Up until 1989 Australian immigration policy was based on Ministerial discretion. This gave the executive the power to decide policy without review either by parliament or the courts. But during the 1980s the context changed. Many more would-be immigrants were already on Australian soil on a temporary basis and, if they were rejected, they could appeal to the courts. Ministerial discretion was hard to defend in court and selection criteria were progressively widened by court judgments. The Hawke Government compounded these difficulties by a number of unwise policy decisions. By 1996 the immigration program that the Howard Government inherited lacked a clear economic rationale, was dominated by family reunion, brought in many migrants who needed welfare support and was open to fraud. It was also unpopular.

The Howard/Ruddock reforms sharpened the program’s economic focus, reduced the size of the family-reunion component, restricted new migrants’ access to welfare and increased the program’s integrity. The new Government also took a firm stance on border control and tried to limit the role of the courts. Many of these reforms have been controversial but, by 2002, immigration was much less unpopular than it had been in 1996.

Labor’s Legacy

During the 1980s Australia’s immigration policy changed. The old assisted passage scheme was abolished and family-reunion migrants constituted a larger proportion of the intake than before, as did migrants selected on humanitarian grounds. These changes meant that many new migrants were low-skilled and dependent on welfare

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*Betts: Immigration policy under the Howard Government*
and that source countries shifted away from Britain and Europe and towards the developing world. They also meant that return migration decreased and that the gap between the gross intake and net migration, a gap which had been quite wide in the 1960s, decreased. (Indeed, as more people arriving on temporary visas stayed on, in some years the net figures exceeded the gross. See Figure 1.)

**Figure 1: Net overseas migration and the immigration program, Australia, 1975–76 to 2002–03**


Note: The program figure for 1979–80 was not published; permanent arrivals data have been substituted.

By the late 1980s three streams were well established in the intake: independent migrants (those selected on the basis of their skills, together with their spouses and dependent children); family reunion migrants; and humanitarian migrants. There was also a fourth de facto stream: New Zealanders, who did not need visas and were free to migrate as they pleased.
As the nature of immigration changed it became more politicised. This did not mean that the overall size of the intake was questioned. Rather it meant that the old growth lobby, based on the housing and construction industries, was augmented by a newer ethnic lobby pressing for family reunion and by groups concerned about refugees. Debate on selection policy and the composition of the intake became rather more public than before. For the most part interest groups argued for more of their kind of migrant, not for fewer migrants in the other streams. But in 1984 and 1988, first Geoffrey Blainey and then John Howard suggested that the proportion coming from Asia was higher than the majority of the public preferred. These comments drew a storm of protest from opinion leaders who saw them as legitimising racism. The reactions of these critics showed that immigration had become a moral issue for many Australians, people who might otherwise have had little interest in the question. They also showed that a close association had developed between the themes of immigration and racism. For many commentators active support for immigration had become a virtue, especially if it meant support for family reunion or refugees, while criticism of immigration seemed suspect, if not sinister (Betts, 1999: 54–191, 256–267, 286–299).

The development of this climate of opinion, especially among intellectuals, together with the mobilisation of ethnicity and the growth of family-reunion migration, are the stories of the 1980s. These trends were embraced by the Hawke Government and fitted well with that Government’s interest in multiculturalism and cultivating migrant communities. But despite its aura of virtue, aspects of the immigration program were becoming disorderly, the turnover of Ministers was high (five in the seven years between March 1983 and March 1990), and the context in which policy was developed and implemented was becoming more difficult.

In the past, applicants for permanent visas had applied from overseas and the Minister had the discretion to say yes or no. If an applicant was rejected that was the end of the matter. The Migration Act of 1958, which was a lightly revised version of the Immigration Restriction Act of 1901, was drafted so as to facilitate Ministerial discretion. It did not specify the details of selection criteria and the Government could, and did, change them at will (Birrell, 1992: 25). Until the 1980s this system served the executive well. Policy could be implemented untrammeled by interference from parliament or the courts and thus often without public scrutiny. However, two developments changed this situation: the growth in the number of onshore applicants and the institution of the new administrative law in the 1970s and early 1980s (see Cooney, 1995: 16–17). Now rejected applicants were more likely to be on Australian soil than before, and thus to have to access to courts, while the new administrative law meant that this access was of some use to them.
By the mid 1980s, Ministerial discretion had become a liability to the executive rather than an asset. Thousands of hopeful applicants and their sponsors applied to MPs, begging them to intervene with the Minister. When Chris Hurford had the portfolio he coped with this pressure by instituting an informal quota system: this gave each Member and Senator from all parties the right to two personal favours a year (Hartcher, 1991b). Many others made representations to the Minister directly and, if he should refuse them, they could then appeal to the courts. Discretion was hard to defend in court, and applicants frequently won, often gaining visas on loosely-defined humanitarian grounds, and in this way widening the eligibility criteria.

The growth in onshore applications, including many asylum-seekers, was accompanied by a growth in the rights lobby: lawyers and non-Government organisations focussed on immigration rights. This was accompanied by the growth of a new occupational category: migration agents. Most were reputable, but some aspects of this new industry operated clandestinely as networks of people smugglers and people traffickers overseas turned their attention to Australia. Before the 1980s there had been no market for these services. By the end of the decade the market was well established.

