

# Australia, Indonesia, and West Papuan refugees, 1962–2009

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## Abstract

In this paper we examine the Australian government's response to West Papuan asylum-seekers during the period 1962–2009. We argue that, throughout this period, the Australian government has attempted to appease the sensitivities of its powerful northern neighbour, Indonesia, as far as it can without outraging a domestic public sympathetic to West Papuans or drawing international condemnation by too obviously breaching international law. For the most part, it has done so by trying to avoid accommodating refugees from Indonesia, liaising closely with the Indonesian government in relation to asylum-seekers, and assuring the Indonesian government of its unequivocal support for Indonesian territorial integrity.

## 1 Introduction

In recent years, Australia's response to asylum-seekers has received much attention from scholars in refugee studies. The level of interest could

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hardly be explained by reference to the actual number of individuals making their own way to Australia to seek its protection, as thus far this number has been small, both in relative and in absolute terms. Rather, Australia's response has been considered path-breaking on two accounts: first, beginning with the introduction of mandatory detention for unauthorized arrivals in 1992, Australia pioneered policies of deterrence; and, second, from September 2001 to February 2008, Australia had in place an extra-territorial asylum-seeker processing regime (the Pacific Solution),<sup>1</sup> which provided inspiration for European policy-makers troubled by the growing numbers of asylum-seekers reaching Europe from Africa.

The purpose of this paper, however, is not that of making the case that Australia subjects refugees to worse treatment than other Western nations. Those who have engaged in such comparative studies have tended to conclude that most Western nations display a disconcerting willingness to erode the international rule of law in a quest to avoid

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1 In August 2001, the Norwegian freighter *Tampa* rescued 433 asylum-seekers at sea and sought to have them disembark on the Australian territory of Christmas Island. Australian authorities refused to permit this. The ensuing stand-off was finally resolved by the institution of what is popularly referred to as the 'Pacific Solution'. The Pacific Solution was underpinned by amendments to the *Migration Act 1958* (Cth) passed on 26 September 2001 pursuant to which Christmas Island, Ashmore and Cartier Islands, Cocos (Keeling) Islands (and any other places which might be designated by regulation in the future) are defined to be 'excised offshore places'. Regulations adopted on 21 July 2005 have since effectively designated all parts of Australian territory with the exception of the mainland and Tasmania as 'excised offshore places'. The 2001 *Migration Act* amendments provide that a person, who becomes an unlawful non-citizen by entering Australia at an 'excised offshore place', is an 'offshore entry person'. An offshore entry person cannot make an application for an Australian visa without Ministerial permission. The 2001 *Migration Act* amendments also provide that an offshore entry person may be taken to a 'declared country'. The Coalition government persuaded Papua New Guinea and Nauru to be declared countries (hence the name 'Pacific Solution') and took offshore entry persons to Australian-controlled facilities in those two countries to have any protection claims considered by officers of the Australian Department of Immigration, pursuant to a non-statutory and procedurally defective process. It was Coalition government policy that those found to be refugees would only be resettled in Australia as a last resort if no other country was willing to take them (see further Taylor, 2005a). In 2008 the Labor government closed down the processing facilities in Nauru and PNG. However, the 'excised offshore place' legislation remains in place and is being used to enable what some have dubbed the 'Indian Ocean Solution'. Offshore entry persons are now taken to Christmas Island to have their protection claims determined there pursuant to non-statutory procedures which are only a slight improvement on those used by the previous government in the declared countries. In contrast to the previous government, though, it is the present government's policy to resettle in Australia all those found to be refugees (Department of Immigration, 2009).

providing protection to those in need of it (see, for example, Kneebone, 2009). Rather, the purpose of this paper is to argue that the Australian case deserves particular attention for yet another reason: because Australia, more than most other comparable Western nations, is potentially a country of first asylum for a sizeable number of refugees from the developing world and has served as a country of first asylum for such refugees in the past.

Australia is within easy reach for the citizens of three nations marked by varying degrees of internal instability: Timor-Leste, Papua New Guinea (PNG), and Indonesia. Of these, Indonesia is the largest and most likely source of refugees for whom Australia would be a country of first asylum. Indonesia's history has been marked by conflicts and internal unrest – including the conflicts between the central government and secessionist movements in Ambon, East Timor, Aceh, and West Papua,<sup>2</sup> the anti-communist purge following the failed 1965 coup, and the anti-Chinese pogroms of the 1960s – that have resulted in widespread internal displacement and in large-scale refugee movements.

Not only is Indonesia a potential source of refugees seeking Australia's protection, refugees fleeing Indonesia, or territories under its control, have in fact sought asylum in Australia (or its former colony, the Territory of Papua and New Guinea (TPNG)) for almost half a century. They have mainly, but not exclusively, come from West Papua (since 1963) and from East Timor (between 1975 and 1999). While Australia has accorded protection to many refugees fleeing Indonesia, it has done so reluctantly. In 2008, Australia's first instance decision-makers granted five protection visa applications made by Indonesian nationals, but rejected a further 213. In contrast to Australia's two per cent recognition rate, US decision-makers recognized 34 per cent of Indonesian applicants as refugees at first instance in 2008. Likewise, Australia's six per cent recognition rate for Indonesian nationals at review in 2008 was in marked contrast to a 35 per cent rate in the United States in the same year (UNHCR, 2009, Table 12; see also Mahy, 2004).

2 In the following, we refer to the Indonesian part of the island of New Guinea (the former Dutch colony of West New Guinea) by the term commonly used in Australia at the time (for example, 'West Irian' or 'Irian Jaya') or, if we want to denote the political entity since 1962, as 'West Papua'. We will consistently refer to its indigenous inhabitants as 'West Papuans'.

Refugee-receiving countries have often been placed in a delicate position on account of accepting refugees from a powerful refugee-producing neighbor. But since the end of World War II, most of the former have been developing countries in the global South. Very few Western industrialized countries have shared Australia's predicament.

In this paper, we explore the tension between the Australian government's desire to maintain good relations with the governments of neighboring countries (particularly the one that is seen as a potential threat), on the one hand, and Australia's international legal obligations under the 1951 Convention relating to the Status of Refugees and other related instruments, on the other, and, more importantly, the desire to be seen domestically as an actor who cannot be bullied into ignoring the predicament of refugees. We explore this tension by analyzing the means by which Australia has tried to appease its powerful northern neighbor, Indonesia, without completely closing its doors to refugees who are Indonesian nationals. Because of the issue's on-going relevance, we focus on Australia's response to refugees from West Papua.

