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# Detering the 'Boat People': Explaining the Australian Government's People Swap Response to Asylum Seekers

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# Deterring the ‘boat people’: Explaining the Australian government’s People Swap response to asylum seekers

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This article examines why Australia has taken a tough stance on ‘boat people’, through an analysis of the Malaysian People Swap response. The findings support the view that populism, wedge politics and a culture of control drive Australia’s asylum-seeker policy agenda. The article further argues that these political pressures hold numerous negative implications for the tone of Australia’s political debate and the quality of policy formulation, as well as for asylum seekers and refugees themselves.

**Keywords:** asylum seekers; Australia; People Swap

## Introduction

Over the last two decades, the Australian government has taken an increasingly firm stance towards asylum seekers who attempt to reach Australia by boat. One of the most aggressive government responses to the increase in asylum seekers in recent years was the Malaysian ‘People Swap’, formed through a bilateral agreement signed on 25 July 2011 by Australia and Malaysia. Under this arrangement, the first 800 asylum seekers to arrive in Australia by boat were to be transferred to Malaysia, in return for Australia accepting 4000 refugees from Malaysia. The People Swap faced many obstacles. In August 2011, the High Court of Australia declared the policy unlawful – in a successful challenge launched on behalf of two asylum seekers facing deportation under the arrangement – on the basis that Malaysia was not legally bound to provide the asylum seeker the protections required under Australian law.<sup>1</sup> In response, Julia Gillard’s Labor government twice attempted to pass legislative amendments – in September 2011, and in June 2012 – to circumvent

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<sup>1</sup>*Plaintiff M70/2011 v Minister for Immigration and Citizenship; Plaintiff M106 of 2011 v Minister for Immigration and Citizenship*. (2011). HCA 32.

the High Court ruling, and allow for the implementation of the People Swap. Despite the concerted efforts of the government, on both occasions it was unsuccessful.

To contextualise the People Swap response, we can trace four waves of ‘boat people’ (or ‘irregular maritime arrivals’, as they are formally known). The first ‘wave’ of arrivals, from 1976 to 1981, was a relatively small cohort who came mainly from Vietnam. The Australian public initially received this wave with empathy, but a negative public reaction to the small numbers of ‘boat people’ soon began to grow. As the number of arrivals increased from 1989 to 1998, a greater frequency of detention over longer periods accompanied the second wave.<sup>2</sup> The issue of boat arrivals heightened even further during the third wave (1999–2001), which saw a significant increase in asylum seekers and was met with a stronger government response, characterised by the *Tampa* affair and the subsequent Pacific Solution (Betts 2001; Phillips and Spinks 2013).

The *Tampa* affair began in August 2001 when the Howard government refused the Norwegian-registered *MV Tampa* permission to dock on the Australian territory of Christmas Island after it rescued a sinking boat of asylum seekers at Australia’s request. A standoff ensued over the following days, until the government implemented a policy commonly known as the ‘Pacific Solution’. The Pacific Solution encompassed three key features.

First, the government excised certain territories – notably Christmas Island, Cocos Island and Ashmore Reef – from Australia’s migration zone, so that asylum seekers landing on these islands could not apply to Australia for refugee status. Second, the government granted the navy to interdict asylum seekers heading to Australia by boat. Third, it agreed with Nauru and Papua New Guinea (PNG) to establish detention centres for the processing of asylum seekers, thus establishing Australia’s system of offshore processing. Furthermore, this period witnessed the introduction of temporary protection visas (TPVs), granting up to three years for those ‘unauthorised’ asylum seekers who were found to be genuine refugees. After 2001, the number of asylum seekers arriving by boat dropped dramatically, with one person arriving in 2002, and an average of 57 people each year until Kevin Rudd’s Labor government was elected in 2007.

In 2008, the Rudd government honoured its election promise to take a more humane approach to asylum seekers and dismantle the Pacific Solution and TPVs. Another spike in asylum seekers followed, and the fourth wave (2009 to the present) of arrivals commenced: 2726 people arrived on 60 boats in 2009, a record 6555 came on 134 boats in 2010 and 4565 arrived on 69 boats in 2011 (Phillips and Spinks 2013).<sup>3</sup>

This period provoked a clear toughening of Labor Party policy and political discourse on asylum seekers, a shift on which this article focuses. Addressing the relative rise in boat arrivals on Australia’s shores soon became a policy imperative for parties on both sides of Australia’s politics, Labor as well as the

<sup>2</sup>Under the *Migration Amendment Act 1992* the Keating Labor government introduced mandatory immigration detention for asylum seekers arriving by boat. Prior to this, unauthorised boat arrivals were held in detention on a discretionary basis (Phillips and Spinks 2013: 12).

