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RESEARCH ARTICLE

'I Am Responsible': Histories of the Intersection of the Guardianship of Unaccompanied Child Refugees and the Australian Border

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Abstract

In Australia in 1946, the Immigration (Guardianship of Children) Act was passed. This Act was intended to support the postwar migration to Australia of British children, unaccompanied by their parents, and to provide them with a guardian in Australia—the Immigration Minister. Despite subsequent amendments, this key provision continues. Children who attempt to migrate to Australia unaccompanied by adult family members are subject to the minister's guardianship. In 1948 Arthur Calwell, the then Minister for Immigration, described himself in parliament as the 'father' of such children. This article focuses on the period from the 1970s to explore what this notion of fatherhood entails. What can it tell us about how children, families and the role of the minister in child refugee policies have been imagined? I examine how the Act functions as a form of biopolitics, to discipline and regulate intimate relations for child refugees. The article asks how the Act produces a set of historically specific interdependent relationships and highlights the ways successive governments have subordinated concerns for the 'best interests of the child' to concerns of the policing of the Australian border.

Keywords

Guardianship; child refugees; Australian migration history; government policy; national borders

On 18 November 1948, Leslie Haylen, the Australian Labor Party (ALP) member for Parkes, rose in federal parliament to speak about the proposed amendments to the Immigration (Guardianship of Children) Act (hereafter the Act). This was an Act that, beginning in 1946,

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made the Minister for Immigration the guardian of all unaccompanied child migrants. Haylen noted that Arthur Calwell, the then Minister for Immigration, ‘has been called all kinds of names in his time, but now [as a result of this legislation] he is to be the beneficent and legal godfather of the thousands of children who will pour into this country.’ At that, Calwell interjected, proclaiming that no, he would not be their godfather, but rather he would be ‘the legal father’ of these children.¹

Close to thirty years later, on 22 September 1976, at the Midway Hostel, a migrant hostel in Maribyrnong, Victoria—now the Maribyrnong Immigration Detention Centre—two residents, [N.P.] and [C.P.] signed a note, written on unheaded lined paper:

We the undersigned, declare that there is no familial relationship between ourselves. [C.P.] is not the aunt of [N.P.] Any confusion caused was brought about by [N.P.] calling [C.P.] ‘Aunty’ out of respect for her age (58) and their friendship in Timor.²

A further thirty-seven years on, in September 2013, a 16-year-old unaccompanied Somali boy was flown to Perth from the immigration detention centre on Christmas Island—a distant island territory of Australia, located in the Indian Ocean close to Indonesia—after he attempted suicide. The Somali community in Perth tried to reach out to him, with Hassan Egal, the president of the Somali Community Association in Western Australia, telling the Australian Broadcasting Corporation (ABC):

As a community we are, traditionally we help each other, and we want to look after him after his situation gets better and give him accommodation and shelter and food, and whatever available until his case of refugee claim is under process.

‘His family’s not here,’ Egal went on to say, ‘and he’s young, he’s underage. We will encourage him, and we’ll talk to him in the language, the food, the sense of belonging.’³ Tony Burke, the then Minister for Immigration, Multicultural Affairs and Citizenship, refused to allow anyone from the community to visit the boy, with the Immigration Department spokeswoman saying, ‘as the boy’s guardian, he’s maintaining a personal interest in his medical care’. She was further reported as asserting that ‘the focus needed to be on the boy’s health and wellbeing’ and that it was ‘far too early to respond to requests from the community or questions about the boy’s asylum claims’.⁴

I begin with these moments as a way of drawing out some of the discourses and implications of the history of the Act and its historical production of categories of child refugees and guardians, as well as notions of family, community, intimacy and responsibility. The implementation of this Act has always engaged with these categories of connection and kinship, with references to family management spread throughout the archival records of the

1 Leslie Haylen and Arthur Calwell, ‘Second Reading Speech for Immigration (Guardianship of Children) Bill 1948’, Parliamentary Debates, House of Representatives, Thursday 18 November 1948.

2 From National Archives of Australia (hereafter NAA): B925, V1978/60922 Part 1: Isolated refugee children, September 1975 – May 1979. Underline in original. Where they have signed, C.P. has marked with an X as she is, the witness notes, ‘illiterate unable to sign’. While the two people’s full names are written in the documents accessible in the archive, I have chosen to anonymise them here, in an attempt to maintain some degree of privacy for them. Indeed, in Victoria, the archival records of citizen children in some form of state care are only accessible 100 years after their creation. This raises the important question of why the records of refugee children in similar systems of care are given more ready public access. See, for instance, State Library of Victoria, ‘Adoption and Forgotten Australians’, 9 December 2015. <http://guides.slv.vic.gov.au/c.php?g=245251&p=1633053#9656753>.

3 Caitlyn Gribbin, ‘Somali Community in Australia Seeks Access to Boy in Detention’, *PM ABC Radio*, 2 September 2013, <http://www.abc.net.au/pm/content/2013/s3839274.htm>.

4 Nicolas Perptich, ‘Suicide-bid Asylum Boy: Access Denied’, *Australian*, 2 September 2013, p. 3.

departments that have managed it.⁵ The Act has, since its inception, attempted to regulate familial relations. That is, the guardianship produced by the Act has existed as a form of biopolitics, normalising a particular set of intimate relations for the populations it seeks to control and in doing so exerting control over the politics of the country's borders. In this article I argue that the Act has produced a relationship of intimacy between guardians and unaccompanied child refugees (particularly since the 1970s, from when the Act was more broadly applied to refugee children, as I will explain further below) such that these refugee children were 'produced' as lacking family and hence in need of a type of care not required by adult refugees. In this way, the Act has functioned as what Suvendrini Perera and Joseph Pugliese have termed 'law as an apparatus of biopolitical governmentality'.⁶ This Act, and its history, is uniquely Australian: no other country has an Act like it, or controls their borders in relation to asylum seekers and refugees with the same peculiarly punitive measures of incarceration. Australia's regimes are, however, also under scrutiny from other countries, with some decrying the nation's treatment of asylum seekers and others expressing admiration for it.⁷

This article sketches a history of the Act as examined through the lens of family-like relations. While there has been some legal analysis undertaken of the role of the minister as guardian of unaccompanied child refugees it has not yet been explored in depth by historians. Moreover, while various historians have examined the history of government policy towards refugees and asylum seekers, none has looked at the history of this specific Act. Indeed, Klaus Neumann, Sandra M. Gifford, Annika Lems and Stefanie Scherr have recently noted that 'scholarship about refugee settlement in Australia is marked by its blind spots as much as by its research strengths'.⁸ In this article I aim to fill this gap by exploring the history of the guardianship role and focusing on what the role does. Moreover, I look at how the role sits alongside the other functions of the minister, primarily that of controlling Australia's borders and determining who should be allowed into Australia. How does the Act create a category of 'unaccompanied minor', what work does the category do and what does it come to mean? What relations of intimacy are articulated through this work? I wish to open up fundamental questions regarding the role of the development of policy, its evolutions and enduring impacts, and the ways policy language has shaped discourses and understandings of child refugees in Australia, as well as how it has sought to control the contours of the population in general. I focus on the ways the Act produces an idea of who unaccompanied refugee children are in relation to the Minister for Immigration. Here I am not referring to the production of embodied people, but rather to a set of imagined figures, interrelationships and discourses. These figures and discourses have had real and deeply damaging impacts on many of the children who are subject to the Act under regimes of the so-called 'protection' provided by the

5 See, for instance, examples in NAA: A446, 84/79152: Settlement Branch—Background papers—Unattached refugee children—General policy 1978–1981.

6 Suvendrini Perera and Joseph Pugliese, 'White Law of the Biopolitical', *Journal of the European Association of Studies on Australia*, vol. 3, no. 1, 2012, p. 89.

7 For instance, Danish MPs have visited the Australian detention centre on Nauru as part of a fact-finding mission. Paul Farrell, 'Danish MP Confirms Visit to Nauru Camp at Heart of Offshore Detention Outcry', *The Guardian*, 23 August 2016, https://www.theguardian.com/australia-news/2016/aug/23/danish-politicians-visit-nauru-site-at-heart-of-offshore-detention-outcry?CMP=share_btn_tw. See also Antony Loewenstein, 'Australia's Refugee Policies: A Global Inspiration for All the Wrong Reasons', *The Guardian*, 18 January 2016, <https://www.theguardian.com/commentisfree/2016/jan/18/australias-refugee-policies-a-global-inspiration-for-all-the-wrong-reasons>.

8 Klaus Neumann, Sandra M. Gifford, Annika Lems and Stefanie Scherr, 'Refugee Settlement in Australia: Policy, Scholarship and the Production of Knowledge, 1952–2013', *Journal of Intercultural Studies*, vol. 35, no. 1, 2014, pp. 1–17.

Federal Minister for Immigration.⁹ This article is concerned with both these facets of the Act—the way it has produced knowledge and the material effects of this knowledge.

The Act produces a kinship relationship between child and guardian that is also performative, drawing on histories of Australian governmental ideas of the state as fit parents and producing those ideas into the future. That is, the Act produces the figure of the child refugee as someone who is dependent, and the Minister for Immigration as the figure of responsibility in relation to that dependent. This ensures the children, as figured, fit within a particular register of intelligibility in relation to migration, border maintenance and control. In this article I begin by examining the existing scholarship on the Act and presenting a history of the changes to the Act. I then explore the ways the Act has functioned during its existence, with a particular focus on the period since the 1970s. Moving through the following aspects in turn, I demonstrate how, as part of the productive, imaginative governmentality of the Act, it produces the figure of the child; produces the figure of the guardian; produces a relation between the two, which involves the guardian, or state, being designated as best able to make decisions for the child, or know what is best for the child; and produces a conception of the limits of concern held by the government towards the populations it controls. In subordinating kinship relations to ideas of border control, national security and population management, the Act demonstrates how guardianship responsibilities are secondary to other governmental considerations, thus offering up a conception of the place of kinship within social, cultural and political understandings of the building blocks of the nation-state. It will become evident throughout the article how ideas and discourses of kinship, responsibility, guardianship and national borders intertwine.

A history of the scholarship on the *Immigration (Guardianship of Children) Act*

There is very little academic writing on the workings of the Act, but there are some small pockets of scholarship, particularly from lawyers and doctors. Historians of child protection schemes in Australia, such as Shurlee Swain, have noted the existence of the Act and its guardianship provisions, particularly with regard to child migrants, but have not yet explored its implications for notions of familial relations among child refugees in Australian history.¹⁰ In her work on child protection in Australia, Swain—together with Dorothy Scott—does, however, provide a model for viewing children who are subjected to government care and protection legislation, writing that we must recognise that such children are seen ‘as both victim and threat, savage and waif’.¹¹ Alongside this historical focus on child protection, organisations such as the Australian Human Rights Commission and the Refugee Taskforce of the National Council of Churches in Australia have produced inquiries and reports exploring the minister’s guardianship role.¹²

9 This is not to suggest that there has never been assistance and protection given by those who have enacted guardianship services and provisions on a day-to-day basis. Anecdotal evidence from workers at a state level suggests it is possible this has happened. More importantly, it is not to suggest, either, that children are not able to resist, subvert or use for their own ends the categories into which they are placed or the conditions in which they live. Further exploration of how this occurs is, unfortunately, outside the scope of the current article.

