Constructions of asylum seekers and refugees in Australian political discourse

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Abstract

Immigration to Australia has long been the focus of negative political interest. In recent times, the proposal of exclusionary policies such as the Malaysia Deal in 2011 has fuelled further debate. In these debates, Federal politicians often describe asylum seekers and refugees as ‘illegal’, ‘queue jumpers’, and ‘boat people’. This paper investigates how the political discourse constructs asylum seekers and refugees during debates surrounding the Malaysia Deal in the Federal Parliament of Australia in 2011. Hansard Parliamentary debates were analysed to identify the underlying themes and constructions that permeate political discourse about asylum seekers and refugees. This paper argues that a dichotomous characterisation of legitimacy pervades their construction with this group constructed either as legitimate humanitarian refugees or as illegitimate ‘boat arrivals’. These constructions result in the misrepresentation of asylum seekers as illegitimate, undermining their right to protection under Australia’s laws and international obligations. This construction also represents a shift in federal political discourse from constructing asylum seekers as a border or security threat, towards an increasing preoccupation with this categorisation of people as legitimate, or illegitimate.

Introduction

In May 2011, the Australian Prime Minister Julia Gillard announced that the Australian Federal Government had plans to strike a deal with the Malaysian Government to swap 800 asylum seekers for 4000 refugees. The proposed ‘Malaysia Deal’ was the latest in a long history of policies designed to manage the arrival of ‘irregular’ migrants to Australia. The White Australia Policy\textsuperscript{11} saw the restriction of non-European migration for more than 70 years until the 1970s when the policy was formally abandoned (Crock and Berg 2011: 113; Grewcock 2009). Following the end of the Vietnam War, the arrival of more than 50 boats
carrying asylum seekers from South East Asia prompted an increase in concern regarding people arriving by boat and as a result the term ‘boat people’ emerged in the media, public and political discourse (Grewcock 2009; Phillips and Spinks 2011). This concern and anxiety has captured the attention of successive governments and resulted in the Federal Government’s introduction of restrictions and exclusionary measures towards unauthorised arrivals, most notably the establishment of mandatory detention for all unauthorised arrivals introduced under Prime Minister Paul Keating in 1992 (Grewcock 2009; Phillips and Spinks 2011). The last two decades have increasingly been characterised by negative attitudes towards asylum seekers, crystallising around major events such as the *Tampa Crisis*², and resulting in exclusionary political agendas and policies such as the introduction of the Pacific Solution³ under former Prime Minister John Howard (Every 2006: 10).

The proposed Malaysia Deal emerged within an ongoing maelstrom of public debate about asylum seekers, and sparked significant discussion in Federal Parliament. While the Malaysia Deal was ultimately declared unconstitutional by the High Court in August 2011, and the policy largely abandoned by the Labour Government, the parliamentary discourse surrounding this recent event offers significant insights into the social construction of asylum seekers and refugees in Australian politics. This paper examines Hansard transcripts of the Federal Parliamentary debates about the Malaysia Deal in both the Senate and House of Representatives. Specifically, the data collection was limited to the time period from 1 May 2011, until 1 October 2011, which included several months of negotiation, the signing of the agreement on 25 July 2011, and the aftermath of the High Court ruling declaring the swap invalid and unlawful.

Previous research examining the constructions of asylum seekers and refugees in Australia has identified that notions of legitimacy, illegality, threats to national identity and threats to border security are the themes dominating public discourse (Grewcock 2009; Klocker and Dunn 2003; O’Doherty and Augoustinos 2008; Gale 2004). In particular, politicians’ statements in the media have previously been found to focus on these themes, and represent asylum seekers and refugees as either legitimate or illegitimate (Pedersen, Attwell and Heveli 2005; Klocker and Dunn 2003; Pedersen et. al. 2006).
Questioning whether certain groups of asylum seekers deserve protection and resettlement is often at the centre of the construction of legitimacy, while nationalism and border protection themes are evoked in order to construct this group as threatening to society. While all of these themes are evident in the parliamentary debates around the Malaysia Deal, we argue that notions of legitimacy and genuineness have come to dominate the discourse. In the past, debates on issues such as the *Tampa* focused more heavily on the need for border security, which may have been particularly resonant with the public in an immediate post 9/11 environment. The discourse around the Malaysia Deal indicates that while concerns about national interest, identity, and border protection are still evident, the focus has begun to shift. In this paper, we argue that Parliament’s preoccupation with legitimacy has led to the construction of implicit criteria through which legitimacy is determined. This results in the establishment of a dichotomy of asylum seekers as either legitimate humanitarian refugees or illegitimate ‘boat arrivals’, based on their mode of arrival, their respect for the ‘queue’, and their ability to pay to secure a new life in Australia.