<sup>3</sup>There is a correlation between the asylum-seeker boat arrivals and Australian government policy, but the question of causation remains unclear. The debate over whether ‘push’ or ‘pull’ factors have driven the number of asylum seekers arriving in Australia by boat is beyond the scope of this article.

Coalition.<sup>4</sup> In particular, deterring the 'boat people' featured heavily in the 2010 election, which was preceded by the ousting of Kevin Rudd as prime minister, delivered a hung parliament and resulted in Julia Gillard leading a Labor minority government. In a speech at the Lowy Institute, Gillard urged voters to 'discuss the facts' on asylum seekers, yet she also reassured the public that 'it is wrong to label people who have concerns about unauthorised arrivals as "rednecks"', because 'expressing a desire for a clear and firm policy to deal with a very difficult problem does not make you a racist' (Gillard 2010). Mimicking the Pacific Solution, Gillard announced plans to open a 'regional processing centre' in East Timor,<sup>5</sup> providing the justification that East Timor was signatory to the Refugee Convention (Gillard 2010). As Megalogenis states, 'Labor governed by the conservative populist manual, [...] was cowed by Howard, and captured by the polls' (2010: 42).

Against this backdrop, and using qualitative and quantitative content analysis<sup>6</sup>, this article analyses the main explanatory variables that influenced the formation of the People Swap policy. We do so by categorising primary-source data into relevant emergent themes or statements in order to identify explanations or themes that account for government action. Where appropriate, we count words and concepts as a method to identify patterns and trends. We gathered data until saturation was achieved, and we used four primary sources: media releases, press conferences, House of Representatives legislative debates and Question Time – from 7 May 2011, when the People Swap was first announced, until 28 June 2012, with the government's final attempt to legislate the policy. The primary-source data include the transcripts of four government media releases, 10 press conferences, 2 parliamentary debates (each lasting over five hours) and 102 questions and responses relating to asylum seekers during Question Time. In preview, we suggest that three factors influenced the formation of the People Swap response: populist appeal; wedge politics and a culture of control.

### Populist appeal

Populism is an elusive idea that has proved notoriously difficult to define, but at its core populism involves vague appeals to 'the people' and an 'anti-elitist' sentiment (Canovan 1981: 294). For Hindess and Sawyer, populist public discourse in Australia is constructed through a binary 'us' and 'them' framework, where 'opposition to elites (them) often goes together with a claim to speak for ordinary people (us)' (2004: 1). As Johnson highlights (2004: 130–33), the Coalition's 2001 election catch-cry was indicative of this 'us' and 'them' construction: 'we will decide who comes to this country and the circumstances in which they come' (Howard 2001).

<sup>4</sup>The Coalition is a formal alliance between the Liberal Party of Australia and National Party of Australia. In this alliance, Liberal members have a numerical majority.

<sup>5</sup>This policy was not implemented as it did not have East Timor's support. The Australian government discussed the proposal with East Timor's president, but the Timorese parliament subsequently rejected the plan (Allard and Coorey 2010).

<sup>6</sup>We acknowledge that there are limitations in using this form of analysis to fully explain drivers of policy, political decisions and motives. Details of such strategies are 'seldom given accurately or detailed publicly' (Wilson and Turnbull 2001: 385), but we viewed content analysis as the most effective technique to scrutinise the government's justification for the policy and, in turn, to shed light on potential factors influencing the policy. Furthermore, there is strong precedent in using this methodology. For instance, McKay, Thomas, and Kneebone (2011) use thematic discourse analysis to better understand why the Australian public may hold particular views on asylum seekers.

For the Coalition, anti-elitism has proved a powerful rhetorical source. The clearest illustration of this was under John Howard, who sought to engage the non-elites who were characterised as ‘ordinary Australians’ and ‘Howard’s battlers’ (Cahill 2004: 91). Cleavages were constructed, with the elites rejected as something outside of the mainstream, while the ‘fears, resentments and insecurities’ of ordinary Australians were nurtured (Sawer 2004: 41). As Clyne states, the elites were perceived as ‘demanding unfairly generous treatment for the unworthy’ (2005: 190). With the public suffering ‘compassion fatigue’, Howard’s politics fostered a popular backlash against boat people, who were accused of trying to ‘exploit our compassion and generosity’ (Hage 2003: 7–8).

