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Bastard Immigrants: Asylum Seekers Who Arrive by Boat and the Illegitimate Fear of the Other

Lelia Green, Anne Aly | Volume 17 | Issue 5 | October 2014 'illegitimate'

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Illegitimacy

Back in 1987, Gregory Bateson argued that:

> Kurt Vonnegut gives us wary advice – that we should be careful what we pretend because we become what we pretend. And something like that, some sort of self-fulfilment, occurs in all organisations and human cultures. What people presume to be 'human' is what they will build in as premises of their social arrangements, and what they build in is sure to be learned, is sure to become a part of the character of those who participate. (178)

The human capacity to marginalise and discriminate against others on the basis of innate and constructed characteristics is evident from the long history of discrimination against people whose existence is 'illegitimate', defined as being outside the law. What is inside or outside the law depends upon the context under consideration. For example, in societies such as ancient Greece and the antebellum United States, where slavery was legal, people who were constructed as 'slaves' could legitimately be treated very differently from 'citizens': free people who benefit from a range of human rights (Northup). The discernment of what is legitimate from that which is illegitimate is thus implicated within the law but extends into the wider experience of community life and is evident within the civil structures through which society is organised and regulated.

The division between the legitimate and illegitimate is an arbitrary one, susceptible to changing circumstances. Within recent memory a romantic/sexual relationship between two people of the same sex was constructed as illegitimate and actively persecuted. This was particularly the case for same-sex attracted men, since the societies regulating these relationships generally permitted women a wider repertoire of emotional response than men were allowed. Even when lesbian

and gay relationships were legalised, they were constructed as less legitimate in the sense that they often had different rules around the age of consent for homosexual and heterosexual couples. In Australia, the refusal to allow same sex couples to marry perpetuates ways in which these relationships are constructed as illegitimate – beyond the remit of the legislation concerning marriage.

The archetypal incidence of illegitimacy has historically referred to people born out of wedlock. The circumstances of birth, for example whether a person was born as a result of a legally-sanctioned marital relationship or not, could have ramifications throughout an individual's life. Stories abound (for example, Cookson) of the implications of being illegitimate. In some social stings, such as Catherine Cookson's north-eastern England at the turn of the twentieth century, illegitimate children were often shunned. Parents frequently refused permission for their (legitimate) children to play with illegitimate classmates, as if these children born out of wedlock embodied a contaminating variety of evil. Illegitimate children were treated differently in the law in matters of inheritance, for example, and may still be. They frequently lived in fear of needing to show a birth certificate to gain a passport, for example, or to marry. Sometimes, it was at this point in adult life, that a person first discovered their illegitimacy, changing their entire understanding of their family and their place in the world. It might be possible to argue that the emphasis upon the legitimacy of a birth has lessened in proportion to an acceptance of genetic markers as an indicator of biological paternity, but that is not the endeavour here.

Given the arbitrariness and mutability of the division between legitimacy and illegitimacy as a constructed boundary, it is policed by social and legal sanctions. Boundaries, such as the differentiation between the raw and the cooked (Lévi-Strauss), or S/Z (Barthes), or purity and danger (Douglas), serve important cultural functions and also convey critical information about the societies that enforce them. Categories of person, place or thing which are closest to boundaries between the legitimate and the illegitimate can prompt existential anxiety since the capacity to discern between these categories is most challenged at the margins. The legal shenanigans which can result speak volumes for which aspects of life have the potential to unsettle a culture. One example of this which is writ large in the recent history of Australia is our treatment of refugees and asylum seekers and the impact of this upon Australia's multicultural project.

