seekers and their legal advocates as using this generosity and sympathy to undermine Australia's control of its borders. Hand even publicly admitted to having been personally duped by these people. According to Mr. Hand, in '(his) endeavours to be fair, to the boat people in particular, (he) might have been played for a bit of a dill'.<sup>30</sup> Hand depicted himself and other Australians that supported the asylum seekers as victims, of the asylum seekers and their lawyers who sought to extend their stay in Australia by exhausting all avenues for appeal. Subsequently, the government accused the advocacy groups opposed to deporting the asylum seekers of 'campaigning to undermine the integrity of Australia's refugee determination process'.<sup>31</sup> Australia's humanitarianism was being used against them to undermine their control of the refugee process, and consequently their sovereign right to decide who enters the country.

By 2001, Australia's humanitarianism was not only portrayed as potentially creating a public backlash and as being abused by those seeking to undermine its immigration controls, but was itself being threatened. Throughout the crisis, the media and the governing elites, including the Prime Minister, accused the asylum seekers of 'exercising moral blackmail' and 'trying to intimidate us through our own decency'.<sup>32</sup> As was the case in 1992, Australia's humanitarianism and decency was portrayed as being used against them. The danger in this of course was that too much abuse of Australia's compassion and generosity could lead to a decline in the level of Australia's compassion and generosity.

Thus it became essential to protect Australia's humanitarianism to ensure that it would be capable of continuing to offer protection to those most in need of protection. The best way to do this, according to the Prime Minister Howard was to ensure that 'everyone has a chance at a fair assessment'.<sup>33</sup> Accordingly, it was the 'queue-jumpers', 'rorters' and 'manipulators of the system' that undermined the fairness of the system. To emphasize this point, the governing elites and media repeatedly referred to the asylum seekers as 'illegal arrivals', whose refugee claims were 'less meritorious than those in refugee camps'. Because their claims had less merit than those in camps, the asylum seekers were accused of taking spots from genuine refugees.<sup>34</sup> Howard claimed that 'every person who comes here illegally keeps somebody else out'.<sup>35</sup> Thus preventing unauthorized arrivals enabled the government to let in others in greater need and with more meritorious refugee claims. The Immigration Minister stated the influx

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<sup>29</sup> Humphries, David. 1992. "Roof Jumpers fail to move the Minister." Pp. 9 in *Sydney Morning Herald*. Sydney.

<sup>30</sup> Austin, Greg. Ibid. "Govt Gets Tough on Refugees." Pp. 1.

<sup>31</sup> Kirk, Sigrid and Michael Millet. Ibid. "Hand blasts supporters of detained boat people." Pp. 8.

<sup>32</sup> Clennel, Andrew and Sarah Crichton. 2001. "They're Intimidating Us: PM." Pp. 1 Ibid.

<sup>33</sup> Howard, John. 2001b. "Mitchell interview with John Howard: August 28." Pp. Radio Transcript, edited by M. Mitchell. Melbourne: Radio 3AW.

<sup>34</sup> Howard, John. 2001a. "Mitchell interview with John Howard, August 31." Pp. Radio Transcript, edited by N. Mitchell. Melbourne: Radio 3AW.

<sup>35</sup> Ibid.

of asylum seekers had created 'the potential that Australia would lose the capacity to be able to help refugees through a proper resettlement program'.<sup>36</sup>

It was not simply that the asylum seekers were taking places from people in greater need of protection; the asylum seekers themselves were portrayed as un-humanitarian. Throughout the crisis the asylum seekers were accused of sabotaging their boats, of being terrorists and of throwing their children overboard to gain sympathy. In response to the alleged incident of asylum seekers throwing their children overboard, Howard proclaimed that 'these are not the type of people we want in Australia'.<sup>37</sup> It was implied that they were not the type of people Howard wanted in Australia because they were clearly not compassionate and respectful of others as Australians were. The media and the government had constructed the asylum seekers in such a way that letting them into Australia would certainly decrease the overall level of compassion and generosity in Australian society. The defense of Australia's humanitarianism had very little resemblance to humanitarian action. The manner in which humanitarianism had been constructed in the Australian discourse had permitted the government to implement extraordinary means against those who threatened to undermine Australia's capacity to fulfill its humanitarian nature.