In much of the literature, national anxiety drives the populist backlash against boat people. Some have argued that national concern over Australian identity and a fear of invasion, grounded in the historical threat of being ‘swamped’ by Australia’s Asian northern neighbours, shaped the Howard government’s policies (Grewcock 2007: 178; McMaster 2001: 38–39; Papastergiadis 2006). Building on this theme, McKay, Thomas, and Kneebone (2011) argue that public opinion towards asylum seekers has been influenced by the perceived threat they pose to the Australian way of life, as well as the view that asylum seekers exploit Australia’s systems and processes. For Burke, the Howard government’s rhetoric about protecting the sovereignty and territorial integrity of Australia in the face of boat people represents an image of an ‘insecure, vulnerable Australian subject under perpetual threat’ (2001: 324). McNevin, who argues that the government’s tough policies are a counter-balance to Australia’s neo-liberal trend towards economic openness in recent decades, arrives at a similar conclusion: a ‘performance of political closure’ (2007: 622) aimed to address national anxieties over porous national borders.

Our findings suggest a continued prevalence of populist rhetoric through the Gillard government’s discourse on asylum seekers, although it was less overt than the language of the Howard era. Under Gillard the people smugglers, rather than asylum seekers, were demonised. People smuggling was not only framed by the government as being criminal, it was an ‘evil’ business, with its perpetrators depicted as predators, who ‘profit’, ‘trade’ and ‘prey’ on ‘human misery’, and the ‘desperation of others’. In order to deal with such ‘evil’, Gillard and the then-Immigration Minister Chris Bowen adopted aggressive language. The most common phrases were to ‘smash’ or ‘break’ the people smuggler’s trade, with terms such as ‘eliminate’, ‘tackle’ and ‘combat’ also being popular. The government used this terminology in media releases and press conferences during the reference period, but such language was largely absent from parliamentary debates. This indicates the public was the potential audience to which the demonisation of people smugglers was directed. Interestingly, not only did the government use simplistic language in these forums, it avoided the more elitist language associated with human rights and international obligations. Gillard was not perceived as being as in touch with the views of ordinary people as Howard, but her populist rhetoric may have been intended to align Gillard with the prevailing public mood.

It is significant that the Gillard government had replaced asylum seekers with people smugglers as the overtly demonised subject. This appears to have allowed the government to channel negative sentiment towards boat arrivals, yet distinguish Labor’s rhetoric from that of the Coalition. This was most evident in Gillard’s language following the High Court’s circumvention of the People Swap. She was careful to frame ‘boats’ as the problem, rather than the asylum seekers:

I believe it is very important, if we do see more boats, to separate in the community's mind, in all of our minds, the problem of seeing more boats from the people who are on those boats. It is not in my mind a question of blaming the people who are on those boats. (Gillard and Bowen 2011e)

Gillard, however, also attempted to appeal to mainstream Australia: 'we are at a real risk of seeing more boats, and I understand that will cause community anxiety' (Gillard and Bowen 2011e). Statements such as this offer support to the view that a national 'anxiety' drives Australia's negative response to boat people. Despite Gillard's qualification – that the boats, not the people on the boats, were the problem – her choice to appeal to potential 'community anxiety' served to legitimise the view that boat arrivals were a threat or cause for fear.

The findings highlight some noteworthy distinctions between the characterisations of asylum seekers during the Howard era and those under Gillard. The Labor government's rhetoric in relation to asylum seekers was, in part, more positive than a decade prior. Asylum seekers were no longer presented as a threat to family values and the Australian way of life, as Slattery (2003: 95) detected in her analysis of the 'children overboard' scandal. Rather, asylum seekers were commonly framed in a more sympathetic light, as people who were 'desperate' and the 'victims' of people smugglers. While no longer overtly demonised, asylum seekers arriving in Australia by boat nonetheless remained delegitimised through judgements made of their deservingness; they were implicitly framed as a 'problem'.

In all the primary sources we analysed, the Gillard government did not use the derogatory term 'queue jumpers' even once, but it often alluded to there being an orderly queue that asylum seekers should join. Indeed, a trumpeted benefit of the People Swap was that it sent the message: 'if you arrive in Australian waters and are taken to Malaysia you will go to the back of the queue' (Gillard and Bowen 2011a). They would also 'take their place alongside 90,000 asylum seekers and they will wait their turn' (Gillard 2011).