10 See, for instance, Shurlee Swain, *History of Child Protection Legislation*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2014.

11 Dorothy Scott and Shurlee Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, Melbourne University Press, Melbourne, 2002, p. 10.

12 See, for example, Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, Australian Human Rights Commission, Sydney, 2014, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>; Australian Human Rights Commission, *A Last Resort? National Inquiry into Children in*

Karen Zwi and Sarah Mares, part of the Australian Human Rights Commission's 2014 Inquiry into Children in Detention, note that today the Department of Immigration and Border Protection (DIBP) provides unaccompanied children on Christmas Island guardianship from a local 'Delegated Guardian'.¹³ From their interviews, however, it was evident that children were unaware who their guardian was, or who could help them if they required any form of assistance.¹⁴ Further, Zwi and Mares were told in interviews with children in the detention centre on Christmas Island that 'DIBP do not routinely contact families of unaccompanied children to inform them of their children's whereabouts and processing of asylum claims'.¹⁵ This is notable, highlighting ways that familial bonds are imagined, and differentially respected and broken, by Immigration Departments, a point to which I will return below. Through snippets of testimonies, Zwi and Mares provide both a medicalised exploration of the experiences of asylum seeker children and an overview of the ways the testimonies of unaccompanied children can be used to narrate their own histories.

Diane M. Zulfacar has investigated the policy provisions for unaccompanied refugee minors from a social work perspective, focusing on guardianship mechanisms, care arrangements and income support. Zulfacar's exploration of the unsuitability of the Act provides a useful basis from which to understand why the problems and contradictions explored below came to exist. Zulfacar notes that the Act was created to deal with British child evacuees, rather than refugees, and in doing so draws attention to the ways policy around the Act, and around the care of child refugees generally, has, since the 1970s, been created on an expedient basis. As such, the history of the Act, according to Zulfacar, is also a history of slow and ad hoc change.¹⁶

A number of lawyers have explored the guardianship provisions of the Act, many placing the emphasis of their argument on the inherent conflict of interest in the minister being the guardian of these asylum-seeker children as well as, as representative of the state, being in ultimate control of both determining their refugee status and of what happens to them while their claims are being determined. Mary Crock notes:

*The Immigration Minister's protective role under the IGOC Act stands in stark contrast with the obligations and powers conferred by the Migration Act and Regulations ... The simple and devastating problem for the young asylum seekers is that the Minister is both legal guardian, by virtue of s 6 of the IGOC Act, and their prosecutor, judge and gaoler within the complicated matrix of the Migration Act.*¹⁷

Across a number of publications, Crock lays out the legal importance of creating an independent guardian.¹⁸ Julie Taylor has pointed to an obligation for this conflict of interest to be remedied. She

Immigration Detention, Australian Human Rights Commission, Sydney, 2004, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/last-resort-national-inquiry-children-immigration>; Jennifer Basham and the Australian Churches Refugee Taskforce, *Protecting the Lonely Children: Recommendations to the Australian Government and the UN Committee on the Rights of the Child with Respect to Unaccompanied Children who Seek Asylum and Refuge in Australia*, 2014. <http://www.australianchurchesrefugeetaskforce.com.au/wp-content/uploads/2014/07/ProtectingTheLonelyChildren.pdf>

13 Australian Human Rights Commission, *The Forgotten Children*.

14 Karen Zwi and Sarah Mares, 'Stories from Unaccompanied Children in Immigration Detention: A Composite Account', *Journal of Paediatrics and Child Health*, vol. 51, no. 7, July 2015, p. 659.

15 *Ibid.*, p. 660.

16 Diane Zulfacar, *Surviving Without Parents: Indo-Chinese Refugee Minors in NSW*, Government Printing Office, Sydney, 1984.

17 Mary Crock, 'Lonely Refuge: Judicial Responses to Separated Children Seeking Refugee Protection in Australia', *Law in Context*, vol. 22, no. 2, 2005, pp. 128–9.

18 Mary Crock, *Seeking Asylum Alone, Australia: A Study of Australian Law, Policy and Practice Regarding Unaccompanied and Separated Children*, Themis Press, Sydney, 2006. See also Mary E. Crock, 'Of

explores the legal and procedural inadequacies created by the lack of a un-conflicted legal guardian and concludes, '[m]ost importantly, throughout the process of applying for a visa, unaccompanied children are likely to need assistance from their legal guardian or some other appointed person; and the *Immigration (GOC) Act* makes them legally entitled to it'.¹⁹ Maria O'Sullivan has also examined the conflict of interest in the Act, highlighting that 'the best interests principle is regarded internationally as the linchpin of children's welfare', and that because of this legislative reforms are imperative.²⁰ Mark Evenhuis similarly focuses on the human rights-based legal requirements, and the notion that the child is vulnerable and primarily requires protection, arguing that this cannot be achieved through the guardianship provisions of the Act.²¹

It can be seen, then, that the existing scholarship frames the discussion around questions of vulnerability, care, the particular human rights that children should be subject to, and the problems of 'conflict of interest' and 'best interest of the child'. In this article, I take a different point of departure and ask the following question: how can the Act, and its notions of guardianship, be understood as responsible for the production of a set of historically specific figures and interdependent relationships?

A history of the Act and its production of guardianship

The *Immigration (Guardianship of Children) Act* was first passed in 1946, ensuring the Minister of Immigration would act as the guardian for those British boys being brought to Australia in the aftermath of World War II, as well as the British children who had arrived in Australia during the war.²² From the beginning, the Act was designed to provide guardianship care from the minister to migrant children who fit the age-based description (in 1946 it was children under twenty-one years of age), who were not Australian citizens, and who were not accompanied by a parent or a relative over the age of twenty-one who was to act in the role of a parent or guardian. Refugee children who had arrived during this same wartime and pre-war period were looked after by community groups, such as the Australian Jewish Guardian Society.²³ The Act followed on from the previous National Security (Overseas Children) Regulations, which had concluded at the end of the war. It was created

Relative Rights and Putative Children: Rethinking the Critical Framework for the Protection of Refugee Children and Youth', *Australian International Law Journal*, vol. 18, no. 1, January 2011, pp. 33–53; Mary Crock and Mary Anne Kenny, 'Rethinking the Guardianship of Refugee Children after the Malaysia Solution', *Sydney Law Review*, no. 34, 2012, pp. 437–65.

19 Julie Taylor, 'Guardianship of Child Asylum-Seekers', *Federal Law Review*, vol. 34, no. 1, 2006, p. 204.

20 Maria O'Sullivan, 'The 'Best Interests' of Asylum-Seeker Children: Who's Guarding the Guardian?', *Alternative Law Journal*, vol. 38, no. 4, 2013, p. 228.

21 Mark Evenhuis, 'Child-Proofing Asylum: Separated Children and Refugee Decision Making in Australia', *International Journal of Refugee Law*, vol. 25, no. 3, 2013, pp. 535–73. See also John Tobin, 'Understanding Children's Rights: A Vision beyond Vulnerability', *Nordic Journal of International Law* vol. 84, no. 2, June 2015, pp. 155–82. DOI: <http://dx.doi.org/10.1163/15718107-08402002>

22 The full name of the Act is 'An Act to make provision for and in connexion with the Guardianship of certain alien children'. It was changed to 'alien' from 'Children outside Australia' in the amendments of 1983, *Migration (Miscellaneous Amendments) Act 1983* No. 84, 1983, <https://www.comlaw.gov.au/Details/C2004A02801>. Its origins in the management of child migrants can also be seen in the report produced by the Senate: *Lost Innocents: Righting the Record—Report on Child Migration*, 30 August 2001, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/1999-02/child_migrat/report/index.

23 For an example of the conversations that occurred between such organisations and the government, see the files in NAA A432, 1950/1613: Immigration (Guardianship of Children) Act—Displaced Persons—Power of Minister to Resume Guardianship of Individual Children exempted by 'Class' Order. See also Joy Damousi, *Memory and Migration In the Shadow of War: Australia's Greek Immigrants after World War II and the Greek Civil War*, Cambridge University Press, Cambridge, UK, 2015, pp. 151–3.

as a result of consultation with state and territory migration authorities on 20 August 1946, from which the governing Australian Labor Party concluded legislation was needed to continue to regulate, govern and control the presence of these children in Australia. This new legislation—which had broad support among the sector and in parliament²⁴—was framed as providing a means to ‘prevent exploitation’ of the children and their labour, and it was noted both in parliament and in the press that the powers of guardianship would be ‘delegated to officers of welfare departments in each state, but could be terminated at any moment in respect of any child’.²⁵ These facets of the legislation would then become the Act, creating a situation wherein the Minister of Immigration was the guardian for those child migrants who were unaccompanied by any parent or immediate relative who could act as a guardian, until such time as they reached the age of twenty-one, left Australia or became citizens. The responsibilities of this guardianship could be delegated, and provision was in place for the minister to exclude, by regulation, a class of migrant children from the Act, if he so desired. This Act has been amended numerous times, but the key provision that the Immigration Minister is the guardian of all children who are governed by the Act has remained.²⁶

After being passed in 1946, the Act was first amended in 1948, with provision then being made for private individuals, as well as institutions, to act as delegated carers for unaccompanied migrant and refugee children. Other amendments made at this time provided for the minister to be the guardian of the child’s estate as well as their person, and legislated that any child covered by the Act would need to receive permission from the Minister to leave Australia.²⁷ These amendments, Calwell explained, were based on the experiences of those working with the Act and were made on the advice of ‘officers expert in child welfare administration’—not, it should be noted, on the advice of the children governed by the Act.²⁸

The Act was not widely applied to all refugee and asylum-seeker children until the 1970s. This was in part because, as Klaus Neumann has noted, ‘Australia’s DP program included surprisingly few unaccompanied minors, and discriminated against large families. Australia’s resettlement of DPs favoured workers.’ As a result, non-British unaccompanied minors did not come to Australia in substantial numbers until 1949.²⁹ From this point onwards the Act was applied to refugee children who came from Europe, including Jewish children in the 1940s and Hungarian children in the 1950s. But, crucially, it was not until 1974, in accordance with the requirements of the White Australia policy—one of Australia’s first pieces of legislation passed upon Federation in 1901, which dictated that only white people (with limited exceptions) were allowed to migrate to Australia—

24 Taylor, p. 186.

25 ‘Guardian of all Child Migrants’, *The Argus*, 9 July 1946, p. 3. Arthur Calwell, ‘House of Representatives: Immigration (Guardianship of Children) Bill 1946: Second Reading Speech’, *Parliamentary Debates*, 31 July 1946.