Foreshadowing the sexual connotations of the illegitimate, one of us has written elsewhere (Green, 'Bordering on the Inconceivable') about the inconceivability of the Howard administration's 'Pacific solution'. This used legal devices to rewrite Australia's borders to limit access to the rights accruing to refugees upon landing in a safe haven entitling them to seek

asylum. Internationally condemned as an illegitimate construction of an artificial 'migration zone', this policy has been revisited and made more brutal under the Abbot regime with at least two people – Reza Barati and Hamid Khazaei – dying in the past year in what is supposed to be a place of safety provided by Australian authorities under their legal obligations to those fleeing from persecution. Crock points out, echoing the discourse of illegitimacy, that it is and always has been inappropriate to label "undocumented asylum seekers" as "'illegal'" because: "until such people cross the border onto Australian territory, the language of illegality is nonsense. People who have no visas to enter Australia can hardly be 'illegals' *until* they enter Australia" (77).

For Australians who identify in some ways – religion, culture, fellow feeling – with the detainees incarcerated on Nauru and Manus Island, it is hard to ignore the disparity between the government's treatment of visa overstayers and "illegals" who arrive by boat (Wilson). It is a comparatively short step to construct this disparity as reflecting upon the legitimacy within Australia of communities who share salient characteristics with detained asylum seekers: "The overwhelmingly negative discourse which links asylum seekers, Islam and terrorism" (McKay, Thomas & Kneebone, 129). Some communities feel themselves constructed in the public and political spheres as less legitimately Australian than others. This is particularly true of communities where members can be identified via markers of visible difference, including indicators of ethnic, cultural and religious identities: "a group who [some 585 respondent Australians …] perceived would maintain their own languages, customs and traditions […] this cultural diversity posed an extreme threat to Australian national identity" (McKay, Thomas & Kneebone, 129). Where a community shares salient characteristics such as ethnicity or religion with many detained asylum seekers they can become fearful of the discourses around keeping borders strong and protecting Australia from illegitimate entrants.

Methodology

The qualitative fieldwork upon which this paper is based took place some 6-8 years ago (2006-2008), but the project remains one of the most recent and extensive studies of its kind. There are no grounds for believing that any of the findings are less valid than previously. On the contrary, if political actions are constructed as a proxy for mainstream public consent, opinions have become more polarised and have hardened.

Ten focus groups were held involving 86 participants with a variety of backgrounds including differences in age, gender, religious observance, religious identification and ethnicity. Four focus groups involved solely Muslim participants; six drew from the wider Australian community. The aim was to examine the response of different communities to mainstream

Australian media representations of Islam, Muslims, and terrorism. Research questions included: "Are there differences in the ways in which Australian Muslims respond to messages about 'fear' and 'terror' compared with broader community Australians' responses to the same messages?" and "How do Australian Muslims construct the perceptions and attitudes of the broader Australian community based on the messages that circulate in the media?" Recent examples of kinds of messages investigated include media coverage of Islamic State's (ISIS's) activities (Karam & Salama), and the fear-provoking coverage around the possible recruitment of Australians to join the fighting in Syria and Iraq (Cox).

The ten focus groups were augmented by 60 interviews, 30 with respondents who identified as Muslim (15 males, 15 female) and 30 respondents from the broader community (same gender divisions). Finally, a market research company was commissioned to conduct a 'fear survey', based on an established 'fear of rape' inventory (Aly and Balnaves), delivered by telephone to a random sample of 750 over-18 y.o. Australians in which Muslims formed a deliberative sub-group, to ensure they were over-sampled and constituted at least 150 respondents. The face-to-face surveys and focus groups were conducted by co-author, Dr Anne Aly.

General Findings

Muslim respondents indicate a heightened intensity of reaction to media messages around fear and terror. In addition to a generalised fear of the potential impact of terrorism upon Australian society and culture, Muslim respondents experienced a specific fear that any terrorist-related media coverage might trigger hostility towards Muslim Australian communities and their own family members. According to the 'fear survey' scale, Muslim Australians at the time of the research experienced approximately twice the fear level of mainstream Australian respondents.