Despite there being no orderly queue, the government's rhetoric resonated with notions of fairness and, in turn, implied that asylum seekers who arrive by boat were less deserving of protection or even concern. In contrast, those refugees waiting in the 'queue' were depicted as deserving. Unlike 'boat people', those refugees in Malaysia had 'waited often for many years to get a chance at a new life and a new start in a country like Australia' (Gillard and Bowen 2011d). Appealing to the Australian ethos of a 'fair go', the government's suggestion that refugees were 'jumping the queue' resonated with, and may have fed, populist resentment. This is noteworthy as it demonstrated a continuation of the populist disapproval of boat people that was evident under the Howard government.

The juxtaposition of the terms 'genuine refugees' and 'irregular arrivals' appeared to further delegitimise asylum seekers who arrived by boat. Those arriving by boat were termed 'irregular', but refugees waiting offshore were described as 'genuine'.<sup>7</sup> This contrast depicted asylum seekers arriving by boat as less worthy, which in turn may have encouraged populist antipathy to their cause.

<sup>7</sup>We do not dispute that 'genuine refugees' is a correct description of the 4000 people who would be resettled in Australia under the People Swap; rather, the suggestion that asylum seekers who arrive by boat are not genuine refugees is problematic.



In our data set of press conferences, media releases and Question Time, the phrase ‘genuine refugees’ was mentioned 21 times during the reference period. These references were in relation to the 4000 refugees to be transferred from Malaysia. Those 800 asylum seekers to be sent to Malaysia, however, were not once described as refugees, let alone ‘genuine’ ones. They were instead labelled ‘irregular’, a striking contrast:

The arrangement provides for the transfer from Australia to Malaysia of up to 800 irregular maritime arrivals and formalises Australia’s commitment to accept 1,000 additional genuine refugees from Malaysia every year for the next four years. (Gillard and Bowen 2011b)

It is debatable whether these terms were used to bolster support for increasing the humanitarian intake (by emphasising that refugees chosen from Malaysia are ‘genuine’ and therefore deserving), or to justify sending 800 asylum seekers to Malaysia, or perhaps both. Gillard’s implicit judgement that boat people were less deserving of Australia’s compassion potentially represented an attempt to separate herself from those elites who ‘[demand] unfairly generous treatment for the unworthy’ (Clyne 2005: 190). As under Howard, populism continued to influence the asylum-policy agenda.

Finally, it is important to note that the Gillard government’s populist direction on asylum-seeker policy positioned Labor at odds with its previous stance on the issue. Indeed, the Malaysian People Swap was the manifestation of two policy backflips: first, on pursuing a policy of offshore processing and, second, doing so in a country not signatory to the Refugee Convention.

The Coalition did not miss this point, as was evident throughout the legislative debates we analysed.<sup>8</sup> Liberal MPs recalled how the introduction of the Pacific Solution and subsequent 2001 election drew accusations of ‘race baiting, that we were rednecks [ ... ] that we were without hearts, that we were dog whistling and that we were xenophobes or were playing xenophobic politics’ (*Hansard* 2011: 11208). Ridiculing the government, Liberal MPs reminded Bowen of his previously stated view, that ‘asylum seekers should be treated the same regardless of how they land’ (*Hansard* 2011: 11022). Similarly, former Immigration Minister Chris Evans was reminded of when he described the day the Pacific Solution was formally dismantled as his ‘proudest day in politics’ (*Hansard* 2011: 11188).

This is particularly significant since it demonstrates the extent to which Labor shifted its stance on asylum seekers under Gillard’s leadership. The consequence of this was the convergence of Labor’s approach to ‘boat people’ with that of the Coalition. For the Australian government, deterrence seemingly became paramount – regardless of which party was in power.

### **Wedge politics**

Wedge politics is ‘a calculated political tactic aimed at using divisive social issues to gain political support, weaken opponents and strengthen control over the political

<sup>8</sup>During the Offshore Processing Bill debate, the opposition emphasised Labor’s backflip on offshore processing; during the Bali Process Bill debate, the focus shifted to Labor’s backflip on the Refugee Convention.

agenda' (Wilson and Turnbull 2001: 386). In doing so, wedge politics takes 'advantage of issues or policies that undermine the *support base of a political opponent*' (Wilson and Turnbull 2001: 386, emphasis in original). Two key tactical advantages arise from the strategy. First, by tapping into populist sentiment over a divisive social issue, a political party can attract support from its opponent. Second, the 'wedged' party is consequently forced to either 'distance itself from unpopular causes or face political marginalisation' (Wilson and Turnbull 2001: 386).

