DETERRENCE POLICIES AND ASYLUM SEEKERS: THE CASE OF AUSTRALIA

Abstract

The basic tenets of the international refugee protection regime, set out in the UN’s 1951 Convention and the 1967 Protocol, grant individuals the right to seek asylum, but do not provide for laws obliging signatory states to grant asylum. This inherent paradox allows signatory states ongoing manoeuvre to prevent would-be asylum seekers from accessing protection in their territories. To this end, countries of the global north have designed and implemented a range of harsh measures aimed at deterring onshore asylum seekers, and privileging border control over refugee protection. This paper examines the effectiveness of deterrence measures taken by Australia, taking into account that the key drivers of the asylum process are not always easily disentangled, as argued by politicians and policy makers, and as per prevalent popular understandings. It argues that deterrence measures are not only contrary to international humanitarian obligations, but obscure empirically grounded understandings of forced migration as a complex social phenomenon and as such are problematic in terms of meeting their publicly stated objectives of stopping on-shore asylum seeking in the long term.

Key words

Asylum Seekers, Refugee Protection, Border Protection, Australia, Asylum Policy, Deterrence, Sovereignty, Human rights
Introduction

The international refugee protection system is based on the legal precepts written into the United Nations Refugee Convention of 1951 and the Protocol of 1967. Signatory states share responsibility for processing asylum seekers’ claims worldwide and offering genuine refugees effective protection through this transnational system. The fact that this protection mechanism offers the right for individuals to emigrate and to flee persecution, yet it affords no corresponding, binding right for individuals to immigrate, creates a political and practical paradox for forced migrants. This paradox, though tempered by the concept of *non-refoulement*, affords the signatory states to which forced migrants apply for protection - mostly states of the global north - the possibility of trying to deter asylum seekers. Practically, this results in limiting access to states’ territories, or in cases where individuals reach these territories, denying them the right to determination processes and resettlement (UNHCR, 2010). Politically, the logic of deterrence ensures negative publicity for onshore asylum seekers, and frames popular debates about asylum seeking - a complex, global migratory phenomenon - within nationalistic terms. This paper seeks to explore and problematize this rhetorical aspect of the logic of deterrence; in particular, the effect that it has in informing public opinion and policy directions.

The paper starts with a brief overview of global statistical trends in recent years. It emphasizes the growing numbers of asylum seekers worldwide. In doing so, it highlights that forced migration is a complex, ubiquitous and historically informed social phenomenon that is driven by multi-dimensional factors. Mostly, the initial dynamics of particular forced migratory movements appear determined by push factors prevalent in countries of origin, such as conflict, and are largely autonomous from the immigration policies of wealthy states (often referred to as the pull factors). This is evident in the fact that the vast majority of the world’s displaced persons reside in non-signatory states of the global south.

The paper then explores broad trends in the political responses of wealthy states in the global north, which overall have instituted increasingly restrictive asylum policies that are anchored in the logic of deterrence. It looks at these trends within the global context and outlines the particular mechanisms used by wealthy states to deter
onshore asylum seekers. It then points to some of the popular political and policy issues that crop up as a result of the logic of deterrence and restriction at the border. For this logic necessarily develops against a backdrop of popular debates that negatively politicize asylum seekers, perceiving them foremost as a threat to sovereignty and national security. That is, debate around asylum seekers in countries such as Australia, draw on state-specific issues which serve to negatively politicize asylum seeking and depict it in the public forum, not as a complex, global social phenomenon, but one that is narrowly defined as inimical to nationally framed interests and surmountable if pursued purposefully at a domestic level.

Given the complex nature of migration, the paper explores the extent to which it is possible to approach asylum as a policy issue to be addressed in isolation from several other global determinants of forced migration. It problematizes the task of assigning causality in complex migration processes, and examines the extent to which such deterrence policies can engender tangible state control over asylum seeker arrivals in the long term. Then, taking Australia as a case study, it outlines the evolution of the country’s political response to forced migration, particularly asylum seeking. It explores whether the harsh and restrictive asylum policies of the Australian state impact upon its capacity to control the total number of asylum seeker arrivals over the long term, or whether such policies merely peddle the semblance of control, leaving the negative politicization of asylum seekers (which has justified restrictive policy formulation in the first place) as an unfortunate, but nevertheless necessary, sacrifice for what is perceived as the more pertinent objectives of a state’s role at the border; absolute control and protection. The Australian case demonstrates that border protection trumps refugee protection in public discourse, and in policy formulation and evaluation. And yet, despite the apparent confidence underpinning Australia’s approach - that asylum seeking is a function of border protection measures - it is not empirically possible to isolate the impact of specific asylum policies from the myriad structural and agential determinants that drive transnational forced migration processes.

