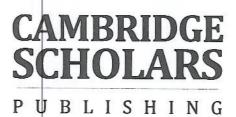


# MIGRATION, BELONGING AND THE NATION STATE

Edited by Alperhan Babacan and Supriya Singh Migration, Belonging and the Nation State

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## CHAPTER THREE

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## RESTORING THE RIGHTS OF ASYLUM SEEKERS IN AUSTRALIA

## LINDA BRISKMAN

#### Introduction

Australia's policy of indefinite mandatory detention was legislatively bolted in 1992 and applied to all asylum seekers arriving in Australia without authorisation. The detention camps have included those located hundreds of miles from Australian cities and on the far-flung Pacific island of Nauru. On Christmas Island, 2,600 kilometres from Perth, an imposing maximum-security centre now houses asylum seekers.

The policy has been shown by many analysts to be in breach of international human rights standards, international conventions and standards of decency. It is in these centres that asylum seekers are reduced to what Agamben (1998) refers to as "bare life". Asylum seeker hysteria emerged in the late 1990s but was exacerbated after the attacks in New York on 11 September 2001, as the government and sections of the media unashamedly fused asylum seeking with terrorism for political purposes. The majority of those locked away were from Afghanistan, Iran and Iraq, usually arriving by boat, and many remained in detention for years as they appealed their decisions and justifiably resisted the pressure to be returned to their countries of origin. Prominent QC Julian Burnside raises a paradox in Australian government policy whereby those held in Guantanamo Bay were suspected of being Taliban or Al-Qaeda supporters whereas the people locked up in the Nauru detention facility were fleeing from the Taliban and Al-Qaeda. Using this example, Burnside illustrates his point about what a government driven by ideological zealotry is prepared to do if it can get away with it (Burnside 2006).

Particularly disturbing is that the detention centres sprang up in a nation that proclaims adherence to the rule of law and is a land of abundance. As Whyte suggests (2003, p. 10), "the detention centres have appeared not in the midst of a totalitarian regime – whether in the form of

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Alperhan Babacan is a senior lecturer in law at RMIT University. Alperhan holds degrees in law and political science and a PhD from RMIT University. He has previously worked in the public and private sectors, either as a researcher or lawyer, and has written widely on human rights law, comparative asylum and refugee policy, international law, counter terrorism, citizenship and human security.

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### Contributors

Professor Hurriyet Babacan

Hurriyet Babacan is Foundation Director, Cairns Institute, James Cook University. Hurriyet has over 20 years of experience as an academic, public servant community worker, researcher and trainer in the government, community and university sectors. Formerly Hurriyet held key positions such as Executive Director, Multicultural Affairs, Women's Policy and Community Outcomes Branch in the Department of Premier and Cabinet (Q|d); Director, Institute for Community, Ethnicity and Policy Alternatives, Victoria University; Associate Director, Centre for Multicultural and Community Development, University of the Sunshine Coast; Commissioner with the inaugural Ethnic Affairs Commission in Victoria; and was Victorian Manager, Office of Multicultural Affairs in the Department of Prime Minister and Cabinet. Hurriyet has published widely in national and international publications on the issues of multiculturalism, immigration, identity, social policy, gender, racism, settlement, child protection and community development including two publications for UNESCO. She has co-authored a number of books relating to racism, social development, globalisation and asylum seekers.

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