## 2 Background

On 17 August 1945, the leaders of the Indonesian nationalist movement issued a Declaration of Independence. Australia's Labor Party government initially remained neutral in the conflict between Indonesian nationalists and the Netherlands. The archival evidence indicates that neutrality manifested itself also in Australia's response to refugees from the Netherlands East Indies.<sup>3</sup> Over time, however, the Australian government's policy toward Indonesia shifted, with Australia siding more openly with the Indonesian nationalists against the Dutch, and its response to refugees shifted to accordingly.<sup>4</sup>

On 27 December 1949, the Dutch transferred sovereignty over most of the Netherlands East Indies to Indonesian nationalists, but retained West New Guinea. Australia, now governed by a conservative coalition,

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3 See, for example, 38 men of Java to [Australian Government], 25 June 1946, National Archives of Australia [hereafter: NAA]: A518, BI822/1; D.R. Marsh, patrol report no. 3 of 46/47 Daru, 27 August to 26 October 1946, patrol diary and patrol summary, n.d., NAA: A518, BI822/1.

4 See, for example, J.W. Bunton to Secretary, 28 February 1947, NAA: A518, BI822/1.

recognized Indonesia that same day. During the 1950s, the Australian government tried to maintain friendly relations with the Indonesian government of President Sukarno. There were several impediments to such relations, however. Australia was a strong supporter of an anti-communist alliance in Southeast Asia and in 1954 was one of the founding members of the South East Asia Treaty Organisation. In contrast, Indonesia was one of the founders, and subsequently a leading member, of the Non-Aligned Movement. The US government and its allies also increasingly perceived Sukarno and his administration to be coming under the influence of communists.

The most important matter of contention between the Indonesian and Australian governments concerned West New Guinea. The Indonesian government claimed that the western half of New Guinea was an integral part of Indonesia, whereas the Australians supported the Dutch, who had retained possession of West New Guinea, and expressed their hope that the peoples of the island of New Guinea 'would find one destiny' (Hasluck, 1976, p. 362). In 1954, Australia helped to thwart Indonesian attempts to raise the issue of West New Guinea before the United Nations. Four years later, Australia signed an agreement with the Netherlands about administrative cooperation in relation to the Dutch colony and its own TPNNG. The Australian government considered West New Guinea to be a vital link in Australia's defence, and did not at first regard Indonesian control of West New Guinea to be compatible with the national interest.

In late 1961, the Australian position changed (see, Downs, 1980; Doran, 2001; Umetsu, 2005). As a result of Indonesian pressure, the United Nations General Assembly's support for decolonization and the interests of American foreign policy, the Dutch had become increasingly isolated. The Australian government realized that the Indonesian take-over of the Dutch colony was inevitable, given that the Indonesian position was by then supported by the US government, which feared that Indonesia would align itself with communist countries if it were alienated by the West's refusal to acknowledge the legitimacy of its claims regarding West New Guinea. In 1962, the Dutch agreed to hand over control of their territory to a UN interim administration (United Nations Temporary Executive Authority – UNTEA). Almost as soon as the Dutch decided to withdraw from West New Guinea, the Australian government began making contingency plans for an

anticipated influx of refugees, including indigenous West Papuans, into TPNG (see below).

On 1 May 1963, UNTEA handed over control of West New Guinea to Indonesia in the understanding that the Indonesian authorities would allow the people of what now became West Irian (Irian Barat) to vote on their future in a referendum (van der Veur, 1963; Hastings, 1965; Sharp, 1977). That referendum, the so-called Act of Free Choice, took place in 1969. It sealed the incorporation of the western half of New Guinea into Indonesia.

In December 1973, the Territory of Papua and New Guinea became self-governing, and the Papua New Guinean government in Port Moresby took responsibility for the territory's refugee and asylum-seeker policies. In September 1975, PNG became independent.

### 3 Appeasement (I): being mindful of Indonesian sensitivities

The Australian government has always insisted on its prerogative to accommodate West Papuan refugees. This prerogative was perhaps never as forcefully expressed as immediately after the Dutch withdrawal from West New Guinea. In November 1962, the Australian foreign minister, Garfield Barwick, met with the Indonesian ambassador. Barwick provided the following record of that meeting:

I said that I proposed to act upon such requests [for asylum] as had been received, having in mind broad human considerations. I would of course endeavour to satisfy myself of the need for refuge in each case, and I expected that there would be cases in which I would be so satisfied. In those cases permission to enter East New Guinea would be given to Papuans from West New Guinea, assuming that they could otherwise satisfy the requirements of the Department of Territories.<sup>5</sup>

At the same time, however, Australia's response to West Papuan refugees has always been informed by the desire not to provoke a hostile reaction from its Indonesian neighbor. Throughout the past 46 years, the

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5 Garfield Barwick, record of conversation with Brigadier-General Suadi, 22 November 1962, NAA: A1838, 3036/14/1 part 1.

Indonesian government has always made it very clear that in its view those fleeing West Papua are either criminals trying to avoid just prosecution for crimes that would have attracted judicial proceedings in any country, or they are misguided in that they rely on baseless rumors about Indonesian atrocities. The Indonesians have argued that Australia has therefore not been justified in offering West Papuans either political asylum or protection as refugees in terms of the 1951 Convention. The Australian government has accordingly devised a number of strategies to keep the number of West Papuans accommodated by Australia as low as possible, and to minimize the impact their accommodation could have on the Australia–Indonesia relationship. The Australian government has:

1. publicly recognized that West Papua is an integral part of Indonesia;
2. liaised closely with the Indonesian authorities;
3. tried to deal with West Papuan asylum-seekers outside the framework of international refugee law by
  - not officially recognizing West Papuan asylum-seekers as refugees in terms of the 1951 Convention;
  - not directly involving the Office of the United Nations High Commissioner for Refugees (UNHCR) in issues related to West Papuan refugees;
4. tried to direct West Papuan refugees away from Australian territory by
  - returning them to Indonesia or encouraging their voluntary repatriation;
  - after PNG became independent, accommodating them, or facilitating their accommodation, in PNG rather than in Australia;
  - granting refugees temporary residence rather than resettling them permanently;
  - seeking to persuade other countries to resettle West Papuan refugees, particularly those who were, or threatened to be, politically active;
5. tried to prevent West Papuan refugees from criticizing Indonesia while in Australia or TPNG;
6. tried to restrict access to information about
  - West Papuan refugee movements;
  - human rights abuses in West Papua.

In the following discussion, we detail these strategies.