In 1989 Senator Robert Ray was Minister. He had a firmer grip on his portfolio than some of his predecessors and persuaded the Government to reassert executive control by a radical revision of the Migration Act. Henceforth immigration policy was to be spelled out in specific, legally-binding regulations and Ministerial discretion was to be virtually abandoned. This, it was hoped, would not just eliminate sleazy deals with MPs and their petitioners but would also minimise the influence of the courts. Replacing discretion with regulations should make immigration policy judge-proof and return it to its rightful home in the executive (albeit with more parliamentary scrutiny than before). In fact, the Migration Amendment Act (1989) was but the

2 For examples of this industry see the advertisement addressed to illegal immigrants and inviting clients to inspect ‘our extensive private portfolio of approved applications, offices in Sydney and Melbourne’, The Age, 14 October 1989, p 24, or the advertisement titled IMMIGRATION with the text: ‘Have you been rejected by the Department of Immigration? [Firm X] has a high success rate at the Immigration Review Tribunal. Inspect our winning cases. First appointment free....’. This appeared with a companion advertisement: BUSINESS OPPORTUNITY, [Firm X] has successful franchise operations in India, Russia, Philippines, and opening soon, Dubai (UAE). We are looking to expand our franchise operations in China, United Kingdom, Malaysia and Israel ... Once-only franchise fee of $40,000 ... Genuine enquiries only’, The Age, 4 February 1992, p. 22.
first shot fired in a long battle between the executive and the judiciary, a battle that continues to this day (McMillan, 1999).

Onshore migration, the courts, and the immigration industry made it harder to control the program but policy blunders compounded these difficulties. The Hawke Government had inherited a small, new Business Migration Program (BMP). It decided to keep this and expand it (DIEA, 1983: 24–25). By the late 1980s the BMP was bringing in over 10,000 migrants per year. In most cases applicants approached an accredited migration agent who helped them prepare a business plan. This strategy, together with the transferal of funds, usually guaranteed Departmental approval and a visa. But in 1991 a damning Parliamentary report concluded that the BMP had brought few bona fide entrepreneurs into the country and a number of known criminals (Gruen and Grattan, 1993: 218), and the program was wound up.

Then there was the ELICOS scheme (English Language Intensive Courses for Overseas Students). This attracted many would-be economic migrants who often managed to stay on illegally, some in appalling social circumstances (Ellingsen, 1989). Others changed their status by marrying a local resident and, while some of these marriages were genuine, many were not. By late 1990 the Immigration Department3 was complaining that up to 70 per cent of the overseas visitors who applied for onshore visas on the grounds of marriage or de facto relationships were guilty of fraud, but only five per cent were being rejected. The Department blamed pressure on the Government from ethnic groups for the failure to introduce rules which would remedy this situation (Kingston, 1992; Birrell, 1992: 31–32).

At times pressure from lobby groups led to extraordinary political interference. For example, just after the 1990 election when Ray had been moved to Defence and a new Minister had not yet been appointed, Hawke sacked the Departmental Secretary, Ron Brown. Brown was a competent administrator who enjoyed Ray’s full support. Hawke intervened, possibly because Brown was not sufficiently responsive to the demands of ethnic communities (Hartcher, 1991b; Jupp, 1993: 216), or possibly because he wanted to remove Brown’s deputy, Tony Harris, a public servant also committed to Ray’s control agenda (Burgess, 1993). After Brown was gone, Gerry Hand was given the portfolio. He was Hawke’s sixth Minister for Immigration and began his duties with, it is said, this specific instruction from his leader: ‘Do not hesitate to replace the regulations so that there may be more discretion’ (Hartcher, 1991b).

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3 The Department has had a number of different names since 1983; here I will simply refer to it as the Immigration Department.
In the wake of these changes a new migrant category was introduced: the Special Assistance Category. This took places from the Refugee and Special Humanitarian Programs in the Humanitarian stream and initially provided them to people wanting to get out of the former Soviet Union (Hartcher, 1991a). Because of the political changes in the former Soviet bloc these applicants no longer met the refugee criteria: they were not suffering from persecution or even discrimination, but they did suffer from ‘some form of disadvantage or … were in a vulnerable situation’ (Burn and Reich, 2001: 212) and they had family connections in Australia.

Applicants for all kinds of visas were likely to challenge the Department in the legal system but some of the more telling challenges came from asylum-seekers, onshore applicants for refugee status. During the late 1980s and early 1990s the Hawke Government treated boatpeople from Cambodia firmly, even harshly, but was famously generous to Chinese students present in Australia during the Tiananmen massacre in June 1989; around 28,000 of those who were in the country in June 1989 were allowed to stay, as well as a further 20,000 who came after.4

Administrators knew about the high welfare dependency of many family-reunion and humanitarian migrants. Welfare dependency was to be expected among humanitarian migrants, but there was no reason why the Australian taxpayer should immediately take up the burden of supporting family-reunion migrants. Shouldn’t the family members who had sponsored them accept this responsibility? One group within the family-reunion scheme that caused special concern was parents, both working-age and elderly. Many had low skills and little English and their chances of finding paid work were slim. The adult children who sponsored them were asked to sign assurances of support, promises to look after the relatives they were bringing into the community. In fact these assurances were seldom enforced and the tax payer met the bill just as if the pieces of paper had not been signed (Evans, 1994).