The populist nature of the asylum-seeker debate has allowed wedge politics to flourish. A likely corollary of this was the People Swap. The debate surrounding the People Swap demonstrated not only how wedge politics could be used as an effective political strategy – in this instance by the Coalition – but also the impact that this could have on the policies of the wedged political opponent, in this case the Gillard government. The findings that provide some support to this contention are twofold. First, analysis of the Coalition's rhetoric and policies<sup>9</sup> suggests that wedge politics may have been used against the government for political advantage. Second, the government's reaction to the asylum debate may also support this view.

With the Gillard government's political base divided over the issue, it seems the People Swap was an attempt to balance the competing interests of its mainstream and elitist constituencies. In the words of Rudd (2010), the People Swap was a manifestation of Labor's 'lurch to the right' on the issue of asylum seekers, in a bid to rein in its suburban working-class voters. The most persuasive evidence of this is found in Labor's two major policy backflips that surfaced during this period: first by introducing an offshore processing policy at all, then by doing so in a nation not signatory to the Refugee Convention. Considering that this shift made Labor vulnerable to losing its elitist progressive voters to the 'left' – notably to parties such as the Greens – Labor's concurrent emphasis on the People Swap's humanitarian benefits may indicate a desire to appease such liberal voters.

Our findings suggest that the Coalition may have used the divisive issue of asylum seekers to drive a 'wedge' through Labor's political support base. Deciphering political intent is problematic and open to conjecture, but the opposition's rhetoric and contradictions suggest that the Coalition may have exploited the asylum-seeker debate for political advantage. Wilson and Turnbull note that 'resentments and antipathies towards minorities' (2001: 386), in this case asylum seekers, do not form in a vacuum. Accordingly, the wedge politics at play over the People Swap should be understood as a continuation of the political climate established under Howard.

Two key patterns emerge from the empirical evidence to support this claim. First, Coalition MPs tended to criticise the People Swap for being a 'five-for-one deal'. Using a simplistic metaphor with populist overtones, Liberal MP Don Randall illustrated why offering protection to more refugees was a bad idea:

Walk through your shopping centres and ask anyone if they think the five-for-one swap is a good deal. The government then said to Malaysia: 'have we got a deal for you. We'll take 4,000 of yours at great expense, and at a great expense we'll give you 800 of ours and we'll pay for the lot. Guess what? We think that's a good deal'. (Hansard 2011: 11202)

<sup>9</sup>We limit our analysis of the Coalition's rhetoric and policies to the discourses encompassed in the parliamentary debates and Question Time; the Coalition's political strategies are beyond the scope of this article.



Abbott argued that swapping 800 people for 4000 was a ‘bad deal’ and a ‘dud deal’, as ‘no serious, self-respecting country would allow itself to be a dumping ground for other countries’ problems’ (*Hansard* 2011: 11165). Such rhetoric fits with Wilson and Turnbull’s observations that wedge politics involves ‘linking political opponents’ with the ‘unpopular or stigmatised social issues or groups’; in this case, linking Labor with the ‘elitist fashion’ of refugee protection (Wilson and Turnbull 2001: 385).

A discernible shift occurred partway through the reference period. The ‘five-for-one deal’ line of attack was common among Coalition MPs in the months following the initial policy announcement, but towards the end of the reference period they scarcely mentioned it.<sup>10</sup> Instead, the Coalition began to reject the People Swap for betraying refugee rights, with the debate transforming into one where offshore processing policies were contested on humanitarian grounds. Not only did these criticisms expose the rift in Labor’s political base, the conflicting nature of the Coalition’s objections suggests that they were the product of political tactics, rather than principle.

Second, wedge politics was seemingly at play due to the use of the Refugee Convention in political discourse. The question of whether offshore processing should be permitted in nations that were signatory to the Refugee Convention was one that has featured heavily across our sources. For instance, the Refugee Convention was mentioned 97 times during the Offshore Processing Bill debate, 102 times during the Bali Process Bill debate and 89 times across the entire Question Time reference period.