### 3.1 Recognition of the former West New Guinea as an integral part of Indonesia

Since the controversial Act of Free Choice in 1969, the Australian government has assumed that the integration of the former Dutch colony into the Republic of Indonesia is irreversible. The government has regularly rebuffed politicians or other public figures in Australia who have been critical of Indonesia's sovereignty over West Papua.<sup>6</sup> It has also tried to avoid any statements that could be interpreted as condoning the activities of West Papuan separatists in Indonesia, PNG, or Australia. In 1971, for example, a Foreign Affairs document stated:

As the status of West Irian has been settled and accepted internationally, we must be careful not to take any action which could be regarded as an infringement of Indonesia's sovereign rights. This includes, of course, any action which could be interpreted as support or encouragement for dissident elements.<sup>7</sup>

The most recent development in the implementation of this strategy is the Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation (the 'Treaty of Lombok'), which was signed in November 2006 and came into force in February 2008. Article 2(3) of the treaty provides:

The Parties, consistent with their respective domestic laws and international obligations, shall not in any manner support or participate in activities by any person or entity which constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party.

Although West Papua is not explicitly mentioned in the treaty, the officially acknowledged purpose of Article 2(3) is 'to provide a binding commitment by the Australian *government* not to support the secession of Papua' (JSCOT, 2007, para. 4.17).

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6 The political persuasion of the government from time to time has been irrelevant. Parties which have questioned Indonesia's right to incorporate West Papua have become supportive of the Indonesian position once themselves in the position of governing.

7 'West Irian / Papua New Guinea border area: Department of Foreign Affairs interest', paper left with PNGIC by M.G.M. Bourchier on 2 September 1971, NAA: A1838, 3036/10/6/4 part 1.



### 3.2 *Liaison with Indonesia*

As far as we could establish on the basis of archival evidence before 1975 and the public record since, the Australian government has – since at least the fall of Sukarno – tried to keep Indonesia informed of developments concerning West Papuan refugees. The briefings Australia's ambassador in Jakarta provided to the Indonesian government in the late 1960s and early 1970s, for example, were more detailed than either those provided to UNHCR, or to the Australian public through statements in Parliament.

### 3.3 *Operating outside the formal framework of International Refugee Law*

Australia did not accede to the 1967 Protocol relating to the Status of Refugees, which removed the temporal and geographical limitations of the 1951 Convention, until 1973 – immediately after PNG had become self-governing. While Papua and New Guinea was an Australian territory, the Australian government tried to deal with West Papuan asylum-seekers without involving UNHCR, and without allowing a UNHCR representative to visit TPNG in order to gain first-hand knowledge of the West Papuan refugee issue (Neumann, 2006).

On the other hand, the Australian government communicated its decision to abide informally by the 1951 Convention both to the Indonesian government and to UNHCR and did pay close attention to the 1951 Convention when formulating its policy and when deciding individual asylum cases. In 1965, for example, a senior officer in the Department of External Affairs, in a submission concerning a West Papuan's application for permissive residence in TPNG, wrote:

Itaar spent the six months' period (February – August) in hiding, apparently out of fear of punishment should he be captured by the Indonesian authorities. In view of this fact, and in the light of his history of anti-Indonesian activity, we consider that he *has a well-founded fear of persecution* should he be returned to West Irian.<sup>8</sup>

8 G.A. Jockel to Minister, 29 October 1965, emphasis added, NAA: A1838, 3036/14/1/6 part 3. The words we have emphasized mirror the language of Article 1 of the 1951 Convention.

It therefore appears that the reason Australia did not become a party to the 1967 Protocol until 1973 was that it wished to ensure that the provision of protection to West Papuan refugees could be treated as a matter of political discretion rather than legal obligation. Since December 1973, Australian governments have not had this luxury – a fact they have sometimes had reason to regret.

### 3.4 Directing West Papuans away from Australian territory

*Return of refugees to Indonesia.* The border between PNG and the Indonesian half of New Guinea has remained porous to the present day because of the comparatively low population density in the area, the difficulty of much of the terrain and the comparative remoteness of the border region. From late 1962, significant numbers of West Papuans crossed into TPNG without first seeking Australian permission to do so. Australian authorities distinguished between three different types of unauthorized border crossers: (a) ‘Ordinary inland village people, still fairly primitive, who cross the border for purposes such as hunting, subsistence agriculture or visiting people of their clan’; (b) ‘Unskilled, semi-sophisticates generally with limited primary school education who are half-heartedly looking for employment and a higher standard of living’; and (c) ‘Genuine refugees’.<sup>9</sup> In the first 12 months after the Indonesians took control of West New Guinea, the Australian authorities counted 377 unauthorized border crossers, who were all sent back to West Irian (Neumann, 2002).

While Australia subsequently admitted small numbers of West Papuans to TPNG on 5-year permissive residence visas (see Section 3.4.3), it kept turning away a larger number. Writing about West Papuans who crossed the border into TPNG in 1968 and 1969, June Verrier (1986, p. 41) astutely observed that most of them ‘undoubtedly did so for political reasons, just as most of them were undoubtedly sent back also for political reasons’. Nevertheless, it may have been the case that only a small proportion of the West Papuan border crossers returned to Indonesian territory by the Australians fell within the narrow definition of ‘refugee’ set out in the 1951 Convention. However, the Australians did not always establish whether or not they did. It was up

9 R. Rose to Secretary, Department of Territories, 27 June 1966, NAA: A1838, 932/5/14 part 1.

to individual Australian officers to decide whether the protection claims of a particular border crosser warranted further investigation, or whether it appeared unlikely that he or she was a 'genuine refugee' and therefore could be returned to Indonesian territory immediately. This was an issue that troubled UNHCR, which in most other respects condoned Australia's response to West Papuan refugees (see Neumann, 2006).

While the strategy of return was foremost the result of Australia's desire to appease Indonesia, it was also informed by other factors (Neumann, 2002). First, the Australian government believed that a more welcoming response to West Papuans would encourage an increase in the numbers seeking Australia's protection, possibly leading to an influx that would be unmanageable. Second, before 1973, the Australian government was concerned not to pursue policies that would burden a future PNG government with a large population of West Papuan exiles and a fraught relationship with its Indonesian neighbor. Finally, before Sukarno was replaced by Suharto, Australia was also concerned about possible communist infiltrators.

Australia became a party to the 1967 Protocol after PNG became self-governing, i.e. at a point in time when West Papuans who crossed into PNG had ceased to be Australia's problem. Since 1973, the question of return to Indonesia has only arisen for the Australian government in relation to the relatively small numbers of West Papuans who have come directly to Australia. Mindful of its international reputation (see below), Australia has been careful to avoid unarguable breaches of its international protection obligations. Arguable breaches have been a different matter.