In the words of the former finance Minister Peter Walsh, immigration under Hawke was driven by ethnic lobbying rather than by rational analysis ‘because some feared a political backlash from “ethnic leaders” ’ (quoted in Birrell, 1992: 36); and the buildup of the late 1980s was generated by outside pressure groups through a ‘a sequence of blow outs and cave ins’ (Walsh, 1994: 28). Elements within the Government, including most Immigration Department officials, wanted an impartial system, while others, including the Prime Minister, wanted a more flexible system, responsive to interest-group politics. Pressures from lobbyists, politicians, onshore applicants and the courts were making life difficult for the Department and it was

4 The first decision was made by Hawke, the second by Senator Nick Bolkus who became the seventh minister in 1993 (Birrell, 1994).
becoming hard to claim that immigration was part of an orderly nation-building program in the interests of all Australians.

The program became increasingly unpopular. By the late 1980s around two thirds of the public thought that the numbers arriving were too high and many were unhappy with the cultural maintenance aspects of multiculturalism (see polls in Betts, 1999: 114, 127–130). In 1988 the FitzGerald Committee’s review of immigration criticised the emphasis on family reunion. It also found that multiculturalism had helped make immigration unpopular. The Committee recommended that both polices should be set aside and that the intake focus more closely on skills (FitzGerald, 1988: 10–11, 31, 59, 28, 29, 30–31). Most of the Committee’s recommendations were ignored but in 1988–89 the program was revised and a larger skilled intake was grafted on to the existing numbers.

In December 1991 Paul Keating wrested the leadership from Hawke but, unlike Hawke, he had little interest in immigration. When he was Treasurer he, almost offhandedly, made his support for population growth, and immigration, clear (Grattan, 1989), but the record shows that fine tuning the intake, either to provide favours for interest groups or to increase its integrity, was not a priority for him. Nonetheless, the recession of the early 1990s meant that the program for 1992–93 was cut quite sharply; the skilled intake was almost halved and the concessional family stream was also pruned (Birrell, 1998: 39). This was a part of the family-reunion program which gave visas to relatives such as adult brothers and sisters provided they met a points test. And, as we have seen, the BMP had already been eliminated. The recession also led to higher rates of emigration. This meant that net migration fell even more sharply than the planned intake, but the magnitude of the cuts in the program is apparent in Figure 2, as is the subsequent increase in the intake after the 1993 election.

Keating did favour multiculturalism but he talked of it more as a means of lowering barriers to migrant participation rather than as an end in itself. When he spoke of

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5 His two biographers, Edwards and Watson scarcely mention immigration. The only mention in Edwards (1996: 93) refers to Keating’s maiden speech in 1970 when he said ‘it would be better to spend money on child endowment than immigration’. Watson mentions it a few more times in contexts such as the changing nature of Keating’s electorate, or a Korean businessman who thinks we still have a White Australia policy, but immigration policy was clearly not a concern of Keating’s either as Treasurer or as Prime Minister. See Watson, (2002: 267 390 393 420 421 559 665).

6 It was recreated in 1992 in a more tightly controlled form as the Business Skills Program, a subsection of the skills stream (Birrell, 2000: 36).
his big picture, Mabo, reconciliation, the republic, APEC and Asia were prominent. Sometimes the word *multiculturalism* was added in, but not immigration itself (Watson, 2002: 207–8 222 420 507 535 561 665 668 690). This lack of Prime Ministerial interest may have given Ministers (and lobbyists) a stronger impact on policy. While Hand (Minister from February 1990 to March 1993) created the Special Assistance Category, in other respects he ignored Hawke’s plea to use his discretion in a more open-handed way. He tried to manage the program carefully, reducing the numbers as unemployment surged, and attempting to control onshore migration (Grattan, 1993: 134). But under Senator Bolkus (Minister from March 1993 to March 1996) the program ran more as it had under Hawke; while Cabinet kept a firm hand on the size of the skill stream there was a sharp increase in family reunion, largely due to an increase in spouse immigration (see Healy 1994).

Keating left the administration of multicultural policy to the politicians most closely identified with the ethnic lobby: the Minister, Bolkus, and Andrew Theophanous. Together Bolkus and Theophanous promoted the policy document titled *Our Nation*. This was released in January 1996; it advocated an even more active approach to promoting cultural diversity, together with de facto affirmative action quotas for Commonwealth boards and advisory bodies (Birrell, 1996).

The combination of policy drift and growing external pressures meant that, by 1996, immigration policy was unfocussed and politicised. Seventy one per cent of the public thought the number of migrants coming into the country was too high (Betts, 2002b: 25), and public concern about new migrants’ use of welfare was high (White et al., 1997: 13). During Labor’s 13 years the immigration portfolio had seen seven different Ministers and the program’s relevance to the national interest had blurred. It was also growing in size (after a brief, recession-induced, lull).

