**Let's not forget we're the land of the fair go**

ASK THE PHILOSOPHER: Tim Soutphommasane

From: [*The Australian*](http://www.theaustralian.com.au/)

April 17, 2010 12:00AM

**If we believe that nation-states should be sovereign, what role should notions of universal human rights play in refugee policies?**

FEW can deny the revolutionary majesty of the universal rights of man. The poetry of declaring men are born free and created equal is self-evident.

Yet at the heart of such grand visions of natural rights is a paradox, for it has never been enough just to belong to the human race. To enjoy the fruits of liberty, one also has had to be a citizen. Rights are only meaningful when they can be guaranteed by states and backed by the compulsion of legal force.

Until something like a global government supersedes nation-states, human rights will inevitably exist in tension with national sovereignty. The claims of community will clash, from time to time, with those of humanity. Nowhere is this more apparent than in refugee policy.

On the one hand, those fleeing from war, famine and turmoil seek from us humanitarian concern and compassionate refuge. Where there is suffering, it is hard not to wonder whether our common humanity should indeed trump any group loyalty to nationality.

There are some situations, as John Stuart Mill reminded us, where distinguishing between what is due to a fellow countryman and what is due merely to a human creature "is more worthy of savages than of civilised beings".

On the other hand, there are clear limits to our sympathy. Virtuous citizenship is possible only when there is a clear dividing line between one's community and others.

Jean-Jacques Rousseau perhaps put it best: How is a citizen to love his country "if the fatherland is nothing more for them than for foreigners, and accords to them only what it cannot refuse to anyone"?

Whatever we may say about the humanitarian imperative, deciding whom to admit into membership is integral to communal self-determination.

If a nation-state is to exercise sovereignty over its territory, it must enjoy this right.

In moving last week to suspend all new asylum applications from Sri Lankan and Afghan nationals, the federal government has chosen Rousseau over Mill.

It is debatable whether the new policy meets our human rights obligations. Under the Refugee Convention (of which Australia is a signatory), asylum-seekers are entitled to have their claims assessed and not to be discriminated against on the basis of their national origin.

Whether an asylum-seeker arrives with prior authorisation -- that is, lawfully -- doesn't enter the equation under international law.

A tragic choice between cosmopolitan impartiality and patriotic concern is in one sense unavoidable. We can't offer sanctuary to every person in the world seeking protection.

Even so, we shouldn't confuse a right of communal self-determination with the idea of a Fortress Australia with drawbridge raised shut. Human rights and national sovereignty needn't be mutually exclusive; it can be part of a nation's self-understanding to be generous to others. We should be reminded that few nations have proven as successful as Australia in accepting and integrating multitudes of immigrants, including refugees.

We should hope the better angels of our nature ultimately may prevail.

After all, what kind of nation can seriously claim to believe in a fair go if it isn't prepared to extend it those most in need? Are we really doing the fair go justice if we insist asylum-seekers should join a queue when none may exist in Jaffna or Kabul?

Taking a more humane approach to the asylum-seeker debate isn't simply a matter of human rights. It is as much about us living up to the best of our national traditions.

*Readers are invited to suggest subjects for future pondering. The email address:* [*philosophercolumn@gmail.com*](mailto:philosophercolumn@gmail.com)

<http://www.theaustralian.com.au/news/opinion/lets-not-forget-were-the-land-of-the-fair-go/story-fn4riyly-1225854442358>

**Related Coverage**

* [Churches lash Rudd on asylum stance](http://www.theaustralian.news.com.au/story/0,,26983107-601,00.html) *The Australian*, *3 days ago*
* [Hard line on arrivals slammed](http://www.theaustralian.news.com.au/story/0,,26964608-2702,00.html) *The Australian*, *7 days ago*
* [PM backtracks on boatpeople](http://www.theaustralian.news.com.au/story/0,,26861276-2702,00.html) *The Australian*, *16 Mar 2010*
* [Locals lash out over `full' island](http://www.theaustralian.news.com.au/story/0,,26798154-2702,00.html) *The Australian*, *2 Mar 2010*
* [Boat people deal 'diabolical'](http://news.com.au/couriermail/story/0,,26340097-952,00.html) *Courier Mail*, *11 Nov 2009*