Universidad de San Andrés

Departamento de Ciencias Sociales

Licenciatura en Relaciones Internacionales

Enforcing Commonwealth Control:

Explaining Australia's response to unauthorised

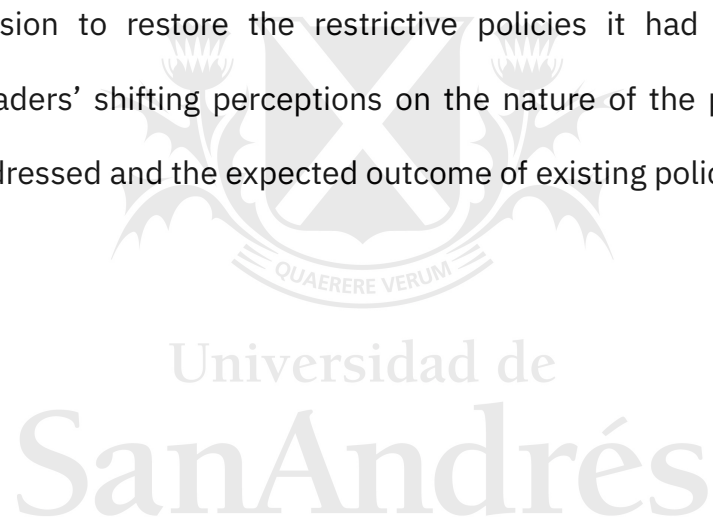**maritime arrivals, 2008-2013**

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Abstract

This thesis consists in an idiographic theory-guided case study which analyses Australia's responses to the unauthorised maritime arrival of asylum seekers from the beginning of the Rudd government in 2007 until the first few months of the Abbott government in late 2013. I rely on a theoretical approach informed by David Welch's prospect theory-based theory of foreign policy change, Kathryn Cronin's culture of control theory and Christina Boswell's migration narratives of steering theory. By analysing Question Time interactions and other speeches in Parliament as well as press conferences and media interviews, I find that a culture of control caused every government to adopt restrictive measures. The Labor Party's decision to restore the restrictive policies it had dismantled can be explained by its leaders' shifting perceptions on the nature of the problem, the way in which it may be addressed and the expected outcome of existing policies.

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Abbreviations

1951 Refugee Convention	Convention Relating to the Status of Refugees
ACS	Australian Customs Service
AG	Australian Greens
ALP	Australian Labor Party
CLP	Country Liberal Party
LNP	Liberal National Party
LP	Liberal Party of Australia
MP	Member of Parliament
Nats	National Party of Australia
OSB	Operation Sovereign Borders
PM	Prime Minister
PNG	Papua New Guinea
RAN	Royal Australian Navy
RRA	Regional Resettlement Agreement
SAR	Search and Rescue
SASR	Special Air Service Regiment
SIEV	Suspected Illegal Entry Vessel
TPV	Temporary Protection Visa
UMA	Unauthorised Maritime Arrival

Chapter 1.

Introduction

"Fugitives jailed by our northern seas —

election-tactics for those who govern,

Canberra-deaf to refugees."

Judith Rodriguez (2013), *William Street: Eric Vadarlis*

A glaring contradiction lies at the heart of Australia's migration policy. On the one hand, Australia's openness to migration has been a tenet of the nation's identity for well over fifty years. Following the dismantlement of the White Australia Policy in the 1960s, multiculturalism and diversity have become part and parcel of the Australian identity (Castles, 2006; Markus, Jupp, & Mcdonald, 2009; Moran, 2011). Yet, on the other hand, Australia's treatment of irregular boat arrivals has been denounced as among the most brutal state responses to asylum seekers in the West (McAdam & Chong, 2014; Phillips & Spinks, 2013).