Under Ministers Ray and Hand some reforms had been pushed through. Reliable tests of migrants’ English ability had been introduced in some sub-programs for occupations deemed to require English, most migrants faced a six month wait before they could apply for welfare (though the Special Benefit was available in case of hardship), and a balance-of-family test was introduced for parents. This meant that visas were only available for parents if at least half of their children were in Australia. Nonetheless, the immigration policy that the Howard Government inherited in March 1996 was unpopular, dominated by family reunion, harried by judicial activists, and distorted by political interference. It brought in many new welfare dependents and its integrity was compromised by fraudulent applications. There was room for more reform.
The Howard Government’s Immigration Policies

Howard offered Philip Ruddock the immigration portfolio, an action that raised some eyebrows. While Ruddock had been shadow Minister for four years (May 1989 to April 1993) he was not an obvious choice. During the furore sparked by Howard’s comment on Asian immigration in August 1988, Hawke had moved in Parliament that members should make an ‘unqualified commitment’ to the principle that race and ethnicity should never be used as selection criteria in the migrant intake. Four Liberals crossed the floor and voted with the Government; Ruddock, well known as a small ‘l’ liberal, was one of them (Betts, 1999: 290–297). Despite this history Howard offered him the portfolio and Ruddock accepted. As of March 2003 he has served seven years in the portfolio, opposed by four different shadow Ministers (Duncan Kerr, Martin Ferguson, Con Sciacca and Julia Gillard).

Immigration reforms—permanent migration

The new Government moved briskly with a number of immigration reforms. While it reduced the overall size of the intake its reforms concentrated on reducing the welfare costs of the program and increasing its economic focus. This represented a sharp break with previous policy. While the Government did not openly discount the sensitivities of ethnic communities, its changes made sharp inroads into the family-reunion program, inroads that would have been sharper still if some its initiatives had not been blocked in the Senate. All immigrants (except for humanitarian migrants) would be debarred from accessing Austudy and welfare payments during the first two years and access to the Special Benefit was almost eliminated. Applications for visas as spouses or fiancé(e)s would be subjected to more rigorous scrutiny. Such visas would also initially be issued on a two-year temporary basis, pending confirmation that the marriage was genuine and continuing. Legislation was passed giving the Government the power to cap all sections of the program (except the spouse and dependent children section of the family reunion stream — a move that was blocked by the Senate). The Government probably did not intend to use this power routinely, but the outcome of the Senate debate shows that the Opposition was not prepared to give them the opportunity. The Government also wanted to introduce the payment of a bond before a spouse (or any other relative) could be sponsored; this was to offset any welfare payments the new migrant might receive during the first two years and would be refunded to the sponsor if no welfare payments had been made. The Government would certainly have used this power; however this too was blocked in the Senate (Birrell, 1997: 19).

But the capping legislation was to have a marked effect on the ability of aged parents to gain visas. Further restrictions included the requirement that most applicants in

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the concessional family program pass an English test; the concessional program was later renamed the skilled-Australian-linked category and shifted from family reunion to the skill stream. Serial sponsorship of spouses was also limited to a maximum of two spouses with a minimum five-year interval between each. It was also no longer possible for migrants who had themselves entered as spouses to sponsor another spouse from overseas (Birrell, 1997: 19–20).

While the Government wanted to reduce the size of the family-reunion intake, spouse migration remained as virtually an as-of-right part of the program. But the new two-year visas and checks on bona fides, together with restricted access to welfare were accompanied by a downturn in applications. Over the three years from 1995–96 to 1998–99 the number of spouse visas issued fell from 33,550 to fewer than 25,000. The number of parent visas also dropped, from nearly 9000 to just over 3000, while the family-reunion stream as a whole shrank from 56,700 to 32,040 (DIMIA, 2002: 17). (The power to cap parent visas had a dramatic effect. In 2002–03 just 500 visas were set aside for parents; more would have been made available but the Senate still refused to pass legislation requiring sponsors to pay a bond.)

Changes to the humanitarian program are discussed below but, overall, the Howard/Ruddock reforms concentrated on restricting new migrants’ access to welfare, increasing the economic focus by increasing the skill stream and decreasing family reunion, and increasing the integrity of the program. While the restrictions on access to welfare attracted media attention when they were first introduced, most of the commentary in the mid to late 1990s concentrated on the reduction in the size of the intake. In 1995–96 the Keating Government issued 97,550 permanent visas. In 1996–97 the Howard Government issued 85,760. This reduction was, as Figure 2 shows, maintained over four years. It produced a storm of protest from the business community but the reduction was in fact modest and, by 2000–01, the Government was raising the intake again. The planning figure announced for 2002–03 was for between 110,000 and 124,000 (Figure 2 shows this as 117,000).

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While the permanent migration program has been tightly controlled, this is less true of temporary migration. As the Minister himself put it in 1999, immigration for long-term temporary movements (that is, stays of 12 months or more) then made up around 50 per cent of net overseas migration. In his view, long-term temporary migration would become ‘the touchstone for migration’s international future’. Moreover, as Australia (unlike the United States) imposed no numerical controls on temporary-entry categories, their number was likely to rise even further (Ruddock, 1999: 9–10).

