

**Newsletter, Edition 9, Vol 2, Nov 2013**





## Editor's Welcome

Welcome to the latest edition of the AIIA newsletter.

Thank you to all who attended the Annual Lecture on November 12 presented by Professor Michael Wesley. The event was a great success and we received fantastic feedback on the quality of Wesley's seminar.

In the lead-up to the G20 Summit next year, we had a delightful seminar presented by Hugh Jorgensen, Research Associate with the G20 Studies Centre at the Lowy Institute. It is only fitting that our last seminar for this year ends on a similar note, with Professor John Kirton presenting the topic, "Explaining G20 Summit Success" on 17 December.

This edition of the newsletter sees Camden Luxford review a public seminar held at UQ on the Responsibility to Protect by Professor the Hon. Gareth Evans AC QC. Celine Attal also provides a very interesting account of women's rights in Saudi Arabia. We also have Joseph Power reviewing all-things-Soviet in *The Gulag Archipelago* by Aleksandr Solzhenitsyn. Finally, Camden returns with a perspective on the Australian asylum seeker debate.

We would like to wish you a very Merry Christmas and safe holidays.

If you have any feedback or wish to contribute, please email us at [qld.branch@aiia.asn.au](mailto:qld.branch@aiia.asn.au).

**Milly Arsic | AIIA Council Member**

**Joseph Power & Camden Luxford | Sub-editors**

## UPCOMING EVENT: Explaining G20 Summit Success Presented by Professor John J. Kirton

WHEN: Tuesday, 17th December at 6pm for 6:30pm start.

WHERE: Norton Rose Fulbright, Level 21, 111 Eagle St, Brisbane CBD

John Kirton is a professor of political science and the director of the G8 Research Group, and co-director of the G20 Research Group, the Global Health Diplomacy Program and the BRICS Research Group, all based at Trinity College at the Munk School of Global Affairs at the University of Toronto, and a Non-Resident Senior Fellow at the Chongyang Institute for Financial Studies in Renmin University of China. During his 2012–13 sabbatical, he served as a visiting fellow at the Balsillie School of International Affairs in Waterloo, Canada, and a visiting professor at Kwansai Gakuin University in Nishinomiya, Japan. He is the author of *G20 Governance for a Globalized World* (2012), and *Canadian Foreign Policy in a Changing World* (2007), and co-editor of the *Global Finance* series and *Global Environmental Governance* series published by Ashgate. Kirton is co-editor of several publications published by Newsdesk Media, including *G20 2013: Russia's St. Petersburg Summit*, *The UK Summit: The G8 at Lough Erne 2013* and *BRICS: The 2012 New Delhi Summit*.

**Please note the venue change above. We expect a high attendance for this event. Seats are filling up fast, so it is essential that you register. Head to: <http://www.aiia.asn.au/qld-home/event/861-explaining-g20-summit-success>**



## EVENT REVIEW:

### Professor Gareth Evans on the Future of Responsibility to Protect

Words: Camden Luxford

On November 6, Professor the Hon. Gareth Evans AC QC gave a very well-attended public lecture at the University of Queensland - *'Mass Atrocity Crimes after Syria: The Future of the Responsibility to Protect'*.

Professor Evans, who is Chancellor of the Australian National University, has contributed enormously to peace and security: as Foreign Minister from 1988 to 1996, and since then in a variety of leadership roles within Australia and internationally. Most significantly, perhaps, for those who attended his lecture, is his frequent identification as the norm entrepreneur responsible for the swift rise of Responsibility to Protect (R2P). This international norm seeks to reconcile that most fundamental building block of current international order, state sovereignty, with human rights and the universal horror inspired by mass atrocity crimes, such as genocide.

To this end, R2P, born out of the International Commission on Intervention and State Sovereignty in 2001, draws on concepts of popular sovereignty, in which states are sovereign only through the consent of the governed. Thus the state, drawing its sovereignty from its people, is responsible for their protection from mass atrocity crimes.

The international community is obliged to assist with this protection, and only where the state in question demonstrates itself to be unable or unwilling to protect the people in its power is that primary responsibility shifted to the international community. Crucially, a broad range of responses are available, with military force a last resort.

The innovation here was, as Evans explained, a re-characterisation of the issues from “the right of big states to throw their weight around militarily ... [to] the ‘responsibility’ of all states to act to protect their own and other peoples from mass atrocity crimes”.

