

# The political inherency of evaluation

## The impact of politics on the outcome of 10 years of evaluative scrutiny of Australia's mandatory detention policy

*It must be considered that there is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order, this lukewarmness arising partly from fear of their adversaries, who have the laws in their favour; and partly from the incredulity of mankind, who do not truly believe in anything new until they have had actual experience of it. Thus it arises that on every opportunity for attacking the reformer, his opponents do so with the zeal of partisans, the others only defend him half-heartedly, so that between them he runs great danger. (Machiavelli 1532, pp 49–50)*

### Abstract

The primary objective of evaluation is to provide information that can provide a basis for developing or revising policies and programs, and is an inherently political activity. This article reflects on 10 years of scrutiny by evaluators of a contested policy in Australia—that of the mandatory detention of asylum seekers—and explores how evaluation informs political decisions, and how politics shapes the use of evaluation results.

The evidence presented shows that evaluators need to be aware of, and manage, the political forces that shape the scope and outcomes of evaluations. Otherwise, evaluation may be little more than a tool for reinforcing existing power relations rather than a neutral and objective means of improving social policies or programs. Some strategies are suggested to help evaluators safeguard their neutrality and maximise the effectiveness of their contributions to political debates.

### Introduction

The mandatory detention of asylum seekers has been a contested policy in Australia for over 10 years, and during this time, numerous evaluations have been conducted. While these have been shaped politically by policy, they have also played an incremental role in political finetuning. My review of 13 of these evaluations provides a basis for exploring the ways in which politics shapes the use of evaluation results and the role evaluation plays in informing the political decision-making process.

Defined simply, politics is the way that decisions are made on behalf of society (Chelimsky 1983). Evaluation, where the major objective is to provide information that will provide a basis for such decisions, is therefore an inherently political activity (Chelimsky 1983; Taylor & Balloch 2005; Weiss 1987).

Consequently, evaluators need to understand the political context of their work, and select evaluation paradigms and methods that are appropriate for these contexts;

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in other words, to select approaches that under the particular circumstances of the evaluation will maximise its benefits.

What this makes clear, is that it is only by being aware of, and managing, the political forces that shape the scope and outcomes of evaluations, that evaluation can avoid being a tool for reinforcing existing power relations, and be effective in improving social policies or programs. The article concludes by suggesting strategies evaluators should use to safeguard their neutrality and maximise the positive impacts of their work.

## Background

### Evaluation purpose

Evaluation was conceived and developed to generate knowledge that could be used to improve policies or programs (Taylor & Balloch 2005) or to make decisions about whether a program should continue. This could entail providing information and advice on how to revise or refine a program or whether to expand or terminate it (Preskill & Catsambas 2006).

But what does it mean to improve policies or programs? From a philosophical perspective, the most accepted interpretation is utilitarian, whereby improvement is change that maximises social wellbeing (House 1978). The American Evaluation Association (2004) has translated this objective into the principle that evaluators should be responsible for 'general and public welfare'. At a minimum, the Association argues that this means that evaluators should 'articulate and take into account the diversity of general and public interests and values that may be related to the evaluation' (p. 5).

### The scope of evaluations is usually constrained

Such statements raise difficult questions about what is the 'general and public welfare', and how evaluators, within the (often externally defined) scope and parameters of their work, should account for it. By definition, public policies and the programs that support them are conceived in the public interest, and comprise multiple objectives, reflecting the breadth of needs that exist in relation to them (Palumbo 1987). Optimising the benefits of policies or programs entails striking the right balance between competing objectives, and by implication, the interests of the different stakeholders that stand to benefit or lose from them. Inevitably, trade-offs are required.

As a result, coming to a truly objective conclusion about the merits or worth of policies or programs and whether policy settings maximise benefit will require conclusions to be reached about each and every component of the policy, as well as the relative importance of each to the public welfare (Palumbo 1987).

A broad scope is needed to ensure that responsibility to the general and public welfare is maintained. However, most evaluations cannot

achieve this because mandate, resource, time and methodological limitations stand in the way. Usually, scope is limited to one or a number of aspects of programs that may (or may not) be fundamental to their overall value or worth.

The necessarily constrained scope of most evaluations means that their conclusions are prone to being dismissed as providing an insufficient basis upon which to make decisions about the shape of policies or programs. However, this does not mean that in combination with other sources of information, they cannot improve the basis for this more holistic assessment. As Seeman (cited in Chelimsky 1983, pp. 154–155) has observed:

Each study adds a little bit more information, only a little bit, ... in terms of the impact of evaluation on broad program direction and policies, it has ... [a] cumulative effect, and those who ask which single study led to the termination of a particular program just don't understand decision-making or evaluation.

### How politics affects the utilisation of evaluations

The way political decisions are made (including in response to evaluations) is a complicated one, involving many actors, who compete to frame political debates, define issues and devise solutions. As Weiss (1987, p. 47) has observed:

The policies and programs with which evaluation deals are the creatures of political decisions. They were proposed, defined, debated, enacted, and funded through political processes, and in implementation, they remain subject to pressures—both supportive and hostile—that arise out of the play of politics.