Since September 2001, the Australian Navy has been tasked with preventing suspected unauthorized arrivals from entering Australian waters (see Department of Defence, 2009).<sup>10</sup> In January 2006, 43 West Papuan refugees arrived on the coast of Far North Queensland. This was by far the largest group of West Papuans ever to flee directly from Indonesia to Australia. In order to prevent recurrences, the Australian government allocated two more navy vessels 'to provide additional surveillance and patrolling capability of Australia's high threat maritime approaches' (Department of Defence, 2006, p. 36). In other words, the government was prepared, if the occasion arose, to push Indonesian

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10 Like the Pacific Solution, this naval operation was originally instituted in the aftermath of the *Tampa* incident.

asylum-seekers back to Indonesia. Such conduct would be highly problematic from an international legal perspective, but not to the extent of entering completely into the realm of the legally indefensible (Taylor, 2008). From the Australian government's perspective that was clearly good enough.

*Containing West Papuan refugees in PNG.* While PNG was an Australian territory, West Papuans fled only once directly to Australia: on 16 February 1969, a group of eight men travelled by raft to the island of Moa (Banks Island) in the Torres Strait and sought Australia's protection. In that case, a Department of Immigration official persuaded them to agree to their transfer to TPNG to have their claims heard there rather than in Australia. They were subsequently returned to Indonesian territory (Neumann, 2007).

When PNG became self-governing, West Papuan border-crossers became the responsibility of the PNG government. When PNG became independent, many of the West Papuan refugees who had relied on a succession of temporary permissive residence permits (see Section 3.4.3) were able to take out PNG citizenship.

After September 1975, West Papuans continued to seek refuge in PNG. The most significant influx of refugees into PNG occurred in 1984–85. After a failed Organisasi Papua Merdeka (OPM – Free Papua Movement) uprising in February 1984 about 12,000 West Papuans crossed into PNG, and most of them remained there (Harris and Brown, 1985). PNG, which acceded to the 1951 Convention and 1967 Protocol in July 1986, worked with UNHCR to deal with the border crossers (Blaskett, 1989). A decision was made to relocate the border crossers from about 15 informal settlements along the PNG side of the border to a site away from the border in order to both 'improve the security... of the border' and allow 'more efficient delivery of humanitarian assistance' (Vagi, 1986). East Awin in Western Province was chosen as the site for a new refugee camp and between 1987 and 1989 about 3,500 people were relocated at UNHCR's expense from informal border settlements to the East Awin site to be cared for by UNHCR (Glazebrook, 2004). The Australian government, which engaged in 'close consultation with PNG and Indonesian officials, and officials of international relief agencies, on matters relating to the PNG–Indonesia border and the welfare of the Irianese in border camps in PNG' (DFAT, 1986, pp. 16–17), welcomed

PNG's new border policy describing it as a 'significant step forward in PNG's attempts to resolve the [border crosser] problem' ('PNG–Indonesia border', 1986).

Each year between 1984–85 and 1995, Australia provided more than half of the funds for UNHCR's border crosser program in PNG. This was clearly in Australia's interests because it stabilized a population which might otherwise have been forced to keep fleeing all the way to Australia to find effective protection. At the same time, Australia was not prepared to resettle any West Papuan refugees in Australia, ostensibly because UNHCR had not requested Australia's assistance as a country of resettlement (Ingram, 1990; Thawley, 1990). However, according to the report of a parliamentary inquiry into Australia's relations with PNG:

In 1988 the UNHCR Commissioner in Port Moresby had approached Australia, amongst other countries, as a possible re-settlement country for some East Awin refugees. He had little success, and the main hindrance to finding a permanent home for the East Awin refugees in Papua New Guinea from Papua New Guinea's point of view is the possibility that any permanent solution might offend its powerful neighbour, Indonesia. Presumably, this sensitivity is also at least partly behind the failure on the part of other countries such as Australia to help deal with the problem. (Joint Committee on Foreign Affairs, Defence and Trade, 1991, para. 12.1.8)

In 1995, Australia started exerting pressure on PNG to resolve the situation of the East Awin camp inhabitants either by repatriating them to Indonesia or by permanently settling them in PNG (Radio Australia, 1995). In order to force PNG's hand, Australia indicated that it would only provide UNHCR in PNG with funding for repatriation operations (Radio Australia, 1995). A political analysis published in February 1996 suggested that Australia had taken this position because of its 'warming relationship with Indonesia' ('Papua New Guinea politics', 1996).

On 25 September 1996, an apparent 8-year hiatus in unauthorized boat travel by West Papuans to Australia ended when 21 West Papuans crossed from PNG to Australia's Tudu Island but were returned to PNG on the basis that they had permissive residency there (Department of Immigration, 1997, 2006). On 4 January 1998, 30 West Papuans, who had been living in PNG since 1986, travelled to Tudu Island by boat.

They had apparently been prompted to make the journey by reports that PNG planned to forcibly repatriate West Papuans. When reassured that this was not the case, they agreed to return voluntarily to PNG (Meade, 1998; Department of Immigration, 2006).

In contrast, the 43 West Papuan asylum-seekers who arrived in Australia in January 2006 came directly from Indonesia rather than via PNG. Furthermore, they entered at a non-excised part of Australia's migration zone and could not, therefore, be subjected to Australia's extra-territorial processing regime according to the terms of legislation in place at the time (see note 1). All of them were able to and did make protection visa applications. Forty-two applications were successful at first instance, eliciting strong protests from the Indonesian government. These protests prompted the Australian government to introduce legislation, the Migration Amendment (Designated Unauthorised Arrivals) Bill ('DUA Bill'), which was designed to prevent future boat arrivals from applying for protection visas (see further below). The Australian government also made an informal approach to the PNG government proposing the use of Australia's Pacific Solution facility on PNG's Manus Island (see note 1) for the accommodation of West Papuans who arrived in Australia directly from Indonesia, pending the making of refugee status determinations by Australian officials (Peake, 2006). The proposal was rebuffed by the PNG government on the basis that West Papuan asylum-seekers were as much of an irritant in PNG–Indonesia relations as in Australia–Indonesia relations, '[p]robably more so because [of the shared] land border' (Peake, 2006 quoting PNG Foreign Minister, Rabbie Namaliu).

