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Australia and forced displacement: A new research agenda?

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Introduction

In the global and interdisciplinary field of forced displacement or forced migration studies, there is a significant focus on Australian laws and practices. There is a wealth of literature on Australia's treatment of those who come in search of international protection and how Australia's refugee policies have influenced legal developments in other parts of the world (such as the now abandoned refugee offshore processing agreement between the United Kingdom and Rwanda). In this body of scholarship, Australia is positioned as a refugee receiving state. Scholars of forced migration and forced displacement have traditionally not considered Australian laws and policies that cause or respond to the displacement of Australian residents. This is despite forced displacement being a central aspect of Australian life. The brutal history of post-invasion Australia is one of genocide and forced displacement of Aboriginal and Torres Strait Islander peoples.[1] Australia has a long history of bushfire, flood, drought and cyclone events that have resulted in people leaving their homes and communities temporarily or permanently.

1 In this chapter I use the terms 'Aboriginal and Torres Strait Islander', 'Indigenous', 'First Nations', 'First Nation Australians' and 'First Australians' interchangeably. There are mixed opinions among Indigenous Australians as to preferred terminology (Watson & Douglas, 2021). As a non-Indigenous Australian, it is not my place to weigh in on these debates and take a position. I intentionally use all commonly employed terms to reflect the diversity of opinions and practice among First Nation Australians.

However, the overlapping disasters associated with bushfires, floods and the COVID-19 pandemic from late 2019 have given rise to an emerging body of research on displacement within Australia and forced displacement of Australian citizens and permanent residents abroad. In this chapter, I provide personal reflections on this shift in research focus, chart the possibilities for a research agenda on Australia and forced displacement and indicate how this nationally focused research agenda can contribute to global knowledge and debates.

From the global to the local: An unexpected and uncomfortable transition

My COVID-19 experience was unexceptional. I was impacted by the pandemic and the overlapping disasters associated with bushfires and floods, but I did not directly suffer any tragedies or personal loss. In early 2020, I arrived in Australia after an overseas sabbatical but, for health reasons, could not return to my home in Canberra because it was blanketed in bushfire smoke. For weeks on end, Canberra had the worst air quality rating in the world (Remeikis, 2020). Medical research indicates that this may have long-lasting health consequences for those who had no choice but to live through it, especially pregnant women and newborn babies (ANU Reporter, 2020). Once the smoke cleared, there was about a one-week reprieve before COVID-19 started to spread in Australia, and isolation, lockdowns and travel restrictions became a part of everyday life. During the pandemic period, the town in which I grew up (Lismore, NSW) faced an unprecedented and disastrous double flooding event. Many people lost their lives and many more lost their homes and remain homeless. While Lismore floods every few years, the flood of 2022 was on such a scale that, for the first time, central institutions such as schools have chosen to relocate rather than rebuild.

When I returned to Australia, I was working on a monograph manuscript. The monograph was a global and comparative examination of the relationship between law and refugees' journeys within and across national borders. As a scholar of refugee and forced displacement law, my research mainly focuses on refugees, IDP, stateless people and victims of human trafficking. For the most part, and certainly before Russia's invasion of Ukraine, people in these situations have predominately come from non-Western lower- and middle-income countries (often referred to as the 'Global South' in forced migration

scholarship) (United Nations High Commissioner for Refugees [UNHCR], 2022). I never imagined that my research agenda would broaden to include Australian citizens' and residents' experiences of displacement.

Early in 2020, when many countries temporarily shut their borders in response to the COVID-19 pandemic, I wrote a blog post for the Andrew & Renata Kaldor Centre for International Refugee Law on how border closures may affect people's international human right to seek asylum (Ogg, 2020). Soon after, I was contacted by a travel journalist who had read the blog and wanted an international human rights law perspective on Australia's COVID-19 border closures and travel restrictions. He was not interested in the impact of these laws and policies on refugees but, instead, wanted to know about the human rights implications for 'ordinary Australians'. I provided a brief opinion in between lockdown homeschooling and Zoom lecturing and did not think much more about it.