Thus, at different points in time during the political cycle, decision-makers may be more or less willing to consider alternative viewpoints, or to accept certain types of criticism (Weiss 1987).

Chelimsky (1983) argues that the best way to ensure that evaluations are relevant to decision-making is to adopt methods that best match the policy requirements at different stages of the reform cycle. Thus, when there is political interest in reform, the most useful role for evaluators is to explore issues of program effectiveness, or alternative methods for achieving policy objectives. Alternatively, between periods of reform, the optimal role for evaluators is to deal with bread-and-butter program management issues, such as how to ensure accountability for, or efficiency in, the use of public funds:

In short, evaluators must recognize not only that the purposes, roles and uses of evaluation can change, and still remain legitimate, but also

that they must change, in response to cyclical or governmental changes, if evaluation—like accounting or engineering—is to be a neutral tool in the service of public management. (Chelimsky 1983, p. 157)

However, this implied acceptance of the dominant position of decision-makers runs contrary to the objective of evaluators, which is to maintain a neutral orientation to the entities they evaluate. The resulting risk is that in serving their clients' political interests, evaluators will reinforce predetermined views and existing power relations with the outcome being restricting opportunities for reform, even when they are desperately needed (Weiss 1987).

The argument also implicitly devalues the conceptual impacts of evaluations. While poorly understood, evaluations that improve conceptual understanding of policies and programs may in time contribute to how policy debates are framed. As a result, Patton (1987, p. 108) has observed that:

There can be no absolute standard that values action over thinking, changes in a program over keeping things the same, or decisions to do something over decisions to wait. There simply can be no hierarchy of impacts, because the hierarchy is necessarily situational and depends on the values and the needs of the people for whom the evaluation is conducted.

As such, the utility of evaluations cannot be judged only by reference to the immediate needs of decision-makers. Just as failure to use evaluation results immediately cannot be regarded as failure, neither can the converse be regarded automatically as a success.

### Evaluative scrutiny of the Australian Government's mandatory detention policy

A controversial Australian Government policy over the last decade has been that of mandatory detention—the detention of 'unauthorised non-citizens' (people without valid visas) in detention centres, until they either meet the requirements for a visa or are removed from the country (Millbank 2001). While the policy was introduced with bi-partisan support in 1992, its implementation under the Howard Government—a period of heightened anxiety about global security issues, during which the number of illegal immigrants increased dramatically—placed it firmly in the public spotlight, and created heated debate.

Australia's mandatory immigration detention policy attempts to strike a balance between competing values and interests, including the need to:

- protect the Australian community from uncontrolled immigration, including its supposed health and security risks

- fulfil a legal and moral obligation to offer asylum to people fleeing persecution
- treat asylum seekers humanely and minimise the amount of time they spend in detention
- ensure illegal immigrants can be deported if their asylum claim is unsuccessful
- minimise costs associated with managing illegal immigrants.

### Evaluation actors

Over this period, the administration of Australia's mandatory detention policy was subject to scrutiny by several organisations and individuals. The major actors involved in this scrutiny were:

- The **Human Rights and Equal Opportunity Commission** (HREOC), which under the *Human Rights and Equal Opportunity Commission Act 1986* is able to inquire into acts and practices of the Commonwealth that may be inconsistent with human rights. It also has the power to advise on laws that should be made by the parliament or action that should be taken by the Commonwealth regarding matters relating to human rights (HREOC 2004).
- The **Commonwealth Ombudsman**, who under the *Ombudsman Act 1976*, is mandated to consider and investigate complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government department or agency (Commonwealth Ombudsman 2001).
- The **Australian National Audit Office** (ANAO), which under the *Auditor-General Act 1997*, is mandated to review or examine operations of the whole or part of the Commonwealth public sector, including the economy, and the efficiency and effectiveness of government programs and organisations.
- Parliamentary committees, including the **Joint Standing Committee on Migration** and the **Joint Standing Committee on Foreign Affairs, Defence and Trade**, which are mandated to scrutinise government activity, including legislation, the conduct of public administration, and policy issues.
- A former secretary of the Department of Foreign Affairs and Trade, who was commissioned by the government to conduct an inquiry into the handling of suspected cases of child abuse in detention centres.

### Review method

The next part of this article focuses on 13 major evaluations of Australia's mandatory detention policy and administration completed by these bodies and individuals over a 10-year period (1998 to 2008). The intention was not to review every evaluation completed during this period, but to

capture a broad, representative cross-section of reports produced by the major players.

The selected reports were examined particularly to assess their coverage of the major issues germane to an assessment of the merit or worth of Australia's immigration detention policy. Specifically, an assessment was made of their coverage of the major underlying arguments for the existing policy and unintended side effects.

Clearly from the preceding discussion, the neutrality or objectivity of evaluations in supporting the general or public welfare depends both on their scope and on whether they seek and reflect the views held by stakeholders about the evaluation topic. To ascertain the extent to which this occurred, the evaluations were assessed against principles derived from the American Evaluation Association (2004) to determine whether they:

- included relevant perspectives and interests of major stakeholders
- maintained 'a balance between client needs and other needs, striving to meet legitimate client needs whenever it is feasible and appropriate to do so' (American Evaluation Association 2004, p. 5).