**Labelling ‘Legitimate’ Asylum Seekers and Refugees**

The issue of asylum claims and resettlement is an intensely political issue in the Australian context, with asylum seekers and refugees consistently labelled using stereotypical and deceptive language by the media and politics, particularly since the *Tampa* incident in 2001 (Klocker 2004: 3; Mares 2002a; Klocker and Dunn 2003; Pickering 2001). Political and public concerns about immigration have centred on who is coming to this country, how they are arriving, and for what reasons (Crock and Berg 2011: 3). There is also an overt focus on their religion, ethnicity, and reasons for seeking asylum leading to misrepresentations (Mares 2002a; Klocker 2004).

Pickering (2001) argues that the language used in relation to asylum seeker and refugees is most often binary in nature. The use of terms such as ‘genuine’ versus ‘non-genuine’, ‘legal’ versus ‘illegal’, and refugees versus ‘boat people’ contribute to a delineation between two groups of people. The use of such language polarises the issue of asylum seeking and refugee determination (Pickering 2001: 172). The choice of these terms over more accurate terms such as ‘asylum seeker’ and ‘refugee’, can have a significant impact on depictions as they are misleading and hostile (Klocker 2004: 3).
The 1951 United Nations (UN) Convention relating to the Status of Refugees defines ‘refugees’ as a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality” and is unwilling or unable to “avail himself of the protection of that country,” or return to this country for fear of persecution (UNHCR 2010; Karlsen 2011: 3; Phillips 2011: 2). An asylum seeker is an individual who is seeking protection and their refugee status is yet to be determined (Phillips 2011: 2). Asylum seekers may enter Australia without a valid visa and the Refugee Convention prohibits states from penalising and criminalising those who are fleeing persecution. Most notably, in the Australian context there is no law that criminalises the act of arriving without a valid visa for the purposes of seeking asylum (ASRC 2011; Phillips 2011: 3). Irregular maritime arrival (IMA) is the most accurate term when referring to those travelling to Australia by boat, due to the clandestine nature of their transit. Conversely, offshore arrivals or applicants are those who reside in overseas refugees camps pending relocation to Australia.

The analysis of the Parliamentary debates on matters related to the Malaysia Deal revealed considerable inconsistency and variety in the terms and language used to refer to asylum seekers and refugees in Federal Parliament. The most frequent misleading and misrepresentative terms used in the political debate were ‘illegal arrivals’, ‘genuine refugee/s’, ‘boat people’, and ‘queue jumper/s’ or simply ‘queue’. The analysis revealed a construction of two distinct groups of asylum seekers and refugees emerging through the use of terms such as ‘genuine’ and ‘illegal’, perpetuating the dichotomous construction of legitimacy. The term ‘genuine’ was consistently used in order to make the distinction between irregular maritime arrivals (IMAs) and offshore applicants, ultimately constructing two distinct groups of asylum seekers and refugees. Similarly, politicians in Federal Parliament used the term ‘illegal’ in reference to irregular maritime arrivals to contrast this group against offshore applicants. This consistent depiction of two separate and distinct groups is associated with the theme of legitimacy, such that those referred to as ‘non-genuine’ and ‘illegal’ asylum seekers are constructed as illegitimate.

Despite it not being illegal to arrive in Australia without a valid visa and subsequently apply for asylum (Pedersen et al. 2006), IMAs were continuously depicted as ‘illegal’ in the
Parliamentary debates in 2011, for example Leader of the Opposition, the Honourable Tony Abbott MP stated:

“... we have had 241 boats and 12,000 illegal arrivals. ... Since the Malaysia people swap was announced we have had more than 1,000 illegal arrivals. Since it was signed we have had 400 illegal arrivals” (House September 22, 2011).

Prime Minister Gillard also demonstrates this dichotomous construction by evoking an image of a ‘non-genuine’ refugee with the use of binary language constructing offshore applicants as more ‘genuine’:

As part of that transfer agreement, we would bring to Australia people who are genuine refugees, who are processed in Malaysia and who are already there now and are waiting a resettlement opportunity (House May 23, 2011).”

The Australian Government has a history of constructing asylum seekers and refugees as illegitimate and unlawful, with policy responses endorsing the notion of ‘illegitimate refugees’ (Grewcock 2009: 9). Between 1989 and 1998 the official representations of ‘legitimate’ asylum seekers and refugees were narrowed when the Government introduced offshore processing and mandatory detention of ‘unlawful non-citizens’ (Grewcock 2009: 120). The Australian Federal Government detained those considered ‘unlawful’ (without a valid visa) in detention centres in excised Australian territory or even in other countries (Mares 2002a: 5). Contrastingly, asylum seekers who entered Australia ‘lawfully’, usually via tourist or student visa, were not detained and were able to live in the community (Mares 2002a: 5).