While the 2001 Tampa incident in Australia was an extreme event, similar themes are evident in Canada as well. In response to the large number of Indo-Chinese refugees to be resettled in Canada in 1979, segments of the media, the public and a few prominent societal elites appealed to the government to 'temper their humanitarianism'. The National Citizens' Coalition, the most vocal and prominent of the groups calling for a tempering of Canada's humanitarianism took out a full page ad in the *Globe and Mail* stressing that Canada was simply unable to assimilate that many Indo-Chinese refugees and that there would be negative social and economic effects of such a large intake. While the ad commended Canada's humanitarianism, it called for a healthy dose of realism in with the humanitarianism. Thus, according to the NCC, Canada's overly generous response threatened Canadian society. There were very few political elites or members of the mainstream media that supported the NCC's position. The government did however fear a public backlash that would undermine their ability to resettle refugees. For this reason, the government strongly encouraged private sponsorship and humanitarian representations of the asylum seekers in the media.<sup>38</sup> It also responded harshly to the NCC's ad. Ron Atkey dismissed the ad as 'racist' and 'misrepresentative'. As was the case in Australia, the government was careful to identify the racist backlash as not characteristic of the state's current identity while having the potential to undermine is humanitarian efforts.

By 1987, Canada faced a large backlog of refugee cases and an increasing number of asylum seekers arriving at their borders. While the Mulroney government stressed that Canada would respond in a humanitarian way to asylum seekers, it had moved to tighten up the refugee determination process in 1987.

The government made the same claims that Turner had made. In the opening speech during the emergency summer recall of Parliament, the immigration minister Benoit Bouchard claimed that the 'arrival of 174 migrants...endanger the physical safety of the migrants, imperial the security of Canada and - worst of all - jeopardize public support for our immigration and refugee programs'. He further emphasized that 'when the integrity of our immigration and refugee programs is cast in doubt, our sense

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<sup>36</sup> Ruddock, Philip. 2005. "Interview Transcript." Pp. Interview Transcript, edited by S. Watson. Sydney.

<sup>37</sup> Marr, David and Marian Wilkinson. 2003. *Dark Victory*. Crows Nest: Allen and Unwin.

<sup>38</sup> Adelman, Howard. 1982. *Canada and the Indochinese Refugees*. Regina: L.A. Weigl Educational Associates Ltd.

of identity is weakened. When our willingness to help others is abused our commitment to providing assistance is placed in jeopardy'. Lastly, Bouchard claimed that 'we must not forget our first priority as a country is to help genuine refugees who are confined to camps overseas...All Canadians want an end to the abuse and we will put an end to it because we all want to preserve Canada's reputation as a fair, open and generous nation'.

Richard Griese, another Conservative Member of Parliament argued that 'doing nothing would have aggravated the dissension reflected in public opinion and thus put our programs for refugees and immigrants in jeopardy'. According to Griese there was 'no doubt that Canada's humanitarian tradition of dealing with refugees may come to an end if we do not put a stop to the abuse of our system. To do nothing would be irresponsible and sound the death knell of an honoured Canadian tradition'. In defending the two immigration bills, Griese argued that 'Canada has a long tradition of proving its humanitarian concern for genuine refugees who need its protection. The new determination system will uphold this tradition of commitment to true refugees'.

The Liberals, though opposed to the Conservative's legislation, supported the government's claim that asylum seeker arrivals were threatening Canada's humanitarianism. John Turner, leader of the Liberal Party accused the asylum seekers of exploiting Canada's refugee system, of 'destroying the humane and open way this country deals with visitors and refugees' and of 'underhanded cutting the queue and jumping the line'.<sup>39</sup> Liberal immigration critic Sergio Marchi stated in the emergency session of Parliament that 'if we value the integrity of our system and the respect for it, then we need to curb abuse. We need to stamp out the practice of putting forward fraudulent claims'. The need to stamp out fraudulent claims was because the Canadian population was losing its commitment to refugee resettlement. According to the Liberal spokesman, it 'was only with the support and confidence of Canadians that in the 15 to 20 years previous to the present Government this country brought in special groups of refugees and immigrants'. That which undermined the support and confidence of Canadians in the humanitarian tradition, was a threat that needed to be addressed.