Those few quotes in a travel magazine I had never heard of triggered an avalanche of media requests. I received numerous requests from journalists each week asking for an 'international human rights law perspective' on Australia's COVID-19 domestic and international travel restrictions. These requests came from diverse sources. I spoke to many local and rural radio stations as well as one of Australia's main national radio programs. I was asked to give a live televised interview for a national news program. I was interviewed by the BBC about 'fortress Australia'. Even *Public Accountant Magazine* (the official journal of the Institute of Public Accountants) wanted an international human rights law account of Australia's domestic and international travel restrictions in relation to COVID-19.

I had mixed feelings about the media's sudden interest in international human rights law. Australia's relationship with human rights law is complex and a comprehensive discussion is beyond the scope of this chapter. Australia does not have a constitutionally entrenched bill of rights or a comprehensive national human rights framework. As a scholar who has published on refugee law, I have occasionally been approached by the media to discuss a refugee case before the courts or developments in migration law and policy. However, these requests are infrequent, and most journalists have been more interested in domestic legal frameworks as opposed to an international human rights law perspective. While I was pleased that international human rights law was becoming a part of the national conversation on the pandemic response, it made me question whether the media's fixation on human rights was self-interested. One of the main arguments against Australia adopting

a national human rights framework is that Australia's legal system already works perfectly to protect rights. This argument is met with derision from many people who have experienced marginalisation and discrimination. For example, Behrendt (2003, p. 257) has written:

> When I hear people talk about how well our legal system works I can feel a great chasm between what their experience with our laws are and what those of my own family are.

Perhaps the increased media interest in human rights law was due to the fact that, for many Australians, the COVID-19 pandemic was the first time they had directly experienced what they felt to be an unacceptable encroachment on their personal freedoms. Could these experiences lead to a greater understanding of and solidarity with people who have endured much more grave human rights violations, such as refugees? These questions kept lingering.

As the pandemic continued, I became increasingly alarmed about the situation of 'stranded' Australians and both perplexed and aghast by the lack of sympathy and support they received from different sectors of society. With one exception (returns from India for two weeks in April and May 2021), Australian citizens and permanent residents were always legally allowed to return to Australia. However, the imposition of incoming passenger travel caps and hotel quarantine meant that tens of thousands of Australian nationals were essentially locked out of the country (Senate Select Committee on COVID-19, 2022). The cap on the number of people permitted to travel to Australia meant that it became very difficult to purchase airline tickets (Jefferies et al., 2021). For those who did manage to secure a ticket, flights were often cancelled and economy passengers were regularly bumped off flights (Jefferies et al., 2021). From some locations, it was only possible to travel to Australia by purchasing a first or business-class ticket or multiple tickets in case of cancellations (Evershed, 2021). For many Australian citizens and permanent residents, the exorbitant costs of airline tickets and hotel quarantine were prohibitive (Jefferies et al., 2021). At most times during these travel restrictions, between 30,000 and 40,000 Australian citizens and permanent residents were registered with the Department of Foreign Affairs and Trade as wanting to return to Australia (Senate Select Committee on COVID-19, 2022). Many faced situations of extreme vulnerability and hardship. Some had their visas expire, meaning they had no lawful right to remain in the country in which they were staying, some became homeless, some could not access essential medicine

and healthcare, some lost all savings and income, and family members were separated meaning that essential care could not be provided (Ali et al., 2022; McDermid et al., 2022; Oster et al., 2022).