It was a triumph of practical diplomacy, and until 2011 the norm underwent a smooth process of maturation: as “conceptual arguments as to its precise scope and limits were largely resolved; rear-guard political resistance to it fell right away ...; and it was being seen as increasingly relevant in practice”.

Then Libya happened. Initially seen as “a textbook example” of military action under the auspices of R2P, the Western-led intervention was later perceived by the BRICS (Brazil, Russia, India, China, and South Africa) to have vastly exceeded its mandate. R2P, they argued, had been nothing more than diplomatic cover to achieve an explicitly political rather than humanitarian goal: regime change.

Consequently, despite the clear failure of the Syrian state to protect its people, and the evidence of atrocities committed on all sides of

that increasingly complex civil war, Russia and China steadfastly resisted any United Nations Security Council resolutions on the issue (barring an agreement on chemical weapons reached in late September).

Pessimists may see the imminent demise of R2P in this reclamation of sovereignty, but Evans finds reason to be optimistic about the norm's future. He stressed the understandable historical and geopolitical reasons for the BRICS reluctance to wholeheartedly endorse the norm as understood by the West, and pointed to little known diplomatic initiatives that suggest compromise can be reached. In Brazil, China, and Russia, he explained, discussions have been or are underway around complementary frameworks – Responsibility While Protecting (RWP) or Responsible Protection (RP) – that would reconcile the moral force of R2P with legitimate emerging world concerns of accountability, transparency, and the prevention of ever-broadening mandates.

This suggests that the rising powers are prepared to engage with the existing normative framework, provided their legitimate concerns are meaningfully addressed and they are given a seat on equal terms at the negotiating table. After all, Evans concluded, “no-one really wants to see a return to the bad old days when appalling crimes against humanity committed behind sovereign state walls were seen by almost everyone as nobody else's business”.

The complete text of Professor Evans' lecture can be found on the website of the Asia Pacific Centre for the Responsibility to Protect, at < <http://www.polsis.uq.edu.au/R2P/Prof%20Gareth%20Evans%20on%20the%20future%20of%20R2P.pdf>>



## WOMEN'S RIGHTS IN SAUDI ARABIA

Words: Celine Attal

On the 26th of October 2013, dozens of Saudi Arabian women drove cars to protest against their country's refusal to grant them driver licenses. This protest was also a way to challenge the larger system of gender-based laws. However, despite being described as having one of the most conservative legal systems in the world, small steps have been made in the right direction. Recently, Saudi Arabia has increased the number of coeducational universities and mixed workplaces. It has also passed a series of laws against domestic violence. These changes have been made by the government of King Abdullah, which is considered reformist.<sup>1</sup>

### I – The remaining gender-based restrictions on women in Saudi Arabia

According to the World Economic Forum, which publishes a global ranking of gender-gap issues, Saudi Arabia is ranked 10th from the bottom on the 2013 report (127th).<sup>2</sup> Saudi Arabian society is still dominantly sex-segregated and the status of females remains far below that in Indonesia or Qatar.

The sex-segregation system in Saudi Arabia is a consequence of two major concerns erected by Sharia (Islamic law) interpreted by the Sunnis: female purity and family honour. Taken to an extreme, these concerns lead to the separation of men and women in public and private settings. A clear example of the latter is evident from prevailing house designs in Saudi Arabia. Traditional Saudi houses have two entrances, one for men and one for women. Rooms are also separated as the men enjoy “the public space” such as the living room, while women are left to reside in the private areas, such as the kitchen.

Outside, women are expected to cover their bodies from head to toe, leaving only the eyes and hands uncovered. Further, women must always leave their house accompanied by a designated male relative. Public transportation is also segregated, as are beaches, parks and most restaurants. As eating requires the removal of the veil, restaurants comply with very strict rules. Most restaurants have family and bachelor designated sections.

The segregation, however, doesn't apply everywhere. In fact, the number of unsegregated places has significantly increased especially

since the latest Saudi Labour Code no longer includes a provision requiring sex-segregation in the workplace. Further, hospitals, medical colleges and some banks are usually not segregated.