In early May 2006, three West Papuans who had crossed into PNG from Indonesia made their way to Australia's Boigu Island. The Australian authorities negotiated with PNG to return the men under a 2003 MOU with PNG in relation to Migration, Refugees, Irregular Migration and People Smuggling (Metcalf, 2006). PNG agreed to readmit the three men and they were returned there on 23 June 2006 (ABC, 2006). Apparently, this was the first occasion on which Australia had actually invoked the 2003 MOU (Metcalf, 2006). Non-Indonesian third country nationals who crossed the Torres Strait from PNG immediately before and immediately after the three West Papuan men were dealt with in other ways. The return to PNG of the three West Papuan men was clearly intended to appease Indonesia in the aftermath of the

January 2006 incident and was, in fact, welcomed by Indonesia as a step in the right direction ('Indonesians back stand on Papuans', 2006; Peake, 2006). Five West Papuans who crossed by boat from PNG to Australia's Saibai Island on 21 August 2007 were dealt with in the same way (Hart, 2007).

*Granting of temporary residence permits to West Papuan refugees.* On 6 August 1962, a couple of months before the Dutch handover of West New Guinea to UNTEA, the Australian Cabinet decided that in the case of Dutch-sponsored civilian refugees of Papuan extraction who wished to remain as residents in TPNG 'each case be decided upon its merits by the Minister for Territories in consultation in view of the political aspects with the Minister for External Affairs'. The decision followed a request by the Dutch government to accommodate a limited number of political refugees from the former Dutch colony. It was Cabinet's understanding that of these approximately 1,200 Indonesian and Papuan refugees only 150 would want to remain in TPNG and that the Dutch would bear the costs incurred in accommodating them.<sup>11</sup>

Several West Papuans who were openly critical of the impending Indonesian take-over applied to the Australian representative in Kota Baru (the former Hollandia) to be allowed to settle in TPNG as refugees; in many of these cases, permission was granted. For several years, the Dutch government provided financial support to them. At the same time, several West Papuan tertiary students in Port Moresby, who had asked for political asylum, were also allowed to remain in the Australian territory, albeit without being granted asylum. Initially, the decision to let them stay in TPNG was conceived as a temporary response to their request and as such was not opposed by the Indonesian government. In total, the number of Dutch-sponsored refugees and West Papuan students, including their families, who were allowed to settle in TPNG, was slightly below the number of West Papuan refugees anticipated by the Australian government ahead of its decision of 6 August 1962.

The first refugees who were not sponsored by the Dutch but nevertheless allowed to remain in the Australian territory were Benjamin

11 Cabinet decision no. 375 of 6 August 1962; Garfield Barwick, submission no. 330 of 19 July 1962, both NAA: A5819, Volume 8/Agendum 330.

Nikijuluw and his family (originally from the Moluccas) and their West Papuan servant Djoni Jakedewa, who crossed the border in September 1964. In December 1964, Jakedewa was the first West Papuan refugee to be granted permissive residence, whose case was not covered by the Cabinet decision of August 1962 (Neumann, 2002).

From 1965, small numbers of refugees who were able to convince the Australian authorities that they had been politically active in West Irian and had been persecuted by the Indonesians were allowed to remain in TPNG. According to Australian government statistics, 573 people crossed the border illegally between 1963 and 1966. There were 866 illegal border crossings in 1967 and 801 in 1968. While not granting any request for political asylum, between 1962 and August 1969, Australia allowed 75 West Papuans and their families to stay in TPNG on 5-year permissive residence visas.<sup>12</sup> The number of border-crossers increased after the 1969 Act of Free Choice. By 1973, more than 500 West Papuan refugees were living in the Australian territory on permissive residence permits.

All West Papuan refugees who were allowed to remain in TPNG were granted temporary permissive residence permits rather than resettled permanently. These permits were renewable. While the Australian government threatened not to renew such permits in some cases, it never carried out its threats.

After PNG was granted independence, there were several occasions when West Papuan refugees sought refuge in Australia. In 1985, small numbers of West Papuan refugees landed on islands in the Torres Strait and sought asylum (Stoljar, 1986). According to newspaper reports, the Determination of Refugee Status (DORS) Committee considered the first five arrivals on 2 October 1985 and recommended that they should all be recognized as refugees, but the Minister asked the Committee to reconsider its recommendation (Davis, 1985). On 18 June 1986, he decided to grant refugee status to only 2 of the 11 individuals (Hurford, 1986; 'Status of Irian Jayans clarified', 1986). At the same time he confirmed a Cabinet decision made the previous year that 'the Irian Jayans, including any granted refugee status, would not be granted permanent

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12 Department of External Affairs, 'Notes Prepared as Background Information on the Border between West Irian and the Territory of Papua and New Guinea', 30 September 1969, NAA: A1838, 932/5/14 part 3.



residence in Australia' ('Status of Irian Jayans clarified', 1986, p. 1000). After expressing his view that the 'best long-term solution' for the nine rejected applicants was to return home voluntarily, Hurford stated that all 11 individuals would be granted Temporary Entry Permits (TEPs) of 6 months duration 'while all matters relating to their long-term futures were further explored' ('Status of Irian Jayans clarified', 1986, p. 1000). The grant of the TEPs to the two recognized refugees amounted to a departure from Australia's then usual practice of granting permanent entry permits to refugees.

The 43 West Papuans who arrived in Australia in January 2006 were also initially granted temporary protection only. In this case, however, their mode of arrival was the explanatory factor. From October 1999 to May 2008, all refugees who arrived in Australia without authorization were only eligible for the grant of a 3-year temporary protection visa in the first instance. Of the 43 West Papuans, four chose to return to Indonesia in 2008. In 2009, those remaining in Australia were granted permanent protection visas (Jackson, 2009).

*Resettlement of West Papuan refugees in countries other than Australia or PNG.* In the mid-1960s, when Australia accommodated the first West Papuan refugees (other than those sponsored by the Dutch government or already in TPNG as students), the Australian government was hopeful that the Dutch would be able to resettle many of them. But these hopes proved unfounded, despite repeated Australian attempts to involve the Dutch in the effort to resettle refugees from their former colony. Overall, Australia's attempts to find other countries willing to resettle West Papuan refugees from TPNG were largely unsuccessful. Similarly, the Australian government endeavored without success to find third country resettlement for the West Papuans granted TEPs in 1986 (Roberts, 2006).