Temporary migration

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The overwhelming majority of people who come to Australia on a temporary basis are tourists and other visitors who stay for a short period of time (less than a year and in most cases less than three months). In 2000–01, 92 per cent of temporary visas were for visitors, most of whom would only stay for short periods. Of the remaining eight per cent nearly half were for students (DIMIA, 2002: 41). But when we look at temporary movement in terms of the stock of people in Australia on temporary visas the picture changes. This movement no longer looks trivial. It adds substantial numbers to the resident population and provides a large pool of individuals who are likely to make onshore applications for permanent visas.

Table 1: Stock of temporary migrants, June 1997 and June 2001

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Visitors</td>
<td>184,776</td>
<td>201,700</td>
<td>46.5</td>
<td>36.4</td>
</tr>
<tr>
<td>Students</td>
<td>107,055</td>
<td>138,200</td>
<td>27.0</td>
<td>24.9</td>
</tr>
<tr>
<td>Working holiday makers</td>
<td>34,541</td>
<td>46,600</td>
<td>8.7</td>
<td>8.4</td>
</tr>
<tr>
<td>Business visitors</td>
<td>15,724</td>
<td>12,600</td>
<td>4.0</td>
<td>2.3</td>
</tr>
<tr>
<td>Long-stay business migrants</td>
<td>9,462</td>
<td>56,000</td>
<td>2.4</td>
<td>10.1</td>
</tr>
<tr>
<td>Bridging visas</td>
<td>31,440</td>
<td>62,300</td>
<td>7.9</td>
<td>11.2</td>
</tr>
<tr>
<td>Other</td>
<td>14,128</td>
<td>36,900</td>
<td>3.6</td>
<td>6.7</td>
</tr>
<tr>
<td>Total</td>
<td>397,126</td>
<td>554,200</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Sources: Data for 1997 are supplied by the Immigration Department (bridging-visa data for 1997 taken from DIMA, 1999:36), data for 2001 are derived from DIMIA (2002: 53).

Table 1 shows that the most dramatic increase is in the number of long-stay business migrants. The term *business migrant* sounds more acceptable than *guest worker* but most of the people coming in under this scheme are employees, rather than independent entrepreneurs or senior executives. The growth in this scheme reflects the Government’s support for the Roach report. This recommended that we free up the capacity of employers to bring in temporary workers on long-stay (four-year) visas, a recommendation that was adopted by the Keating Government in 1995 but implemented by the Howard Government in 1996 (Kinnard, 2002). Under this scheme employers can gain the status of pre-qualified business sponsors. This
allows them to sponsor any number of employees over a two-year period with no requirement to test the local labour market if the work the temporary migrant is to do is a ‘key activity’ (Burn and Reich, 2001: 396–8, 400).

Visas issued under this scheme increased from 22,812 in 1995–96, to 27,706 in 1996–97 and 40,493 in 2000–01 (Birrell, 1998: 41; DIMIA, 2002: 49). In 1998–99 the figure was 33,516, almost matching the size of the skilled permanent migration scheme (35,000) (Ruddock, 1999: 9) and in 2000–01 it was 40,493, while the permanent skilled intake was 44,740. Of course, most of the temporary business migrants later leave so the two programs are not comparable. Nonetheless, the numbers of long-stay temporary business entrants is large and their effects on the local labor market are not taken into account. Neville Roach is pleased with outcome of his report. In November 1999 he said, ‘Despite what most businesses think, we have one of the most liberal and straightforward immigration regimes in the world’ (quoted in Birrell et al., 1999). Table 2 shows the numbers of visas issued in 2000–01 to temporary migrants who may stay for 12 months or more, including many who have work rights in Australia.

Table 2: Temporary migrant visas issued in 1996–97 and 2000–01, excluding visitors and business visitors (short-stay)

<table>
<thead>
<tr>
<th></th>
<th>1996–97</th>
<th>2000–01</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working holiday makers</td>
<td>50,000</td>
<td>76,576</td>
</tr>
<tr>
<td>Long-stay business migrants</td>
<td>25,786</td>
<td>40,493</td>
</tr>
<tr>
<td>Medical practitioners</td>
<td>n. a.</td>
<td>3,438</td>
</tr>
<tr>
<td>Educational workers</td>
<td>n. a.</td>
<td>1,738</td>
</tr>
<tr>
<td>Overseas students</td>
<td>68,611</td>
<td>146,577</td>
</tr>
<tr>
<td>Social and cultural entrants</td>
<td>16,523</td>
<td>23,036</td>
</tr>
<tr>
<td>International relations (including occupational trainees)</td>
<td>15,776</td>
<td>14,876</td>
</tr>
<tr>
<td>Bridging visas</td>
<td>31,440*</td>
<td>200,726</td>
</tr>
<tr>
<td>Total</td>
<td>208,136</td>
<td>507,460</td>
</tr>
</tbody>
</table>

Note: Bridging visas are available to non-citizens who already hold a substantive visa but are applying for a different visa, as well as unlawful non-citizens who do not hold a substantive visa (DIMIA, 2001: 52).

* The bridging visa figures for 1996–97 were published in DIMA (1999:36) but they are described as bridging visas ‘in effect’ in June 1997. This means they are stock figures rather than flow figures and therefore probably under estimate the number of such visas issued in 1996–97.