Broader Australian community	**Australian Muslim community**
Fear of a terrorist attack	Fear of a terrorist attack combines with the fear of a community backlash
Specific victims: dead, injured, bereaved	Community is full of general victims in addition to any specific victims
Short-term; intense impacts	Protracted, diffuse impacts
Society-wide sympathy and	Society-wide suspicion and

support for specific victims and all those involved in dealing with the trauma and aftermath	a marginalisation of those affected by the backlash
Victims of a terrorist attack are embraced by broader community	Victims of backlash experience hostility from the broader community

Four main fears were identified by Australian Muslims as a component of the fear of terrorism:

1. **Fear of physical harm**. In addition to the fear of actual terrorist acts, Australian Muslims fear backlash reprisals such as those experienced after such events as 9/11, the Bali bombings, and attacks upon public transport passengers in Spain and the UK. These and similar events were constructed as precipitating increased aggression against identifiable Australian Muslims, along with shunning of Muslims and avoidance of their company.
2. **The construction of politically-motivated fear**. Although fear is an understandable response to concerns around terrorism, many respondents perceived fears as being deliberately exacerbated for political motives. Such strategies as "Be alert, not alarmed" (Bassio), labelling asylum seekers as potential terrorists, and talk about home-grown terrorists, are among the kinds of fears which were identified as politically motivated. The political motivation behind such actions might include presenting a particular party as strong, resolute and effective. Some Muslim Australians construct such approaches as indicating that their government is more interested in political advantage than social harmony.
3. **Fear of losing civil liberties**. As well as sharing the alarm of the broader Australian community at the dozens of legislative changes banning people, organisations and materials, and increasing surveillance and security checks, Muslim Australians fear for the human rights implications across their community, up to and including the lives of their young people. This fear is heightened when community members may look visibly different from the mainstream. Examples of the events fuelling such fears include the London police killing of Jean Charles de Menezes, a Brazilian Catholic working as an electrician in the UK and shot in the month following the 7/7 attacks on the London Underground system (Pugliese). In Australia, the case of Mohamed Hannef indicated that innocent people could easily be unjustly accused and wrongly targeted, and even when this was evident the political agenda made it almost impossible for authorities to admit their error (Rix).
4. **Feeling insecure.** Australian Muslims argue that personal insecurity has become "the new normal"

> (Massumi), disproportionately affecting Muslim communities in both physical and psychological ways. Physical insecurity is triggered by the routine avoidance, shunning and animosity experienced by many community members in public places. Psychological insecurity includes fear for the safety of younger members of the community compounded by concern that young people may become 'radicalised' as a result of the discrimination they experience. Australian Muslims fear the backlash following any possible terrorist attack on Australian soil and describe the possible impact as 'unimaginable' (Aly and Green, 'Moderate Islam').

In addition to this range of fears expressed by Australian Muslims and constructed in response to wider societal reactions to increased concerns over radical Islam and the threat of terrorist activity, an analysis of respondents' statements indicate that Muslim Australians construct the broader community as exhibiting:

1. Fear of religious conviction (without recognising the role of their own secular/religious convictions underpinning this fear);
2. Fear of extremism (expressed in various extreme ways);
3. Fear of powerlessness (responded to by disempowering others); and
4. Fear of political action overseas having political effects at home (without acknowledging that it is the broader community's response to such overseas events, such as 9/11 [Green 'Did the world really change?'], which has also had impacts at home).

These constructions, extrapolations and understandings by Australian Muslims of the fears of the broader community underpinning the responses to the threat of terror have been addressed elsewhere (Green and Aly).

Legitimate Australian Muslims

One frustration identified by many Muslim respondents centres upon a perceived 'acceptable' way to be an Australian Muslim. Arguing that the broader community construct Muslims as a homogenous group defined by their religious affiliation, these interviewees felt that the many differences within and between the twenty-plus national, linguistic, ethnic, cultural and faith-based groupings that constitute WA's Muslim population were being ignored. Being treated as a homogenised group on a basis of faith appears to have the effect of putting that religious identity under pressure, paradoxically strengthening and reinforcing it (Aly, 'Australian Muslim Responses to the Discourse on Terrorism').