The basic concern was to understand whether the evaluators ensured that alternative views were not excluded from consideration, and effort was made to balance the different views of stakeholders (Greene 1997).

## Results

### Scrutiny of arguments, assumptions and side effects

The following section summarises the major issues relevant to consideration of the value of immigration detention policy, the positions of the evaluators and the government (or its representatives) on these issues, whether they were examined during the evaluations, and whether, within the scope of their inquiries, evaluators considered unintended side effects.

### Compliance of mandatory detention policy with international human rights obligations

Australia has ratified several international conventions designed to protect people's basic human rights, as these are relevant to the design and administration of mandatory detention policy (HREOC 2004). Concerns about the compliance of Australia's mandatory detention regime with international obligations were raised as early as 1997 by the Human Rights and Equal Opportunity Commission (HREOC). To address this concern, HREOC's (1997) *Preliminary Report on the Detention of Boat People* recommended that the government and the Department of Immigration<sup>1</sup> develop and implement alternatives to mandatory detention and that the parliament amend the *Migration Act* accordingly. HREOC reaffirmed this finding in each of its reports of subsequent inquiries,

despite vehement rejections by the government on each occasion.<sup>2</sup>

While the legal arguments are complex, the main area of contention was about whether detention can be regarded as 'arbitrary'. HREOC and other international human rights bodies<sup>3</sup> argued that Australia's detention regime was arbitrary, on the basis that even in particular cases where the government may have been convinced that detention was unnecessary, it could not disregard the mandatory character of detention. It also argued that alternative means of achieving desired policy outcomes were available to the government which were less restrictive of rights (HREOC 2004). The government's position was that the main test concerning whether detention is arbitrary is whether it is reasonable, necessary, proportionate, appropriate and justifiable in all the circumstances, and the basis for the policy could be found in the *Migration Act 1958*. The latter reflected Australia's sovereign right under international law to determine which non-citizens are admitted or permitted to remain, as well as the conditions under which they may be removed (HREOC 2004).

### Quality of detention centre facilities and services

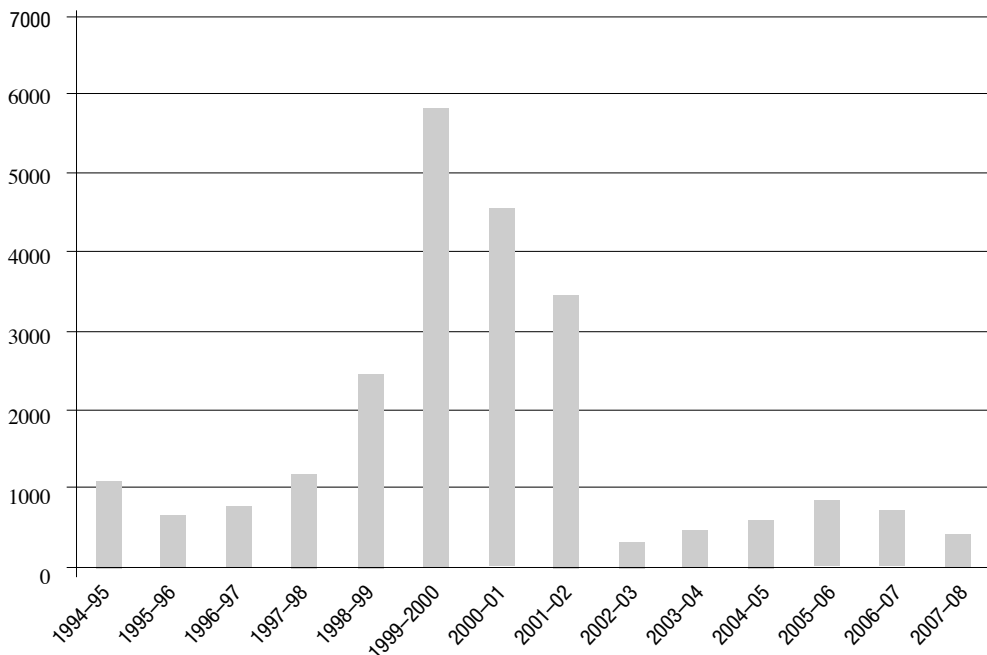
The introduction of mandatory detention in 1994 was followed by an unprecedented increase in the number of unauthorised arrivals between 1999 and 2001 (see Figure 1). This placed existing detention centre infrastructure and service providers under severe pressure, with reports emerging of overcrowding and increased tension and unrest in the centres (including protests, breakouts, and increased instances of self-harm and hunger strikes) (Flood 2001).

Two perspectives on conditions in centres are apparent in the evaluation reports. One was pragmatic. In dealing with unprecedented numbers of arrivals, the Government's focus was necessarily on meeting 'basic needs' (ANAO 2004). The other was more critical, holding that conditions in detention centres should be at least the equivalent of those provided in Australian prisons, regardless of the number of people in them.