### *3.5 Attempts to prevent West Papuan refugees from criticizing Indonesia*

Australia granted West Papuans permissive residence in TPNG only if they committed themselves in writing not to engage in anti-Indonesian activities during their stay. West Papuan refugees were led to believe that they faced deportation if they agitated against the Indonesian

government. In fact, Australia doubted that it would be politically feasible to deport West Papuan refugees and was relying on the refugees not realizing that the Territory administration had no effective means of silencing them. In 1969, an External Affairs official observed that '[i]n practice, none of the West Irianese have shown a tendency to contest what the Administration has told them to do. Apart from legal sanctions, the Administration has considerable powers of bluff'.<sup>13</sup>

The other option available to the Australian authorities was to direct West Papuan permissive residents where to live. In 1968, the government decided that all West Papuans granted permissive residence would be resettled away from the border area, 'and, preferably, nowhere near other Irianese. The more difficult the new settler appears, the more isolated will be the area in which he is settled'.<sup>14</sup> Some West Papuan permissive residents were sent to a camp which the Territory administration established on Manus Island. There, not only the West Papuans but also their Papua New Guinean neighbors were monitored closely for signs of anti-Indonesian political activism.<sup>15</sup>

Anti-Indonesian agitation by West Papuans in Australia has also been a problem for the Australian government (see, e.g. DFAT, 1992). Article 2(3) of the Treaty of Lombok (see above) attracted much attention in the course of the Joint Standing Committee on Treaties (JSCOT) inquiry into the treaty in early 2007 in part because of a fear that it imposed an obligation on the Australian government to suppress the activities of West Papuan independence supporters in Australia. However, JSCOT was 'satisfied that Article 2(3) will not limit the expression of support for Papuan human rights or independence in Australia [by private individuals], provided it is in accordance with Australian law' (JSCOT, 2007, para. 4.14). To date, JSCOT has proved correct. For example, Herman Wainggai, the leader of the 43 West Papuans who came to Australia by boat in January 2006, now campaigns in Australia for West Papuan independence, inter alia, by holding demonstrations outside the Indonesian embassy in Canberra every 3 months (Iqbal, 2008).

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13 J.R. Rowland to Osborn, 4 June 1969, NAA: A1838, 3036/14/1/6 part 8.

14 Record of interdepartmental meeting, 15 October 1968, NAA: A1838, 3036/14/1/6 part 11.

15 D.O. Hay to Secretary, 11 February 1969, NAA: A452, 1969/2741.

### 3.6 Restricting access to information about West Papuans and West Papua

The Australian government has always preferred to deal with West Papuan asylum-seekers away from the limelight of the Australian and PNG media. In 1965, an External Affairs memorandum pointed out that '[t]he Government is willing to consider on their merits applications from genuine political refugees... but this is more easily done quietly and without publicity'.<sup>16</sup> In several cases, representatives of the TPNG administration actively discouraged journalists from travelling to the border with Indonesia to interview refugees. The decisions to house West Papuan permissive residents on Manus Island in the late 1960s and early 1970s, and to assess the protection visa applications of the 43 West Papuans who had arrived in January 2006 on Christmas Island, an Australian territory about 1,600 km northwest of the coast of Western Australia, were also partly informed by the desire to keep the Australian media at bay.

The files of the Departments of Territories and External Affairs contain several references to border crossers who after their return to West Irian were reputed to have been persecuted.<sup>17</sup> Yet, in public statements, the Australian government claimed that West Papuan border crossers who were sent back to West Irian came to no harm (e.g. Barnes, 1965). In fact, throughout the past 46 years Australian governments confronted with evidence of human rights violations in West Papua have downplayed the seriousness of these violations (see, e.g. Howard, 2006a).

## 4 Appeasement (II): being mindful of public opinion and Australia's international reputation

Given Australia's concern not to harm its relationship with Indonesia, it may seem surprising that Australia has accepted any West Papuan

16 R.W. Furlonger to Hay, 18 June 1965, NAA: A1838, 3036/14/1/6 part 2.

17 For example, Intelligence Report No. PAG3/66, NAA: A452, 1966/834, 18 February 1966. The Australians questioned border crossers about their reasons for seeking refuge in TPNG and about the activities of the Indonesian security forces. While some of the information contained in these reports is of doubtful value (as applicants for permissive residency may have tried to emphasise the extent to which they had suffered at the hands of the Indonesian army and police), they constitute a valuable archive, particularly for the 1960s, which has yet to be carefully evaluated by historians.

refugees at all. But two factors have tempered any desires to pursue a hard-line approach toward West Papuan refugees.

First, from the outset, the Australian government was concerned not to provoke strong negative public reactions in Australia and, albeit to a lesser extent, TPNG. Such reactions could have damaged the government in an election, but they could also have further complicated Australia's relationship with Indonesia. An Australian public that was highly critical of the government's unsympathetic response to West Papuan refugees could have easily become hostile toward those whose policies arguably compelled West Papuans to flee their homes; widespread anti-Indonesian sentiment in Australia could have forced the Australian government to adopt a rhetoric that would have been far more damaging to the Australia–Indonesia relationship than the accommodation of a small number of refugees.

In 1964, the Minister for Territories accepted the advice of the Administrator of TPNG that the forcible return of Benjamin Nikijuluw could result in the refugee's suicide and could therefore generate 'wide publicity which would open the way to all sorts of misrepresentation and criticism'.<sup>18</sup> Fears of such misrepresentation and criticism have informed the Australian government's policy since the early 1960s. The expectation that the plight of West Papuans would arouse sympathy in Australia (and, before 1975, in TPNG) has not been unfounded. West Papuans assisted Australian forces during World War II; therefore, Australians have been disposed to lending a sympathetic ear to their grievances as a means of reciprocating loyalty (see Downs, 1980). From the late 1960 onwards, Australian and Papua New Guinean journalists have reported extensively about West Papuan refugees and about allegations of human rights violations in the former Dutch colony.<sup>19</sup> More often than not, journalists have been critical of the Australian government, which they have accused of not standing up to the government in Jakarta and of sacrificing the legitimate interests of West Papuans. Similar accusations have regularly been made by opposition members of Parliament.

Throughout the first years of Indonesian rule in West New Guinea, the Australian government maintained publicly that its response to the

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18 G. Warwick Smith to Secretary, 8 January 1965, NAA: A1838, 3036/14/1/6 part 1.