The construction of a particular group of asylum seekers and refugees as ‘illegal’ and ‘non-genuine’ found during this current analysis is consistent with past research (Saxton 2003; Klocker and Dunn 2003; Pedersen et al. 2006). The political construction of asylum seekers as ‘non-genuine’ and ‘illegal’ disconnects the asylum seekers from the reasons for seeking asylum. Instead of highlighting the need for protection of asylum seekers, the ‘illegal’ label applied to them criminalises their actions and positions them as a threat. Furthermore, this distinction between IMAs and those processed in overseas refugee camps informs the significant negative attitudes towards asylum seekers and refugees in the Australian public.
and politics (Pedersen et al. 2006: 106). The need to seek asylum from persecution and threat, as the motivation for irregular migration, is no longer associated with those constructed as ‘illegal’ and ‘illegitimate’. Rather, Federal politicians construct this group as a threat due to their perceived illegality (Every 2006: 24) as well as threatening to the interests and livelihood of ‘genuine’ refugees. Such negative connotations toward IMA’s further enhance offshore applicants’ perceived legitimacy (Lynn and Lea 2003: 432).

The Parliamentary discourse constructed two separate categories of asylum seekers through the positioning of IMAs as ‘illegal’ and a threat to ‘genuine’ refugees. Moreover, these categories seemed to be determined through discussions on the mode of arrival of asylum seekers, the notion of a ‘queue’, and the wealth of irregular arrivals, thus creating implicit criteria, which was used to delineate some asylum seekers as legitimate, and others as illegitimate.

**Mode of Arrival**

‘Boat people’ is a term often used to describe asylum seekers and refugees who arrive in Australia by boat. Throughout the Parliamentary discussions held during 2011, Federal politicians frequently used the term ‘boat people’ to distinguish between IMAs and offshore applicants. Comparable to the use of ‘genuine’ and ‘illegal’, the term ‘boat people’ creates an image of two distinct groups of people seeking resettlement in Australia and demonstrates the overwhelming focus on this mode of arrival. An example of this occurred throughout a speech by Abbott debating the Malaysia Deal. Abbott did not use the terms ‘asylum seeker’ and ‘refugee’ once, with “boat people” the dominant term used to describe asylums seekers and refugees travelling by boat:

“When it comes to border protection, the Prime Minister firstly announced that she would be sending boat people to East Timor. She made this announcement before the East Timorese government even knew about it. Then the Prime Minister announced that she would be sending boat people to Manus Island. She made this announcement before the PNG government had agreed to it. Finally, on the Saturday before the budget and in a state of desperation over the constant flow of boats to our borders, she rushed out—gazumping the Treasurer’s own budget—and announced that boat people would be sent to Malaysia (House June 14, 2011)”. 
The term ‘boat people’ delegitimises the legal entitlements and rights to asylum of this group of people and depicts this group solely through their association with boat travel (O’Doherty and Augoustinos 2008: 581). In addition, this language challenges the status and legitimacy of asylum seekers and refugees who arrive by boat (Pickering 2001: 183). Coalition Senator Mathias Cormann further demonstrates this fixation on an individual’s mode of arrival:

“The Prime Minister used to say that detaining boat people on Pacific islands was "costly, unsustainable" and wrong in principle. ... She used to insist that boat people couldn’t be sent to Nauru because Nauru wasn’t a signatory to the UN convention on refugees. Last Saturday she announced that 800 boat people would be sent to Malaysia, which isn’t a signatory either, and that 4000 of Malaysia’s arrivals would come here (Senate May 12, 2011).”

Research done by O’Doherty and Lecouteur (2007) has suggested that the inconsistency in language and terms used to describe asylum seekers and refugees will cause blurring between these various terms. Subsequently, this blurring may result in the political and social acceptance of the various misleading terms describing asylum seekers and refugees (O’Doherty and Lecouteur 2007: 10). Additionally, the hostile political rhetoric emerging during the discussion and debates of the Malaysia Deal in 2011 has the potential to create negative and deviant images of a group of people who are seeking help and protection in Australia (Gatt 2011: 215).

