INTRODUCTION

Context and Background

- Late 2013: Reintroduction of policy to turn around or tow back vessels carrying irregular migrants to Australia.
- 20 vessels, 633 persons returned (to Aug 2015).
- Cornerstone of Liberal Party policy; similar policy in place 2001-07.

Content

1. The ‘Pacific Solution’ 2001; ‘Operation Relex’
3. ‘Operation Sovereign Borders’, Sep 2013-
4. Assessment and Conclusions
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CONTEXT AND BACKGROUND

Irregular Maritime Arrivals (persons), Australia 1999-2014

‘PACIFIC SOLUTION’ 2001

‘Tampa Incident’, August 2001

Policy Response

- Offshore detention in Nauru and Manus Island, Papua New Guinea
- Temporary Protection Visas
- Excision of offshore territories from the migration zone
- ‘Operation Relex’: returning migrant smuggling vessels to Indonesia
### ‘OPERATION RELEX’, 28 Aug 2001-early 2002

<table>
<thead>
<tr>
<th>SIEV #</th>
<th>Interception</th>
<th>Outcome</th>
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<tr>
<td>SIEV 1</td>
<td>7 Sep 2001</td>
<td>Not persuaded to return; taken to Nauru</td>
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<td>SIEV 2</td>
<td>9 Sep 2001</td>
<td>Taken to Nauru</td>
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<td>SIEV 3</td>
<td>11 Sep 2001</td>
<td>Not persuaded to return; taken to Nauru</td>
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<td>SIEV 4</td>
<td>6 Oct 2001</td>
<td>Attempt to return to Indonesia; towed to Christmas Island</td>
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<td>SIEV 5</td>
<td>12 Oct 2001</td>
<td>Returned to Indonesian waters near Kupang, West Timor</td>
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<td>SIEV 6</td>
<td>19 Oct 2001</td>
<td>Attempt to return to Indonesia; pax taken to Christmas Island</td>
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<tr>
<td>SIEV 7</td>
<td>22 Oct 2001</td>
<td>Returned to Indonesian waters near Roti Island; 3 dead</td>
</tr>
<tr>
<td>SIEV 8</td>
<td>27 Oct 2001</td>
<td>Passengers taken to Christmas Island</td>
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<tr>
<td>SIEV 9</td>
<td>31 Oct 2001</td>
<td>Passengers taken to Christmas Island</td>
</tr>
<tr>
<td>SIEV 10</td>
<td>8 Nov 2001</td>
<td>Explosion, 2 dead; passenger taken to Christmas Island</td>
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<tr>
<td>SIEV 11</td>
<td>11 Dec 2001</td>
<td>Returned to Indonesian waters near Roti Island</td>
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<td>SIEV 12</td>
<td>16 Dec 2001</td>
<td>Returned to Indonesian waters near Roti Island</td>
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</tbody>
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### ‘OPERATION RELEX’

- **SIEV 5**
  - 12 Oct 2001
  - 238 Afghan and Iranian migrants;
  - Navy issued warnings, tried to persuade vessel to return; boarded vessel, towed it to Indonesia;
  - Passengers rioted, threatened sabotage and self-harm.

- **SIEV 10**
  - 8 Nov 2001
  - 160 mostly Afghan migrants; 4 Indonesian crew;
  - Explosion occurred when Customs boarded the vessel;
  - Passengers jumped overboard; two people drowned;
  - Passengers were taken to Christmas Island, then Nauru.
‘OPERATION RELEX II’

- 14 Kurdish migrants; 4 Indonesian crew;
- Reached Melville Island; some migrants disembarked;
- Government declared exclusion zone and ordered local residents not to talk to the media;
- Claims for refugee status were ignored;
- Vessel repaired and towed back to Indonesia.

INITIAL OBSERVATIONS

**Opposition Leader**
Tony Abbott; January 2012

- ‘Success’ of Operations Relex and Relex II justified reintroduction of policy;
- ‘The Navy has done it safely before. [There is] no reason why they can’t do it safely again.’

**Evidence and concerns**

- Only 5 boats ‘actively’ returned;
- 3 vessels sank;
- Risks to migrants; several deaths;
- Risk of sabotage and hostility;
- Risk to Australian Navy and Customs personnel;
- Safe passage to Indonesia cannot be guaranteed.
LABOR GOVERNMENT 2007-2013

SIEV 36
15 April 2009

- Navy boarded vessel and wrongly issued warning notice as vessel was in Australian waters.
- Warning caused panic; passengers set vessel alight, causing an explosion;
- 5 people died, 40 injured;
- Inquest found warning was falsely issued; practice discontinued.