Long before it signed the Refugee Convention, Nauru was a proud feature of the Coalition’s Pacific Solution (Flynn and LaForgia 2002; Mathew 2002). As Abbott boasted: ‘We invented offshore processing. We have the patent on offshore processing’ (*Hansard* 2011: 11165). When Nauru acceded to the Refugee Convention in June 2011, however, the terms of the asylum debate shifted dramatically (Needham 2011; Packham 2011). The political debate could then be divided along the lines of whether to send asylum seekers to a nation signatory to the Refugee Convention, such as Nauru, or a nation that was not, such as Malaysia. In fact, both amendments the Coalition proposed – to the Offshore Processing Bill in 2011 and Bali Process Bill in 2012 – ensured that asylum seekers were sent to nations signatory to the Refugee Convention (*Hansard* 2011, 2012).

The Coalition’s seemingly delayed enthusiasm for the international treaty is important to note because it suggests that political opportunism may have driven the opposition’s approach. Moreover, the Coalition’s other asylum policies indicate that the opposition was not entirely motivated by sending refugees to non-signatory nations. This was most pronounced with Abbott’s policy of ‘turn back the boats’, which would involve the navy forcing boats to return to their port of origin – in most cases, Indonesia (Wilson and Vasek 2012). As Labor MP Laurie Ferguson said: ‘there are some in this House who say it is okay to send boats to Indonesia with no protections negotiated, but it is not okay to send planes to Malaysia with protections negotiated’ (*Hansard* 2011: 11248).

The Coalition’s full intent cannot be affirmed, but we argue that it may have used the Refugee Convention to exacerbate the rift between the toughening of Labor

<sup>10</sup>In the first two months after the policy announcement, the Coalition devoted almost a quarter of its allotted questions during Question Time to dismissing the People Swap for being a ‘five-for-one deal’, but Coalition MPs used this phrase just once in their 81 questions after this point.

policy, as encompassed in the People Swap, and the humanitarian concerns of Labor's liberal-left constituency. This, we posit, is theoretically interesting for the understanding of wedge politics. It diverges from the common use of the political tactic, where populist issues are used to gain political support by attracting votes from an opponent's base (Ward 2002: 29–32; Wilson and Turnbull 2001: 386). Instead, this form of wedge politics pursues policies that appeal to the more ideologically distant side of its opponent's political base. This is unlikely to attract such voters – although it may be possible – but rather exacerbates the wedge that has already been established. Thus, it fits Wilson and Turnbull's definition of the political strategy insofar that it 'weaken[s] opponents and strengthen[s] control over the political agenda' (2001: 36). With the People Swap, Labor was cornered. Eager to take a tough approach to asylum seekers, yet unwilling to adopt its conservative counterpart's exact policy of offshore processing on Nauru, Labor found itself continuing to pursue a policy in spite of the High Court and Parliament rejecting it.

### A Culture of control

We suggest that a 'culture of control' partly drives Australian immigration policy, and in turn, asylum-seeker policy. As Cronin (1993: 85) contends, 'Australia is truly the lucky country' in terms of its ability to manage its borders. Girt by sea and isolated in the southern corner of the world, Australia's geography has bestowed on the nation the ability to control who comes in and out of its territory, and under what circumstances. Subsequently, Australians are 'uncomfortable with *any* [boat people] arriving on their shores' (Marr and Wilkinson 2003: 30). The idea of control has become a fixation of the electorate, where the government offers 'control rhetoric and control solutions', while the opposition points to the government's 'control failings' (Cronin 1993: 87).

It was not until the late 1980s, in the second wave of arrivals, that the government's ability to control borders came under threat, prompting sweeping changes to Australia's immigration policy. The objective of these changes was to establish effective legislative mechanisms for managing immigration, functioning to curtail the increasing number of refugee claims and reduce judicial intervention.

On this point, Palmer (2008) has asked: 'why and to what purpose the quest for control?' Palmer highlighted the argument that maintaining a culture of control is essential for 'nation building'. As one minister argued:

I can understand people say there is a culture of control, but [...] you can only conduct good immigration policy and good refugee policy if you are able to manage your borders. (quoted in Palmer 2008: 311)

More specifically, as the number of asylum seekers arriving by boat increases, this produces a negative outcome for immigration policy as a whole, as 'public support for immigration of any kind is likely to fall' (Palmer 2008: 311).