The Joint Standing Committee on Migration (JSCM) reflected the first perspective. The JSCM conducted inspection visits to detention centres on two occasions—in 1998 and 1999–2000, presenting their findings in reports tabled in the national parliament. The scope of the JSCM's two inquiries was narrow, focusing on the operations of the centres, rather than on the detainees or wider issues of immigration detention (JSCM 2000, p. 2). In 1998, the JSCM reported that 'immigration detention facilities were adequate and the services were of an appropriate standard' (p. 39), a finding it reiterated in 2000, when it reported that 'Australia's detention administration is appropriate and professional ... [and] handling the demands of unprecedented numbers of arrivals well' (p. 89).

Similarly, evaluations conducted by the Australian National Audit Office (ANAO) focused

**FIGURE 1: NUMBER OF UNAUTHORISED ARRIVALS (BY BOAT AND AIR) DETAINED IN DETENTION CENTRES, 1994–05 TO 2007–08**



Source: Submission from the Department of Immigration and Citizenship to the Joint Standing Committee on Migration Inquiry into Immigration Detention, Submission no. 129D, 30 September 2008

purely on operational issues and did not examine the outcomes of the detention policy or the quality of the services provided at detention centres (ANAO 2004, 2005).

The views of the other organisations are best represented by the Commonwealth Ombudsman, who, following receipt of increasing numbers of complaints by detainees about their treatment in detention centres, decided to investigate. The resulting inquiry (in 2001) did not question the policy of mandatory detention, but rather whether its administration had been unreasonable or had resulted in unintended consequences. In conclusion, the Commonwealth Ombudsman (2001, p. 3) found that:

Immigration detainees appear to have lesser rights and are held in an environment which appears to involve a weaker accountability framework than those existing in the criminal justice system, where prisoners are exposed to significant checks and balances which have been built up over time, reflecting decisions of the courts and community expectations.

Similar findings were made by HREOC (1998, 2001, 2004) and the Joint Standing Committee for Foreign Affairs, Defence and Trade (JSCFADT 2001).

### Solutions to prolonged detention

Noting an association between long-term detention and psychiatric disorders (manifesting in self-harm,

hunger strikes or suicide attempts), several of the evaluators, including HREOC, the Commonwealth Ombudsman and the JSCFADT, examined the issue of prolonged detention and argued that the government should seek a solution.

In contrast to the other organisations, the JSCFADT (2001) recommended a specific solution—the introduction of limits to the amount of time detainees spend in detention. This was rejected by the government, which argued that while it seeks to expedite asylum seeker claims efficiently and effectively, delays were largely beyond its control. For example, difficulties can arise because of: unauthorised arrivals not having documentation or other proof of identity; extensive checking being required to confirm basic identity and nationality claims; and the time needed to identify people of character concern.

### Alternative detention arrangements

To address the side effects of detention, especially those associated with prolonged detention, HREOC, the Commonwealth Ombudsman, and the former secretary of the Department of Foreign Affairs and Trade each recommended that the government pursue alternatives to detention (HREOC 1998, 2004). For example, they recommended from the outset, a comprehensive model covering all illegal non-citizens not assessed as posing a health or character risk to Australia. The Ombudsman (2001) and *The Flood Report* (Flood 2001) suggested a more limited model to cover the needs of families, women at risk, children and individuals with special

needs. In arguing its case, the Ombudsman (2001, pp. 19–20) noted ‘a worrying number of reports of indecent assault and threats towards unattached women and children who represent the groups at highest risk’.

While rejecting the comprehensive model suggested by HREOC, the government agreed to trial alternative detention arrangements for women and children. Following the perceived success of the residential housing centre in Woomera that was established in 2001, further centres were developed in Port Augusta, Port Hedland, Perth and Sydney (Vanstone 2006).

As a result of the government’s view that placing asylum seekers in the Australian community more broadly would ‘encourage and embolden people smugglers to put large groups of people on unseaworthy vessels and head for Australia’ (Andrews 2007—see commentary on the deterrent argument below), the scope of these reforms was limited to women, children and individuals with special needs, with eligibility assessed on a case-by-case basis.

**Detention as a deterrent**

In his response to the JSCFADT report, then-Prime Minister John Howard argued that ‘the worst thing Australia can do is send a signal to would-be illegal immigrants ... that we are an easy touch’ (*PM responds to asylum seekers, HIH, advertising and Kyoto* 2001). This argument—that mandatory detention helps deter immigrants from attempting to enter Australia illegally—was considered exclusively by HREOC (1998, 2001, 2004). They argued that there was no correlation evident from historical

data, between the introduction of mandatory detention and decreasing numbers of illegal arrivals, and that if the policy’s purpose was deterrence, this would be contrary to human rights law.