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Table 2 shows that the number of long-term temporary visas issued in 2000–01 far exceeds the number of permanent visas (just under 95,000 for that year). It is therefore not surprising that the number (or stock) of people in Australia on such visas at any one time should be large. Table 1 also shows that the stock of international students grew over the four-year period, just as Table 2 shows a growth in the new student visas issued. The number of overseas students in Australia is likely to grow further; this is not just because of energetic attempts by schools and universities to recruit them, but because of Government policy. In 1999, in the face of strong pressure from business to increase the number of skilled migrants, particularly of people with skills in IT and Accounting, the Government changed the rules for overseas students. From then on, it was easier for overseas students to apply for permanent visas in the skill stream on the completion of their studies, especially if they were graduates in key professions (Birrell, 1999: 52, 55). This promise of easier access to permanent residence has already increased the number of these particular temporary entrants.

Table 1 shows a marked increase in the stock of temporary migrants but it does not include New Zealanders. New Zealand citizens do not require visas to enter Australia and, as of June 2001, there were around 460,000 of them in Australia (DIMIA, 2002: 35). This takes the total stock of temporary residents to over a million. Demographers wishing to estimate the effects of this on Australia’s population will want to offset the number of Australian citizens and permanent residents temporarily overseas against this figure but, nonetheless, one million temporary residents is a sizable number. But it is possible that these numbers may diminish slightly because, in 2001, the rules governing trans-Tasman migration were modified; from February 2001 citizens of New Zealand were required to obtain permanent visas if they wished to access social security in Australia, or to obtain citizenship, or to sponsor other immigrants (DIMIA, 2002: 35).

**The humanitarian intake**

In contrast to the dramatic changes in the family reunion intake there was little overt change in the humanitarian program up until the post-**Tampa** changes in 2001. But one reform was made right away; starting with the 1996–97 program, successful onshore applications for refugee status were subtracted from the total number of places available for offshore humanitarian visas and, in 1997, immediate family members of humanitarian immigrants were also counted against the humanitarian intake.8 While Table 3 shows that the overall numbers in the humanitarian intake

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8 Previously they had come in under the family reunion intake and only principle applicants, the person who actually met the requirements of the humanitarian program, had been counted against the humanitarian intake (‘Immediate family …’, 1997).
appeared to have remained relatively constant under Howard, these two changes in effect reduced the number of places available to offshore principal applicants. But in November 2000 the Government stopped issuing visas under the Special Assistance Category (Burn and Reich, 2001: 212–213). As it was close to being another form of family-reunion migration, its elimination had the effect of making more places available to people suffering serious forms of discrimination.

The 1996 decision to count onshore refugee numbers against the offshore places meant that changes in the humanitarian program were, from then on, almost automatically induced by changes in the numbers of onshore applicants. This happened most dramatically in 1999 with a jump in the number of boatpeople.

Many onshore applicants for refugee status and protection visas arrive in Australia on a temporary visa, perhaps as tourists or students. The Department refers to them as authorised arrivals. Others come without visas and are termed unauthorised or unvisaed arrivals or, sometimes, illegal entrants. Not all unvisaed asylum-seekers arrive by boat: many come by air. Indeed, up until the late 1990s, the unauthorised air arrivals were more numerous (DIMA, 2001). For most of the 1990s the majority of onshore applicants for refugee status had originally entered Australia on a valid visa; it was only in 1999 that this pattern began to change. In 2000–01 there were 13,100 onshore applications for protection visas, of which around 4000 were from unauthorised arrivals (DIMIA, 2002: 28). As Table 4 shows, boat arrivals increased sharply in 1999 and, as Table 3 shows, the Government responded by subtracting places from the offshore program. However, most of the places were subtracted from the Special Assistance Category, leaving the Refugee and Special Humanitarian programs relatively untouched. The Government also responded to this change in October 1999 by issuing a new, temporary protection visa to unauthorised arrivals whose applications for refugee status were successful. Successful applicants who had arrived in an authorised fashion continued to be issued with a permanent protection visa but unauthorised arrivals could only hope for an initial three-year temporary protection visa pending subsequent evaluation of the situation in their place of origin. This visa does not allow the holder to sponsor any family members (Burn and Reich, 2001: 322–323).

The treatment of boatpeople has dominated media discussion of the Howard Government’s immigration policy since the late 1990s. Apart from the decision to subtract onshore visas from the offshore program, two of the more contentious aspects of this policy are mandatory detention and the post-\textit{Tampa} policy of turning boats away or, if that fails, assessing the people’s claims somewhere outside the Australian migration zone.
Table 3: The Humanitarian program, visas issued 1991–92 to 2000–01