1 The use of Australia as an exclusive case study is problematic given the country’s unique geographical and geo-political status, yet is suffice for the scope of this paper.
From this analysis, the paper argues that asylum policies in Australia are debated and evaluated in the public domain with little appreciation of forced migration as a complex, transnational socio-political phenomenon, but within more parochial terms of whether said policy meets the stated objectives. Australian policy makers, and even the public, operate within a reductionist cause-effect empirical model. Asylum policy formulation and evaluation tends to be framed within a national context, premised on the perception that asylum seekers are a threat to state security and sovereignty, a threat that is to be stemmed. Little attention is paid to the longer-term value, purpose and sustainability of such a policy approach, especially in the context of the global nature of forced migration, Australia's humanitarian responsibilities or the actual effectiveness and outcomes of such policies.

The overall argument mounted in this paper is that, as opposed to the prevailing nationalist, populist, electoral-focused understanding, causality in forced migration processes is highly complex. The predominance in public discourse of notions of “deterrence,” “border protection” and “national security” interests, is often based on disinformation and counterfactual logic which exacerbate and propagate the negative politicization of asylum seekers in the public domain. At a deeper level, such popular, parochial understandings obscure the complexity of forced migration and are counterproductive to the normative, legal, political and moral principles that underpin the international refugee protection system, and the project of human rights and global justice more broadly. An understanding of complex and multi-dimensional causality must inform public political debates on asylum policy if the significant challenge of increased human mobility, of which forced migration is an inextricable element, is to be addressed, or even debated, in line with actual empirical dynamics and human rights norms.

**Seeking Asylum - A Global Snapshot**

The number of asylum applications to states of the global north, and particularly to the EU member states, increased dramatically from the late 1980s to the early 1990s (see Figure One). This trend mirrors the rise in numbers of those forced into migration worldwide in the same time period (see Figure Two). Despite a fall in the numbers of asylum seekers since its peak in 1992, the global community is experiencing a refugee era characterized by rising numbers of people seeking asylum.
The latest UNHCR reports on global trends of displacement and asylum numbers show that increasing human mobility is an empirical reality and a significant challenge in a globalizing world. In 2012, there were 35.8 million people of concern to the UNHCR – the second highest number on record. In the same year there were 7.6 million newly displaced persons, with another 6.5 million being internally displaced (IDPs), the second highest number in the past ten years. Notably, developing countries hosted over 80 per cent of the world’s refugees, compared to 70 per cent ten years ago (UNHCR, 2013a).

In terms of asylum seekers that came under the attention of the UNHCR, there were an estimated 479 300 asylum applications registered with 44 industrialized countries in 2012 (this represents only 1.3 per cent of UNHCR’s total population of concern), an increase of 8 per cent over 2011. Indeed this is the second highest level in the past decade. The 27 Member States of the European Union registered 296 700 new asylum claims in 2012, a 7 per cent increase from 2011. The US was the largest single recipient of new asylum claims for the seventh consecutive year – 83 400 applications in 2012, a ten per cent increase on the previous year (UNHCR, 2013b).

![Asylum applications by region of asylum 1980-2009 (Hatton 2011)](image)

*Figure 1: Asylum applications by region of asylum 1980-2009 (Hatton 2011)*

Although it is not the purpose of this paper to discuss in detail the reasons for the rise in refugee numbers it can be seen that this increase has mirrored the rise in societal conflict in the same time period as the main driver of global displacement.
This direct causative factor related to armed conflict has received little attention in the western press as has the fact that much of the burden for refugees is taken up by developing nations whilst Western states such as Australia are shouldering a much smaller responsibility. In this regard the following graph is pertinent (Figure Two) as it graphically portrays the burden of refugee-hosting in the various continents. As can be seen, a significant burden is carried by a few African and Asian countries such as Pakistan and Kenya (UNHCR, 2013b); countries that are least able to provide the resources necessary to manage forced migration successfully.