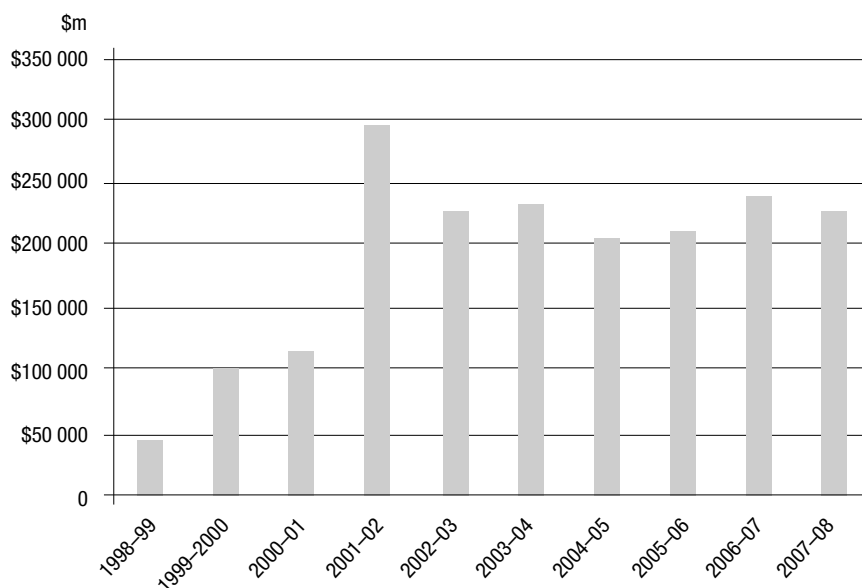
The need to reduce the number of illegal immigrants was instrumental in the government’s decision in September 2001 to prevent unauthorised arrivals entering Australia at an ‘excised offshore place’, and, therefore, from having their applications for asylum assessed in Australia according to domestic guidelines. Colloquially known as the ‘Pacific Solution’, the new policy enabled the removal of asylum seekers to offshore detention centres in Nauru and Papua New Guinea, pending consideration of their asylum claims (Millbank 2001). In response to HREOC’s (2004) report on children in immigration detention, the government claimed that its ‘strong but fair’ border protection policies, including the Pacific Solution, had dramatically reduced the number of illegal immigrants from the 2000–2001 peak (Vanstone 2004).

**Cost-effectiveness of mandatory detention**

As evident in Figure 2, the cost of immigration detention increased substantially from its introduction in 1994–95. This was associated with: the large increase in the number of unauthorised arrivals between 1998–1999 and again during 2001–02; subsequent investments by the government in expanding and improving immigration detention facilities; and in offshore processing of asylum seeker claims under the Pacific Solution.

The cost-effectiveness of Australia’s mandatory detention policy was considered by HREOC (2004), the JSCM (1998, 2000), the ANAO (2004, 2005) and Flood (2001).

**FIGURE 2: COST OF IMMIGRATION DETENTION CENTRES**



Sources: ANAO Report No. 54, 2003–04, *Management of the Detention Centre Contracts—Part A*, p. 119, and Portfolio Budget Statements of the Commonwealth Immigration Department, 2001–02 to 2007–08<sup>4</sup>

Furthermore, the management of detention centre finances was closely scrutinised by the ANAO (2004, 2005), which noted that the cost per detainee day in detention centres and administrative costs had risen, and that there were weaknesses in the Department of Immigration's monitoring and accounting for expenditure. Similarly, the JSCM and Flood examined whether the Department of Immigration was managing detention finances prudently and efficiently.

While the ANAO and the JSCM did not come to any conclusion about the cost-effectiveness of detention policy, HREOC (2004), noting rising costs, argued that there was strong evidence to suggest that a supervised release scheme would be much cheaper than mandatory detention. The government argued in response that the cost of community-based alternatives (including those of tracking down absconders) would be too high to justify a change of policy.

### **Striking a balance between needs and interests of different stakeholders**

Unsurprisingly, the evaluations that were narrow in scope did not consider views of Australia's mandatory detention policy other than those of the policymakers. Evaluations completed by the ANAO (2004, 2005) and the JSCM (1998, 2000) did not seek the views of detainees or their representatives.

The most comprehensive consideration of stakeholder views was by HREOC (2004) in its report on children in detention, *A Last Resort?* This involved extensive stakeholder consultation, including interviews with policymakers, program managers, service providers and detainees and their representatives, as well as receipt of evidence through both public and confidential hearings and public submissions.

Despite comprehensive consultation, the final report was stringently criticised by the government, which argued that: 'it tends to claim systemic problems on the basis of a small number of cases'; 'has given weight selectively to interpretations or events, rather than grappling with the complexity of the issues'; took a 'predetermined position on conditions in Australia's detention facilities'; and 'inadequately and selectively summarised and then routinely dismissed' information provided by the Department of Immigration (Vanstone 2004).

HREOC (2004, p. 880) characterised this disagreement as being 'the result of a fundamental difference in perspective between the Inquiry and the Department about what is required by international human rights law'.

While less comprehensive in their consideration of stakeholder views, the remaining reports all reflect tensions associated with balancing the perspectives of different stakeholders. However, these tensions were reduced by the framing of alternative views of mandatory detention from value positions that were more consistent with those of the policymakers (the government and the

Department of Immigration); in other words, they generally accepted government policy as providing the framework for their work.

However, an important, but unreferenced, backdrop to the positions taken by the evaluators and the government, was the perspective of the general public. While support for the public interest is implied by all the reports, and consequent government responses to them, none explicitly referenced or canvassed broader public views on immigration detention issues as a pertinent consideration required to determine the merit or worth of the policy paid for by their taxes.