While the media reported on the plight of 'stranded' Australians and some politicians championed their return, there was a lack of outrage among the general public, a lack of leadership by human rights bodies and a lack of vocal dissent by public commentators (Simic & Ogg, 2023). There were no organised protests and many Australian residents expressed support for the border restrictions and blamed 'stranded' Australians for travelling overseas in online media commentary (Simic & Ogg, 2023). Human rights organisations provided clear and comprehensive information on many aspects of COVID-19 policy but advice on travel restrictions and border closures was brief and misleading (Ogg & Simic, 2022). I was surprised that there were few public commentators and few scholars who openly challenged and critiqued Australia's travel restrictions and border closures. Perhaps the one exception to this was when the federal government temporarily banned people who had been in India from returning to Australia. This prompted accusations of racism and racial discrimination from well-known media commentators, sports personalities and human rights lawyers (Simic & Ogg, 2023).

My reaction to the situation faced by Australians stranded overseas was informed by my background in refugee law. By putting in place policies that inhibited Australian citizens and permanent residents from returning, Australia was certainly in breach of international human rights law (in particular, a person's right to return to their country of nationality, which is discussed below). But, more fundamentally, by being unable to return to their homeland, many of these 'stranded' Australians were deprived of the sociopolitical frameworks that are essential to be able to live safely and with dignity. Refugee law's theoretical underpinnings recognise the need for a state-citizen-territory nexus. Harvey (2013) explains that the 1951 United Nations Convention Relating to the Status of Refugees ('Refugee Convention') provides a response to Arendt's polemic of refugees being beyond 'the pale of law'. Being beyond the pale of law does not mean that refugees are victims of the law's punitive effects but that no law exists for them. A refugee can be understood as a person who is outside of their homeland and no longer has the protection of that nation-state. The remedy they are entitled to in international law is surrogate state protection in another state (Hathaway, 1991). Far from presenting a challenge or alternative to the global nation-state system, refugee law's role is to insert the

refugee back into the state-citizen-territory nexus (Harvey, 2013). In other words, international refugee law recognises that all people need access to the territory of a nation-state that will provide for essential needs and protect essential interests. The Refugee Convention does this by providing refugees with 'the ghostly substance of citizenship' (Harvey, 2013, p. 88). To be clear, I am not suggesting that Australians unable to return home during the COVID-19 pandemic were refugees within the meaning of international law. Instead, due to their inability to return to their country of nationality, the citizen-state-territory bond had been severed. This left many without vital legal protections, inhibited access to essential services such as healthcare and medicine, and fractured familial relationships.

As the pandemic continued into 2021, growing numbers of people became domestically stranded due to state border restrictions. For example, pursuant to Queensland's July 2021 border direction, most people who wished to enter Queensland (including Queensland residents returning from other parts of Australia) were required to apply for a Queensland Border Declaration Pass, enter the state at a designated airport and undertake hotel quarantine at their own cost. The Queensland border did not open until 13 December 2021. From July to December 2021, thousands of Queensland residents were unable to return home because they could not afford hotel quarantine and airline tickets (Ogg & Simic, 2022). Many of those with the means to pay for flights and hotel quarantine found themselves stranded due to delays in processing entry pass applications and lack of quarantine places (Ogg & Simic, 2022). A similar situation occurred in Victoria as a result of the Victorian government's decision to restrict travel across its border in July 2021 (Victorian Ombudsman, 2021). Again, there was a lack of compassion from many politicians and public sector actors and a lack of leadership from the human rights sector (Ogg & Simic, 2022).

My reaction to these situations of domestic displacement and the level to which they were accepted was also informed by forced displacement law and theory. Those who are displaced within their own country are not refugees. A person can only be a refugee, and thus entitled to surrogate state protection, once they are outside their country of origin or habitual residence. However, those who are displaced within their own country often are in similar situations to refugees. Due to being unable to return to their communities and ordinary place of residence, they often have difficulties accessing housing, work, education and healthcare and can be separated from family members. Tuitt (2004) argues that IDPs are, similar to refugees, beyond the pale of law in the Arendtian sense – they remain within their

homeland but they often lack state protection. IDP law attempts to preserve or rebuild the state-citizen-territory relationship by preventing displacement, outlining special protections owed when a person is internally displaced and bringing an end to displacement (Kälin, 2008). Against this theoretical background, I understood that those who could not return to their homes, sometimes for months on end, were not merely inconvenienced, but had been cut off from vital safety nets and from everything that makes life worth living.