The sex-segregation system is not the only weight on Saudi women's shoulders. Their rights are often limited and certainly unequal to men in family matters, employment, politics, as well as the healthcare system. Some of the most fundamental human rights are not granted to women mainly because of the practice





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of guardianship. Women’s rights to education, health, employment and movement are subjected to the permission of their respective male guardian.

Under Saudi law, all women must have a male guardian, typically a father, brother or husband. The system of guardianship, “*Mahram*”, while not formally described in law, is applied according to the customs and interpretation of the authorities. Thus, depending on their guardian, women may need permission to get married, divorced, work towards an education, gain employment, open a bank account, have surgery (particularly when the operation concerns the sexual organs), travel or go to Court (making filing a complaint against a guardian very difficult).

Freedom of movement is restricted for women as they need the approval of their guardian to leave the country. In April 2010, a new, optional ID card for women was issued which allows them to travel in countries of the Gulf Cooperation Council (Oman, Kuwait, Bahrain, etc) in the absence of their guardian. The cards include GPS tracking, fingerprint requirements and features that are difficult to forge. If women do not need male permission to apply for the card, they still need it to travel abroad.

Furthermore, Saudi Arabia is the only country in the world where women are not permitted to drive, despite many protests to compel this change. This prohibition is particularly disputed because it doesn't derive from the law but from a “*fatwa*” (a decree issued by a religious leader).

The power of the male guardian applies in other matters of a woman’s life. For example, women in Saudi Arabia are registered on their father’s or husband’s ID card.

Furthermore, although the country’s religious authority banned the practice of forced marriage in 2005, marriage contracts are still officially between the husband-to-be and father of the bride. Furthermore, no man or woman can marry a non-Saudi citizen without official permission.

Concerning justice, officially, the testimony of one man equals that of two women. Female parties to Court proceedings must generally get their male relatives to speak on their behalf.

The status of women and especially the system of guardianship has been discussed and criticised internationally. The United Nations Special Rapporteur on Violence against Women, Yakin Erturk, explained in her 2009 report “*Violence against Women, its causes and consequences in Saudi Arabia*”, that guardianship is:

**“practiced in varying degrees and encompasses major aspects of women’s life...Guardianship indeed severely limits women’s autonomy, freedom of movement and the exercise of their legal capacity in relation to marriage, divorce, child custody, inheritance, and property ownership/control, as well as decision-making in family matters, education, and employment. In general, the guardianship system renders women’s legal position precarious.”<sup>3</sup>**

According to international law and the *Convention on the Elimination of all Forms of Discriminations against Women* (CEDAW), a Convention that Saudi Arabia ratified in 2001, the state has the obligation “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”.





## II – The recent developments on the status of women: great hopes for a change in Saudi Arabia

Human Rights Watch considers that Saudi Arabia is “asserting full authority on the basis of religion to discriminate against women in any of the areas specified in the treaty”<sup>4</sup> and analyses the reservations as a violation of international law. Indeed, the Vienna Convention on the Law of Treaties specifies that “A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless: (...) (c) in cases not falling under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty”. This leaves little doubt that the reservations made by Saudi Arabia are incompatible with the object and purpose of the CEDAW, thus rendering its ratification almost meaningless.

The Human Rights Council of the United Nations has called, in the 21 October 2013 report, for the abolition of the male guardianship system and asked the Kingdom to lift the reservations it has made on the CEDAW.<sup>5</sup> However, Saudi Arabia reaffirmed their position while responding to the preoccupations of the Working Group on the Universal Periodic Review for Saudi Arabia in 2013.

The government of Saudi Arabia denied any concerns raised by the United Nations, replying that Sharia law guarantees fair gender equality and that its legislation does not differentiate between men and women.<sup>6</sup>

The country recently undertook small steps toward equality and increased women's rights and freedoms. The best example would probably be with respect to education. Saudi women enjoy free and nearly complete access to primary and secondary education.<sup>7</sup> The literacy rate for women was a high 82.2% in 2011 (90.8% for men). The number of women graduating from university reached 60%,<sup>8</sup> with many courses recently opened to them such as pharmacy and law.<sup>9</sup>

Saudi women develop professional careers as doctors, teachers and business leaders. Prominent examples include Dr. Salwa Al-Hazaa, head of the ophthalmology department at King Faisal Specialist Hospital in Riyadh and Lubna Olayan named as one of the world's most influential businesswomen.<sup>10</sup> In 2013, Saudi Arabia registered its first female trainee lawyer, Arwa al-Hujaili.<sup>11</sup> However, her practice will be strictly regulated. Indeed, the trainee lawyer will be contracted to a lawyer who has been in service for over five years. Although she will need to train for a minimum of three years, she will then be allowed to practice. It is a great move in a country where women need the consent of their male guardian in most legal procedures.