Even so, an AC Nielsen poll conducted in February 2005 asked respondents to assess the appropriateness of putting asylum seekers in detention centres until their application was processed. The findings indicate a major division of public views on the issue, with 55 per cent of respondents in favour of the approach, and 42 per cent against (Davidson 2006), and reflect the divisions evident in the perspectives of two of the evaluation bodies (HREOC and the JSCFADT) and the government.

Meanwhile, the Howard Government's tough stance on border control was critical to its popularity with parts of the electorate, and instrumental in the November 2001 elections, conducted in the wake of the terrorist attacks on New York (Jevons & Carroll 2005). This was an important influence on the government's approach to detention policy.

## **Discussion**

### **Establishing merit or worth**

In combination, the evaluations covered the major issues germane to assessment of the merits of mandatory detention, albeit in varying degrees of detail. Evaluative scrutiny was weighted towards administrative issues such as the quality of services and facilities in detention centres, while more contentious issues (such as the effectiveness of detention policy as a deterrent or its consistency with international human rights obligations) received less consideration.

This scrutiny was, however, sufficient to establish that the quality of detention centre facilities and services over the period in question was inadequate. This became evident in recent statements by the former Attorney-General and Immigration Minister, Philip Ruddock, which acknowledged a level of regret over aspects of his government's detention policies (Lyons 2008).

Another area of broad consensus established by evaluation scrutiny was that detention centres are inappropriate environments for women, children and people with special needs. To address this issue, alternatives were established, although their appropriate breadth remained contested, because of the Government's view that making all children eligible would compromise the deterrent objectives of the policy (HREOC 2004).

For other issues, consensus was not achievable,

including the: viability of broader alternatives to detention; consistency of detention policy with Australia's international human rights obligations; effectiveness of detention as a deterrent; viability of mechanisms for limiting the amount of time spent in detention; and cost-effectiveness of detention. For example, in the disagreement between HREOC and the government over the effectiveness of detention as a deterrent, neither party was able to demonstrate whether the decline in arrivals from its peak in 2001 resulted from any, or all, of ordinary fluctuations in illegal arrivals resulting from: conditions in source countries; government efforts to disrupt people smuggling operations in offshore locations; or the impact of mandatory detention policies (including offshore processing) in dissuading people from attempting to enter Australia illegally.

### Balancing stakeholder needs and interests

The review illustrates that as the scope of evaluations increases, so too does the potential for conflict between the views of different evaluation audiences, and the difficulty of balancing stakeholder needs, and developing consensus on measures to improve programs or policies. This may leave evaluators in an unenviable position, and leads to Greene's (1997, p. 25) view that 'evaluators are inevitably on somebody's side, and not on somebody else's side'.

HREOC, drawing from evidence taken from stakeholders on a broad range of issues, argued for wide-ranging policy reforms, which brought it into direct conflict with the government, and resulted in the rejection of most of its findings and recommendations presented in several reports. Central to these disagreements was a failure to reconcile the different value positions assumed by the evaluators and the government—a problem also evident in the Government's rejection of the JSCFADT's (2001) report.

For most of the evaluations, the risk of unfavourable government reaction was managed by adopting value positions that were more palatable to the policymakers, presumably on the basis that such positions would be more effective in stimulating incremental improvements to policy and administration. The Commonwealth Ombudsman, for example, explicitly adopted a position that did not question the basic rationale for the policy, but rather focused on drawing attention to the unintended consequences of that policy. So, instead of advocating sweeping changes, the Ombudsman argued for several discrete reforms, such as the introduction of alternative detention arrangements for women, children and people with special needs, which were agreed to by the government.

Two of the evaluation bodies did not consider alternative views on mandatory detention, and thus tended, either implicitly (in the case of the ANAO) or explicitly (in the case of the JSCM) to support existing policy settings. While it did not seek the views of detainees in either of its two inquiries, the JSCM still felt confident to conclude that facilities

and services at the detention centres were of an appropriate quality, which contrasted with the conclusions of the other evaluators, for whom understanding and articulating the views of the 'service users' was of central concern.

### The political cycle

The evolution of immigration detention policy during the period of analysis, including selected events, is depicted in Figure 3.

The period 1998–2005 was characterised by strong political support for the Government's mandatory detention policy, as evidenced by successive reports completed by the JSCM (a parliamentary committee comprised of both government and non-government representatives), which reflected an uncritical acceptance of the policy framework and its administration, and the silence of the opposition party on border control issues during this period.