According to both the Conservative government and the Liberal opposition, the unauthorized asylum seekers threatened Canada's humanitarianism by showing up in the way that they did. It was not the racist elements in Canadian society that threatened Canada's commitment to humanitarianism. Sergio Marchi made this clear, when he stated that 'Canadians have not been demonstrating bigoted or racist attitudes in the last several weeks. They are becoming impatient with a government which has failed to come to grips with the problem of developing a system to help the bona fide refugee'.

In 1999, Canada's humanitarianism was again portrayed as threatened by fraudulent asylum claims. In this instance, many segments of the media and the Reform Party in opposition portrayed Canada's generosity as being manipulated and used by people smugglers and illegal immigrants. While the Reform Party called for drastic action, such as turning back boats and using the notwithstanding clause to prevent the asylum seekers from having access to a refugee hearing, the government employed a nuanced defense of Canada's humanitarianism. The Liberal government portrayed the asylum seekers as victims of unscrupulous people smugglers. It was the people smuggler's that had to be stopped, at any means, to protect both Canada and their smuggled victims. The media played a crucial role in this restructured humanitarianism, by portraying the asylum seekers as illegal migrants coerced and tricked by organized

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<sup>39</sup> News, Toronto Star. 1987. "Refugees are exploiting laws, Turner tells B.C. constituents." Pp. 4 in *Toronto Star*. Toronto.

people smuggling rackets, referred to as 'snakeheads'. For the government, the only way to protect itself and the illegal migrants from the smugglers was to prevent people from engaging the services of people smugglers and to prevent people smugglers from accessing the people they had successfully smuggled.

Thus the government justified the prolonged detention of the asylum seekers that had arrived by boat in the summer of 1999 on humanitarian grounds. Detaining them in a remote location in British Columbia that was far from the center of people smuggling rackets, as well as their legal advocates, was justified based on the need to keep them away from the smugglers. The government also sought to prevent them from departing in the first place. The Liberal government announced a cooperative effort between the RCMP and Chinese police to stop boats from departing. While China's human rights record at this time was questionable at best, the Canadian government assisted their police in preventing boats carrying asylum seekers from departing. Thus, the best way to protect the asylum seekers and maintain Canada's humanitarianism was to keep asylum seekers in detention and prevent their freedom to flee. Like Australia, defending Canada's humanitarianism bore little resemblance to humanitarian action.

### **Conclusions**

The adoption of the principle of humanitarianism by states has had both positive and negative outcomes for the fundamental humanitarian goal of delivering relief to those who are suffering. There is little doubt that in some circumstances this had led to saving hundreds of thousands or even millions of lives. Even a harsh critic of state humanitarianism like David Rieff has conceded that humanitarian intervention led by states can accomplish 'pure' humanitarian goals. However, as I have demonstrated in this paper, it has also resulted in a fundamental alteration of what humanitarianism means. In the case of refugee protection, humanitarian action has been reduced to two considerations: resettlement and fulfilling the minimal obligations of the refugee regime.

Refugee resettlement has essentially become a part of normal politics, with a set number of refugees being admitted each year. The number that are admitted are based on consultations between the federal government and the sub-federal political units, as well as with input from refugee groups and business groups. Essentially, the number that are admitted is the amount that the government feels comfortable admitting. It is the insistence of levels of comfort that belies the abandonment of true humanitarian objectives, as acting in a humanitarian manner is never comfortable. Furthermore, resettlement programs often result in states hand picking refugees from overcrowded refugee camps. As a result, the selection of refugees for resettlement is rarely impartial or based on need. Rather, considerations such as language and employment skills and family connections often take precedence.

If these were the worst of the crimes associated with the state's adoption of humanitarianism, it might not be that bad. But as the last section of this paper demonstrates, the reification of a state's identity as humanitarian has led to perverse outcomes. Once the state has reified an element as a fundamental aspect of its identity, it lends itself to the securitisation of that identity. This has permitted state elites to implement extraordinary measures to protect the state's humanitarianism. As was shown in the Canadian and Australian cases, the defense of humanitarianism has led to limiting the number of refugees resettled, the deportation of failed claimants to unsafe countries, the lengthy detention of asylum seekers, cooperating with refugee producing states to prevent departures, and limiting access to the refugee determination process and judicial review. The absurd outcome of states' adopting humanitarianism has been the implementation of policies that create further suffering for the people that a humanitarian ethos purports to protect.



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