Figure 2—Refugees by region of asylum 1970-2009 (Hatton 2011)

**Negative Politicization of Asylum in the Global North**

By the early 1990s the international refugee protection system that had been built on the 1951 Convention and then expanded over four decades was purportedly stretched beyond capacity. Some argue that this assertion was made by states of the global north for their own domestic political reasons, and is merely a discursive exaggeration. It is argued that the salient factor in understanding patterns and responses to forced migration is not necessarily the quantities but the direction of migration flows – namely, a reversal of trans-continental migration flows that occurred throughout the second half of the twentieth century (De Haas, 2007). In the nineteenth and twentieth centuries the directions of international migratory flows were predominantly North-North (Europe-North America), South-South and North-South
(Europe to colonies). That is, South to North migration was limited. After WWII, however, international migration has tended to flow from South to North (certain anomalies exist, such as the Gulf oil countries). Zlotnik argued “the change has not been the relative change of international migrants, but in the number of developing countries that have become incorporated within migration systems that link them to industrialized countries” (Zlotnik, 1998, Cited in de Haas, 2007, p.822). The settled populations of Western states are now confronted with the challenge of receiving significant numbers of non-elite, transnationally oriented immigrants who do not necessarily share the majority culture and religion. Consequently, “international migration has been defined as a major issue of public concern” (de Haas, 2007, p. 823). Therefore, the increased mobility of culturally distinct people from poorer countries was increasingly perceived as a problem in need of control (de Haas, 2011).

What may be observed here is a discursive miss-representation of the whole issue of international migration for political reasons driven by and centred on the interests of the global north. This culminated in a political backlash, which involved a hardline rhetorical stance against asylum seekers using ‘irregular’ migration pathways and resulted in the tightening of asylum policies (Castles and Miller, 2009; Massey et al, 1998). Paradoxically, the international refugee protection regime allows for such exclusionary manoeuvres aimed at deterring and punishing asylum seekers. This is because whilst the system grants individuals the right to seek asylum, it nevertheless stops short of providing binding laws that compel signatory states to grant asylum.

Asylum is one of the central political issues currently playing out in liberal, democratic nation-states of the global north; this centrality and publicity raise the domestic imperative for political leaders to appear in control of this complex phenomenon. As Gibney claims, “the political debate surrounding issues of forced migration brings into relief a conflict between the claims of refugees and those escaping desperate situations to a secure place of residence and the claims of citizens to act together to limit access to the territory and resources of their community” (Gibney, 2004, p. 2). The subject of forced migration, as such, may be seen as an

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2 According to the International Organization for Migration (IOM), irregular migration is ‘movement that takes place outside the regulatory norms of the sending, transit and receiving countries’ (IOM undated)
extremely fertile ground for divergent claims related to identity politics, sovereignty, and ideology in these countries.

More than two decades ago David Martin noted that ‘Under what many still consider the time-honored classical doctrine, international law plays no real role in shaping migration policy and practice. Migration policy is often regarded as the last major redoubt of unfettered national sovereignty’ (Martin, 1989, p. 547). This view has been supported widely throughout the literature on migration and remains salient. Indeed, ‘as long as the nation-state is the primary unit for dispensing rights and privileges, it remains the main interlocutor, reference and target of interest groups and political actors, including migrant groups and their supporters’ (Guiraudon and Lahav, 2000, p. 166). The inherent tension relates to the fact that ‘governments, as the acceding parties to international human rights instruments, remain the principal actors as guardians of the human rights of all individuals residing in their territories’ (Matilla, 2000, p. 53). Yet these same governments seem willing to reduce, even withdraw, the provision of such rights. Although the range of international arbiters of global migration is broadening (for example, UNHCR, IOM, and in a de facto manner airline carriers), the state’s sovereign control of its territory and its subjection to the politics of its society remains the supreme ‘legitimate’ authority over all migration streams, including asylum (Dauvergne, 2000).

Securitisation and neo-liberalisation are the foremost determinants of such approaches (Hyndmann, 2012), with immigration and border control being inextricably linked to risk and insecurity. The centrality of borders in global politics cannot be underestimated, as borders constitute a hallmark feature of the international system. The Westphalian state’s right to control movements across its borders is a fundamental element of state sovereignty. Furthermore, the importance of borders is not confined to political, economic and security realms but transcend it to play an intrinsic role in defining the state itself. As Rudolph (2006, p 207) writes, borders “remain significant because they provide social closure and symbolic separation between peoples and cultures” and “together with the institution of citizenship, designate both inclusion and exclusion and define the socio-political community.” In other words, borders serve a dual function of defining and sustaining identities. Focus on such constructs and discourses, allows national political communities to justify even the most inhumane exclusionary policies. Indeed, the asylum seeker becomes an
unwanted ‘deviant other’ that threatens the state’s identity, not just its borders (Marfleet, 2006; Dunn et al, 2007).

