

Who needs friends?

Professor James Hathaway, a Canadian, is regarded as the pre-eminent authority on refugee law. He has written many learned texts and papers including a book referred to by all lawyers and judges involved in determining refugee status. The book was first published in 1991 under the title "The Law of Refugee Status", it is internationally renowned. It is a reference known to, and occasionally used by, the Australian Department of Immigration.

Hathaway was interviewed on the ABC news and current affairs program, The World Today, on 10 June 2011. During the course of that interview he said that the deal the Australian government had negotiated with Malaysia over the forced transfer of asylum seekers from Australia to Malaysia was illegal under international law.

The 1951 UN, "Convention relating to the Status of Refugees" which came into force on 22 April 1954, and which Australia not only signed but helped to draft, specifically excludes the transfer of asylum seekers to non signatory countries, of which Malaysia is one. The Convention also excludes the transfer of asylum seekers to an environment where they may suffer further trauma, harm and discrimination.

Australia has begun a process which, when completed will see it break international law. When this occurs Australia will have abrogated its right to protest Japanese whaling, to criticise China's abuse of human rights and the many other injustices that Australia currently feels compelled to protest and comment on.

If a government is prepared to break the law, why should it expect better from its citizens?

Once Australia signs the deal with Malaysia we will lose the international status and standing that many Australians fought long and hard to build and maintain. It will be in the company of some fairly ordinary rogue states.

There is a notion that Australia seeks to set international standards. However as a wealthy, and predominantly white, nation on the edge of Asia, the fact that the Gillard government feels the need to enter such a dirty deal to try and stop a few boats with asylum seekers coming to Australia, will do nothing to add to the stock of goodwill, that a middle power like Australia needs, in order to achieve outcomes on a par with more powerful nations.

In that vein it has diminished its chances, if ever it had a chance, of securing a seat on the UN Security Council.

Who decided to break international law? Was it the Prime Minister and senior ministers acting against departmental advice? Were they aware that by entering the proposed agreement with Malaysia they would, as a consequence, break international law? If they acted on advice but were not aware, who failed to warn them? If they acted on advice and knew that by proceeding they would break international law, why did they proceed?

If public servants drew up the advice, since when in Australia has it been authorised for them to create schemes that in implementation will break the law?

How low have we gone when Ministers and advisers are prepared to break the law in order to achieve a political outcome? In terms of cesspit politics it's about on a par with Menzies when he deceived the Australian parliament and people by introducing conscription for service in Vietnam.

I didn't think with Gillard and Abbott that we could stoop much lower in Australian politics, but clearly we have. With a distinct lack of the back bone normally provided by moral fibre, they appear quite capable of slithering under an even lower bar.

Australia desperately requires a reality check. Scientists are marginalised in order to bring about a political solution which does little for the environment in the Murray/Darling Basin. The Department of Defence is so enmeshed in secrecy and self that it failed to advise the minister on the unseaworthiness of three major naval vessels and provides upbeat and incorrect advice on the war in Afghanistan. A failed Pink Bats scheme; the school shelter shed rort; the removal of non renewable energy sources from the agenda; a half baked carbon policy stitched together by a Labor Party acolyte, who seeks to bully the rest of Australia into the bad deal he sold to a gullible and impractical government. Ross Garnaut put together a dog of a scheme that has too many politically driven compromises for it ever to achieve what is claimed for it.

If Australia wants a workable carbon policy, try the CSIRO, but allow them complete independence, protection of that independence and proper funding for the organisation to undertake such projects.

The media driven knee jerk reaction to the slaughter of cattle in Indonesia, says much about this unworldly and unsophisticated government, where the life experience of most members can be written in two paragraphs. Where was consideration for the subject of the ban – the cattle? What of those left stranded on wharfs, in trucks, in feedlots and on farms and stations short on feed?

It seems to me that what is lacking in the current political leadership is commonsense and courage, reflected in collapsing major party membership. The absence of courage starves compassion of oxygen. We see this in the carcasses of policies which once worked but were discarded in the face of fear and race driven diatribes, and opinion polls which breed and feed off fear.

Where is the leadership to counter fear?

Although it is unlikely to happen, now is the time for both Gillard and Abbott to leave the political scene and replaced with Combet and Turnbull. The, 'say anything to get elected' Abbott, is a clown and political courtesan, respected by few even amongst the ranks of his erstwhile supporters. If he ever becomes Prime Minister he will be an embarrassment to equal Gillard. Haven't we had enough?

The best and probably only thing going for Abbott is Gillard. She is out of her depth, with her partner claiming she should be respected because she is Prime Minister.

The Malaysian deal will ensure respect is marginalised for a country, which had so much on offer but failed to live up to its own and others expectations; a wealthy and spoilt member of the international community, living off its inheritance with little effort to create wealth.

Bruce Haigh is a political commentator and reformer.