Since 2001, Australia has implemented a set of extremely restrictive policies as a strategy to manage the influx of unauthorised maritime arrivals (UMAs). The cornerstone of Australian UMA policy is automatic offshore indefinite detention, which consists in interning persons who arrive by sea without a visa in detention camps in client states in the Pacific region (Phillips, 2014; Phillips & Spinks, 2013). Crucially, the government claims it is under no obligation to resettle them expeditiously even if they are found to be genuine refugees. These asylum seekers may then be processed at the Australian government's convenience, free from media scrutiny and outside the jurisdiction of Australian solicitors and judges who may otherwise secure their release.

These extreme deterrence measures are inconsistent with Australia's commitment to a diverse, multicultural and open society. Social cohesion surveys conducted since 2007 have consistently shown that Australians believe that immigration benefits the country (Markus, 2018). In fact, restrictive UMA policies are inconsistent with Australia's voluntary intake of refugees, which is amongst the world's most generous (Fozdar & Banki, 2016). Nevertheless, these policies have largely been met with widespread consensus between the major political parties (Phillips, 2014). Since 2001, all governments have implemented some form of interdiction and detention policies, although some have eschewed offshore camps.

Why, then, has Australia enacted these baffling policies? And why has it decided to keep them in the face of intense criticism at home and abroad? Several explanations have been advanced by migration and security researchers, including theories that point to xenophobia and racism (Baringhorst, 2004; Devetak, 2004; McMaster, 2002), the risk of terrorism (McDonald, 2011), security-based moral panic (Martin, 2015), crimmigration and the criminalisation of refugee bodies (Hodge, 2015; van Berlo, 2015), electoral tactics (McKenzie & Hasmath, 2013; Reece, 2015) and a culture of control (Crock, 2014; Cronin, 1993; McKenzie & Hasmath, 2013; Scott Lopez, 2003). However, most studies have either failed to notice or neglected to explain changes in these policies over time.

Australian actions and reactions on this matter have not displayed a degree of consistency commensurate with usual practices in security policy-making. Governments have alternately tightened and loosened restrictions, even as the issue of refugees was deemed a crucial aspect of national security. Where most states are unflinching, Australia has flipped-flopped. Indeed, the story of Australia's response to *boat people* is the story of wavering interaction between constraints and process — a tussle between decision-makers scrambling in unison to protect their authority and faceless individuals whose

very presence is construed as a problem in an environment those decision-makers are unable to control.

In this thesis, I attempt to determine what factors explain Australia's UMA policies between the First Rudd Government (starting in December 2007) and the early stages of the Abbott Government (starting in September 2013). To achieve that goal, I rely on a theoretical approach which blends David Welch's (2005) theory of change in foreign policy with Christina Boswell's (2011) *migration narratives of steering* framework and Kathryn Cronin's (1993) insights on Australia's culture of control. I find that whilst Australia abandoned the most extreme deterrence measures in early 2008 because the Labor government considered them cruel and ineffective, several factors pushed the same party that had dismantled those policies to reintroduce them. Politicians' cultural expectations that good governance is impossible unless the borders are carefully controlled led them to prefer more restrictive policies. Interactions with the opposition led the government to accept a narrative that embraced deterrence as effective and shifted the government into the domain of losses. And the government's perceptions of policy failure then enabled change to occur.

This thesis takes a qualitative approach to research design. I rely on the case study method, specifically a theory-guided case study (Levy, 2008), which highlights some aspects of reality as determined by theory. Using the *process tracing* technique, I assess parliamentary speeches and press releases from key decision-makers between late 2007 and 2013, especially *Question Time* interactions between government and opposition, to identify what variables determined continuity and change in public policy.

In order to offer a convincing explanation, I first conduct a brief but comprehensive literature review in Chapter 2. Then, I establish a theoretical framework in Chapter 3 by describing and connecting theories of foreign policy analysis and migration policy-

making. Chapter 4 describes my research design, including the methods and techniques I use, my case selection rationale, and the data I assess. I then turn to the analysis of discourse and policy. Chapter 5 focuses on the transition between John Howard and Kevin Rudd and the first three years of the Labor government. Chapter 6 explains Labor's backflip under Julia Gillard's government between 2010 and 2013. Chapter 7 evaluates Kevin Rudd's return to the prime ministership in 2013 and his government's tightening of UMA policy, as well as the first few weeks of Tony Abbot's Liberal government and the establishment of Operation Sovereign Borders. Chapter 9 acknowledges the inherent limitations of this study and lists opportunities for further research. Chapter 10 then recaps the main arguments of each previous section and draws conclusions based on the evidence.