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugee</th>
<th>Special Humanitarian Program</th>
<th>Special Assistance Category</th>
<th>Onshore Humanitarian</th>
<th>Onshore Refugees</th>
<th>Safe Haven</th>
<th>Total grants</th>
<th>Roll-over</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991–92</td>
<td>3,200</td>
<td>3,550</td>
<td>2,350</td>
<td>2,900</td>
<td>—</td>
<td>—</td>
<td>12,000</td>
<td>—</td>
</tr>
<tr>
<td>1992–93</td>
<td>3,200</td>
<td>2,300</td>
<td>5,400</td>
<td>900</td>
<td>—</td>
<td>—</td>
<td>11,800</td>
<td>—</td>
</tr>
<tr>
<td>1993–94</td>
<td>4,300</td>
<td>2,500</td>
<td>5,800</td>
<td>100</td>
<td>—</td>
<td>—</td>
<td>12,700</td>
<td>—</td>
</tr>
<tr>
<td>1994–95</td>
<td>3,990</td>
<td>3,680</td>
<td>5,550</td>
<td>50</td>
<td>—</td>
<td>—</td>
<td>13,270</td>
<td>—</td>
</tr>
<tr>
<td>1995–96</td>
<td>4,640</td>
<td>3,500</td>
<td>6,910</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>15,050</td>
<td>—</td>
</tr>
<tr>
<td>1997–98</td>
<td>4,010</td>
<td>4,640</td>
<td>1,821</td>
<td>—</td>
<td>1,588</td>
<td>—</td>
<td>12,060</td>
<td>—</td>
</tr>
<tr>
<td>1998–99</td>
<td>3,990</td>
<td>4,350</td>
<td>1,190</td>
<td>—</td>
<td>1,830</td>
<td>3,930</td>
<td>15,290</td>
<td>840</td>
</tr>
<tr>
<td>1999–00</td>
<td>3,800</td>
<td>3,050</td>
<td>650</td>
<td>—</td>
<td>2,460</td>
<td>1,980</td>
<td>11,940</td>
<td>3,130</td>
</tr>
<tr>
<td>2000–01</td>
<td>4,000</td>
<td>3,120</td>
<td>880</td>
<td>160</td>
<td>5,580</td>
<td>20</td>
<td>13,750</td>
<td>1,640</td>
</tr>
</tbody>
</table>

Source: DIMIA (2002: 25)

Notes: Refugees are as defined by the Geneva Convention of 1951 and must be outside their country of nationality or usual residence. The Special Humanitarian Program is for people suffering substantial discrimination who have links with Australia. The rollover places are places not used in the preceding year which can be taken up, above and beyond the places reserved for humanitarian entrants in the following year. The safe haven places were temporary places provided for Kosovars and East Timorese. From 1996–97 the numbers in all subcategories include immediate family members as well as principal applicants.
Table 4: Boatpeople, arrivals 1976 to August 2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Arrivals</th>
<th>Year</th>
<th>Arrivals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>111</td>
<td>1989</td>
<td>28</td>
</tr>
<tr>
<td>1977</td>
<td>868</td>
<td>1990</td>
<td>216</td>
</tr>
<tr>
<td>1978</td>
<td>746</td>
<td>1991</td>
<td>225</td>
</tr>
<tr>
<td>1979</td>
<td>304</td>
<td>1992</td>
<td>220</td>
</tr>
<tr>
<td>1980</td>
<td>-</td>
<td>1993</td>
<td>86</td>
</tr>
<tr>
<td>1981</td>
<td>30</td>
<td>1994</td>
<td>977</td>
</tr>
<tr>
<td>1982</td>
<td>-</td>
<td>1995</td>
<td>242</td>
</tr>
<tr>
<td>1983</td>
<td>-</td>
<td>1996</td>
<td>661</td>
</tr>
<tr>
<td>1984</td>
<td>-</td>
<td>1997</td>
<td>340</td>
</tr>
<tr>
<td>1985</td>
<td>-</td>
<td>1998</td>
<td>200</td>
</tr>
<tr>
<td>1986</td>
<td>-</td>
<td>1999</td>
<td>3740</td>
</tr>
<tr>
<td>1987</td>
<td>-</td>
<td>2000</td>
<td>2961</td>
</tr>
<tr>
<td>1988</td>
<td>-</td>
<td>2001(Jan-Aug)</td>
<td>3694</td>
</tr>
</tbody>
</table>

Source: Betts (2001:34)

Mandatory detention

Some critics of mandatory detention do not realise that this was not a Howard Government initiative. It was instituted by the Keating Government with the Migration Amendment Act of 1992. The 1958 Migration Act stipulated that detention was possible for people who had arrived without visas but the 1992 amendment made this mandatory. Thus all unvisaed boatpeople claiming refugee status were, from 1992 on, subject to mandatory detention (Crock, 1993: 33–34). All unlawful non-citizens must be detained until they either leave the country or acquire a visa, either a substantive visa or a bridging visa (Burns and Reich, 2001: 562, 570–573, 579). In practice people who enter as authorised arrivals but overstay their visas and then apply for asylum are usually giving bridging visas and released into the community while their claims are processed. But unauthorised arrivals who have never held an Australian visa are normally not given bridging visas.

It is not just boatpeople seeking asylum who are held in detention. Illegal immigrants and non-citizens awaiting deportation, possibly because of criminal convictions, are also detained. Nonetheless the large number of boat arrivals in the late 1990s swelled the numbers held in detention and this has been a focus of considerable
political dissent among some sections of the public. However some of those who
now object to mandatory detention at least gave it their tacit approval under Labor
(Shanahan, 2002).