26 I shall use this term—Immigration Minister, or simply minister—throughout this article to refer to a position, which has, of course, changed name numerous times since its creation.

27 For a full exploration of the discussion of their functioning see Second Reading speeches on 18 and 25 November 1948.

28 Arthur Calwell, ‘House of Representatives, Immigration (Guardianship of Children) Bill 1948: Second Reading Speech, Procedural Text’, *Parliamentary Debates*, 5 October 1948.

29 Klaus Neumann, ‘The Admission of European Refugees from East and South Asia in 1947: Antecedents of Australia’s International Refugee Organization Mass Resettlement Scheme’, *History Australia*, vol. 12, no. 2, 2015, p. 71.

that non-European children would be covered by the Act. In 1983 amendments to the legislation replaced ‘immigrant’ with ‘non-citizen’ in specifying who was covered by the Act.³⁰

Other amendments have altered the group of children governed by the Act, as well as who could be considered to be guardian. These changes have included the age-based definition of a child, which changed in 1983 from those under twenty-one to those under eighteen. Since 1985, a non-citizen child who is governed by the Act has also been considered to be a person who ‘intends, or is intended, to become a permanent resident of Australia’, and these 1985 amendments enabled the minister to ‘direct that a person under 18 years of age shall be a ward of the Minister notwithstanding that that person entered Australia’ with a guardian. The amendments required that the ‘relative who is charged with caring for the person consents to the Minister assuming guardianship’.³¹ Amendments in 1994 altered the legislation so that the minister was no longer responsible for children entering Australia for the purposes of adoption, while the 2008 amendments—which came as part of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Act 2008*—provided new gender-neutral definitions of ‘parent’ and ‘relative’.³² These changes expanded the definition of who could be eligible for providing legal guardianship to children, who would then not be considered as covered by the Act.³³ Amendments passed as part of the *Migration Legislation Amendment (Offshore Processing and other Measures) Act 2012*—which amended both the *Migration Act* and the *Immigration (Guardianship of Children) Act*—allowed the government to assert the primacy of the former over the latter. This meant the government could make and implement ‘any decision to remove, deport or take a non-citizen child from Australia’, enabling the offshore detention and processing of child asylum-seekers.³⁴ This measure was further strengthened in amendments passed in 2014 to the powers held by the government under the *Maritime Powers Act*.³⁵ Interestingly, the introduction of the foundational legislation, the *Migration Act*, in 1958, produced no amendments to the Act.

Since the creation of the Act, the Minister’s guardianship obligations are considered to have ended when the child reaches adulthood, becomes a citizen or leaves Australia

30 M.J.R. MacKellar, ‘Background Paper’, no date, in NAA: A446, 84/79151; Diane M. Zufacar, ‘A Decade of (Slow) Progress: The Evolution of Policies and Provisions for Unaccompanied Refugee Minors in Australia’, *Asia Pacific Journal of Social Work*, vol. 2, no. 2, 1992, pp. 78–81. Parliament of the Commonwealth of Australia, House of Representatives, ‘Explanatory Memorandum, Migration (Miscellaneous Amendments) Bill 1983’, Commonwealth Government Printer, Canberra, 1983, http://www5.austlii.edu.au/au/legis/cth/bill_em/mab1983361/memo_0.html.

31 This was Section 4A in 1985, and is currently part of Section 4AAA. Statute Law, (Miscellaneous Provisions) Act (No. 1) 1985, <https://www.comlaw.gov.au/Details/C2004A03104>.

32 Parliament of the Commonwealth of Australia, Senate, ‘Immigration (Guardianship of Children) Amendment Bill 1993: Explanatory Memorandum’, Commonwealth Government Printer, Canberra, 1993, p. 4, http://www.austlii.edu.au/au/legis/cth/bill_em/iocab1993427/memo_0.html.

33 Parliament of the Commonwealth of Australia, House of Representatives, ‘Same-Sex Relationships (Equal Treatment in Commonwealth Laws–General Law Reform) Bill 2008: Explanatory Memorandum’, Commonwealth Government Printer, Canberra, 2008, pp. 131–54, http://www.austlii.edu.au/au/legis/cth/bill_em/srticllrb2008779/memo_0.html.

34 Parliament of the Commonwealth of Australia, House of Representatives, ‘Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012: Explanatory Memorandum’, Commonwealth Government Printer, Canberra, 2012, p. 1, http://www.austlii.edu.au/au/legis/cth/bill_em/mlapaomb2012678/memo_0.html.

35 Parliament of the Commonwealth of Australia, House of Representatives, ‘Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014: Explanatory Memorandum’, Commonwealth Government Printer, Canberra, 2014, pp. 40–1, http://www.austlii.edu.au/au/legis/cth/bill_em/mamplatalcb2014832/memo_0.html.

permanently. Since 2012, 'leaving Australia permanently' has been considered to have occurred if, among other things, the child has been 'taken from Australia to a regional processing country'.³⁶ That is, if they were taken to offshore detention, a measure that has been in operation in Australia intermittently since 2001, under both Coalition and ALP governments, where asylum seekers who have attempted to reach Australia by boat are taken instead to detention centres in Nauru and Manus Island, Papua New Guinea.³⁷ These regimes of detention—which are currently indefinite—have faced significant protests from refugees and supporters both within and outside the centres, and are uniquely Australian. Nowhere else in the world has a program of indefinite offshore detention for all asylum seekers, including children, who come by boat. The Australian Immigration Minister has also always been able to delegate some of the responsibilities of guardianship and has regularly done so, to Departments of Social Service or Community Service, or similar bodies, and to private companies running immigration detention centres, in each of the states or territories.³⁸ The Act is, it appears, the only one of its type in the world.

This brief history demonstrates a broad consensus among successive governments that unaccompanied child migrants in general, and, for our purposes, child refugees in particular, are defined as requiring specific forms of support from the government. The Convention on the Rights of the Child, introduced in 1989 internationally and in 1990 in Australia, emphasises the 'best interests of the child' and proposes that children be primarily regarded through the lens of considerations of rights, but the Act demonstrates a different register of analysis for decision-making.³⁹ Indeed, the Explanatory Memorandum for the 2014 amendments to the Act, when weighed against the Convention, explicitly states:

in developing the policies reflected in this Bill, the government has treated the best interests of the child as a primary consideration. However, it is Government policy to discourage unauthorised arrivals from taking potentially life threatening avenues to achieve resettlement for their families in Australia and this, as well as the integrity of the onshore protection programme, are also primary considerations which may outweigh the best interests of the child in relation to a particular measure.⁴⁰

³⁶ Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012, <https://www.comlaw.gov.au/Details/C2012A00113>.

³⁷ For an explanation of their history and functioning see, for instance, Madeleine Gleeson, 'Offshore Processing: refugee status determination for asylum seekers in Nauru', 1 May 2016, <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-nauru>.

³⁸ This delegation has, at times, required clarification. In response to a minute asking for confirmation of whether the Immigration Minister's authorisation was required before a child who was governed by the Act was allowed to marry, a memo issued by D.J. Rose, Senior Assistant Secretary, Constitutional and Financial Branch, Advising Division, Attorney-General's Department, on 2 June 1977 makes clear that 'this power of delegation only extends to the Minister's powers and functions under that Act', and that the minister (or acting minister) must provide consent 'in person'. NAA: A432, A1977/3319: Marriage Act 1961, s. 14(3) Immigration (Guardianship of Children) Act 1946, s.5, 6—Consent to Marriage of Immigrant Child—Whether Minister's personal consent required.

³⁹ Office of the United Nations High Commissioner for Refugees, *Refugee Children: Guidelines on Protection and Care*, United Nations High Commissioner for Refugees, Geneva, Switzerland, 1994, p. 20–3. Indeed, Australia's accession to the UN Convention on the Rights of the Child did not result in any amendments being made to the Act.

⁴⁰ 'Migration and Maritime Powers Legislation Amendment', p. 5.

In the rest of this article I explore the specifics of the register apparent in the Act, to highlight the ways the Act has produced distinct understandings of the figure of the child refugee and the figure of the Immigration Minister, and the intertwined relationship between these figures.

Producing the category of the child

To understand the ways guardianship of unaccompanied children has been imagined, we must first understand what the Act is designed to do. To do this, we must note that the Act—and its accompanying discourses—help construct the category of ‘the child’. It is thus important that we understand ‘childhood as discursive rather than an empirical fact’.⁴¹ That is, the category of the child is historically produced, rather than a natural creation.⁴² Collective notions of what a child is—of who is signified by this word—are produced through such social and political creations as this Act. For instance, a report produced for the Australian Centre for Indo-Chinese Research in 1981 explained:

*The use of the word ‘children’ contributes to the confusion of the situation. In the West, the general comprehension of this term is those who are reliant on adults and who need traditional western family type care to survive. The legal definition of children is those under 18 years of age.*⁴³

The report argued that this confusion led to a situation wherein children were understood as requiring a specific formulation of help. As just one other example among many, we can reflect on the title of the 2014 report and recommendations for the care of unaccompanied asylum seeker and refugee children, produced by the National Council of Churches in Australia, *Protecting the Lonely Children*.⁴⁴ Through foregrounding ‘protection’ and ‘loneliness’, this report highlights refugee childhood as primarily shaped by vulnerability and a lack of attachment or kinship. These are but two historical understandings of what the concepts of childhood, and refugeehood, can contain, which both recur throughout discussions of guardianship.⁴⁵

The guardianship produced by the Act has also allowed children to be categorised into a number of different groups. From the 1970s, all children governed by this legislation were known as ‘isolated’.⁴⁶ Under this umbrella term, they fell into one of two groups: ‘unattached’, which meant they had no relative in Australia to look after them, or ‘detached’, meaning they had a relative who was over twenty-one but was not a parent. These categories translated into different funding schemes, housing arrangements and modes of care from the government and social services; creating a problem that was

41 Katy Gardner, ‘Transnational Migration and the Study of Children: An Introduction’, *Journal of Ethnic and Migration Studies*, vol. 38, no. 6, 2012, p. 895.

42 While numerous scholars have explored this approach to understanding the figure of the child, I am most influenced by the work of Lee Edelman in *No Future: Queer Theory and the Death Drive*, Duke University Press, Durham, 2004.

43 Robert Bennoun and Paula Kelly, *Indo-Chinese Youth: An Assessment of the Situation of Unaccompanied and Isolated Indo-Chinese Refugee Minors*, Indo-China Refugee Association of Victoria, Melbourne, 1981, p. 3. See also Evenhuis, p. 537.