Chapter 2.

Literature Review

> "now they, like the dour
>
> Australians below them, were facing
>
> encounter with the Foreign
>
> where all subtlety fails"
>
> — Les Murray (2013), *Immigrant Voyage*

This thesis attempts to answer the following research question: what factors determined Australian policies on unauthorised maritime arrivals (UMAs) between 2007 and 2013?

An exploration of the variables that caused these policies warrants a discussion of previous answers in relevant academic literature. For the purposes of this study, I have identified two trends in academic research on how and why restrictive asylum policies are established[1]. Whilst both see a threat in the irregular arrival of asylum seekers by boat, some authors emphasise the nature of the asylum seekers themselves whilst others focus on the circumstances under which they arrive. These ideas are not necessarily mutually exclusive, nor do they constitute or reflect different schools in wider migration or security studies. Indeed, each group offers a partial explanation of a complex problem, as multiple narratives and causality chains may coexist and influence policy-making (van Berlo, 2015). However, this distinction is practically useful since most relevant precedents for the research question clearly emphasise only one of these groups of explanations. In this study, I favour the second approach, which underscores the importance of the circumstances surrounding arrival in explaining government responses.

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1   This method of classification was first used by Scott Lopez (2003) and is adapted here to incorporate modern literature.

Most analyses of this case have unproblematically assumed that the enactment of restrictive policies was prompted almost exclusively by increasing numbers of boat arrivals. It is undeniable that more boats correlate with stronger deterrence measures from the Australian government (Phillips, 2017). However, the mere presence of unauthorised maritime arrivals cannot on its own explain Australia's responses. A description of the case's context cannot adequately explain state response unless the interaction between the environment, domestic preferences and decision-making processes is taken into account (Stein, 2006). Whilst boat arrivals are likely a necessary condition, academic literature has not convincingly shown they are also a *sufficient* condition. My study, then, aims to unpack Australian asylum policies in order to ascertain why and how decision-makers responded to boat arrivals by choosing these specific policies from a range of available options.

Explanations based on the nature of asylum seekers

Social Cohesion

Most researchers who analyse restrictive policies towards asylum seekers have proposed explanations that problematise the nature of the asylum seekers themselves. The *standard contention* in UMA policy comprises explanations based on racism, xenophobia and mistrust of immigrants (Scott Lopez, 2003). Under these theories, asylum seekers are often deemed a threat to national unity and cohesion which must be suppressed in order to keep the peace. Some poll-based public opinion studies, for example, have found that diversity is often seen as a threat to religion, language and traditions in Western Europe (Ivarsflaten, 2005) and Israel (Canetti-Nisim & Pedahzur, 2003; Canetti, Snider, Pedersen, & Hall, 2016).

In the Australian case, some prominent academics have argued that Australia's asylum seekers policy is inseparable from a racist sentiment in public opinion and may be

interpreted as a continuation of the White Australia Policy (Baringhorst, 2004; Devetak, 2004; McMaster, 2002). Racism allows policy-makers and the media to frame the matter of asylum seekers in a way that lets them evade responsibility. For example, Bleiker et al. (2013) analyse the representation of refugees in newspapers and conclude that the media have dehumanized refugees and presented them as a faceless threat instead of a humanitarian problem. This view has often been echoed by reports from international human rights organisations and activists who attribute the government's actions at least partly to racism (Amnesty International Australia, 2019; Perlman, 2013), but it is inconsistent with surveys that find widespread support for multiculturalism and openness to migration (Markus, 2018).