While I thought I understood the predicaments faced by those internationally and domestically displaced, reading a reflective piece by Associate Professor Olivera Simic about her experience of Australia's COVID-19 border policies revealed a layer of trauma the depths of which I have never experienced. Simic (2021) writes powerfully about the intersections between her experience of war and being a migrant in Australia and her inability to reconnect with family during the pandemic. As a legal scholar and transitional justice expert, Simic has traditionally focused on human rights violations in post-conflict countries rather than liberal democracies such as Australia. At first, we did not quite know where our research would lead us, but we were adamant that people's experiences of international and domestic border restrictions had to be documented and framed in a manner that underscored the gravity of the harm endured.

International perspectives on forced displacement in the Australian context: Emerging research

In light of the above discussion, it is perhaps unsurprising that scholars with expertise in refugee studies, statelessness, citizenship and displacement have led the scholarly analysis of the legal validity of Australia's international border restrictions. Jefferies et al. (2021, p. 224) describe Australia's COVID-19 international border restrictions as giving rise to 'arbitrary, functional exile' for 'tens of thousands of Australian Citizens and permanent residents'. They examine the right to return under domestic and international law and make a compelling argument that Australia's travel caps 'constituted an arbitrary restriction on Australians' right to come home' (Jefferies et al., 2021, p. 223). Simic and Rubenstein (2022) similarly examine Australia's international border restrictions from a domestic and international law perspective. They directly address the tension between states' public health

obligations and rights to freedom of movement and conclude that the measures Australia put in place to protect public health eroded fundamental rights and freedoms.

McAdam's research on disaster evacuations directly brings an international forced displacement lens to Australian law and policy. McAdam (2022) focuses on the evacuations that occurred during the 2019–20 bushfires and 2022 floods in northern NSW and Queensland. She argues that the evacuees were IDPs with rights and entitlements under international law, even though evacuees in Australia and elsewhere are rarely considered IDPs and evacuation law and policy in Australia rarely references international human rights. McAdam (2022, p. 1332) argues that, by failing to recognise that people evacuated from natural disasters are IDPs:

> current domestic frameworks pay insufficient attention to protection needs that may arise – particularly for groups that may find themselves in vulnerable situations, such as children and people with a disability, and for people whose displacement becomes prolonged.

McAdam highlights that international law on internal displacement addresses these protection needs and offers an accountability framework. McAdam (2022, p. 1332) suggests that if 'law and policymakers were to consider the needs of evacuees through this lens, they could confront protection gaps head-on and thereby enhance the promotion of people's rights, wellbeing and recovery'.

In my research with Simic, we argue that those unable to return home due to state border closures were IDPs within the meaning of international law (Ogg & Simic, 2022). Bringing an international internal displacement law perspective to Australian pandemic law and policy exposes Australian legal and political actors' flawed and rudimentary approach to human rights proportionality analysis. Focusing on Queensland, we highlight that the Queensland government failed to consider the prospect of internal displacement when introducing laws enabling border closures. The government also took the position that public health objectives meant that freedom of movement rights could be forsaken whereas the approach provided by international internal displacement law is much more nuanced. International internal displacement law would not go as far as absolutely prohibiting any law or policy that caused displacement but would require that protections be put in place to reduce the incidence, arbitrariness and length of displacement, and that special protections and processes be put in place for children, indigenous persons and those with significant health

care needs. Importantly, our research shows that international internal displacement law can inform existing laws and processes in Australia. Thus, some strengthening of human rights protection in relation to internal displacement can be achieved without the need to change existing laws.