However, despite the high education rate for women, employment still remains significantly low, around 17% in 2012.<sup>12</sup> Unfortunately, this reflects the lack of opportunity for women.



However, when adopting the CEDAW, Saudi Arabia made reservations, such as the statement by the government that “in case of contradiction between any term of the Convention and the norms of the Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.”



The political life of Saudi women drastically changed after King Abdullah attended a Shura (the Consultative Assembly) in Riyadh in September 2011. During that time, he announced that women would be allowed to vote and run for office in the 2015 elections. This announcement has been a significant milestone for women and has led to some major decisions. For instance, women can now be appointed to the Consultative Assembly which they first joined in January 2013, occupying thirty seats.<sup>13</sup> Furthermore, that year, three women were named deputy chairpersons of three committees. Thurayya Obeid was named deputy chairwoman of the Human Rights and Petitions Committee, Zainab Abu Talib, deputy chairwoman of the Information and Cultural Committee, and Lubna Al Ansari, deputy chairwoman of the Health Affairs and Environment Committee. Another major appointment occurred in April 2012 when Muneera bint Hamdan Al Osaimi was appointed assistant undersecretary in the medical services affairs department at the Ministry of Health.<sup>14</sup> Alongside this, women are now allowed to hold positions on boards of chambers of commerce. Two women were elected in 2008.

The Kingdom can also be congratulated for its recent laws to prohibit domestic violence.<sup>15</sup> Physical and sexual abuse at home or in the workplace is now punishable by up to one year imprisonment and a fine up to \$13,000. The law will also establish a shelter for victims of violence. This new legislation was passed after a campaign launched this year, featuring the image of a woman with a head cover revealing a black eye, and a sentence below: "*some things can't be covered*".

In conclusion, while significant steps are being made in the right direction, it is hoped that greater progress will be made with the current government.

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- <sup>14</sup> ^ "Saudi health ministry reshuffle sees the first appointment of women assistant undersecretary". *Al Arabiya*. 3 April 2012. Retrieved 5 September 2012.
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## Revisiting the Archipelago

Words: Joseph Power

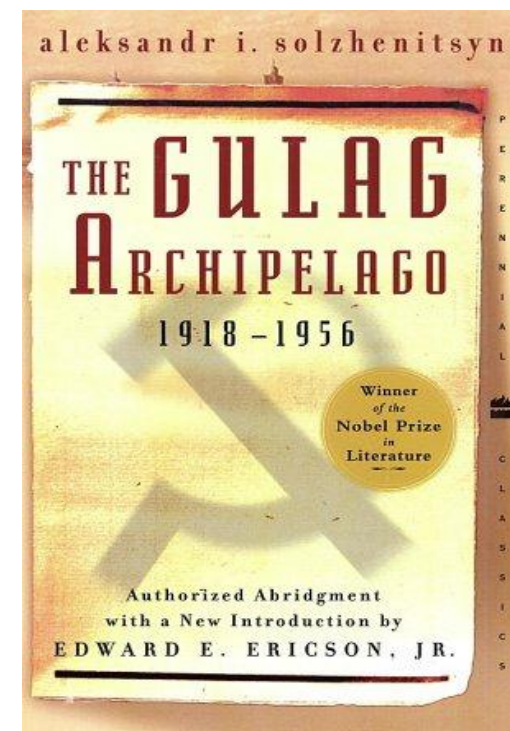
***“A district Party conference was under way in Moscow Province. It was presided over by a new secretary of the District Party Committee, replacing one recently arrested. At the conclusion of the conference, a tribute to Comrade Stalin was called for...”***

The hall was filled with “stormy applause”, which soon swelled to a boisterous ovation. This continued for three minutes; four, by which time people began to tire as their palms sore, and arms ached. The scene became comical, but, after all, who would be the *first* to stop? The new secretary, who had the power of the mob in this matter, had just replaced his freshly-arrested forebear. With the eyes and phantasmal tendrils of the Party apparatchiks watching and feeling for signs of fading ovation (as well as applauding themselves), the thundering racket continued. Six minutes passed; seven; eight; nine; ten! Soon, people began to resign themselves to their imminent deaths via heart attack, exhaustion, or stroke. After eleven minutes of this farcical display, the director of the paper factory—the venue wherein the conference was being held—“assumed a business-like expression and sat down in his seat.”