This article argues that a culture of control is most pertinent when considering the paradox encompassed in the policy design: swapping 800 potential refugees for 4000 refugees. The lopsided nature of the People Swap suggests it is not so much the refugees that are the issue, but rather the circumstances by which they reach Australia. Unlike offshore refugees, onshore refugees enter Australia through the 'uncontrolled door', where the government cannot control the type of refugees it accepts, or the

number who arrive (Lopez 2003: 53). As Crock (1998: 67) highlights: ‘asylum seekers represent a direct threat to the orderly conduct of a migration programme because they come uninvited and yet mandate consideration’, as a result of Australia ratifying the Refugee Convention. The People Swap was an attempt to remedy this. By using deportation to Malaysia as a deterrent, ‘control’ could be restored to the Australian government.

Labor MP David Bradbury adopted this argument in his speech about the Offshore Processing Bill. He was one of few Labor MPs who alluded to a culture of control, but his words provide an interesting insight. Defending the People Swap, he framed the policy as in harmony with ‘Labor values’ and the party’s ‘history and tradition’. Consistent with the logic of the People Swap, Bradbury drew comparisons with Labor governments that welcomed large groups of immigrants, yet opposed any uncontrolled arrivals of asylum seekers by sea:

That is why Gough Whitlam would, on the one hand, resist Vietnamese boat arrivals but, on the other, dismantle Australia’s White Australia Policy. That is why Bob Hawke embraced thousands of Chinese students post-Tiananmen Square but resisted boat arrivals from Cambodia. That is why the Keating government could champion multiculturalism like no other government before it but, at the same time, introduce mandatory detention. (*Hansard* 2011: 11253)

Australia was ‘prepared to embrace and welcome an extra 1000 refugees each year’, but Bradbury said this was contingent on whether the government could ‘insist upon the ability to exercise some control over the flow of people’ (*Hansard* 2011: 11254). Interestingly, Bradbury argued that control was necessary for maintaining the success of Australian multiculturalism. At first glance, restricting certain groups of asylum seekers from protection in Australia may seem to run counter to fostering multiculturalism. This logic, however, is consistent with that noted by Palmer (2008: 311), who highlights a rationalisation as to why maintaining control is necessary – if numbers of asylum seekers increase, public support for any type of immigration is expected to decrease.

The People Swap seemed to be an attempt by the Gillard government to offer ‘control solutions’ to perceived ‘control failings’, but the use of ‘control rhetoric’ was less apparent in the primary sources. This may suggest a desire on the part of the government to differentiate itself from the Coalition’s talk of control, characterised by Howard’s (2001) election platform of ‘we will decide who comes to this country and the circumstances in which they come’.

When the People Swap came under pressure following the High Court judgement, however, the tone of the government’s rhetoric shifted significantly. In the first five press conferences Gillard and Bowen delivered, border protection was mentioned only once, with Gillard simply stating on 25 July 2011: ‘this agreement will better secure our borders’. In the final three press conferences (on 1 and 12 September and 13 October 2011, at both ends of the High Court challenge), however, border control featured more frequently. For example, on 1 September, Gillard assured the public ‘we’ve got more assets patrolling our border than we’ve ever had before’, and ‘we’ll continue to do everything that we do to patrol and protect Australia’s borders’. Gillard added that she was ‘concerned about what [the High Court case] means in terms of boats trying to make their way to Australia’, before repeating once more that the government will continue ‘patrolling and protecting our borders’.

(Gillard and Bowen 2011c). On 12 September, Gillard referred to the Keating government's formal introduction of mandatory detention in 1992, framing border protection as part of Labor's legacy:

We are a political party that has always been prepared to take the steps necessary to have border protection and to ensure that we had an orderly migration system. I refer you in that regard to the creation of mandatory detention by Minister Gerry Hand [ ... ] That is our heritage, that is who we are. (Gillard and Bowen 2011d)

Furthermore, Gillard suggested that 'this is not about the politics', but rather, it was about restoring the proper state of affairs: 'this is about Australia controlling our immigration settings and particularly government controlling our immigration settings' (Gillard and Bowen 2011d).<sup>11</sup>

The timing was significant because it may have indicated that Gillard chose to resort to border control rhetoric at a time when her government's policy was under heightened pressure. That the government opted to offer 'control rhetoric' and persist with its 'control solution', the People Swap, in spite of the High Court ruling, supports the view that a culture of control remains influential on the direction of asylum policy in Australia.

## Discussion and conclusion

We argued that populism, wedge politics and a culture of control were all explanatory factors behind the People Swap. The use of language shifted subtly when comparing the Gillard era to that of Howard, but at its core the policy debate remained the same. This has numerous, negative implications for the quality of Australia's political debate and policy formulation, as well as for asylum seekers and refugees themselves.