As part of this harsh political response to asylum seekers, wealthy signatory states have designed and implemented a range of policies aimed at limiting access to their territories via irregular and onshore channels. Such policies include extraterritorial detention, naval interdiction, excision of official migration zones, reduced protection regime in the form of bridging visas and even temporary protection visas for those found to be conventional refugees. Such measures are commonly justified domestically in terms of the ‘deterrence’ and ‘border protection’ imperatives.

One of the more controversial deterrence measures, instituted by countries such as Australia, has been offshore processing, which is designed to prevent and deter access to statutory and judicial safeguards in the destination country (Francis, 2008). Offshore processing often incorporates interdiction, transfer and processing practices and standards that are deliberately isolated from the national, legal and institutional protections within either the intercepting state or the third country where processing occurs. It has also been argued that extraterritorial long-distance processing assists states in obfuscating their responsibility, by enabling them to exercise control covertly, and to place their targets outside the reach of the law (Jamieson and McEvoy, 2005).

**The Global Trend Towards Deterrence Policies**

As noted above the effectiveness of deterrence policies at the state level is highly contested. Many scholars argue that these measures fail to significantly affect the level of forced human mobility highlighting their unintended, perverse and counter-productive effects (Castles, 2004; Crock and Gezelbash, 2010; de Haas, 2007; de Haas, 2011). Still there are others who argue that, on the whole, specific state policies have been largely effective (Brochmann and Hammar, 1999; Hatton and Lim, 2005; Hatton, 2011) amid counter claims that tightening policy in one state merely acts to increase numbers of asylum claims in another state. Such claims are mostly supported by a limited number of quantitative studies indicating that certain measures
can have a significant effect on migration flows (Czaika and de Haas, 2011; Hatton and Lim, 2005).

From a global perspective the effect of policy, must be carefully analyzed. Policy alone, although it can have a short-term effect on asylum seeker numbers, is just one variable among a number of other important variables (Hatton, 2011). An important point is that a toughening of policy within particular jurisdictions does not affect numbers of asylum seekers worldwide. Indeed, despite a toughening of asylum seeker policies in a number of countries aimed at deterring asylum applications there has not been a corresponding comparative decrease in global numbers (Chimni, 1998). Hatton and Williamson (2005), through an analysis of a number of statistical variables related to asylum applications worldwide, found that a number of broader factors beyond the reach of policy were critical in accounting for asylum seeker numbers. Improvements in political rights in source countries for example, had a more substantial effect on lowering forced migration as deterrence policy itself. The impact of societal conflict as the overarching factor in forced migration was also cited as a key factor. Additionally, other factors such as the expansion of people smuggling networks, as well as diaspora family connections played an important role in the numbers and direction of asylum seeker flows at the transnational level.

As part of instituting and marketing offshore processing policies to domestic publics, border protection assumes a heightened symbolic and politicised dimension in the debate about forced migration generally; constructed as a social, cultural and economic frontier, where the battle between nationally framed prerogatives is waged against human rights obligations. Granted, the phenomena associated with forced migration raise a number of difficult political and ethical questions. Discussions about forced migration tend to revolve around issues of nation-state obligations within a transnational political order, issues relating to state border control, national identity, social citizenship rights, human rights and the norms of national and international law. However, these contentious and highly politicized foci have left major gaps in terms of understanding forced migration as a social process. It is with this caveat in mind that some have argued that a general theory of forced migration is neither possible nor desirable. Rather, significant progress can be made by “re-embedding migration research” within a generalised understanding of contemporary society (Castles, 2010). Linking forced migration to broader theories of social change brings to focus social
transformation as a central category. This approach is at the very least inclusive of the complexity, interconnectedness and contextuality of migratory processes, including those of forced migration. It is also inclusive of the effects of globalisation as a social phenomenon in the context of neoliberalism more generally. As Watson (2009, p. 1) notes ‘The movement of refugee populations and the un-authorised arrival of asylum seekers are not simply matters of humanitarian concern or of national security; they expose the complexity and contradictions of the modern nation-state and demonstrate the competing political, economic and humanitarian values associated with the management of international migration’.