EXPERT PANEL ON ASYLUM SEEKERS, 2012

‘[T]here are a range of conditions that need to be fulfilled for the safe and lawful turnback of boats carrying asylum seekers. The Panel does not believe those conditions currently exist, although they could at some stage in the future, in particular if appropriate regional and bilateral arrangements are in place.’

- Consent of State to which vessel is returned;
- Approval of the vessel’s flag State;
- Recognise domestic and international law, including non-refoulement obligation;
- Safety of migrants at sea under international law;
- Safety of Australian personnel;
- Prohibitive cost;
- Assessment needs to be made by Commander [not by politicians].
‘OPERATION SOVEREIGN BORDERS’

Outline
- ‘Military-led response to combat people smuggling and to protect [Australia’s] borders’; based on ‘Operation Relex’;
- Announced on 18 September 2013, 11 days after election;
- Purchase of lifeboats to be used if original vessel sinks;
- Also involves returns to countries other than Indonesia;
- Cash payments to crew in at least one case.

Operation
- 20 vessels arrived between Sep and Dec 2013; none returned;
- Secrecy about arrivals since Dec 2013; no media briefings;
- 20 vessels carrying 633 passengers returned between 19 Dec 2013 and August 2015.

‘Sithumina’
28 June 2014; Cocos (Keeling) Islands
- Left Sri Lanka w 41 migrants on 12 June for New Zealand;
- Experienced engine problems and ran out of fuel; called for help;
- ‘enhanced screening’ of passengers on ACV Triton; all but one determined not to be refugees;
- All 41 pax. returned to Sri Lankan Navy on 7 July 2014; charged for illegally departing from Sri Lanka;
- Nine persons later found to be refugees by UNHCR.
‘OPERATION SOVEREIGN BORDERS’

17 May 2015: East Nusa Tengarra

- Vessel departed on 5 May 2015 from Pelabuhan Ratu, West Java bound for New Zealand;
- 65 pax (54 Sri Lankan, 10 Bangladeshi, 1 Rohingya); 6 crew;
- Intercepted in international waters by Australian Navy vessels on 17 May 2015, warned not to enter Australian waters;
- Further interception c 22 May 2015 in Arafura Sea;
- Boat escorted to Australian waters near Greenhill Island, NW of Darwin;
- Australian officials paid a total of USD 32,000 to the crew to return the vessel to Indonesia;
- Passengers first transferred to an Australian vessel and then into smaller vessels which the crew took back to Indonesia;
- Arrived in Indonesia on 31 May 2015;
- Indonesian officials detained migrants, arrested crew; seized money.

ASSESSMENT

Effectiveness

★ Denying Entry

➢ Operation Relex:
4 vessels, 473 migrants were denied entry
4 vessels, 560 migrants were able to reach Australia

➢ Operation Sovereign Borders:
20 vessels, 633 migrants were denied entry
1 vessel, 157 + 3 migrants were able to reach Australia
### Deterrence

**Operation Relex:**
- Number of irregular arrivals ceased after 2001;
- Combination with other policy measures (offshore detention, excision, temporary protection visas, …);
- Increasing number of irregular migrants in transit countries;
- Fewer refugees from Afghanistan, Iraq etc in the region.

**Operation Sovereign Borders:**
- Number of irregular migrants dropped – but dropped already before ‘turn back’ policy;
- Combination with other policy measures (offshore detention, …);
- Burden-shifting to other countries; greater number of refugees in transit and other destination countries.

### Saving Lives

- Between 1998 and 2013, approximately 1,550 people died on 41 vessels en route to Australia.
- No evidence to show that ‘turn back’ policy prevented death or that people would have died without that policy.
- Evidence to show that ‘turn backs’ frequently involved threats, harm, other dangers, and – in some cases – death.
- Possible that migrants are smuggled in more clandestine, more dangerous ways to other destinations.
- Greater risk that persons fleeing persecution are harmed and killed if they are returned to other countries.
ASSESSMENT

Operational Risks

★ Risks to Asylum Seekers and Crew
- In many/most cases migrants panic when they learn about the imminent return;
- Some turn hostile, become violent, threaten self-harm;
- Lying about the return only delays this behaviour for so long.

★ Sabotage
- Acts of sabotage are common;
- In some cases deliberately lit fires and explosions resulting in death and injury;
- Australia cannot ensure that migrants return safely to Indonesia;
- Lifeboats and misinformation do not address this concern.

ASSESSMENT

Operational Risks (cont.)

★ Rescue only as a last resort
★ Risks following release
★ Risks to Australian personnel
‘TURNING BACK THE BOATS’:
Australia’s interdiction of irregular migrants at sea

Andreas Schloenhardt