**Jumping the Queue**

Delineating legitimacy according to the mode of arrival of asylum seekers is directly linked to the idea of a ‘queue’ in the application and acceptance process for refugees. In public debate, the political discourse often constructs the ‘queue’ as a concrete entity that asylum seekers and refugees should join in order to be resettled to another country (Grewcock 2009; Mares 2002b). The current analysis revealed that the image of the ‘queue’ is connected with notions of genuineness, such that those who join the ‘queue’ are ‘genuine’ asylum seekers and refugees. Alternatively, IMAs are depicted as ‘non-genuine’ because they acted in the wrong way by not joining the ‘queue’. By using this language Federal Parliamentarians are constructing ‘good’ and ‘bad’ asylum seekers and refugees:
“The message to people smugglers and to asylum seekers would be that if you risk your life and spend your money on getting on a boat trying to come to Australia, you risk being taken to Malaysia and being put to the back of the queue. Malaysia is a country with tens of thousands of refugees who have genuine claims which have been processed and with no prospect of resettlement (Gillard, House May 10, 2011).”

These depictions were prevalent in the Parliamentary discourse, with politicians from both the governing Labour Party and Opposition Liberal National Coalition Party consistently emphasising the importance of the ‘queue’, ‘waiting’ and orderliness of the migration system. The analysis revealed that the political discourse constructed offshore applicants as adhering to the “organised and balanced system of migration” and appropriately ‘waiting’ in the ‘queue’ (Marles, House September 22, 2011). Contrastingly, IMAs are constructed as bypassing this proper process and seeking asylum through inappropriate channels. Federal Parliamentarians often contrasted these two groups of people against each other during the discussions of the Malaysia Deal. Coalition Senator Back demonstrates the delegitimisation of those considered ‘queue jumpers’:

“… people who have been through the UNHCR process, the very people who have been accepted as humanitarian refugees to come to Australia, are languishing in refugee camps in Africa, Asia and elsewhere, whilst others jump the queue. In the event that these people are genuine, let them be processed in the genuine way and let them join the queue—but at the end of the queue (Senate June 16, 2011).”

In this statement, Back constructs an image of two distinct groups of people, ‘legitimate’ offshore applicants and ‘illegitimate’ IMAs. ‘Waiting’ in refugee a camp overseas is consistently constructed as the only legitimate way of seeking asylum and resettlement in Australia (Mares 2002a; Phillips 2011; Grewcock 2009: 119).

The concept of a ‘queue’ is used constantly in discussions on asylum seekers and refugees, designed to represent a tangible and orderly entity that is joined by ‘legitimate’ asylum seekers and refugees (Grewcock 2009: 130; Every 2006: 173). The ‘queue’ is constructed as an impartial decision making process which is unaffected by social and economic characteristics of individuals (Every 2006: 173; Gelber 2003: 25). As was found in this
analysis of the Parliamentary discourse, an individual’s deservedness of resettlement to Australia is dependent on their place and preparedness to wait in the ‘queue’, and not on their ethnicity, class, gender, health or level of fear (Gelber 2003: 25). The consistent emphasis on ‘waiting’ and the ‘queue’ in Australian political discourse during discussions of the Malaysia Deal is consistent with the wider body of literature suggesting that IMAs are often constructed as different from offshore applicants in terms of their status as ‘legitimate asylum seekers’ (Grewcock 2009; Gelber 2003; Every 2006; Pedersen et al. 2006; Every and Augoustinos 2008).

**Ability to Pay**

A third implicit criterion for legitimacy established in the construction of asylum seekers and refugees concerned the wealth of arrivals, resting on the assumption that only those considered to be poor were ‘genuine’ refugees. Federal parliamentarians from the two major parties consistently questioned whether IMAs were ‘legitimate’ refugees by depicting them as ‘wealthy’ individuals, highlighting their ability to pay people smugglers for passage to Australia, while asylum seekers and refugees who cannot afford to pay were constructed as ‘legitimate’ and more deserving of protection. For example, the Leader of the Opposition in the Senate, the Honourable Eric Abetz uses the notion of payment to delegitimise IMAs and increase the legitimacy of those in refugee camps overseas:

“We heard from the Greens that we are dealing with allegedly the most vulnerable people, those who are paying literally thousands and thousands of dollars to people-smugglers to come to Australia. They freely enter Indonesia, they travel there freely with no problems at all and then pay a criminal people-smuggler to get them to Australia, having thousands of dollars at their disposal (Senate September 21, 2011).”