19 It should be noted, however, that such reporting has taken place in the context of a notoriously 'information-poor environment' (Matbob and Papoutsaki, 2006, p. 91).

influx of refugees was guided by humanitarian considerations (Neumann, 2002). But the archival evidence indicates that, in fact, Australian policy-makers subscribed to a humanitarian approach only where such an approach was likely to fulfill other objectives, never for the sake of the principles involved (c.f. Palmer, 2006). Government records relating to more recent times are not, of course, publicly accessible. However, consideration of the draconian treatment to which successive Australian governments have been prepared to subject asylum-seekers suggests that the instrumental role of humanitarianism in Australian policy-making has remained unchanged to the present.<sup>20</sup>

The other factor that has tempered Australia's response to West Papuan refugees is less significant. Traditionally, Australian governments have always tried to portray Australia as an exemplary international citizen (Tavan, 2005; McClelland, 2007). The Howard government was perhaps the exception. *Vis-à-vis* the Australian electorate, the Howard government successfully portrayed Australia as an international actor who was not captive to the interests and expectations of the UN. Even that government, however, was mindful not to willfully damage Australia's international reputation by overtly flouting its international legal obligations. Nevertheless, compared with the attention paid by the government to domestic criticism, the expectations of UNHCR never featured particularly prominently in the government's deliberations.

## 5 The DUA Bill

The Australian government's response to the West Papuan asylum-seekers who arrived in January 2006 was exceptional in two respects. First, it processed their asylum claims in the same way that it would have processed asylum claims made by non-West Papuans. Their claims were processed speedily, and in only one of 43 cases did an appeal to the Refugee Review Tribunal become necessary. This particular aspect of the Australian government's response is explained by domestic politics. The

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20 We have in mind, for example, the mandatory detention regime (now softened but not abolished), which has been much criticised by the UN human rights treaty monitoring bodies (Taylor, 2006); the temporary protection visa regime (now abolished), which caused much psycho-social harm (Taylor, 2005b); and the continuing practice of denying unauthorised boat arrivals access to the facilities and rights available on the Australian mainland (see note 1).

arrival of the 43 West Papuans was the first test of a new, more humanitarian approach to asylum-seekers generally, which the government purportedly adopted in 2005 in response to lobbying from, among others, influential members of its own back bench. The treatment of the West Papuans was intended to demonstrate that the government's new approach was indeed substantially different from the old one.

The West Papuan asylum-seekers who came to Australia in January 2006 arrived in a canoe flying the Morning Star, the flag of the West Papuan independence movement. They were only the second group of West Papuans in 46 years to signal so clearly their intentions to use Australia as a base from which to pursue a separatist cause.<sup>21</sup> There is no question that the Indonesian government was as displeased by the prospect of Australia being used as a safe haven by politically active West Papuans in 2006 as it had been in the late 1960s and 1970s when members of the OPM were able to retreat to the safety of TPNG and exiled West Papuans used the Australian territory to agitate for West Papuan independence. Since the ease with which the West Papuans were granted protection visas contrasted with Australia's previous handling of West Papuan refugee claims, it is also possible that the Indonesian government interpreted the action as a statement of tacit support for West Papuan independence. The Indonesian government certainly reacted as if this was the case. Indonesia–Australia relations, which had improved a great deal since the East Timor crisis in 1999 and particularly since the election of Susilo Bambang Yudhoyono as Indonesian President in late 2004, plunged to a new low. Indonesia recalled its ambassador to Australia, announced a review of bilateral cooperation on people smuggling, and also placed other cooperative activities on hold (Monfries, 2006). The freeze lasted for about 3 months (Forbes, 2006).

The Australian government was also furious – with the West Papuans. Not only had they arrived without authorization in defiance of the government's pronouncement that Australia would 'decide who comes to this country, and the circumstances in which they come' (Howard, 2001), but they had caused severe tension in one of Australia's most important bilateral relationships. Worse yet, there was a real possibility that other

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21 The first to do so were the eight 'raft men' who arrived in the Torres Strait in 1969 and were swiftly removed to TPNG precisely because Australia had no intention of facilitating the political activities of Indonesian exiles.

West Papuans would be encouraged by Australia's grant of protection visas to the January 2006 arrivals to follow in their footsteps.

At a press conference held on 7 April 2006, Prime Minister Howard indicated that Australia's refugee status determination process was under review as a result of the January 2006 incident. He also said: 'whatever comes out of that review you can be certain that we will continue to meet our international obligations, but we will also, as we should, pay proper regard to the importance of the relationship between Australia and Indonesia' (Howard, 2006b).

On 13 April 2006, the Minister for Immigration, Senator Amanda Vanstone, announced that the government proposed new legislation that, once passed, would extend the offshore processing regime already applying to all unauthorized arrivals entering Australia at an excised offshore place to apply as well to all those arriving unauthorized by boat after 13 April regardless of where they entered (Vanstone, 2006a). According to the Minister, the policy position enabled the government to 'live up to our requirements under the convention, live up to border protection commitments to the Australian community and live up to our foreign affairs obligations to keep good and stable relationships with our neighbours. That includes making sure that Australia is not used as a staging point for protests about domestic issues in other countries' (Vanstone, 2006b). In this context, the Minister also said: 'It is the Government's strong preference that protection is not offered in Australia to Papuan separatists' (Vanstone, 2006c).

On 11 May 2006, the DUA Bill was introduced into the House of Representatives (as earlier foreshadowed). However, in August 2006, the Bill was withdrawn because it had become apparent that a member of the government's own backbench was prepared to cross the floor of the Senate in order to defeat what was, in effect, an extension of the Government's increasingly unpopular Pacific Solution.

The Australian government's attempted resort to legislative measures to deal with West Papuan refugees was the second respect in which its response was exceptional. Previously, the government had defused tensions with Indonesia over the West Papuan refugee issue through diplomatic channels rather than by responding so obviously to publicly articulated Indonesian anger.

In the end, the Australian government's inability to have the DUA Bill passed in the Senate proved inconsequential. It was, in fact, able to

overcome the crisis in the Australia–Indonesia relationship by relying on measures that formed part of its usual response to West Papuan refugees. These measures included close liaison with the Indonesian government, physical policing of Australia’s borders and, above all, expression of unequivocal support for Indonesian territorial integrity. In August 2008, the Australian Minister for Foreign Affairs, Stephen Smith, commented on his government’s amicable relationship with its counterpart in Jakarta, and added: ‘Very much of this I think is a consequence of the importance of the Lombok Perth Treaty which in the case of Papua, for example, and generally respects Indonesia’s territorial sovereignty over Indonesia’ (Smith, 2008).