44 Basham and the Australian Churches Refugee Taskforce.

45 For a history of childhood see Philippe Ariès, *Centuries of Childhood: A Social History of Family Life*, Knopf, New York, 1962. See also the definition of childhood held by the UNHCR, which is based on that proposed by the Convention on the Rights of the Child, in Office of the United Nations High Commissioner for Refugees, pp. 20–8.

46 During the 1970s and 1980s, these children were predominantly Timorese and Indo-Chinese.

continually debated by those responsible for the day-to-day care and management of these children.⁴⁷ From the 1990s all such children began to be referred to as 'unaccompanied', a name and a signifier that is still used today. Regardless of the precise term being used, these descriptors all position the child in relation to family. That is, these refugee children are produced and comprehended as a group through the description of their relation to a missing caregiver and their relative perceived vulnerability.

The support for refugee children provided by and under the Act has been consistently attenuated. In 1978 the Department of Community Welfare Services, Victoria, produced a confidential report on 'Services to Isolated Refugee Children' which made clear they felt the federal government was not providing enough financial support for the delegated Victorian government agency to properly look after the children.⁴⁸ This problem echoed through the 1970s and 1980s. Diane Zulfacar's 1984 report, *Surviving Without Parents: Indo-Chinese Refugee Minors in NSW*, for instance, was just one of a series of reports or notes in meeting minutes that explained that no one knew with any certainty how many isolated, detached and unattached children were in Australia.⁴⁹ The bureaucratic invisibility of, and lack of proper support for, unaccompanied child refugees can be seen throughout the archives. In paperwork sent backwards and forwards within the responsible agencies, and in reports produced by social welfare administrators and Indochinese community groups, it is evident that decisions were made on an ad hoc basis, with little Federal Government direction or planning.⁵⁰ In October 2011, in a hearing of the Commonwealth Parliamentary Joint Select Committee on Australia's Immigration Detention Network, Greg Kelly, the First Assistant Secretary in the Department of Immigration and Citizenship, testified that the Department was unaware of the existence of any formal protocols for the delegation of guardianship to any departments in the states or territories, or to the Serco officers who then ran the detention centres.⁵¹ In testimony in September 2011, Alan Noel Thornton, the deputy principal of the Christmas Island District School, stated that many of the children would not have known who to approach if they had

47 A Working Party on the Problems of Unattached Refugee Children was formed in 1978 to try to deal with some of these problems. It contained representatives from all states, as well as the Commonwealth. See NAA: B925, V1978/60922 Part 1 and Part 2: Isolated refugee children.

48 NAA: B925, V1978/60922 Part 3: Isolated refugee children.

49 Zulfacar, p. 6.

50 See, for instance, commentary in *Refugee Children: Report of Working Party convened by the Standing Committee of Social Welfare Administrators, April 1984*, Conference of Social Welfare Administrators, Canberra, 1984; 'A Framework for the Co-operative Management of a Total Care Programme for Khmer Unaccompanied Minors', Prepared by the Steering Committee set up under the auspices of the New South Wales Department of Youth and Community Services and Austcare, and convened by the Ethnic Communities Council of New South Wales, Ethnic Communities' Council of New South Wales, Sydney, 1982; Zulfacar, *Surviving Without Parents*; Bennoun and Kelly; Elizabeth Lloyd, *The Children of Indo-China: A Study Including Policy Recommendations of Children Leaving Indo-China Without Their Parents*, Department of Immigration and Ethnic Affairs, Canberra, 1983, particularly p. 14; Department of Immigration and Ethnic Affairs, *Please Listen to What I'm Not Saying: A Report on the Survey of Settlement Experiences of Indochinese Refugees 1978-80*, Australian Government Printing Service, Canberra, 1982; Tamara Blacher, *Resettlement of Unattached Refugee Children in Victoria, 1975-1979: Placement Alternatives*, Multicultural Australia Paper No. 7, Clearing House on Migration Issues, Melbourne, 1980; Rod Plant, *A New Life: An Historical Evaluation of Burnside's Khmer Unaccompanied Minors Resettlement Programme*, Burnside, Sydney, 1988. Similar problems continue to exist into the present, with a newspaper reporting in 2012 that unaccompanied teenagers 'released into the community are turning to Facebook to find carers and guardians in Australia, raising fears they are at risk from predators'. Samantha Maiden, 'Asylum Kids an Online Target', *Sunday Telegraph*, 21 October 2012, p. 14.

51 Greg Kelly, Joint Select Committee on Australia's Immigration Detention Network hearing, 5 October 2011.

a problem; they were unaware of which adult they could go to for direct help.⁵² Such writings and testimony provide another window into the ways refugee children who are subject to the Act have been defined: they are produced as a group who are not required to understand their place within the social fabric. They are, we could say, infantilised and made an indeterminate mass rather than perceived as individuals.

Producing the category of the minister as guardian

Just as the figure of the child refugee who requires guardianship and care is produced by the Act, so too is the correlating idea of the Immigration Minister as provider. For Tony Burke, the Minister for Immigration, Multicultural Affairs and Citizenship from 4 February to 1 July 2013, even those children for whom he was not (yet) guardian evidently played an emotive role in determining his approach to refugee policy. At the ALP National Conference in July 2015, Burke described his experience of learning that a ten-week-old child had been among those who died when attempting to make the journey by boat to Australia.⁵³ He told the conference:

*[the child] was 10 weeks old, he died on my watch, I just want[ed] to know his name ... I was given his name on a post-it note, and I kept that note on my desk until we lost office. I kept it there for one very simple reason: we have to show compassion to not only who is in our line of sight, but to everybody who is affected by our policies.*⁵⁴

This reflection on the loss of a child—a child for whom Burke expressed a feeling of responsibility—provided the backdrop to a declaration by Burke that the ALP should support making the navy and coastguard responsible for turning back boats carrying asylum seekers towards Australia, in order to dissuade such asylum seekers from using people smugglers in their attempts to reach Australia.⁵⁵ This measure can constitute refoulement, which is illegal under international law. Burke's apparent sense of responsibility for child asylum seekers, then, provided the emotional language through which he would understand and express his desire that particular controls be placed on the arrival of asylum seekers in general. That is, his role as guardian of the borders appeared to be thoroughly informed by his understanding of his role as guardian of children. Somewhat similarly, in the story that opened this article of the way Burke related to the Somali child, we can see that his imagining of his role as guardian provided the lens through which he would produce the child's relationship to his community. This role as guardian can therefore be profound in producing imaginaries of intimacy.

The Act, and the ideas of guardianship it embodies, can be understood to intertwine notions of control of borders and control of children. The challenges of the Minister for Immigration also being guardian of unaccompanied children have long been recognised in parliamentary discourse. In December 2002 Julia Gillard, then an ALP MP, told parliament:

⁵² Mr Alan Noel Thornton, Joint Select Committee on Australia's Immigration Detention Network hearing, 6 September 2011.

⁵³ Burke's tears were much commented on online. See, for instance, the tweets available at 'Burke #alpcnf2015'.

⁵⁴ 'Tony Burke: Asylum Seekers & Boat Turnbacks', *Labor Herald*, Youtube, 25 July 2015, <https://www.youtube.com/watch?v=Rvwc4Q7myUk>. See also Tony Burke, 'Tony Burke on Deaths at Sea: "I've Never Seen a Photo of Him, but I Have of his Coffin"', *Labor Herald*, 25 July 2015, <https://www.laborherald.com.au/economy/tony-burke-on-deaths-at-sea-ive-never-seen-a-photo-of-him-but-i-have-of-his-coffin/>.

⁵⁵ Andrew and Renata Kaldor Centre for International Refugee Law, 'Factsheet: Turning Back Boats', 26 February 2015, <http://www.kaldorcentre.unsw.edu.au/publication/%E2%80%98turning-back-boat-%E2%80%99>.

Formally, the Minister for Immigration and Multicultural and Indigenous Affairs is the guardian of unaccompanied children. There clearly is a conflict of interest or, at the very least, a perception of a conflict of interest, and we believe that ought to be addressed by moving the guardianship to an appropriate other entity. Under Labor's suggestion, that entity would be the children's commissioner which Labor policy would introduce to deal with children's issues broadly from the perspective of the federal government.⁵⁶

Such a move in responsibility for children—from being part of the Immigration portfolio to being the duty of a children's commissioner—would have shifted the policy and discursive understanding of the address: unaccompanied children would be considered within the realm of the child, rather than the realm of migration and border control. This would, as a 1984 report from a working party on refugee children convened by the Standing Committee of Social Welfare Administrators made clear, serve to make these guardianship arrangements accord with those of citizen children.⁵⁷ Yet, in a discussion later that month of a bill to amend migration legislation in a way that would encourage the government to release unaccompanied children from detention, Gillard reiterated that 'nothing in [the legislation] requires the taking of any action which would cause a health or security risk to Australia'.⁵⁸ Vague notions of 'security' thus continue to circulate as the preeminent concern, highlighting the importance placed on the minister's role in ensuring the biopolitical control of the nation.

Concerns about the dual role of the Minister—which Greens senator Sarah Hanson-Young in 2012 termed being 'both the jailer and the legal guardian'⁵⁹—were articulated by Senator Chris Evans when he was Immigration Minister. In October 2008 he told the Standing Committee on Legal and Constitutional Affairs:

I am responsible, for instance, under the act for unaccompanied minors and the guardianship of children, but I am also making decisions about them. I just think there are some really unsatisfactory arrangements in the way the legislation deals with children, and that is something we have got on the agenda.⁶⁰

From at least November 2012, the ALP made clear that it no longer sees a need for an independent guardian, but the sentiments of change have been widely shared.⁶¹ In 2013 and 2014, Hanson-Young introduced bills to create a specific 'Guardian of Unaccompanied Children', explaining in 2014: 'This Bill sets up a Guardian who will be responsible for ensuring that the best interests of the child are always the paramount consideration.'⁶²

This notion of the 'best interests of the child' is one which comes to the Australian polity from international law and the Convention on the Rights of the Child, which demands that

56 Julia Gillard, 'Ministerial Statements—Managing Migration', *Parliamentary Debates*, House of Representatives, 3 December 2002.

57 *Refugee Children*, April 1984, p. 26.

58 Julia Gillard, 'Migration Legislation Amendment Bill (No. 1) 2002—Consideration in Detail', *Parliamentary Debates*, House of Representatives, 12 December 2002.

59 Sarah Hanson-Young, 'Motion—Convention on the Rights of the Child', *Parliamentary Debates*, Senate, 14 March 2012.

60 Chris Evans, *Standing Committee on Legal and Constitutional Affairs—Immigration and Citizenship Portfolio—Department of Immigration and Citizenship*, Senate Estimates Committee, 21 October 2008.