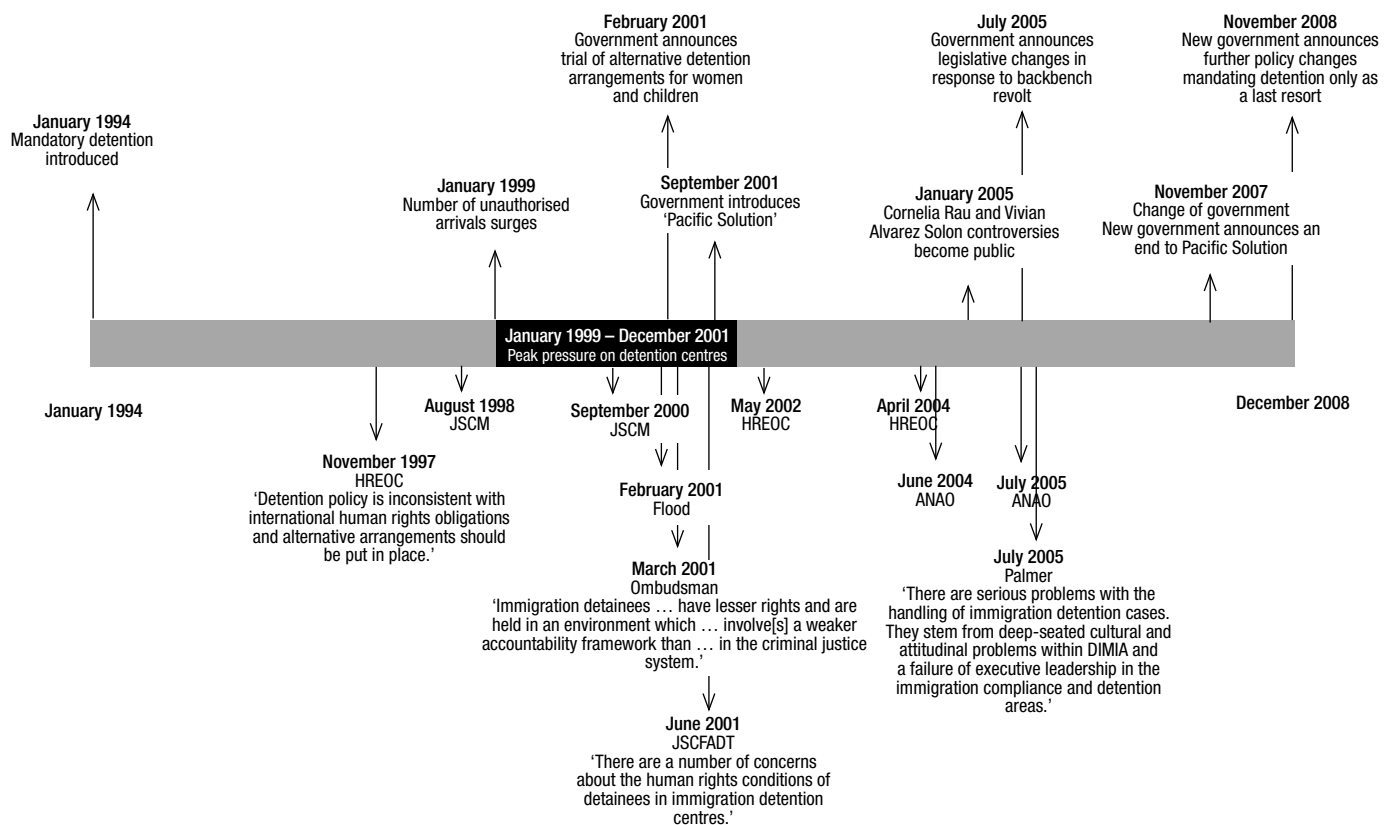
While some evidence of parliamentary interest in reform was apparent as early as 2001, in the form of criticism by the JSCFADT (also comprised of government and non-government members of parliament) of aspects of the policy, 2005 marked the first major swing in political support. In early 2005, it was revealed that a mentally ill German citizen holding Australian permanent residency, Cornelia Rau, had been held in detention as an unauthorised immigrant for 10 months. In the period following, it emerged further that 33 people had been wrongfully detained under the *Migration Act*, including one case of a woman forcibly deported and subsequently missing (Vivian Alvarez Solon) (Palmer 2005). The subsequent investigation into the treatment of Cornelia Rau by Mick Palmer (2005, p. xi) found that:

There are serious problems with the handling of immigration detention cases ... stem[ming] from deep-seated cultural and attitudinal problems within the [Department of Immigration] ... and a failure of executive leadership in the immigration compliance and detention areas.

In its response to the Palmer report, the Government agreed to 'the need for a wider re-thinking of the way [the Department of Immigration] handles its responsibilities in relation to compliance and detention' (Vanstone 2005). Three days later, to address a revolt from several of its backbenchers, the Government announced changes to the *Migration Act* to 'soften' the policy, including limiting the length of time people are required to spend in detention centres (Howard 2005).<sup>5</sup>

The fracturing of political support within the Government was followed by an end to bipartisan support, with the announcement by the opposition party during the 2007 election campaign of its intention to end the Pacific Solution. Following its election in late 2007, and immediate closure of offshore detention centres, the new Labor Government announced its intention to introduce a

FIGURE 3: TIMELINE OF SELECTED EVENTS IN THE EVOLUTION OF MANDATORY DETENTION POLICY, 1994–2008



‘more humane’ approach to the implementation of mandatory detention policy, citing also the ‘massive’ cost to the taxpayer of detention (Evans 2008).

As a result of these reforms, mandatory detention policy was dramatically transformed, with the ultimate policy outcome remarkably consistent with the alternative policy model promulgated by HREOC as early as 1997, and reiterated in each of its subsequent reports. The immediate and ultimate policy outcomes for detention are summarised in Table 1.

