

LAW & CULTURE



**SOVEREIGN SUBJECTS:**  
*Indigenous Sovereignty Matters*

Aileen Moreton-Robinson (ed);  
Allen & Unwin, 2007; 200 pp,  
\$35.00 (paperback)

I finished reading *Sovereign Subjects* in bed, wrapped in doonas trying to keep warm in an attempt to fend off the flu. My saving grace was this book. It warmed my soul and fired up my resolve — which worked well at keeping the chills at bay. As a ‘warrior woman’, I often find myself lost in the day-to-day struggle of Indigenous life and work, questioning my ability to change or affect the lives of the Indigenous Australians that come to me with their quite often tattered dreams and aspirations. Tattered by the constant struggle for rights and recognition in a land that belongs to us and that we have not ceded. This book allowed me to reposition my thoughts on the larger picture of sovereignty for Indigenous Australians, to give me power and strength, and to remember why voice and demonstration of difference are vitally important to our struggle. And why not having Indigenous sovereignty leads to tattered dreams.

This book has many great chapters that hit home on the sheer vulnerability of the traditional owners’ fragile existence in a white-privileged nation state. In each section, I found at least one article — often more — that had me cheering. From Irene Watson, to Aileen Moreton-Robinson, to Wendy Brady and Steve Larkin, the authors raise the important issues of country, land, identity, place, community, and heritage, reminding me what we as ‘blak fellas’ in our own land have lost. And it’s this truth of our loss that non-Indigenous Australia needs to understand.

Confronting this loss, Irene Watson, in her opening chapter ‘Settled and unsettled spaces: are we free to roam?’, writes:

... I see that it is not up to me to provide the answers — the responses and resolutions should come from the community. But how problematic is that? What and where is the community, and which community? ... we are diverse, with many languages, different country and ways of being. When Aboriginal peoples’ lives are destroyed, uprooted and displaced, the call to community is to the

gathering of broken and shattered pieces ... what Aboriginal community can be pieced together in this colonising space? (p 15)

Aboriginal activists face these questions, and the grief in communities every day. I am often drawn to the matter of our loss and grief. Indigenous sovereignty and our continued dispossession goes to the heart of our grief. As most people should know, a blak fella torn from country, kin, and tradition struggles eternally to repair the remaining shreds of their identity. As such, *Sovereign Subjects* gives premise to our sorrow and loss, it helps explain the utter importance of sovereignty to Indigenous Australia, and its importance to non-Indigenous Australia. All Australians should read this book. At the very least it should be on the required reading of senior secondary and university students.

In reading *Sovereign Subjects* I was reminded of a recent conversation on ‘Indigenous leaders’ and the apparent loss of a strong leadership voice in the Australian media. Anyone who has read this book will agree that we are not at a loss for strong leaders; the voices here prove that. I understand the fear of ‘mainstream’ media in sharing such strong blak voices but ‘they’ really should not be so recalcitrant in tapping into this great resource. I for one would appreciate reading shorter versions of *Sovereign Subjects* in our daily newspapers — then I could cheer more often, more loudly!

And yet ... I know that all the questions and answers raised here have, in some way, been written or said before. How many reprints of *Sovereign Subjects* will be required before my child, his brothers and sisters, and their children’s children, need not raise them again?

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**HUMAN RIGHTS**  
*OVERBOARD: Seeking Asylum In Australia*

Linda Briskman, Susie Latham and  
Chris Goddard; Scribe Publications,  
2008; 448 pp, \$35 (paperback)

*Human Rights Overboard* is the report, published in book form, of the People’s Inquiry into Detention, a ‘citizens’ inquiry’ into the detention of asylum seekers in Australia. The inquiry was initiated by a ‘small group of academics and activists’ under the auspices of the Australian Council of Heads of Social Work. Volunteers heard nearly 200 verbal accounts and collected a similar number of written submissions from former immigration detainees, health workers, lawyers, advocates, supporters, and former employees of immigration detention centres and of the Department of Immigration. The inquiry also draws on previous research and reports from the Human Rights and Equal Opportunity Commission and other bodies, backed up by 45 pages of notes.

It is not possible to convey in a brief review the weight of the evidence so collected. While there have been many reports and publications detailing the deprivation, trauma, and abuse imposed on those imprisoned while seeking asylum in Australia, this collection is the most comprehensive and systematic of its kind, drawing on the material previously published, and adding more. The result is 448 pages of indictment of the system of ‘mandatory detention’, detailing physical, emotional, and political violence at the hands of government, private prison operators, and detention centre staff.