61 Penny Wong, *Committees—Environment and Communications References Committee, Australia's Immigration Detention Network Committee—Government Response to Report*, 29 November 2012.

62 Sarah Hanson-Young, 'Second Reading Speech—Guardian for Unaccompanied Children Bill 2014', *Parliamentary Debates*, Senate, 16 July 2014.

states prioritise this ‘best interest’ when making decisions about children.⁶³ A question we must address then, is where has this notion of ‘best interests’—and the guardian as responsible for fostering those interests—historically sat alongside the other responsibilities of the minister? And how have apparent concerns for children, for the maintenance of borders and for national security sat alongside each other?

The rhetorical production of relations of intimacy

While this history is not simple, linear or based in only one interpretation, we can note that successive governments have made clear that the responsibility of the Immigration Minister to act as guardian for unaccompanied children is secondary to his responsibility to the nation to guard its borders. Prioritising the maintenance of borders over caring for the people who are crossing those borders is clearly not unique to this one aspect of the Immigration portfolio, but it is useful to examine this particular example individually. Doing so, firstly, allows us to foreground an aspect of Australia’s refugee history that has not been previously examined or well understood and, secondly, enables a more nuanced understanding of the broad effects of a focus on ‘border protection’ over ideas of settlement. Primarily, it enables us to understand in more depth the textures of the ideas of ‘guardianship’ as held by the Immigration Minister, and the notions of family and intimacy, produced by the Act.

In 2011 a series of amendments were proposed that would allow the government to institute offshore processing of unaccompanied child asylum seekers—created in response to the High Court of Australia overturning the so-called Malaysia Solution (which would have seen refugees who wanted to settle in Australia sent to Malaysia instead) on the basis of the responsibilities enshrined in the Act.⁶⁴ In a second reading speech for these amendments, Chris Bowen, the ALP Minister for Immigration and Citizenship, proclaimed they were necessary ‘to assert the primacy of the Migration Act over the Immigration (Guardianship of Children) Act’. There was, he claimed, ‘national importance’ to these amendments; they represented a moment ‘when we, as a parliament, must collectively do our job’ to ‘act in the national interest’. This was necessary because ‘a blanket inability of the government of the day to transfer unaccompanied minors to a designated country provides an invitation to people smugglers to send boatloads of children to Australia’.⁶⁵ Such sentiments heightened Senator Chris Evans’s comments to the Senate the week before, when he stated:

[the] Government believes that its overriding obligation is to stop unaccompanied minors risking their lives by taking the dangerous boat journey to Australia. We believe our overriding obligation is to say to parents, ‘do not risk the lives of your children on the prospect of being granted an Australian visa’.⁶⁶

63 The message regarding the ‘best interests of the child’ can be seen throughout the United Nations’ policy documents on child refugees. For instance, the notion is covered extensively in their standard guidelines. See Office of the United Nations High Commissioner for Refugees, pp. 21–3.

64 For a description of amendments see Chris Bowen, ‘Migration Legislation Amendment (Offshore Processing and Other Measures) Bill 2011—Second Reading Speech’, *Parliamentary Debates*, Senate, 21 September 2011.

65 Ibid.

66 Chris Evans, ‘Questions Without Notice: Additional Answers—Asylum Seekers’, *Parliamentary Debates*, Senate, 15 September 2011, l.

Through these words, government actors worked to regulate not only the borders and the lives of refugee children who are subject to the Act, but also the Australian population at large. They contributed to discourses that worked to condition a set of specific interactions.

Such rhetoric is fundamental to the ways the Act has functioned to produce certain notions of child refugees and refugee families. Indeed, part of the work of this Act is to regulate ideas of family, and in the letter referred to at the beginning of this article, which the two Ps wrote in 1976, we catch a glimpse of the quiet violence underpinning the governing of these relationships. Two people are compelled to clarify their relationship for a bureaucracy that makes little attempt to know or understand possible differences in family ties or formations. These two people are required to use the language of the state to explain, and condition, their relationship. Similarly, in Tony Burke's determination to act as a 'father' to the Somali child, he prioritises state-based relationships over communal ones. Where the community values markers of ethnic and national belonging—food, language, similarity—Burke deploys the rhetoric that emphasises the supreme importance and value of the personal, individual interest of the guardian. There is a prioritising of a particular notion of a surrogate nuclear family over a different, communal, conception of connection and familial intimacy. These then are two distinct examples of the diverse ways the Act has served as a regulatory and productive force for ideas of kinship.

If we are to think about the work of the Minister as Guardian in terms of how it regulates and produces relations of intimacy and kinship, always aimed at maintaining a specific vision of the border and the nation, then we need to think about how it sits alongside other such regulatory instances. One key moment in this history is the so-called 'Children Overboard Affair'. In October 2001, after a boat carrying asylum seekers towards Australia broke and capsized and many of its voyagers fell into the water, the Howard government, led by Minister for Immigration and Multicultural and Indigenous Affairs Philip Ruddock, Minister for Defence Peter Reith and Prime Minister John Howard, accused the adult asylum seekers of throwing their children from the boat into the sea to gain the sympathy and support of Australia.⁶⁷ This charge was proved to be false—no children were thrown overboard—but before the facts could be unravelled, the government used the moment to fuel a story of refugees as bad parents.⁶⁸ John Howard, in a radio interview, remarked that he felt that there was something 'incompatible' about a refugee throwing their children into the sea.⁶⁹ 'It offends the natural instinct of protection, and delivering security and safety to your children', he said.⁷⁰ Such sentiments led to the now notorious declaration by Howard: 'We will decide who comes

67 There has been much written about the 'Children Overboard' affair. See, for instance, David Marr and Marian Wilkinson, *Dark Victory*, Allen & Unwin, Sydney, 2003; The Australian Senate, *Select Committee on a Certain Maritime Incident: Report*, Commonwealth of Australia, Canberra, 2002; Robert Dixon, 'Citizens and Asylum Seekers: Emotional Literacy, Rhetorical Leadership and Human Rights', *Cultural Studies Review*, vol. 8, no. 2, November 2002, pp. 11–26. We should also note the parallel rhetoric around Indigenous parents as well as gay marriage, particularly the construction of Indigenous and gay parents as inherently bad parents, which regularly emanates from governments in Australia. Further exploration of these parallels are, however, outside the scope of the current article.

68 See The Australian Senate, *Select Committee on A Certain Maritime Incident: Report*.

69 Suvendrini Perera has made clear that determining the meaning of the waters around Australia, and the ways that asylum seekers engage with those waters, is a fundamental way Australian claims for sovereignty are produced. Suvendrini Perera, *Australia and the Insular Imagination: Beaches, Borders, Boats, and Bodies*, Palgrave Macmillan, New York, 2009, particularly pp. 1–14.

70 John Howard, radio interview, 8 October 2001, 'John Howard Children Overboard ... Remember This?', Youtube, 23 November 2007, <https://www.youtube.com/watch?v=E3WJ10xGkas>. Ruddock also said, in interviews in the same clip, 'I regard these as some of the most disturbing practices that I have come across in the time that I have been involved in public life' and 'I imagine the sorts of children who would be thrown would be those who could be readily lifted and tossed, without any objections from them.'

to this country and the circumstances in which they come.’ These Bad Parents, it was clear, would be unwelcome; their presence would unacceptably breach the nation’s borders. Similarly, in response to a 2001 inquiry into the detention of asylum seeker children, Ruddock’s spokesman was reported as saying, ‘we are not happy with children in detention, but we are not the ones that have brought them here to Australia’. It was further reported that this spokesman ‘hoped the inquiry would look at the motivation of people who sent children unaccompanied on boats’ and that he ‘believed some of the 53 unaccompanied children in detention centres had been deliberately sent by their parents to establish refugee claims’.⁷¹

In these speech acts, Howard and his ministers produced the children as innocent and vulnerable, at the mercy of parents who were constructed as not knowing how to parent. These refugee families were depicted as inherently dysfunctional, the government in contrast a salvation for the children. This notion of children as innately vulnerable and lacking in agency is shared at times across the political spectrum. In much discourse about asylum seekers, regardless of the motivation behind these speech acts and regardless of the outcome that is desired, asylum seeker and refugee children are thought of, and talked about, as fundamentally and essentially requiring protection.⁷² This is why guardianship—or the regulation of who acts as guardian, carer or parent—becomes such contested terrain. Vulnerability is assured; what it means to act in the child’s best interest, and what place that ‘best interest’ has in the hierarchy of interests, is contested.⁷³ Throughout all these discussions, the discourse of the innocent asylum seeker child, and attempts to regulate relations of intimacy, holds firm. This battle over ideas of appropriate intimacy is a fundamental aspect of the movement by the government towards border control. It is part of the same project.

Thus specific familial relations are produced while simultaneously notions of caring are tightly defined. Alongside the production of the Minister for Immigration as guardian sits the disavowal of certain relationships among groups of refugees and asylum seekers, as seen in the examples used to open this article. These two aspects are produced in concert. The Act produces both relations of intimacy and an understanding of the refugee child as in need of protection from the government. The governing of who is considered the caregiver is produced in two ways: by creating specific relations between refugees or asylum seekers, and by installing the minister as the proper caregiver for refugee children. Such an understanding of the minister’s role sits within a vast Australian history. A focus in Australia on white lives—and the successful procreation of white Australia—Erica Millar explains, routinely takes place through the disavowal of non-white Australia, both Aboriginal and migrant. The white family, and the white father, has played a crucial role in this.⁷⁴ In the context of unaccompanied refugee children, a highly racialised group,

71 Melissa Fyfe with Penelope DeBelle, ‘Inquiry on Boat Children: Australia’s Youngest Detainees: Growing up Behind Bars’, *The Age*, 28 November 2001, p. 1. This, I would suggest, brings us to Judith Butler’s description of grievability: that shifts occur in which lives are perceived as grievable—or are a source of concern—depending on the political circumstance or the utility of the life. If the children can be used as signifiers of refugee brutality then they’re grievable; if the children are being used as signifiers of government brutality, then they are not. Grievability is thus constructed through racialisation and the subject’s relationship to national borders. See Judith Butler, *Frames of War: When Is Life Grievable?*, Verso, London, 2009.

72 For an important intervention into this discourse, we can turn to the writings, images and videos produced by children in detention in Nauru. See, for instance, ‘Free the Children NAURU’, <https://www.facebook.com/Free-the-Children-NAURU-839867502797443/>.

73 The relationship between international and domestic law is also part of this conversation. See, for instance, the discussion between Senator Penny Wright and Ms Kate Pope, First Assistant Secretary, Community Programs and Children, Department of Immigration and Citizenship, in Legal and Constitutional Affairs Legislation Committee Hearing, 31 January 2013.