Throughout the process of formulating and implementing deterrence policies, onshore asylum seekers are problematized and often dehumanised, because of their perceived capacity to unsettle and undermine notions of nation state sovereignty. They are discursively framed in arguments centered on the concepts of “irregular” mobility, “unauthorised” or “illegal” arrivals, “national” identity, and “exclusive” citizenship. Such a contradiction between humanitarian responsibilities and state discourse exposes not just the inherent tensions within the modern nation-state and the international migration control system, but also highlights its unethical tendencies.

**Australian Political Context**

Australia is an illustrative case study in this debate offers an optimal terrain for exploring these policy tensions. Australia, a classical émigré society, which was a founding member of the Universal Declaration of Human Rights and the sixth state to ratify the Refugee Convention, has recently attracted international criticism over its treatment of onshore asylum seekers. The criticism has in particular related to certain deterrence policies aimed at discouraging onshore asylum seekers. But, key changes to Australia's asylum seeker policy have their roots in recent political history. Former Prime Minister Paul Keating established a policy of mandatory detention of asylum seekers in 1992. The legislation, although imposing a 273-day limit on detention, specifically disallowed judicial review. It was the conservative government of Prime Minister John Howard however that radically changed Australia's asylum seeker policy. The Howard government (1996–2007) sought to exploit the situation politically through its tough response to boat arrivals. With the 2001 election campaign John Howard foregrounded the management of asylum seekers illustrated
by the often quoted line “… we will decide who comes to this country and the circumstances in which they come” (Howard, 2001).

The Howard government introduced the Pacific Solution, a central aspect of which was the excising of many islands from Australia's migration zone. A further aspect was the removal to third countries of asylum seekers for the processing of their claims. A category of temporary protection visas (TPVs) was also established for unauthorised arrivals amid a policy of returning boats where possible to their embarkation site. As part of the Pacific Solution asylum seekers were held in either an Australian based immigration detention facility or on Manus Island in Papua New Guinea or in Nauru. The Pacific Solution appeared to have a marked impact on the arrival of asylum seekers benefiting from a significant downward trend in asylum numbers worldwide. According to Australian Government figures, one year after its introduction the number of asylum seekers arriving by boat dropped from 5,516 in 2001 to 1 in 2002 (Phillips and Spinks, 2013, p. 22).

Yet, despite its apparent success, the Pacific Solution was received with a great deal of opposition and was a point of acrimony during the 2007 election campaign which ended with a significant win to labour. One of the first steps of the incoming labour government was to announce a decision to dismantle the asylum seeker offshore processing system. In the following year the government abolished TPVs (May 2008) and ended the charging of refugees for their time spent in detention after being granted protection (September 2009).

The 2007 election of a federal Labor government, however, coincided with a sharp rise in asylum seeker numbers forcing the government to react as the political pressure mounted. The Rudd/Labor government retreated from its earlier asylum reforms in order to project an image of being decisive and capable of taking tough action against asylum seekers. In June 2010 labour replaced Kevin Rudd as Prime Minister with his deputy Julia Gillard. Within an acrimonious political environment Gillard proposed the establishment of a regional asylum seeker-processing centre on the island of East Timor as part of a comprehensive regional solution to asylum seekers arriving by boat. After the 2010 election, won narrowly by the labour party, the government pursued the notion of a regional processing centre. In July 2011 a transfer deal (or ‘refugee swap’ as it was known, as if to trade in human lives like they
were commodities) with Malaysia was formally signed. When this was waylaid in
August of that year, as it was found to contravene municipal law by the High Court
(High Court of Australia, 2011), the government appointed an expert panel to advise
it on the best way forward.

The Expert Panel presented 22 recommendations focusing on capacity building and
cooperation within the Asia-Pacific region and the development of a multilateral
strategy of engagement with source countries. The Expert Panel also recommended
that Australia reinstate the previous policy of processing boat arrivals on Nauru and
Papua New Guinea which would see them remain in “offshore processing” locations
for similar periods of time to those experienced by refugees awaiting resettlement
from various parts of Asia. This policy did little however to stop the boats. Indeed the
opposite appeared true with increasing numbers of asylum seekers heading for
Australia. In September 2013 Australia returned a conservative coalition government.
The effect has seen a further toughening of asylum seeker policy particularly with
regards to offshore detention. Amid a silencing of opposition however the value and
purpose of such policy, especially in the context of the global nature of forced
migration, Australia's humanitarian responsibilities or the effectiveness of such
policies, has received little attention.