In our analysis of public accounts written by 'stranded' Australians, Simic and I observed another connection between forced displacement scholarship and Australians' COVID-19 experiences (Simic & Ogg, p. 2023). Common themes that have emerged from these public accounts indicate an erosion of trust in government, a sense of betrayal by public authorities, a feeling of disconnection from fellow Australians and a sense of no longer having a 'home'. These tropes mirror findings on the consequences of displacement in transitional justice studies. While displacement within and across borders is a common aspect of conflict and mass atrocities, it remains an under-examined topic in the field of transitional justice. Nevertheless, there is a small body of literature that focuses on the relationship between transitional justice and displacement (see e.g. Bradley, 2013; Duthie, 2011; Harris Rimmer, 2010). This body of scholarship underlines the enduring role of the nation-state system for the protection of human rights, human security and a sense of identity, and emphasises that displacement results in a breakdown of the state–citizen social contract. Scholars of displacement and transitional justice highlight the need for processes that rebuild these sociopolitical connections (see e.g. Duthie, 2011). We highlight in our research that many displaced Australians report that the experience of displacement has fundamentally and, perhaps irrevocably, changed their relationship with their family, friends, communities and Australia more broadly (Simic & Ogg, 2023). Thus, displacement was not just a 'bad experience' from which people could eventually recover but, instead, was for many a life-changing experience. We suggest that understanding how sociopolitical connections can best be rebuilt is an important and pressing issue for Australia to address in the post-pandemic era. We outline the potential role of a 'people's inquiry' in addressing these objectives. Demonstrating the connections between pandemic and disaster displacement, the Citizen's Inquiry into the 2019/2020 Australian Bushfires (Australian Peoples' Tribunal, 2021) may provide a model for citizen-led transitional justice mechanisms to address the causes and consequences of displacement.

Another important research development prompted by Australia's COVID-19 border policies is a historical and legal project on Australia's medico-legal border practices during COVID-19 and previous pandemics. Jefferies et al. (2023) are examining Australia's laws and policies regulating

human movement during COVID-19, the 1918–19 influenza pandemic and early twentieth-century smallpox outbreaks. In one of the first publications arising from this project, they observe that:

> human movement during pandemic times in Australia has been regulated in a manner that sees mobility as a risk to public health capable of mitigation through the strict enforcement of borders as a technology of both confinement and exclusion.
>
> (Jefferies et al., 2023)

There is some research on the human consequences of Australia's international travel restrictions. Existing research has a health, wellbeing and economic focus (Ali et al., 2022; McDermid et al., 2022; Oster et al., 2022). Simic and I are continuing our research on COVID-19 displacement through qualitative interviews with people affected by Australia's international and domestic travel restrictions. We are examining the sociopolitical consequences of displacement abroad and internally within Australia. This research is continuing. Below, in outlining a research agenda for Australia and forced displacement, I discuss some of our preliminary findings.

Internal and forced displacement in Australia: Unexplored issues and global contributions

As the above discussion indicates, the application of internationally developed legal and normative frameworks on forced displacement to the Australian context is a fledgling scholarly endeavour being led by scholars with a refugee studies background. This new direction in research has the potential to bring new perspectives to intractable injustices, provide crucial insights on current national law reform initiatives and make significant contributions to global scholarly debates and international policy priorities.

One salient question is the extent to which internationally developed legal and normative frameworks addressing forced displacement can and should be applied to historic and continuing injustices faced by First Nation Australians. These include the forced displacement of First Nation Australians from their lands, communities and families during the Frontier Wars (Reynolds, 1982) and the Stolen Generations (Australian Human Rights Commission, 1997), the contemporary closures of First Nation communities (Pugliese, 2015) and high levels of First Nations children in

state care (Davis, 2019). Bringing an international forced displacement law lens to analyse these historic and contemporary injustices is an endeavour not without controversy. Scholarship by leading Australian First Nations legal scholars indicates an uneasy relationship with international law (see e.g. Watson, 2016). International law can be both a Western and colonial construct but also a space in which to resist continuing colonisation (Watson, 2016). Yet, there are important intersections between international law on internal displacement and international human rights of indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples, in particular protections against forced removal from traditional lands and forcibly removing children, has developed international law relating to internal displacement (Kälin, 2008). The fields of migration studies and forced migration and displacement studies have developed without the inclusion of First Nation perspectives (Dauvergne, 2021a). A First Australians–led project of this nature would make important contributions to both national and international literatures on indigenous human rights and forced displacement.