74 Erica Millar, ‘“Too Many”: Anxious White Nationalism and the Biopolitics of Abortion’, *Australian Fem-*

this then means that their family-ness is perceived as a lack rather than a presence. The kinship relations within refugee families—or within the families which individual refugees attach to—are understood by successive governments as inadequate or absent.⁷⁵

When refugees are produced discursively as not knowing how to properly parent, the government is produced discursively not only as the ones who *do* know how to parent but also as those responsible for teaching the populace what proper parenting, or proper caring, entails. At the same time, they are performatively prioritising the regulation of the border and the nation over a parenting role. We can see connections here to the policies that have produced the Stolen Generations of Aboriginal children, wherein successive generations of Aboriginal children were removed from their families under government regimes of assimilation and false discourses of protection and care.⁷⁶ The government in these different historical cases is enacting a position as the demonstrator of the 'good white father', as articulated by Fiona Probyn in relation to the history of the Stolen Generations, a paternalistic government formulation that operates control over the child's life in response to the idea that they lacked their own 'good father'.⁷⁷ The government, it would seem, enjoys at times the various discursive and policy possibilities opened up by presenting their credentials as 'proper parents', while simultaneously constructing matters such that guardianship is legislatively and discursively deemed less important than border control. This relationship, however, demonstrates the ways these two facets of governmentality are intertwined. That is, these are both mechanisms for asserting sovereignty over racialised others. In this move, the government is making a claim for its own ability to determine both 'the best interests of the child' and 'the best interests of the nation'. The intimate relationships of parent and child are overridden by the intimate relationships of government and populace. The broader Australian population, and unaccompanied children, are to be produced and regulated by this overriding, both groups always reminded that the control of the state is the first priority of the government. The differentiated biopolitical management of populations within, astride and outside the border thus leaps to our attention. There is an attempt by governments, we could say, to evade the interpersonal relations which this guardianship demands, in order to keep the political and historical question of how to relate to refugee children in the realm of the biopolitical management of people, community and society.

inist Studies, vol. 30, no. 83, 2015, pp. 82–98. See also Ghassan Hage, *White Nation: Fantasies of Supremacy in a Multicultural Society*, Taylor & Francis, New York, 2012.

75 Judith Butler has provided us with important approaches to understanding kinship, its 'cultural intelligibility', its normative qualities when imposed by governments, and its potential to be subverted. See, for example, Judith Butler, *Antigone's Claim: Kinship Between Life and Death*, Columbia University Press, New York, 2000.

76 For a relevant and useful history of the governing of Aboriginal children, see David McCallum, 'Criminal Neglect: Tracing the Category of the Aboriginal "Neglected Child"', *Social Identities*, vol. 20, nos 4–5, 2014, pp. 379–90.

77 Fiona Probyn, 'The White Father: Denial, Paternalism and Community', *Cultural Studies Review*, vol. 9, no. 1, May 2003, pp. 60–76. There is a long genealogy of Australian paternalism towards Aboriginal people in general, and Aboriginal children in particular, which seems to have provided a history for the workings of the IGOC Act. For different accounts of this history see, for example, Claire McLisky (with Lynette Russell and Leigh Boucher), 'Managing Mission Life, 1869–1886', in *Settler Colonial Governance in Nineteenth-Century Victoria*, ed. Leigh Boucher and Lynette Russell, ANU Press, Canberra, 2015, pp. 117–38; Anna Haebich, *For Their Own Good: Aborigines and Government in the South-West of Western Australia, 1900–1940*, University of Western Australia Press, Perth, 1992; Richard Broome, *Aboriginal Victorians: A History Since 1800*, Allen & Unwin, Sydney, 2005; Quentin Beresford and Paul Omaji, *Our State of Mind: Racial Planning and the Stolen Generations*, Fremantle Arts Centre Press, South Fremantle, 1998. For a general overview of this idea in Australian history, see Ann McGrath, 'The State as Father: 1910–1960', in Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation*, API Network, Curtin University of Technology and Australian Research Institute, Perth, 2006.

The limits of concern and the creation of categories

The figure of the unaccompanied asylum seeker child, then, often serves as a signifier of policies that control the parameters of the Australian population, rather than as a subject of humanitarian concern. Indeed, this figure perhaps works instead to map the acceptable limits of that concern. Calwell's proclamations of a fatherhood gained through the Act thus represent a very specific idea of what fatherhood entails, one that is focused on its implications for the nation, rather than on the relationship between parent and child.⁷⁸ The guardianship relation also, it could be argued, creates a situation wherein these refugee children are not really 'regarded as children at all'.⁷⁹

These limits of concern—and how the Act functions to produce them—are also evident through the associated bureaucratic deployment of obscurity. The Act is routinely referred to by governments, NGOs, policy makers and refugee advocates as IGOC. The language of obscure acronyms is fundamental to modern political bureaucracy, but this acronym does particular work in removing the 'substance' of the children who are subject to the Act. Thus, in international refugee policy children are referred to as 'minors', a move which, refugee scholar Miriam Ticktin suggests, shifts understandings of them away from that of being children.⁸⁰ In the world of Australian refugee policy, the children who are governed by the Act are today known as Unaccompanied Minors, or UAMs. At times they are referred to as 'IGOC Act children'.⁸¹ In the 1970s they were known as detached, unattached and isolated minors. The children whose lives are controlled by this legislation are obscured through a series of acronyms and misnomers.⁸² This, I would suggest, is the work such language does, helping create a history of category confusion. This state of the Act's history is, I should be clear, not accidental. By analysing it this way, we can understand the Act's purpose was always to make human life obscure, always to regulate the population in such a way that children become controlled and erased. Migration, in Australian history, has always been shaped by governmental desires to control and regulate the border, nation and population.⁸³ The Act has played an important role in maintaining this control, producing various figures that entwine to form a certain version of kinship relation.

78 Limited attention has been paid to fatherhood in Australia thus far, but see, for example, 'Fathertime—The Making and Shaping of Fatherhood in Australia', *Hindsight*, ABC Radio National, 3 November 2013, <http://www.abc.net.au/radionational/programs/hindsight/fathertime/5051830>; Michael Gilding, *The Making and Breaking of the Australian Family*, Allen & Unwin, Sydney, 1991; Graeme Russell, *The Changing Role of Fathers?*, University of Queensland Press, Brisbane, 1983. See also Julia Brannen, *Fathers and Sons: Generations, Families and Migration*, Palgrave Macmillan, Houndmills, UK, 2015; Anna Dienhart, *Reshaping Fatherhood: The Social Construction of Shared Parenting*, SAGE Publications, Thousand Oaks, CA, 1998; Adrienne Burgess, *Fatherhood Reclaimed: The Making of the Modern Father*, Vermilion, London, 1997.

79 Miriam Ticktin, 'Innocence: Understanding a Political Concept', 2015 Annual Elizabeth Colson Lecture, Refugee Studies Centre, University of Oxford, 11 June 2015, <http://www.rsc.ox.ac.uk/news/innocence-understanding-a-political-concept-2015-annual-elizabeth-colson-lecture>. Gary Younge echoes this point, writing with regard to race relations in the United States: 'Indeed black children are often not even regarded as children at all.' Gary Younge, 'Farewell to America', *The Guardian*, 1 July 2015, http://www.theguardian.com/us-news/2015/jul/01/gary-younge-farewell-to-america?CMP=edit_2221.

80 Ticktin.

81 Philip Ruddock, 'Questions on Notice—Immigration: Detention Centres', *Parliamentary Debates*, House of Representatives, 8 September 2003.

82 This can be seen, for example, in an exchange between Michael Pezzullo and Sarah Hanson-Young in Legal and Constitutional Affairs Legislation Committee, *Estimates Hearing*, 23 February 2015, concerning Hanson-Young's confusion of the acronyms UMAs (Unauthorised Maritime Arrivals) and UAMs (Unaccompanied Minors), two examples of jargon that deliberately work as abstraction.

83 See, for instance, Hage; Perera, *Australia and the Insular Imagination*.

Conclusion

The history of the Act is, then, also the history of the bluntness and clumsiness of categories. That is, it is the history of a series of governments trying to bring together policies, politics and ideologies around immigration, childhood, family and community in ways that attempt to control those being created as its subjects. The Act's history, then, is also a history of the subordination of children to border control. The Minister for Immigration has made this plain with the codification—first discursive, then legal—of the order in which matters relating to children and migration must be considered. Alongside this, through the policies and languages that have surrounded the Act, there is an explicit negotiation and regulation of familial relationships and concepts of intimacy.

Such a history seems to undo the discourses of child vulnerability, to lay bare the provisionality of these discourses, the ways they are never stable or evenly applied, and the ways they are always produced through systems of racialisation and control. The Act is in large part concerned with producing and regulating ideas of intimate relations, through establishing refugee children as a group needing various forms of ministerial control and care. But this care has been shaped by its relations to both the production of normative families and the production of the Australian border. If we return to the moments used to open this article we can now understand the letter written by the two Timorese refugees as having been produced by a specific history of how kinship relations have been determined by government policy. A family must be defined in a certain way, this letter seems to suggest, to be legible to the government, and thus to Australian society at large.⁸⁴ Moreover, a child must be defined clearly through a system of relationality produced by the Act. Families of all who enter the borders must be made comprehensible to Immigration Departments, through the set of terms, figures and discourses the Department has invented. The guardianship offered by the minister, then, functions to remind these children that so long as they remain within the category of 'unaccompanied minor', they are always subject to the border.⁸⁵ Kristin Phillips has discussed this with reference to the control of the lives of refugee women and children by Australia, arguing that 'the modern biopolitical fantasy of saving women and children is able to coexist with the fantasy of absolute control over the life of the nation'.⁸⁶ The same coheres in the Act.

Guardianship, in this bureaucratic formulation of government policy, is, we could say, very much *not* about an intimate relation of parental love. Rather, it embraces ideas of guardianship and surrogate parenthood that focus on providing certain forms of care and control, always

84 As pointed to above, there is a vital link here to the role of settler colonialism in determining how Aboriginal families should be constructed. Work has been done internationally, as well as in Australia, to outline how settler-colonialism controls Aboriginal people's families, producing them in certain ways. See, for example, Scott Lauria Morgensen, 'The Biopolitics of Settler Colonialism: Right Here, Right Now', *Settler Colonial Studies*, vol. 1, no. 1, 2011, pp. 52–76; Scott Lauria Morgensen, *Spaces Between Us: Queer Settler Colonialism and Indigenous Decolonization*, University of Minnesota Press, Minneapolis, 2011; Peggy Pascoe, *What Comes Naturally: Miscegenation, Law and the Making of Race in America*, Oxford University Press, Oxford, 2009. Patrick Wolfe's work explaining the functioning, and determining, characteristics of settler-colonialism in Australia is useful here too. See, for instance, Patrick Wolfe, 'Nation and Miscegenation: Discursive Continuity in the Post-Mabo Era', *Social Analysis: The International Journal of Social and Cultural Practice*, no. 36, October 1994, pp. 93–152.