There is a nexus between populism, wedge politics and the increasing number of asylum seekers coming to Australia. These three dimensions appear to be mutually constitutive. As boatloads of asylum seekers increase, populist antipathy towards asylum seekers expands, as well as resentment of the government. With populist sentiment flourishing, wedge politics comes into play. This left the Gillard government politically weakened and lacking control over the political agenda in the case of the People Swap.

The dominance of populism and shrewd wedge tactics have implications for the quality of political debate in Australia. According to Wear, the 'pragmatic business of staying in power' debases political discourse, with politics portrayed as nothing but 'grubby business' (2008: 631). This was evident in relation to asylum seekers, with both major parties guilty of hypocrisy in the People Swap case. Despite the centrality of the Refugee Convention in parliamentary debates, it appeared to be nothing but a political tool. Labor once treated the convention as a necessary condition, but rejected the clause twice in Parliament. The Coalition only trumpeted the importance of the Refugee Convention after Nauru became a signatory, an enthusiasm incompatible with Abbott's 'turn back the boats' policy. Indeed, it appears that the insidious and pragmatic objective for both parties was electability, and in a populist climate this

<sup>11</sup>This comment also relates to tensions between the executive and judiciary, a further dimension of the 'culture of control' thesis.

had consequences not only for the tenor of the debate, but also the quality of policies pursued.

The prevalence of populism and wedge politics has consequences for asylum-seeker policy too. First, it pushes governments to create 'short-term and expedient policy making' (Wear 2008: 631). Such pursuit of a 'quick fix' was patently clear in the People Swap. An ad hoc trade, the People Swap was a short-sighted policy that neglected the more critical policy question of addressing the source of people movements. Second, with Labor matching the Coalition's tough approach, Australia has shifted to a trajectory where sending refugees offshore is the new norm. Offshore processing in nations such as Nauru, PNG or East Timor, its variant offshore 'dumping', and policies such as the People Swap or turning boats back to Indonesia, raises the question of whether Australia is doing its fair share to deal with what has become a global problem (Bailliet 2003; Brennan 2007: 13–16; Mares 2002: 4).

The culture of control may continue to influence Australia's response to asylum seekers, which has implications for asylum policy. First, the pervasive culture of control illustrates how control imperatives can trump economic and humanitarian concerns. A false expectation has emerged that the government can, and should, control all movements of people across Australia's borders. It is here that links emerge between a culture of control and populism in their influence on asylum policy. Asylum seekers challenge the view that the government controls exactly who may enter the nation, and by arriving by boat they do so in a visible way that can fuel public debate over the issue. An unfortunate consequence of this approach seems to have been the People Swap, a knee-jerk short-term policy response which, in the government's quest for control, pushed matters of refugee protection to the periphery.

Finally, in potentially influencing policies such as the People Swap, the explanatory factors of populism, wedge politics and a culture of control have stark consequences for asylum seekers and refugees themselves. There were substantial humanitarian benefits encompassed in the People Swap, notably that an additional 4000 refugees would be granted temporary protection. Yet what of those unlucky 800 would-be refugees sent to Malaysia to be an example? The Gillard government maintained that its arrangement with Malaysia would ensure that basic human rights standards were met, but the lack of any legal basis underpinning the deal detracted from the government's ability to make such guarantees. Reports highlighting the human rights abuses of non-citizens in Malaysia exacerbated this concern. Was this proposed trade-off worthwhile? For those asylum seekers attempting to reach Australia by boat, almost certainly the answer was 'no'.

The rationale for this harsh trade-off for some politicians seems to have been their electoral prospects. On this point, it is intriguing that on 6 July 2013, the newly appointed immigration minister, Tony Burke, admitted that the People Swap was not workable in its current form, and should be 'more comprehensive to cope with the challenge of people smuggling' (cited in ABC 2013a). On 19 July, newly reinstated Prime Minister Kevin Rudd announced his self-proclaimed 'hardline' deterrence policy. Under this arrangement, all asylum seekers who attempt to arrive in Australia by boat would be sent to PNG for processing and, if found to be a refugee, remain in PNG for resettlement; an effective bypassing of Australia (ABC 2013b). In the current political climate, it is hoped that the human rights of asylum seekers are not forsaken, notably on the eve of an election campaign.



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