As shown in Table 1, during the Howard Government’s early and middle periods (1996–2005), evaluative scrutiny of mandatory detention was successful in fostering a broad consensus that facilities and services in detention centres were inadequate, and that this was contributing to mental and other health problems among the detainee population. Notwithstanding either implicit or explicit support of existing policy settings, evaluators were influential in pressing the government to improve the quality of detention centre facilities and services, and to pursue limited alternatives to mandatory detention. In part, driven by negative public reaction to evidence promulgated by evaluators about the poor quality of detention centre services, it appears that the government was successful in improving the quality of facilities and services at the detention centres. This was noted by HREOC in its 2006 and 2007 reports on inspection visits to detention centres (HREOC 2006, 2007).<sup>6</sup>

Over the long-term—assisted by the political fallout from the Cornelia Rau and Vivian Alvarez Solon affairs in 2005 as well as a softening of public opinion on border control issues (Davidson 2006)—the evaluations appear to have provided a basis for a coalescence of political support for more broad-ranging reforms of the policy.

**Conclusion**

The results of this study highlight the importance of evaluative scrutiny of public policies and programs. In combination, the evaluations reviewed for this article sought and reflected upon alternative views related to mandatory detention policy, drew attention to the degree of adequacy of the evidence supporting policy positions, and revealed undesired side effects. All this had a considerable impact in shaping the policy debate, and providing a basis for reform.

What do the results of this study tell us about what evaluators should do to maximise chances of success and minimise those of failure to improve policies and programs?

First, the choices evaluators make in scoping evaluations should be preceded by careful scrutiny of the political and policy environment. Where this scrutiny suggests the policy and program model is plausible and generally well accepted by program stakeholders, circumstances may warrant adopting a relatively narrow scope, taking as given the existing policy frameworks, and working to finetune aspects

**TABLE 1: DETENTION POLICY OUTCOMES**

Issue	Immediate outcome from evaluations (1996–2005)	Ultimate policy outcome (2005–2008)
Compliance with international human rights obligations	No agreement on the view that mandatory detention policy is inconsistent with Australia’s human rights obligations	Mandatory detention limited to all unauthorised arrivals, for management of health, identity and security risks to the community—consistent with the ‘human rights compliant’ model proposed by HREOC in 1997
Quality of detention centre services	General agreement that infrastructure and amenity at detention centres is not adequate	Use of detention downgraded as a policy mechanism for managing unauthorised non-citizens
Length of time spent in detention	No agreement on the appropriateness of mechanisms for limiting the length of time spent in detention	Prolonged detention removed for people assessed as no risk to the community
Alternative arrangements for asylum seekers	Agreement on the need for alternatives for women, children and those with special needs  No agreement on the viability of alternative arrangements for other asylum seekers	Broad-based alternative arrangements for handling asylum seekers established
Mandatory detention as a deterrent	No agreement on the effectiveness or appropriateness of mandatory detention as a deterrent	Mandatory detention no longer justified as a deterrent
Cost-effectiveness of detention	Rising costs noted, but no agreement on the cost-effectiveness of the policy	Detention costs no longer considered commensurate with outcomes

of its administration. Whereas Chelimsky (1983) argues that the views of policymakers should be paramount in such considerations, the results outlined here suggest that the assessment should be broader, to address circumstances where those views are out of step with those of the broader community—especially those that the policy most affects.

In cases where initial scrutiny reveals a high level of disagreement among stakeholders, evaluators need to understand the implications of focusing their work too narrowly. Approaches that focus primarily on administrative issues tend to reinforce the views of program managers, and leave unanswered more fundamental and pressing questions about the merits of worth of their policies or programs. Such approaches are by no means neutral, and should not be presented as such.

This leads to a second point. Evaluators are usually constrained in scoping decisions by mandate, resource, time and methodological limitations—they do not usually have free rein or resources to ask and pursue answers to the questions they think need to be answered. To safeguard their neutrality in this context, evaluators need to understand and manage these limitations in order to minimise the bias that might result from them. At the very least, this means evaluators must ensure alternative views and (often by implication) unwanted side effects are not excluded from consideration in their evaluations, however framed.

Finally, when they are afforded the opportunity to do so, evaluators should not shy away from

pursuing answers to those questions that are most meaningful to the task of judging the merit of programs, including, and perhaps especially, when they are politically contentious. While the politically unpalatable positions that may result from such scrutiny (where the evidence demands it) could limit the direct utilisation of evaluation findings, such approaches can ultimately have the biggest impact.

**Notes**

- 1 This department is referred to in this article as the Department of Immigration, even though its name changed several times during the period covered by the study.
- 2 Notably *Those who’ve come across the seas: detention of unauthorised arrivals* (HREOC 1998), and *A last resort? National inquiry into children in immigration detention* (HREOC 2004).
- 3 For example, the United Nations Working Group on Arbitrary Detention and other United Nations treaty bodies.
- 4 Figures include both onshore and offshore asylum seeker processing costs, but exclude the cost of construction of detention centre facilities (including an estimated \$396 million on the construction of the offshore processing centre on Christmas Island) for which financial year figures are not available.
- 5 *The Migration Amendment (Detention Arrangements) Act 2005*.
- 6 While it is impossible to know the extent to which evaluation scrutiny contributed to these improvements, it is logical to surmise that they did.

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