85 Suvendrini Perera provides an important exploration of the function and productive power of the Australian border. See, for instance, Suvendrini Perera, "'Aussie Luck': The Border Politics of Citizenship Post Cronulla Beach', *Australian Critical Race and Whiteness Studies Association Journal*, vol. 3, no. 1, 2007, pp. 1–16, <http://www.acrawsa.org.au/files/ejournalfiles/64SuvendriniPerera.pdf>; Perera, *Australia and the Insular Imagination*.

86 Kristin Phillips, 'Interventions, Interceptions, Separations: Australia's Biopolitical War at the Borders and the Gendering of Bare Life', *Social Identities*, vol. 15, no. 1, January 2009, p. 145.

with the aim of building a broader community and polity. In doing so, the various different cultural, social and political formations of family ties that the children may have are often intentionally ignored. The relationship of the Immigration Minister as guardian to the unaccompanied child asylum seeker or refugee, then, is one which always-already works to signify and produce the government's desires to control the nation.

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Bibliography

- A Framework for the Co-operative Management of a Total Care Programme for Khmer Unaccompanied Minors*, Prepared by the Steering Committee set up under the auspices of the New South Wales Department of Youth and Community Services and Austcare, and convened by the Ethnic Communities Council of New South Wales, Ethnic Communities' Council of New South Wales, Sydney, December 1982.
- Andrew and Renata Kaldor Centre for International Refugee Law, 'Factsheet: Turning Back Boats', 26 February 2015, <http://www.kaldorcentre.unsw.edu.au/publication/%E2%80%98turning-back-boats%E2%80%99>.
- Ariès, P., *Centuries of Childhood: A Social History of Family Life*, Knopf, New York, 1962.
- Australian Human Rights Commission, *A Last Resort? National Inquiry into Children in Immigration Detention* Australian Human Rights Commission, Sydney, 2004, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/last-resort-national-inquiry-children-immigration>.
- Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, Australian Human Rights Commission, Sydney, 2014, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>.
- Australian Senate, *Lost Innocents: Righting the Record—Report on Child Migration*, 30 August 2001, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/1999-02/child_migrat/report/index
- Australian Senate, *Select Committee on a Certain Maritime Incident: Report*, Commonwealth of Australia, Canberra, 2002.
- Basham, J. and the Australian Churches Refugee Taskforce, *Protecting the Lonely Children: Recommendations to the Australian Government and the UN Committee on the Rights of the Child with Respect to Unaccompanied children who Seek Asylum and Refuge in Australia*, 2014, <http://www.australianchurchesrefugeetaskforce.com.au/wp-content/uploads/2014/07/ProtectingTheLonelyChildren.pdf>

- Bennoun, R. and P. Kelly, *Indo-Chinese Youth: An Assessment of the Situation of Unaccompanied and Isolated Indo-Chinese Refugee Minors*, Indo-China Refugee Association of Victoria, Melbourne, 1981.
- Beresford, Q. and P. Omaji, *Our State of Mind: Racial Planning and the Stolen Generations*, Fremantle Arts Centre Press, South Fremantle, 1998. <http://dx.doi.org/10.1604/9781863682350>
- Blacher, T., 'Resettlement of Unattached Refugee Children in Victoria, 1975–1979: Placement Alternatives', Multicultural Australia Paper No. 7, Clearing House on Migration Issues, Melbourne, 1980.
- Bowen, C., 'Migration Legislation Amendment (Offshore Processing and Other Measures) Bill 2011—Second Reading Speech', *Parliamentary Debates*, Senate, 21 September 2011.
- Brannen, J., *Fathers and Sons: Generations, Families and Migration*, Palgrave Macmillan, Houndmills, UK, 2015. <http://dx.doi.org/10.1057/9781137379672>
- Broome, R., *Aboriginal Victorians: A History Since 1800*, Allen & Unwin, Sydney, 2005.
- Burgess, A., *Fatherhood Reclaimed: The Making of the Modern Father*, Vermilion, London, 1997.
- 'Tony Burke: Asylum Seekers & Boat Turnbacks', *Labor Herald*, Youtube, 25 July 2015, <https://www.youtube.com/watch?v=Rvwc4Q7myUk>
- Burke, T., 'Tony Burke on Deaths at Sea: "I've Never Seen a Photo of Him, but I have of His Coffin"', *Labor Herald*, 25 July 2015, <https://www.laborherald.com.au/economy/tony-burke-on-deaths-at-sea-ive-never-seen-a-photo-of-him-but-i-have-of-his-coffin/>
- Butler, J., *Antigone's Claim: Kinship Between Life and Death*, Columbia University Press, New York, 2000.
- Butler, J., *Frames of War: When Is Life Grievable?*, Verso, London, 2009.
- Calwell, A., 'House of Representatives: Immigration (Guardianship of Children) Bill 1946: Second Reading Speech', *Parliamentary Debates*, 31 July 1946.
- Calwell, A., 'House of Representatives, Immigration (Guardianship of Children) Bill 1948: Second Reading Speech, Procedural Text', *Parliamentary Debates*, 5 October 1948.
- Crock, M., 'Lonely Refuge: Judicial Responses to Separated Children Seeking Refugee Protection in Australia', *Law in Context*, vol. 22, no. 2, 2005, pp. 120–55.
- Crock, M., *Seeking Asylum Alone, Australia: A Study of Australian Law, Policy and Practice Regarding Unaccompanied and Separated Children*, Themis Press, Sydney, 2006.
- Crock, M., 'Of Relative Rights and Putative Children: Rethinking the Critical Framework for the Protection of Refugee Children and Youth', *Australian International Law Journal*, vol. 18, no. 1, January 2011, pp. 33–53.
- Crock, M., and M.A. Kenny, 'Rethinking the Guardianship of Refugee Children after the Malaysia Solution', *Sydney Law Review*, no. 34, 2012, pp. 437–65.
- Damousi, J., *Memory and Migration In the Shadow of War: Australia's Greek Immigrants after World War II and the Greek Civil War*, Cambridge University Press, Cambridge, UK, 2015. <http://dx.doi.org/10.1017/CBO9781316336847>
- Department of Immigration and Ethnic Affairs, 'Please Listen to What I'm Not Saying': *A Report on the Survey of Settlement Experiences of Indochinese Refugees 1978–80*, Australian Government Printing Service, Canberra, 1982.
- Dienhart, A., *Reshaping Fatherhood: The Social Construction of Shared Parenting*, SAGE Publications, Thousand Oaks, CA, 1998. <http://dx.doi.org/10.4135/9781483345482>

- Dixon, R., 'Citizens and Asylum Seekers: Emotional Literacy, Rhetorical Leadership and Human Rights,' *Cultural Studies Review*, vol. 8, no. 2, November 2002, pp. 11–26.
- Edelman, L., *No Future: Queer Theory and the Death Drive*, Duke University Press, Durham, 2004. <http://dx.doi.org/10.1215/9780822385981>
- Evans, C., *Testimony at Standing Committee on Legal and Constitutional Affairs—Immigration and Citizenship Portfolio—Department of Immigration and Citizenship, Senate Estimates Committee*, 21 October 2008.
- Evans, C., 'Questions Without Notice: Additional Answers—Asylum Seekers', *Parliamentary Debates*, Senate, 15 September 2011.
- Evenhuis, M., 'Child-Proofing Asylum: Separated Children and Refugee Decision Making in Australia', *International Journal of Refugee Law*, vol. 25, no. 3, 2013, pp. 535–73. <http://dx.doi.org/10.1093/ijrl/eet037>
- Farrell, P., 'Danish MP Confirms Visit to Nauru Camp at Heart of Offshore Detention Outcry', *The Guardian*, 23 August 2016, https://www.theguardian.com/australia-news/2016/aug/23/danish-politicians-seek-to-visit-nauru-site-at-heart-of-offshore-detention-outcry?CMP=share_btn_tw
- 'Fathertime—The Making and Shaping of Fatherhood in Australia', *Hindsight*, ABC Radio National, 3 November 2013, <http://www.abc.net.au/radionational/programs/hindsight/fathertime/5051830>
- 'Free the Children NAURU', <https://www.facebook.com/Free-the-Children-NAURU-839867502797443/>
- Fyfe, M. with P. DeBelle, 'Inquiry on Boat Children Australia's Youngest Detainees: Growing Up Behind Bars', *The Age*, 28 November 2001, p. 1.
- Gardner, K., 'Transnational Migration and the Study of Children: An Introduction', *Journal of Ethnic and Migration Studies*, vol. 38, no. 6, 2012, pp. 889–912. <http://dx.doi.org/10.1080/1369183X.2012.677170>
- Gilding, M., *The Making and Breaking of the Australian Family*, Allen & Unwin, Sydney, 1991.
- Gillard, J., 'Ministerial Statements—Managing Migration', *Parliamentary Debates*, House of Representatives, 3 December 2002.
- Gillard, J., 'Migration Legislation Amendment Bill (No. 1) 2002—Consideration in Detail', *Parliamentary Debates*, House of Representatives, 12 December 2002.
- Gleeson, M., 'Offshore Processing: Refugee Status Determination for Asylum Seekers in Nauru', 1 May 2016, <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-nauru>
- Gribbin, C., 'Somali Community in Australia Seeks Access to Boy in Detention', *PM ABC Radio*, 2 September, 2013, <http://www.abc.net.au/pm/content/2013/s3839274.htm>
- 'Guardian of all Child Migrants', *The Argus*, 9 July 1946, p. 3.
- Haebich, A., *For Their Own Good: Aborigines and Government in the South-West of Western Australia, 1900–1940*, University of Western Australia Press, Perth, 1992.
- Hage, G., *White Nation: Fantasies of Supremacy in a Multicultural Society*, Taylor & Francis, New York, 2012.
- Hanson-Young, S., 'Motion—Convention on the Rights of the Child', *Parliamentary Debates*, Senate, 14 March 2012.
- Hanson-Young, S., 'Second Reading Speech—Guardian for Unaccompanied Children Bill 2014', *Parliamentary Debates*, Senate, 16 July 2014.
- Haylen, L. and Ar. Calwell, 'Second Reading Speech for Immigration (Guardianship of Children) Bill 1948', *Parliamentary Debates*, House of Representatives, 18 November 1948.