The book begins with a memorial, listing after the table of contents the names of those who have died seeking asylum in Australia. This list, printed in very small type, runs for two and a half pages, even though only some of the people who died in the sinking of the Siev X can be named, with the others listed simply as ‘219 more men, women and children’. Others died on boats, in detention, or from suicide — for example Dr Habibullah Wahedy who hanged himself after the government

offered him \$2000 to return to Afghanistan when his Temporary Protection Visa expired. And still others died after being deported, their asylum applications having been rejected. The later section 'Deaths in Detention' gives further details of many of these deaths. Although some were from 'natural' causes, it is also clear that many were entirely preventable. Australia's detention system does more than 'send a strong message' to potential asylum seekers. For many, it is fatal.

The remaining pages build, layer by layer, a picture of Australia's detention regime as punitive and violent at every level, bolstered by indifference, unaccountability and isolation. Stories made familiar by the media, such as self-harm, suicide attempts, and mental illness are all here. But between these major events are cumulative layers of daily, ritualised humiliation and deprivation and abuse for all those imprisoned: arbitrary denial of food, clothing and medicine, verbal insults and physical assaults by staff, violent deportations, withholding of information and contact, refusal to act on referrals for psychiatric care, the extended use of solitary confinement and other forms of punishment for any form of protest. Many respondents noted that the only way to get the most basic attention was to damage either property or oneself, and indeed some speculate that the system was designed to provoke protests. Overall, it becomes clear that no opportunity to remind asylum seekers of their powerlessness, vulnerability, and unwelcome status was missed, and the detrimental emotional effects of this violence were only met with further punishment.

The volume of evidence collected in *Human Rights Overboard* enables the authors to build up a picture of the culture, and the causes, of the violence. They are not afraid to name names in government, and individuals who had the power to make changes and failed to do so are held to account. At the same time, it becomes clear that the patterns of abuse are not due only to individuals, but are systemic. After a discussion of the racist behaviour of detention centre staff towards non-white visitors, one witness concludes, '[t]he environment was so insular they thought their behaviour was normal'. (p 275)

It is not possible to adequately represent the many stories told here, each of which is itself too brief to do justice to the harm caused. The authors themselves note this, quoting Clive Stafford Smith: 'I am under no illusion that I have the skill to do justice to the stories ... but the greatest sin would be not to try'. (p 22) In general the book is written in a spare, factual tone, and quotations from informants make up about half of the text. It is not easy to select any one moment for quoting, but here is one from a series of 30 quotes and more paraphrased reports about the denial of medical care:

Nurse came in and I asking, 'My finger like this, I have very pain.' One day one Iranian guy was very upset and he say, 'Come with me,' and he used bad words and he said 'Look his finger and are you human or no?' At that time two weeks already and I have to wait another two or three days doctor came. Doctor saw me and he said, 'When it happen?' I said 'Three weeks ago.' He arrange for the operation in hospital in Whyalla. He said he knows what is going on in Baxter. (p 126)

One of the effects of refugee policy is that asylum seekers are always under suspicion as witnesses. This has been exacerbated in Australia by deliberate government and media rhetoric which presents them as unscrupulous, unreliable and self-interested. If asylum seekers were taken as credible witnesses whose experiences mattered, the detention system would be far less easy for its architects to justify. But this has yet to happen, and so it is probably useful that along with accounts from those who suffered detention first hand, the report also quotes accounts from detention centre staff, who are less likely to be thought to be acting out of self-interest. Combined, the different perspectives support each other. Hence here is a nurse on the problem of medical delays:

When a person came to the nurses in the compound you'd say: 'Yes, you need to see the doctor.' You'd look up the computer: 'Your day is Tuesday, well there's not an appointment for another three Tuesdays.' These were things like a foreign body in the eye, things that needed to be seen and so, even though in theory there were doctors available, in practice there really weren't. (p 124)

The perspectives which do stand out as idiosyncratic, misinformed and self-

interested are those from people whose job was to defend the system:

... I would say in relation to dental and medical services, the level of service available to detainees would be of a higher order than many people in regional and remote Australia receive. (Phillip Ruddock, quoted p 124)

It is important that abuses such as these be placed on record. It is also, however, important that debate not become limited to the issues of 'conditions' in detention, when mandatory detention itself is unjustified and the primary cause of mental anguish and traumatic anxiety. Some reports to the inquiry, especially in Part 5 which details changes to conditions after the Cornelia Rau controversy, make this clear.