What these various political manoeuvrings show is that over the past two decades the
policies of successive Australian governments towards asylum seekers were never
about finding durable solutions – political and institutional arrangements – designed
to give effective protection to the forcibly displaced. Instead, they were concerned
with satisfying and meeting domestic political objectives often at the expense of the
very people they were purported to ‘protect’. More specifically, these policy
manoeuvrings have been twofold: “some of these measures are directed at preventing
on-shore asylum seekers from accessing the protection visa application process;
others are directed at making the time spent in Australia awaiting a final decision on a
protection visa application as unpleasant as possible” (Taylor 2001, p. 191). This can
be done through a number of mechanisms that continue to evolve in line with
changing understandings of the issue at the legal (in the courts) and popular level
(politicization) – but, essentially, it punishes people who are theoretically supposed to
be under the nation state’s legal umbrella, and thereby represents a serious democratic
dilemma, a short-circuit in the feedback loop between ruler and ruled. “The
Government has chosen, therefore, to engage in the common, vote-winning tactic of manufacturing a sense of crisis in order to receive credit for resolving it“ (Taylor, 2001, p.197), a ‘crisis’ which obscures the undemocratic nature of such policy.

**Border Protection, Not Refugee Protection**

Despite Australian support for the UN Refugee Convention more than half a century ago, there are a number of contemporary blemishes on the state’s commitment to human rights claims of individuals seeking asylum in the country. Australia tends to champion human rights at global forums yet it pays lip service to its implementation regionally, and worst still it has recently been pursuing exclusionary, expensive, unsustainable and at times inhumane asylum policies aimed at mobilizing domestic votes while further politicizing and inflaming populist debates about forced migration. Unfortunately, such an approach to the issue of asylum is not based on a commitment to human rights principles, or on sound understandings of migration as a complex social process that will continue unabated regardless of the particular policy any one state pursues. Instead, it is merely the latest event in an entrenched pattern that sees the Australian executive becoming ever tougher on asylum seekers, as well as more hostile to judicial oversight of laws about alienage and citizenship.

The Liberal government under Tony Abbott, elected in September 2013, seems set to continue this populist trend, having instated the newly re-branded Department of Immigration and Border Protection (formerly, the Department of Immigration and Citizenship), which plans to implement ‘Operation Sovereign Borders’ under the direction of a three-star General. Among other things, the Minister for Immigration and Border Protection, Scott Morrison, within the first weeks of his tenure, overhauled the bureaucratic nomenclature; doing away with “political correctness” and embracing, it seems, legal incorrectness, by officially naming asylum seekers arriving by boat “illegals.” This is just one among a suite of other anti-Asylum semantics the new Minister has introduced (Marr, 2013). Again, this is merely the latest iteration of contentious and now heavily militarised asylum policy devised by an executive government that is intent on testing the outer limits of international legal precepts (Crock, 2009; Crock, 2010). As noted above, the status quo, populist logic of national sovereignty and border protection trumps refugee protection in the
privileged Australian political context, yet the state’s empirically demonstrable control over increasing asylum flows is dubious.

Deterrence measures are premised on the notion that on-shore asylum seekers, most particularly those arriving by boat, are “engaged in bad faith attempts to circumvent Australia’s immigration controls” (Taylor, 2001, p. 191). This is despite the fact that, of all cohorts claiming protection through the various pathways of the humanitarian program, onshore boat arrivals have the highest grant rates. This alone exposes the premise of Australia’s deterrence policies as false, given that claimants arriving via this channels are not *abusing* the system, they are simply using the system to rightfully claim protection under Australian domestic law. This argument has been made by numerous legal and other scholars, and tends to be upheld in the courts.

However, the issues raised by this inherently false premise do not simply stop at the legal rights (in their various forms - see Dauvergne, 2000) of individual asylum seekers. But to sustain such an approach, the issue of boat arrivals must be framed in problematized discursive terms so as to perpetuate the notion that boat arrivals are illegal or undesirable, a case of negative politicization of onshore asylum seekers arriving by boat. That is, onshore asylum seeking by boat, despite its actual legality, when portrayed as a threat and a breach of the national community’s prerogative to control its borders, engenders popular support for harsh deterrence policy.