**Tampa and a new phase in the battle with the courts**

In August 2001 a small boat carrying more than 400 asylum-seekers from Indonesia
to Christmas Island began to break up. A Norwegian freighter, the *Tampa*, rescued
the passengers and crew. At first the captain tried to return them to Indonesia but,
under threat of violence, he turned course and headed for Christmas Island. Up until
this incident it had been difficult for the Australian Government to try to turn boats
carrying asylum-seekers around because they were usually small and unseaworthy
with a risk that passengers might drown. The people on the *Tampa* were, however,
safe and the Government could deny the ship access to Australian waters and in so
doing develop a new policy towards boat arrivals. They were, if possible, to be kept
away from Australian territory. Since that period the Australian navy has patrolled
the sea routes from Indonesia and some boatloads of potential asylum-seekers have
been turned back. Others have been taken to various small Pacific Island nations for
processing, a policy known as the ‘Pacific solution’.

The *Tampa* affair took several weeks to resolve and, as with many other questions
surrounding asylum-seekers, dominated the media. It may also have been
instrumental in winning the Howard Government a third term at the November
2001 elections (Betts, 2001; Betts, 2002a). While there may have been a variety
of reasons for keeping the *Tampa* people at arms length, one crucial reason was to
prevent their gaining access to the Australian legal system with its drawn-out court
appeals. But it was not just this boatload that was to be deprived. In the heightened
political atmosphere provoked by the incident the Government was able to get a raft
of legislation through the Senate (Saunders and Henderson, 2001). Some of this was
specific to the occasion and designed to ensure that the actions taken vis-à-vis the
*Tampa* itself were legal. Others were to make it easier to deal with any subsequent
arrivals: to this end Christmas Island and Ashmore reef were excised from the
‘migration zone’. This means that, for purposes of migration law, these areas do
not count as Australian territory and are thus beyond the reach of the Australian
legal system. One of the six laws passed was the Migration Legislation Amendment
(Judicial Review) Bill (no, 5), 1997. It was designed to try to prevent all appeals
to the Federal Court and had been denied passage for more than four years by the
Senate. Others were designed to prevent class actions in immigration matters, to
prevent certain holders of temporary protection visas from ever gaining permanent
visas, and to tighten the definition of a refugee as set out by the Geneva Convention
of 1951 but, in the view of the Government, broadened beyond its original definition
by the Australian courts (McMillan, 2002).
**Multiculturalism**

The Howard Government’s strong emphasis on skilled migration and its disregard for the sensitivities of ethnic lobbyists regarding family reunion represent a striking break with the previous 13 years. And from the start of its term of office the emphasis on multiculturalism also changed. In 1996 the Office of Multicultural Affairs was disbanded as was the Bureau of Immigration, Multicultural and Population Research, and *Our Nation’s* ideas for incorporating multicultural principles into the constitution, the flag and the ABC were dropped. Diversity and equity programs continued to operate (Birrell and MacGregor, 1997), but structural multiculturalism was no longer actively promoted, and Government-funded bodies such as the Federation of Ethnic Communities Councils of Australia took up a lower public profile. Rumour has it that Howard initially banned the use of the word *multiculturalism* within the public service (Jordens, 1997: 25). By 2002 he had become more relaxed about the concept, but was hardly an ardent proponent (Steketee, 2002).

A 1998 interview in the *Australia/Israel Review* sets out Howard’s thinking. He supports the concept of multiculturalism in so far as it stands for community harmony and tolerance, but thinks that some Australians are offended by particular connotations of the word. He believes Australians are offended by:

> the idea that somehow or other we had no cultural identity until [we had] mass migration ... that we didn’t really have an identifiable character until this came on to the scene. ...

> If the word is used to describe the success of cultural and racial harmony in Australia, then I am all for it, and I don’t think there are any limits to it. But if the word is meant to imply that the one great national cement of Australia is multiculturalism, then I think that is asking too much (quoted in Kapel and Greason, 1998: 12–13).

Since March 1996 Australians have heard less about the virtues of maintaining cultural diversity and much less about their own shortcomings in failing to appreciate it. It is possible that this rhetorical change, along with the strong emphasis on border control and the tighter economic focus of the intake, has played a role in diminishing opposition to immigration (Betts, 2002b).

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9 This may have been due to internal disputes within the organisation; it still received Government funding (see Jupp, 2002: 75, 52).
Conclusion

After a four-year period of restraint, the numbers of permanent immigrants brought in under the Howard Government have increased. There is also a large, uncapped intake of temporary migrants, many of whom have work rights irrespective of the state of the local labor market. But the Government has reduced welfare dependency among recent migrants, increased the integrity of the program — especially as far as spouse migration is concerned, and concentrated on skills. Howard, Ruddock, and their colleagues have also shown that they are serious about border control and about trying to limit the influence of the courts on immigration policy.

These last aspects of their policy have provoked bitter criticism from the rights lobby and other concerned humanitarians. But at the same time as the Government has insisted on the executive’s right to control access to Australia, public opposition to the intake has waned. The consequences of Howard’s reform agenda include: a humanitarian program with a stronger focus on people suffering from persecution and discrimination (as opposed merely to suffering from disadvantage), a general intake that is now growing rather than shrinking, and a public which is better disposed toward immigration than it was in 1996.

Acknowledgment

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References


Betts: Immigration policy under the Howard Government