One issue on which Australia could take a leading global role is legal and policy responses to internal displacement associated with events such as bushfires, droughts, floods and cyclones. McAdam (2020) highlights that the position of evacuees is underdeveloped in global forced displacement literature. Australia has a long history of these types of events and has the resources and infrastructure to continually improve preventative measures and disaster responses. The reforms McAdam (2022) outlines, if taken up, could inform other states' law and policy agendas as well as the development of international forced displacement legal and normative frameworks in the context of events that are traditionally referred to as 'natural' disasters, which will increase with climate change. Human rights bodies such as the Australian Human Rights Commission and state and territory human rights bodies can take the lead by advocating for these reforms and placing these issues within a human rights framework. In 2022, the office of the UNHCR along with others published a handbook for national human rights organisations that provides guidance on protecting IDPs (UNHCR et al., 2022). The handbook provides numerous examples of how national human rights bodies across the world are advocating for and protecting IDPs, but there is little discussion of initiatives with respect to disaster evacuees.

Another global research question on which an Australian study could provide valuable and unique perspectives is the extent to which lived experiences of displacement, especially with respect to citizens and residents

of high-income countries, change attitudes towards refugees. An interesting pattern emerging from the interviews Simic and I are conducting with displaced Australians is shifting levels of engagement with, and compassion for, refugees in Australia and Australia's offshore processing centres. Some of our interviewees were already critical of, and politically active with respect to, Australia's treatment of refugees and their experience of displacement did not change their views. However, many of our interviewees reported that prior to becoming 'stranded' or separated from stranded family they were either unaware of or neutral towards Australia's refugee laws and policies. Their experience of displacement made them more aware of the challenges refugees face, aroused in them more compassion towards refugees, prompted them to change their political views on refugees and made them more open to becoming politically active with respect to resisting and critiquing Australia's treatment of refugees.

One of the pushbacks that researchers applying a forced or internal displacement lens to the Australian context may face is an assumption that such an endeavour is not worthwhile because there are greater displacement problems elsewhere. One of the reviewers for the article Simic and I wrote on internal displacement in Australia during the pandemic (Ogg & Simic, 2022) said:

> I'm not sure when put in the context of either other debatable human rights implications of Australian asylum/migration policy, or the global challenge of internal displacement, that this case study justified the lengths to which the article goes to construct a legal framework/analysis.

This is despite the article highlighting that some people died as a result of displacement, people were rendered homeless, cancer patients and pregnant women could not access vital medical treatment, and very young children were separated from their parents. There is no question that the scale of displacement is much greater in other countries and, in particular, in lower- and middle-income countries (see UNHCR, 2022). However, this does not render the challenges faced by Australian residents insignificant or unworthy of scholarly resources and attention. The development of the assumption that internal displacement is a 'Global South' problem is an issue ripe for critical analysis. In our article, we highlight that while the UNHCR's statistics indicate that there are no IDPs in higher-income nation-states, the Internal Displacement Monitoring Centre takes a different approach and counts bushfire victims in Australia and the United States as IDPs (Ogg & Simic, 2022).

Along similar lines, one interesting new research development is the application of internal displacement legal and normative frameworks to those who have fled family violence (see Bowstead, 2015). No country is free from family violence and yet there has been a tendency in refugee and human rights law to frame the issue as one predominately associated with non-Western cultures (Crawley, 2022). Further, refugee and forced displacement law has been slow to respond appropriately to gendered violence (Dauvergne, 2021b). Against this background, there are a number of important questions for research. Do existing internal displacement frameworks adequately address displacement associated with family violence? Were family violence victims considered in debates on the development of internal displacement law? If family violence victims can be considered IDPs, what does this mean for how we conceptualise internal displacement as a global phenomenon? What are the intersections between family violence displacement and other forms of displacement? An Australian perspective on the last question would be particularly valuable given Australia's history of disaster displacement and experience of displacement during the COVID-19 pandemic.