By using the words “allegedly”, “freely”, “rich”, and “force” Abetz is questioning the vulnerability of IMAs because they have the ability to pay people smugglers to facilitate their journey to Australia. Abetz simultaneously constructs offshore applicants as ‘legitimate’ because they do not pay for passage. Labor MP Chris Bowen again demonstrates the delegitimisation of IMAs through the distinction between those who pay people smugglers and those who do not:
“Five to one is a very good outcome because it means that Australia is resettling more people who have been waiting a very long time in difficult circumstances and who do not have the money or the inclination to get on a boat. They should not be forgotten in this debate. These are the forgotten people of this debate... (House May 15, 2011)”

What is occurring in the Federal political discourse, through the emphasis on the supposed wealth of IMAs, is the construction of two distinct groups of asylum seekers and refugees: legitimate and illegitimate. ‘Legitimate’ asylum seekers are those who cannot afford to pay people smugglers to facilitate their journey to Australia and languish in horrible conditions in overseas refugees camps. ‘Illegitimate’ asylum seekers are wealthy individuals who use this to their advantage to travel to Australia ‘unlawfully’. Notably, this focus on wealth was limited to discussions on irregular maritime arrivals, attaching another layer of illegitimacy to this group. Federal parliamentarians never discussed the wealth of offshore applicants and other types of onshore arrivals, for example, those arriving by plane.

The implication of this construction is that IMAs are perceived as acting unfairly, and gaining unwarranted advantage (Every and Augoustinos 2008: 574). Those who have the ability to approach people smugglers may be more fortunate in some ways than those who cannot pay, but this does not necessarily increase their sense of safety, reduce their vulnerability or their legitimacy as an asylum seeker (Mares 2002a). Through emphasising an individual’s ability to pay their way to Australia via people smugglers, Federal parliamentarians from the major political parties are creating an image of wealthy asylum seekers. This perception of wealth is juxtaposed against the widely held image of poverty, persecution and suffering that causes an individual to originally seek asylum (Crisp 2003: 75). A dichotomy is thus created where ‘good’ asylum seekers and refugees are those that are resettled from overseas and did not bypass the formal system, and ‘bad’ asylum seekers and refugees are those that travel to Australia “under their own steam” (Mares 2002a: 25).

**Conclusion**

Throughout discussions on asylum seeking and refugees held in Federal Parliament surrounding the Malaysia Deal, their categorisation as belonging to two distinct groups, legitimate or illegitimate, dominated the political discourse. The use of inaccurate and misleading language labelling some asylum seekers as ‘illegal’, and others as ‘genuine’,
perpetuated this construction. The application of these labels was determined according to an implicit criteria based on the mode of arrival of asylum seekers, their place in the queue, and their ability to pay for their passage to Australia.

Through Parliamentary debates, the Australian Federal Government has conveyed a message that the only ‘good’ and ‘genuine’ asylum seeker or refugee is one that is rescued from a UNHCR camp, while ignoring the legitimacy of those who flee persecution and seek asylum and arrive onshore irregularly (Green 2003: 9). The term ‘illegal’ was most often linked with boats, further delegitimising this mode of arrival and the people who travel this way but Federal parliamentarians also used this term to represent ‘queue jumpers’ and those who have the ability to pay people smugglers to facilitate their journey to Australia by boat. By depicting IMAs as illegal, Federal parliamentarians are also creating an image of an alternative and distinct group of people who are portrayed as ‘legal’.

These informal criteria for determining the legitimacy of asylum seekers and refugees bears little relation to the actual criteria by which refugee status is granted. While it is widely acknowledged that it is not illegal to seek asylum, nor is it illegal to travel to this country in an irregular manner to do so, Australian Federal politicians continue to create a perception to the contrary. Through repeated references to ‘queue jumpers’, and the suggestion that only poor people can be victims of political persecution, Federal politicians further delegitimise those who arrive by boat. In this discourse, politicians are guilty of applying their own exclusionary pre-conditions for legitimacy, and establishing a false dichotomy in which only some people fleeing persecution deserve protection.

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1 The ‘White Australia’ policy refers to historical immigration policies that favoured immigrants from certain countries. Under this policy only Europeans and more specifically, northern Europeans could immigrate to Australia, with the intention of promoting a homogenous population (Crock and Berg 2011; DIAC 2009).

2 In August 2001 the Howard Government refused a Norwegian freighter, the *MS Tampa* carrying over 400 rescued asylum seekers, entry to Australian waters (Phillips and Spinks 2011). This resulted in a standoff between the Norwegian freighter, the Norwegian Government and the Australian Government, ending with Australian SAS troops boarding the *Tampa* and taking control of the ship (Phillips and Spinks 2011; O'Doherty and Augoustinos 2008, 577)

3 The Pacific solution allowed some of Australia’s territory to be excised from the migration zone to deter asylum seekers and refugees from arriving on-shore unlawfully, and implemented offshore processing in these excised nations (Phillips and Spinks 2011, 13)