We met a family who had completely broken down. I spoke to the mother – this was just prior to them moving to Baxter – telling her there will be better conditions in Baxter and you will have visitors and everything. She looked at us and she said 'we don't want your gilded cage'. (p 374)

The section on deportations is where it becomes apparent that no amount of gilding will counteract the underlying purpose of detention – to make people available for removal. The stories of midnight, forcible abductions by gangs of officers make it clear why even 'humane' detention is torture; no level of physical cushioning is going to avert the knowledge that such practices are the *reason* for incarceration, and that for the unlucky, the system is ultimately merciless.

As indicated by its title, *Human Rights Overboard* remains quite firmly located in human rights discourse. This is not the book to go to for extended theoretical, historical or cultural analysis of the causes of Australia's xenophobic attitudes, or its habits of imprisoning unwanted 'others' in camps. Nor does the book question the category of 'political refugee' around which the Humanitarian Visa system is built, or consider the geopolitical drivers of migration from periphery to centre under globalisation. It thus remains within the paradigm that distinguishes 'deserving' refugees from 'undeserving' others such as 'economic migrants', and hence, like most refugee policy, seeks to ameliorate individual persecution and provide

humanitarian aid, rather than considering structural change in global relations of privilege and dominance. Nonetheless, the use of the term 'racist' to describe detention policy recognises that racism is not just a matter of conscious prejudicial intent, but also of systematically inequitable outcomes (although there is also plenty of evidence in the book of prejudicial intent).

It should be said, however, that extended analysis is clearly not the book's intent. Rather it seems committed to a direct aim: to provide incontrovertible evidence of the dysfunctionality of the system, in a form that will be useful for those with the power to make changes. The book is thus laid out in formal and simple report style, with an executive summary, terms of reference, and recommendations. The recommendations are simple: Remove racism, restore human rights, reinstitute accountability.

It hardly needs to be said that following these recommendations requires dismantling the system of detention. Fortunately, as I write, the Rudd government appears to be taking seriously its commitment to use the brand new detention centre on Christmas Island only as a last resort, and to genuinely process new claims as quickly as possible. But as the hunger strikes in Villawood in early November 2008 demonstrate, the detention system is not yet a matter of the past. And its effects on those who have lived through it, those who died within it, and their children, are likely to continue for generations.

In its first week of publication, *Human Rights Overboard* was named in Parliament by South Australian Senator Sarah Hanson Young, who called for a royal commission into Australia's immigration detention. The Minister for Immigration and Citizenship, Chris Evans, responded by stating that he was not interested in going over the actions of the past government. But as the Parliamentary Apology to the Stolen Generations has recently demonstrated, public recognition can make a difference, even if it cannot reverse history. Dead people cannot be brought back to life; years lost to imprisonment, injustice, fear and despair cannot be restored. But the further damage done by the relegation of these experiences to invisibility and insignificance can be mitigated by public

recognition and acknowledgement that what was done was abusive, and that it matters. *Human Rights Overboard* helps to remedy such invisibility, and in a tone that makes it clear where responsibility lies.

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## HARPS AND ANGELS

Randy Newman; Nonesuch/Warner, 2008; \$29.99 (CD)

Randy Newman's *Harps and Angels* was promoted as his 'first album of new material in nine years', but it's really business as usual. Those familiar quirky lyrics, nuanced ragtime rhythms and rich orchestrations flow so easily that listening is like renewing an old friendship. Although the 10 tracks clock in at under 35 minutes, each is near-perfect. And while Newman's satirical subtleties fail to register with some Americans, it's probably because the good ole US of A has never been comfortable with self-criticism. Don't be fooled by the disarming title opener, a gently amusing meditation on death set to a jazzy-blues arrangement. The real sting comes in acerbic songs like 'Korean Parents', 'A Piece of the Pie' and, at the album's core, 'A Few Words in Defense of Our Country', which compares the Bush administration's *war on terror* with the Inquisition — 'Like the Spanish armada, we're adrift in the land of the brave and the home of the free'. Nor do the idle rich evade Newman's wrath ('Easy Street'), and he makes room for the vagaries of love on 'Potholes' and 'Only a Girl'. But the best is saved for last, with the gorgeous 'Feels Like Home' — a classic Newman ballad.

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