A miracle had taken place. The uninhibited, frenzied enthusiasm vanished into nothingness as the crowd stopped dead and sat down. Naturally, that same night, the director who had dared to show independence of mind was arrested on some other banal pretext, and after signing away his fate, his interrogator reminded him, “Don’t ever be the first to stop applauding!”

Readers of Orwell will appreciate the parallel between Solzhenitsyn’s replication—a first-hand account—of Stalinism, and the *Two Minutes of Hate* in *Nineteen-Eighty-Four*. The crucial difference, admittedly, is that the nightmare of Stalinism so beautifully exposed in the pages of *The Gulag Archipelago*, actually happened.

People fortunate enough to have felt their way through the work of this moral and historical titan soon come to appreciate what Martin Amis described as the “terror and boredom” of totalitarianism. This cultivation of terror creates a society, that, through degradation and tainting, becomes one devoid of life, of debate, of literature, of art, and of love.



Marx and Robespierre (the latter famous for his avocation of a *régime de la terreur* after the French Revolution) advocated a form of dictatorship to consolidate power against counter-revolutionaries, dissidents, subversives, and other riff-raff and preserve newly-entrenched governments.

Whereas Robespierre so famously declared that terror and liberty go hand-in-hand (before, of course, such trenchant advocates of freedom decided to liberate Robespierre’s head from his shoulders), Marx saw the “dictatorship of the proletariat” as being something that would wither away after the proletariat

revolution had been completed. This didn’t happen, of course, and the Soviet Nightmare soon evolved into a vicious and inward-obsessed bureaucracy. While Solzhenitsyn was not the first dissident to achieve



worldwide fame (one thinks immediately of Victor Serge), The Gulag Archipelago was a work that fundamentally changed the world's perception of the Soviet Union, to a width and depth hitherto unseen. The frenzied attempts by the Soviets to ban the book was futile because, after all, the first-hand accounts of 227 fellow prisoners had been etched into the minds of the many Russians who had inhabited the Archipelago, which Solzhenitsyn refers to as a "waste disposal system". The hand-typed manuscripts, passed around the Soviet Union for 24-hour periods, were read in complete silence. Millions of the Soviet citizenry read their own experiences, laid down onto the page with a biting wit and fury that only a spell in the Arctic Circle could conjure.

The utter capriciousness of the Soviet Empire knew no bounds. Take the case of the half-literate stove-maker, who for purposes of self-esteem and pleasure enjoyed writing his own name in his spare time. Being poor, he seldom had any paper to write on, so he wrote on newspapers. His neighbours discovered one of these marked newspapers in their communal toilet, with ink flourishes across the visage of the Father and Teacher (Stalin!). Of course, such savagery necessitated his 10-year imprisonment for anti-Soviet Agitation.

Or, take the arresting of children to pre-empt their revenge for their parents imprisonment; the 31 methods of torture documented by Solzhenitsyn, of physical and psychological punishment intended to break prisoners to the will of the Secret Police. My personal favourite method was the locking of a man or woman in a "punishment cell", before filling the cell with water until it covered a person's feet and ankles, giving the prisoner a choice between losing their feet to frostbite, or surrendering their liberty for a spell in the Gulag.

Indeed, these sadistic interrogations had ceased to be a search for the truth. It became a pastime; a way for an interrogator to earn their salary. What was important here was "expediency", not guilt or innocence. No distinction was made in the grotesque Soviet show trials between intent and action; a joke and an assassination were one and the same.

***"The hand-typed manuscripts, passed around the Soviet Union for 24-hour periods, were read in complete silence."***

Those that imagine that if only Leon Trotsky, say, had succeeded Lenin after his death the world would have avoided the nightmare of Joseph Stalin need not delude themselves. The foundations of Stalinism in 1937 were laid immediately after the October Revolution, in three long chapters that document the collapse of what we know as the "Rule of Law". What took its place was the "Law of Expediency". As Solzhenitsyn dryly observes, "Only the first swathe cut by the scythe is difficult".