At the core of this negative public discourse initiative are successive governments from both “sides” of politics. In terms of shaping public understanding of these complex issues, the government plays the leading role in the debate (Dunn 2007). It consistently and deliberately errs on the side of nationalism, invoking the national prerogative to define and control “our” boundaries, to maintain “our” culture and distribute “our” resources, as “we” deem acceptable. This discourse strikes a cord with the majority of Australian voters who are beholden to an ideal of the democratic liberal political system as neatly and rightly delineated between members and non-members. Yet, there is a fallout from this pervasive “us and them” mentality, and not just for the individual asylum seekers arriving by boat. For, to propagate the notion that the integrity of Australia’s national political community is under threat, yet that this threat can be managed or even deterred is to add yet another erroneous premise into the mix. It deliberately ignores that forced migration is a complex phenomenon
that cannot be entirely managed or assailed by any one government as Australia claims to be doing.

**Conclusion**

Responding to the volume of asylum seekers has remained a major policy issue in global north states over the past three decades; yet understanding and measuring the effectiveness of asylum policies, such as deterrence measures, is a highly problematic task (DeHaas, 2011; Zetter et al., 2003). While it is tempting to simply cite the number of asylum seeker arrivals to a particular country as proof of policy effectiveness or ineffectiveness, such an approach is at best incomplete and at worst misleading. When it comes to a complex phenomenon such as forced migration, one ‘should not confuse statistical association with causality, which is particularly difficult to establish because we generally lack counterfactual cases’ (DeHaas, 2011, p. 4). All international migration, no matter what legal and administrative category it may be assigned by states, is inherently complex. Migration is demonstrated in the literature as a historically and structurally contingent social process that has multiple determinants, beyond the specific immigration policies of any one state. A number of macro-level structural factors, commonly relating to economic and human development, labour market structure, social stratification, relative deprivation and socio-spatial security, combine with meso-level networks and micro-level human and social capitals, to shape all migration patterns, including forced migration (Castles 2004; Crock 2010). Given such a wide range of determinants, it needs to be acknowledged that while statistical analysis on forced migration can give an indication of the numbers involved, it does not necessarily show the reasons for such numbers or the motivations of the individuals involved. Nevertheless, precisely these sorts of assessments, touted as “ideal,” yet based on incomplete empirical models of migration, play out every day, both in the scholarly and political forum; whether it’s arguing that asylum policies are or are not effective, or whether governments are succeeding at being tough on queue jumpers (Keane, 2009).

Any attempt to formulate immigration policies should be premised on holistic approaches to migration. To view migration within a reductionist cause-effect empirical model, as Australia does, is to ignore the myriad structural and agential
factors that play a key role in determining patterns of migration. Any such model is highly flawed, and is only effective in peddling a politics of immigration that is driven by political elites seeking to mobilize votes in their favor. None of the conditions that drive international migration are set to dissipate. Yet, there remains only splintered political will on behalf of states of the global north to genuinely understand and engage with the phenomenon of human mobility in the 21st century.

The reticence of wealthy global north states to approach forced migration as both a cumulative phenomenon and an inevitable empirical reality may be traced to the enormous political, economic and cultural challenge that human displacement represents to the nation state construct and the political communities, or in-groups, that such a construct benefits. This is not to excuse the tepid and parochial approach taken by countries like Australia to upholding human rights principles. Rather, it is instructive to highlight that while a ‘head in the sand’ approach to the issue of asylum may be politically viable for now, it is incognizant of all forms of migration as social processes that are constructive of and contingent to an increasingly globalized, plural world. Such an approach to forced migration will grow more constrained over time.

The complexity of migration processes, of which forced migration is a fundamental element, throws down a significant challenge to the nation state to rejig the popular paradigm for understanding asylum. Substantive recognition of forced migration as an entrenched social reality is the first step toward the international system and states articulating institutional and policy arrangements that actually address this phenomenon and strive to protect stateless people. Such arrangements will at least start analyzing and talking about it in more practical and sustainable terms. As it stands for the millions of displaced people worldwide, whose numbers are growing, the governance of forced migration, executed through the international refugee protection system is increasingly insufficient and unjust. Any top-down approach to global justice, such as the international refugee system, will be null and void if the powerful states of the north, the key stakeholders and custodians of international law and global governance, shirk and side-step challenging social and political responsibilities.

References