The appeal to Australian Muslims to embrace membership in a secular society and treat religion as a private matter also led some respondents to suggest

they were expected to deny their own view of their faith, in which they express their religious identity across their social spheres and in public and private contexts. Such expression is common in observant Judaism, Hinduism and some forms of Christianity, as well as in some expressions of Islam (Aly and Green, 'Less than equal'). Massumi argues that even the ways in which some Muslims dress, indicating faith-based behaviour, can lead to what he terms as 'affective modulation' (Massumi), repeating and amplifying the fear affect as a result of experiencing the wider community's fear response to such triggers as water bottles (from airport travel) and backpacks, on the basis of perceived physical difference and a supposed identification with Muslim communities, regardless of the situation. Such respondents constructed this (implied) injunction to suppress their religious and cultural affiliation as akin to constructing the expression of their identity as illegitimate and somehow shameful. Parallels can be drawn with previous social responses to a person born out of wedlock, and to people in same-sex relationships: a 'don't ask, don't tell' kind of denial.

Australian Muslims who see their faith as denied or marginalised may respond by identifying more strongly with other Muslims in their community, since the community-based context is one in which they feel welcomed and understood. The faith-based community also allows and encourages a wider repertoire of acceptable beliefs and actions entailed in the performance of 'being Muslim'. Hand in hand with a perception of being required to express their religious identity in ways that were acceptable to the majority community, these respondents provided a range of examples of self-protective behaviours to defend themselves and others from the impacts of perceived marginalisation. Such behaviours included: changing their surnames to deflect discrimination based solely on a name (Aly and Green, 'Fear, Anxiety and the State of Terror'); keeping their opinions private, even when they were in line with those being expressed by the majority community (Aly and Green, 'Moderate Islam'); the identification of 'less safe' and 'safe' activities and areas; concerns about visibly different young men in the Muslim community and discussions with them about their public behaviour and demeanour; and women who chose not to leave their homes for fear of being targeted in public places (all discussed in Aly, 'Australian Muslim Responses to the Discourse on Terrorism'). Many of these behaviours, including changing surnames, restricting socialisation to people who know a person well, and the identification of safe and less safe activities in relation to the risk of self-revelation, were common strategies used by people who were stigmatised in previous times as a result of their illegitimacy.

Conclusion

Constructions of the legitimate and illegitimate provide one means through which we can investigate complex

negotiations around Australianness and citizenship, thrown into sharp relief by the Australian government's treatment of asylum seekers, also deemed "illegals". Because they arrive in Australia (or, as the government would prefer, on Australia's doorstep) by illegitimate channels these would-be citizens are treated very differently from people who arrive at an airport and overstay their visa. The impetus to exclude aspects of geographical Australia from the migration zone, and to house asylum seekers offshore, reveals an anxiety about borders which physically reflects the anxiety of western nations in the post-9/11 world. Asylum seekers who arrive by boat have rarely had safe opportunity to secure passports or visas, or to purchase tickets from commercial airlines or shipping companies. They represent those ethnicities and cultures which are currently in turmoil: a turmoil frequently exacerbated by western intervention, variously constructed as an il/legitimate expression of western power and interests.

What this paper has demonstrated is that the boundary between Australia and the rest, the legitimate and the illegitimate, is failing in its aim of creating a stronger Australia. The means through which this project is pursued is making visible a range of motivations and concerns which are variously interpreted depending upon the position of the interpreter. The United Nations, for example, has expressed strong concern over Australia's reneging upon its treaty obligations to refugees (Gordon). Less vocal, and more fearful, are those communities within Australia which identify as community members with the excluded illegals. The Australian government's treatment of detainees on Manus Island and Nauru, who generally exhibit markers of visible difference as a result of ethnicity or culture, is one aspect of a raft of government policies which serve to make some people feel that their Australianness is somehow less legitimate than that of the broader community.

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