The Gulag Archipelago is like putting on the shoes of a Soviet for a single day, as he takes one through arrest, interrogation, show trial, transport (of which there are many kinds), until one reaches the Archipelago. Whatever beatings, torture, rapes (for the women unfortunate enough to be thrown into a prisoner convoy populated with vicious thieves and plunderers), thirst, starvations, disease and so on that one endured, Solzhenitsyn assures us that, "Camp was worse".



## Perspective Lost: The Uncivil Debate on Asylum in Australia

Words: Camden Luxford

The polarisation of Australian opinion on the issue of asylum seekers has reached extraordinary levels. This is a result of the highly emotive nature of the issue, along with two other important factors: its successful securitisation, and high levels of confirmation bias on all sides.

Securitisation occurs when the state or elite groups within it define something as a security issue in order to gain exclusive control over it and justify the use of measures that would, in the absence of a threat to national security, be considered unacceptable (Wæver 1995). The issue is shifted outside the usual democratic process, and de-securitisation – a return to more moderate debate – becomes difficult. That the arrival of an annual average of 3,073 people since 2000 – representing about 0.013% of the Australian population – has become such a highly fraught political issue testifies to the discursive power of securitisation.

Despite the realities of a multicultural modern Australia, and a rhetorical shift in focus from Geneva to Jakarta, the national identity tacks West. Therefore, despite the security offered by a lack of land borders, the Australian psyche has a deeply embedded sense of isolation amidst heavily populated and culturally distinct Asian neighbours (Walker, cited in Beeson 2003, p. 114). The arrival of boats laden down with non-Western asylum seekers was ripe for securitisation even before the unhappy coincidence of the *Tampa*, the 9/11 attacks and a federal election in the latter part of 2001.



Since then, “fear of the uninvited other” has been a permanent presence in the national debate on asylum, and has forced a pronounced shift in focus: the State, not the refugee, is in need of protection (Hyndman & Mountz 2008, p. 253-4). A new culture of reduced transparency about interdiction activities – for military “operational reasons” – and deliberate policies on the correct terminology to be used when discussing “detainees” point to continued securitisation of the issue.

Meanwhile, for those who suspect that human beings are perhaps not quite so rational as economists would have us believe, the asylum seeker debate in Australia provides a wealth of anecdotal evidence. ‘The Dream Boat’, a first-hand account of a journey by boat from Indonesia to Christmas Island was described by a Twitter user as a Rorschach test: indeed, my timeline filled up with people on both sides of the debate, trumpeting the article as a vindication of what they had been saying all along.



How, asks the author, Luke Mogelson, do you tell someone “who has severed himself utterly from his country, in order to reach another” that he will never be settled there? “It was impossible. They wouldn’t believe it”. And the asylum seekers he and photographer Joel van Houdt meet along the way do not. They cling to hope; they fail to hear. “At least there is a possibility,” they repeat.

It is a harrowing tale. And indeed, it is the sheer human drama of the asylum seeker issue that most contributes to the uncivil debate within Australia: when both sides breathlessly accuse one another of being complicit in deaths at sea, compromise becomes impossible.

Some form of deterrence to prevent continued deaths is perhaps unavoidable, but as the Government’s Expert Panel on Asylum Seekers concluded in 2012, this deterrence must be carried within a framework of human rights and respect for international refugee law, while providing a gateway for increased humanitarian intake. That is, deterrence balanced with the “carrot” of a more efficient and hope-inspiring settlement process. And yet the political elite, finding it easier to choose one side of the discursive war they are responsible for starting than attempting to end it, have pursued hardline policies. All perspective has been lost, and the punishment of asylum seekers for having the temerity to cling to hope in a hopeless situation has become acceptable.

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But perhaps more interesting than this, confirmation bias among Australians – a refusal to process information that clashes with our pre-existing beliefs – is the same phenomenon among the asylum seekers, documented in the article.

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<sup>1</sup> Parts of this article have been adapted from my essay ‘Losing Control: UNHCR and Australia’s contestation of the international refugee regime’, available at <<http://camdenluxford.wordpress.com/2013/10/29/losing-control-unhcr-and-australias-contestation-of-the-international-refugee-regime/>>