We suggest that the Indonesian government’s seeming overreaction to Australia’s handling of the West Papuan asylum-seekers who arrived in January 2006 may well have been an opportunistic move in a game which had as its objective the extraction from the Australian government of a binding commitment to support Indonesia’s territorial integrity which it eventually did obtain in the form of Article 2(3) of the Treaty of Lombok. In its report on the treaty, JSCOT observed that the view expressed in many submissions was that the prospect of a commitment along the lines of Article 2(3) was Indonesia’s main motivation for entering into the treaty and the price which Australia was willing to pay for Indonesian cooperation in relation to defence, law enforcement, and all the other areas covered by the treaty. In some submissions, the fear was expressed that Article 2(3) ‘may create unrealistic expectations [on Indonesia’s part] of Australia’s actions, for instance, the next time asylum seekers from Papua arrive in Australia’ (JSCOT, 2007, para. 3.4). However, JSCOT was informed by government officials that ‘any future asylum seekers arriving from Papua would be assessed within the existing legal framework administered by the Department of Immigration and Citizenship’ (JSCOT, 2007, para. 4.16). Indeed, as Mackie (2007) points out, it is difficult to see how Indonesia could interpret Article 2(3) as limiting Australia’s ability to give effect to its obligations under the 1951 Convention and other human rights treaties when Article 2(6) provides: ‘Nothing in this Agreement shall affect in any way the existing rights and obligations of either Party under international law’.

In the context of the past 46 years, the crisis in the Australia–Indonesia relationship that followed Australia’s decision to grant protection visas to the West Papuan asylum-seekers who had landed on the Queensland coast



in January 2006 was an aberration. It was matched only by the crisis in 1999 that resulted from Australia's decision to intervene in East Timor. If the Australian government had paid closer attention to the history of Australia's response to West Papuan refugees (not to mention the fact that a relationship which managed to recover from the East Timor crisis was unlikely to be destroyed by a boatload of asylum seekers), it may not have overreacted by introducing the ill-fated DUA bill into parliament.

## 6 Conclusion

The most striking feature of Australia's response to West Papuan refugees since 1962 has been its consistency. Despite changes in the Indonesian political system, the status of PNG, and Australia's international legal obligations, Australia has responded throughout by trying to avoid accommodating refugees from Indonesia, liaising closely with the Indonesian government in relation to asylum-seekers, and reassuring Indonesia that assistance provided to West Papuan refugees cannot be read as support for West Papuan independence.

The events of 2006 concerning the introduction of the DUA legislation were an exception. It appears that the government ignored what it had learned in the preceding decade about its room to maneuver, and failed to look for factors other than the Department of Immigration's handling of the 43 protection visa applications that might have motivated Indonesia's response.

The history of Australia's response to West Papuan refugees is marked not only by continuity but also by a growing maturity, notwithstanding the exceptional developments in the first half of 2006. Thus in the 1960s, it was inconceivable for the Australian government to allow West Papuan refugees to use Australian territory as a platform to agitate against Indonesia, and to be constrained by international legal obligations in its dealings with West Papuan asylum-seekers. In the 1980s, it was still inconceivable to treat protection claims made by West Papuan asylum-seekers in the same way as any others.

As Australia's then foreign minister stated in 1962, no country accommodates asylum-seekers 'for the purpose of facilitating political activities' (Barwick, 1962). But few countries have been as nervous as Australia about the prospect of being used as a platform for political activism. That nervousness has been particularly pronounced in the case of refugees

from Indonesia<sup>22</sup> – for obvious reasons. Australia has always been concerned about maintaining friendly relations with a neighbor who has been perceived as a potential threat and as particularly powerful.

Our case study demonstrates that Australia's response to refugees from one of its neighbors could not be analyzed only in terms of Australia's bilateral relationship with that country. The Australian government has been mindful of domestic public opinion, both for its own sake and because of the repercussions such opinion could have for the bilateral relationship. The government's attention to possible public concerns in Australia – and, before 1975, in PNG – has been an important factor in shaping Australia's response to West Papuan refugees. While the Australian government has always taken into account the possible response of the Australian public and of the government in Jakarta, it has paid attention to humanitarian principles only insofar as the violation of such principles could have adversely influenced public opinion.

At the beginning of this paper, we suggested that Australia may have to be prepared for a greater influx of asylum-seekers from its direct neighbors, Indonesia, PNG, and Timor-Leste. If such an influx were to occur, the Australian government ought to pay close attention to historical precedents, rather than to assume, as the Howard government did in 2006, that the history of Australia's response to asylum-seekers and refugees is irrelevant (see Neumann, 2009).

The history of Australia's response to West Papuans suggests that in the case of an influx Australia would try to avoid accommodating refugees from neighboring countries. But that history, as well as that of Australia's attempts to find resettlement countries for the refugees affected by its Pacific Solution, suggests that it would be extremely difficult for the Australian government to convince other nations of resettling people who have sought Australia's protection and been recognized as refugees.

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22 In other instances, the Australian authorities required refugees to give undertakings in writing to refrain from political activism directed against the country they had fled. In 1975, the Whitlam Labor government required nine Vietnamese refugees – all of them either former diplomats or high-ranking military officers – to sign such an undertaking. News of that requirement led to heated exchanges in the Australian parliament ('Vietnamese refugees in Australia', 1975). At the time, the government cited the historical precedent of Australia's response to West Papuan refugees and claimed that 'other countries have applied exactly the same restrictions and have required the same sorts of undertakings' (*ibid.*, p. 835), but was unable to substantiate its claim except for making two vague references to practices in France and Thailand.

The history of Australia's response to West Papuans also suggests that Australia's decision to harbor refugees from a neighboring country is not necessarily going to result in a long-term deterioration of bilateral relations with that country, and that therefore the dictates of foreign policy do not need to shape Australian refugee policy. In fact, Australia's ability to accommodate refugees from, say, Indonesia will depend to a greater extent on the domestic political climate, than on the level of friction that could be reasonably anticipated in Australia's relationship with Indonesia.

Australian public opinion has in the past been mobilized both in favor of refugees (for example, in the case of Hungarians or Vietnamese in 1975 or East Timorese) and to support a hardline stance against refugees (in the cases of Vietnamese 'boat people' in late 1977 or of the *Tampa* refugees in 2001). The Australian government may wish to pre-empt the fickleness of *vox populi* by formulating and promoting a robust in-principle response to asylum-seekers. Ideally, such a response would be based on Australia's international legal obligations toward asylum-seekers, and also genuine (i.e. non-instrumental) humanitarianism.

At present, such an ideal scenario is, however, unlikely, because in the past there has been little debate over legal and moral obligations *in principle*. A government confident of being able to navigate the pitfalls of bilateral diplomacy and aware of the impact of public sentiment on its ability to maneuver would therefore be well advised to instigate an informed debate about refugee rights and about Australia's obligations vis-à-vis the populations of neighboring countries.

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