-
- Howard, J. and P. Ruddock, radio interview, 8 October 2001, 'John Howard Children Overboard ... Remember This?', Youtube, 23 November 2007, <https://www.youtube.com/watch?v=E3WJ10xGkas>
- Immigration (Guardianship of Children) Act 1946*, <https://www.comlaw.gov.au/Series/C1946A00045>
- Kelly, G., Joint Select Committee on Australia's Immigration Detention Network Hearing, *Parliamentary Debates*, 5 October 2011.
- Lloyd, E., *The Children of Indo-China: A Study Including Policy Recommendations of Children Leaving Indo-China Without Their Parents*, Department of Immigration and Ethnic Affairs, Canberra, 1983.
- Loewenstein, A., 'Australia's Refugee Policies: A Global Inspiration for All the Wrong Reasons', *The Guardian*, 18 January 2016, <https://www.theguardian.com/commentisfree/2016/jan/18/australias-refugee-policies-a-global-inspiration-for-all-the-wrong-reasons>
- Maiden, S., 'Asylum Kids an Online Target', *Sunday Telegraph*, 21 October 2012, p. 14.
- Marr, D. and M. Wilkinson, *Dark Victory*, Allen & Unwin, Sydney, 2003.
- McCallum, D., 'Criminal Neglect: Tracing the Category of the Aboriginal "Neglected Child"', *Social Identities*, vol. 20, nos 4–5, 2014, pp. 379–90. <http://dx.doi.org/10.1080/13504630.2014.1003292>
- McGrath, A., 'The State as Father: 1910–1960', in P. Grimshaw, M. Lake, A. McGrath and M. Quartly, *Creating a Nation*, API Network, Curtin University of Technology and Australian Research Institute, Perth, 2006.
- McLisky, C. (with L. Russell and L. Boucher), 'Managing Mission Life, 1869–1886', in *Settler Colonial Governance in Nineteenth-Century Victoria*, ed. L. Boucher and L. Russell, ANU Press, Canberra, 2015, pp. 117–38.
- Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*, <https://www.comlaw.gov.au/Details/C2012A00113>
- Migration (Miscellaneous Amendments) Act 1983* No. 84, 1983, <https://www.comlaw.gov.au/Details/C2004A02801>
- Millar, E., "'Too Many': Anxious White Nationalism and the Biopolitics of Abortion', *Australian Feminist Studies*, vol. 30, no. 83, 2015, pp. 82–98. <http://dx.doi.org/10.1080/08164649.2014.998457>
- Morgensen, S. L., 'The Biopolitics of Settler Colonialism: Right Here, Right Now', *Settler Colonial Studies*, vol. 1, no. 1, 2011, pp. 52–76. <http://dx.doi.org/10.1080/2201473X.2011.10648801>
- Morgensen, S. L., *Spaces Between Us: Queer Settler Colonialism and Indigenous Decolonization*, University of Minnesota Press, Minneapolis, 2011. <http://dx.doi.org/10.5749/minnesota/9780816656325.001.0001>
- NAA: A432, 1950/1613: Immigration (Guardianship of Children) Act—Displaced Persons—Power of Minister to Resume Guardianship of Individual Children exempted by 'Class' Order.
- NAA: A432, A1977/3319: Marriage Act 1961, s. 14(3) Immigration (Guardianship of Children) Act 1946, s.5, 6—Consent to Marriage of Immigrant Child—Whether Ministers personal consent required.
- NAA: A446, 84/79151: Settlement Branch—Background papers—Unattached refugee children—General policy 1978–1981.
- NAA: A446, 84/79152: Settlement Branch—Background papers—Unattached refugee children—General policy 1978–1981.
- NAA: B925, V1978/60922 Part 1: Isolated refugee children, September 1975 – May 1979.
- NAA: B925, V1978/60922 Part 2: Isolated refugee children, April 1979 – January 1980.
- NAA: B925, V1978/60922 Part 3: Isolated refugee children, February 1980 – August 1980.
-

Neumann, K., 'The Admission of European Refugees from East and South Asia in 1947: Antecedents of Australia's International Refugee Organization Mass Resettlement Scheme', *History Australia*, vol. 12, no. 2, 2015, pp. 62–79.

Neumann, K., S. M. Gifford, A. Lems and S. Scherr, 'Refugee Settlement in Australia: Policy, Scholarship and the Production of Knowledge, 1952–2013', *Journal of Intercultural Studies*, vol. 35, no. 1, 2014, pp. 1–17. <http://dx.doi.org/10.1080/07256868.2013.864629>

Office of the United Nations High Commissioner for Refugees, *Refugee Children: Guidelines on Protection and Care*, United Nations High Commissioner for Refugees, Geneva, 1994.

O'Sullivan, Maria, 'The 'Best Interests' of Asylum-Seeker Children: Who's Guarding the Guardian?', *Alternative Law Journal*, vol. 38, no. 4, 2013, pp. 224–8.

Parliament of the Commonwealth of Australia, House of Representatives, 'Explanatory Memorandum, Migration (Miscellaneous Amendments) Bill 1983', Commonwealth Government Printer, Canberra, 1983, http://www5.austlii.edu.au/au/legis/cth/bill_em/mab1983361/memo_0.html.

Parliament of the Commonwealth of Australia, Senate, 'Immigration (Guardianship of Children) Amendment Bill 1993: Explanatory Memorandum', Commonwealth Government Printer, Canberra, 1993, http://www.austlii.edu.au/au/legis/cth/bill_em/iocab1993427/memo_0.html

Parliament of the Commonwealth of Australia, House of Representatives, 'Same-Sex Relationships (Equal Treatment in Commonwealth Laws-General Law Reform) Bill 2008: Explanatory Memorandum', Commonwealth Government Printer, Canberra, 2008, http://www.austlii.edu.au/au/legis/cth/bill_em/srticllrb2008779/memo_0.html

Parliament of the Commonwealth of Australia, House of Representatives, 'Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012: Explanatory Memorandum', Commonwealth Government Printer, Canberra, 2012, http://www.austlii.edu.au/au/legis/cth/bill_em/mlapaomb2012678/memo_0.html

Parliament of the Commonwealth of Australia, House of Representatives, 'Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014: Explanatory Memorandum', Canberra: Commonwealth Government Printer, 2014, http://www.austlii.edu.au/au/legis/cth/bill_em/mamplatalcb2014832/memo_0.html

Pascoe, P., *What Comes Naturally: Miscegenation, Law and the Making of Race in America*, Oxford University Press, Oxford, 2009.

Perera, S., "Aussie Luck": The Border Politics of Citizenship Post Cronulla Beach', *Australian Critical Race and Whiteness Studies Association Journal*, vol. 3, no. 1, 2007, pp. 1–16. <http://www.acrawsa.org.au/files/ejournalfiles/64SuvendriniPerera.pdf>

Perera, S., *Australia and the Insular Imagination: Beaches, Borders, Boats, and Bodies*, Palgrave Macmillan, New York, 2009. <http://dx.doi.org/10.1057/9780230103122>

Perera, S. and J. Pugliese, 'White Law of the Biopolitical', *Journal of the European Association of Studies on Australia*, vol. 3, no. 1, 2012, pp. 87–100.

Perpich, N., 'Suicide-bid Asylum Boy: Access Denied', *The Australian*, 2 September 2013, p. 3.

Pezzullo, M. and S. Hanson-Young, *Legal and Constitutional Affairs Legislation Committee, Estimates Hearing*, 23 February 2015.

Phillips, K., 'Interventions, Interceptions, Separations: Australia's Biopolitical War at the Borders and the Gendering of Bare Life', *Social Identities*, vol. 15, no. 1, January 2009, p. 131–47. <http://dx.doi.org/10.1080/13504630802693570>

- Plant, R., *A New Life: An Historical Evaluation of Burnside's Khmer Unaccompanied Minors Resettlement Programme*, Burnside, Sydney, 1988.
- Probyn, F., 'The White Father: Denial, Paternalism and Community', *Cultural Studies Review*, vol. 9, no. 1, May 2003, pp. 60–76. <http://dx.doi.org/10.5130/csr.v9i1.3584>
- Refugee Children: Report of Working Party convened by the Standing Committee of Social Welfare Administrators, April 1984*, Conference of Social Welfare Administrators, Canberra, 1984.
- Ruddock, P., 'Questions on Notice—Immigration: Detention Centres', *Parliamentary Debates*, House of Representatives, 8 September 2003.
- Russell, G., *The Changing Role of Fathers?*, University of Queensland Press, Brisbane, 1983.
- Scott, D. and S. Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, Melbourne University Press, Melbourne, 2002.
- State Library of Victoria, 'Adoption and Forgotten Australians', 9 December 2015, <http://guides.slv.vic.gov.au/c.php?g=245251&cp=1633053#9656753>
- Statute Law, (Miscellaneous Provisions) Act (No. 1) 1985, <https://www.comlaw.gov.au/Details/C2004A03104>
- Swain, S., *History of Child Protection Legislation*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2014.
- Taylor, J., 'Guardianship of Child Asylum-Seekers', *Federal Law Review*, vol. 34, no. 1, 2006, pp 185–204.
- Thornton, A. N., Joint Select Committee on Australia's Immigration Detention Network Hearing, *Parliamentary Debates*, 6 September 2011.
- Ticktin, M., 'Innocence: Understanding a Political Concept', 2015 Annual Elizabeth Colson Lecture, Refugee Studies Centre, University of Oxford, 11 June 2015, <http://www.rsc.ox.ac.uk/news/innocence-understanding-a-political-concept-2015-annual-elizabeth-colson-lecture>.
- Tobin, J., 'Understanding Children's Rights: A Vision beyond Vulnerability', *Nordic Journal of International Law*, vol. 84, no. 2, June 2015, pp. 155–82. <http://dx.doi.org/10.1163/15718107-08402002>
- Wolfe, P., 'Nation and MisceNation: Discursive Continuity in the Post-Mabo Era', *Social Analysis: The International Journal of Social and Cultural Practice*, no. 36, October 1994, pp. 93–152.
- Wong, P., *Committees—Environment and Communications References Committee, Australia's Immigration Detention Network Committee—Government Response to Report*, 29 November 2012.
- Wright, P. and K. Pope, *First Assistant Secretary, Community Programs and Children, Department of Immigration and Citizenship*, in *Legal and Constitutional Affairs Legislation Committee Hearing*, 31 January 2013.
- Younge, G., 'Farewell to America', *The Guardian*, 1 July 2015, http://www.theguardian.com/us-news/2015/jul/01/gary-younge-farewell-to-america?CMP=edit_2221
- Zulfacar, D., *Surviving Without Parents: Indo-Chinese Refugee Minors in NSW*, Government Printing Office, Sydney, 1984.
- Zulfacar, D.M., 'A Decade of (Slow) Progress: The Evolution of Policies and Provisions for Unaccompanied Refugee Minors in Australia', *Asia Pacific Journal of Social Work*, vol. 2, no. 2, 1992, pp. 78–92. <http://dx.doi.org/10.1080/21650993.1992.9755611>
- Zwi, K. and S. Mares, 'Stories from Unaccompanied Children in Immigration Detention: A Composite Account', *Journal of Paediatrics and Child Health*, vol. 51, no. 7, July 2015, pp. 658–62. <http://dx.doi.org/10.1111/jpc.12953>