Studies of forced displacement of citizens or residents of higher-income countries such as Australia could also contribute to theoretical understandings of displacement. Two central themes in forced displacement research are 1) the fundamental importance of having a place in the world and 2) intersecting vulnerabilities in displacement contexts (Tuitt, 2004). The number of people displaced in Australia during the COVID-19 pandemic pales in comparison to the numbers of displaced people in other parts of the world. Also, the length of displacement (for some a few weeks or a few months and only in exceptional cases more than a year) is far shorter than the protracted displacement situations witnessed in other nation-states (see UNHCR, 2022). Australians who became displaced during the COVID-19 pandemic most probably had more safety nets than most other people experiencing displacement. For example, as residents of a higher-income nation, many were likely to have some financial savings or assets or may have been able to rely on friends and family. Nevertheless, accounts of Australians' experiences of COVID-19 displacement demonstrate how access to one's home and country is fundamental to rights enjoyment and how quickly a person or family can descend from relative comfort to destitution and despair when forcibly displaced (Ogg & Simic, 2022). A longitudinal study of those displaced in Australia during the COVID-19 pandemic and overlapping bushfires and floods would make salient contributions to understanding the longer-term consequences of displacement.

Finally, it is imperative that Australian experiences of displacement feed into the current debate on human rights protections in Australia. The Australian Human Rights Commission (2022) is pushing for the adoption of a federal human rights act and the attorney-general of Australia commissioned a review of Australia's human rights framework (Dreyfus, 2023). There are a few consistent perspectives arising in the interviews Simic and I are conducting with displaced Australians. One is that all of the interviewees have prefaced their story with some type of qualifying statement such as 'I know that I am luckier than others' or 'I understand that my situation is not as bad as other people's'. Second, all the interviewees understood and supported the need for some border restrictions to be put in place to prevent and reduce the spread of COVID-19. However, they objected to the rigid and arbitrary manner in which the restrictions operated and the length of time for which they continued. Third, they all spent extensive amounts of time and energy navigating complex public and private bureaucracies in order to return home or access essential services such as welfare and medicine. They felt that state, territory and federal governments provided inadequate assistance and were apathetic to their plight.

These three consistent themes raise important insights for the future development of human rights law in Australia. First, while it is important for any human rights framework to address issues such as torture and slavery, human rights have a role not just in preventing atrocities but also in enabling people to live safe and meaningful lives. A lot of our interviewees were uncomfortable using human rights language because they felt that they were more privileged than others in many ways. A reconceptualisation of human rights and their role in everyday life is much needed. Second, we need much more rigorous and nuanced understandings and applications of proportionality in human rights contexts. We need to find ways to more appropriately balance competing needs and interests as opposed to the utilitarian approach of sacrificing the lives and livelihoods of a minority to protect the majority. Third, Australia needs accessible and meaningful human rights remedies. One of the reasons why the federal, state and territory governments provided minimal assistance to displaced Australians was most probably that the prospect of a successful legal challenge to the border restrictions was unlikely. A reimagined national human rights framework should not only make human rights justiciable but also provide dispute resolution options for those who do not want to or cannot litigate.

Conclusion

Forced displacement is not a new phenomenon in the Australian context. However, the analysis of Australian law, policy and experiences through the lens of internationally developed forced displacement legal and normative frameworks is a novel research development that emerged during the overlapping disasters associated with the COVID-19 pandemic, bushfires and floods. In this chapter, I have identified key issues to be explored in forced displacement research focusing on Australia. Continuing this research agenda will not only address the lacuna of knowledge with respect to forced displacement in Australia, but also has the potential to contribute to global knowledge and debates and, on some issues, position Australia as a leader in law and policy reform addressing displacement.

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