Some have argued that perceptions of refugees' unwillingness to integrate into Australian society are caused by anxiety and fear of Asian invasion, which has been a recurrent fear in Australia for decades (Horne, 2009; Markus et al., 2009; Scott Lopez, 2003). Surveys have found invasion anxiety is common amongst members of the public (Mckay, Thomas, & Kneebone, 2012). Therefore, government intervention is necessary to reinforce a vulnerable identity. As I explain in Chapter 3, whilst these insights cannot by themselves explain why a government decides to make or unmake public policy, some of these studies do contribute to a detailed description of the context and the conditions that make such decisions possible.

An exception can be found in McNevin (2007), who writes that the government constructs refugees as "threats to Australia's physical safety, territorial integrity and national identity" (p. 611) in order to capitalise on invasion anxiety and mobilise working-class support to offset the costs of neoliberalism. However, whilst she is right to highlight the *liberal paradox* (Hollifield, 2004) of contradictions in Australia's openness to trade and

territorial closure to refugees, a narrow focus on the instrumental and racial aspects of UMA policies fails to capture the importance of a culture of control on policy-making.

Terrorism

The threat posed by asylum seekers can also be associated with terrorism. Burke (2001; 2008) argues that UMA policies adopted in Australia since 2001 are the result of a securitisation process that identifies refugees as part of a terrorist threat. The government fuels fear by construing refugees as a threat to national security and then promises security in order to stay in power (McDonald, 2011). Martin (2015) analyses deterrence campaigns conducted by the Australian government and describes the construction of a permanent *moral panic* in which the figure of the refugee is subsumed under that of the Muslim terrorist.

Recent experiments in social psychology have provided some evidence for terrorism-related explanations. Surveys in Australia have shown that individuals' fear of terrorism correlates with support for government measures that purport to prevent terrorism, such as strong border protection (Vorsina, Manning, Sheppard, & Fleming, 2019). Similarly, surveys in Israel and Europe suggest perceptions of terrorist threat from minority groups (Canetti-Nisim, Ariely, & Halperin, 2008; Hercowitz-Amir & Raijman, 2019) and government framing of asylum seekers as "infiltrators" (Hochman, 2015) increase exclusionary attitudes among the public.

In the Australian case, it has sometimes been argued that populism, broadly understood as "pandering to the attitudes of floating or swinging voters" (Maley, 2003, p. 192), played a key role in the Coalition's electoral success. During the 2001 election, the Coalition successfully managed to link the terrorist attacks against the United States in September with the Tampa crisis (see Chapter 4), which had taken place less than a month earlier, in order to bolster voter support (A. Burke, 2008; McAllister, 2003).

However, whilst linking asylum seekers to terrorism may have proved a useful election tactic, a mere description of securitisation strategies adopted by a government in response to individuals who are construed as threatening explains *how* the government adopted restrictive measures, but not *why*. Securitisation-based studies may explain institutional rule-breaking and the removal of an issue from the realm of normal politics into the sphere of national security, but they cannot explain why a specific threat results in a specific measure (Bright, 2012). They have generally also failed to explain the incongruence between Australia's restrictive UMA policies and generous refugee resettlement schemes (Maley, 2016). A broader and more convincing explanation must look beyond a description of circumstances to unearth the interactions between context and process that led to policy decisions. Furthermore, the extent to which Australian governments view asylum seekers held in offshore detention as possible terrorists has been called into question by recent evidence, such as Prime Minister Malcolm Turnbull's admission that "we know exactly who they are" and "these guys are not in that league" ("Full transcript: Donald Trump and Malcolm Turnbull telephone conversation," 2017).

Other critical theories

Crimmigration is another school of literature that problematises the nature of asylum seekers. Proponents of this theory argue that criminological thought in asylum issues fosters a culture of control which emphasises the consequences of crime over its causes and shifts attention from the crime to the criminal. Government rhetoric thus portrays asylum seekers as criminals who threaten both individual safety and social order (M. Welch & Schuster, 2005). This *criminology of the other* assumes that asylum seekers are inherently different from the rest of the population and reinforces that belief through racist and classist stereotypes.

In the Australian case, van Berlo (2015) applies Critical Discourse Analysis to government rhetoric surrounding Operation Sovereign Borders and finds that the government

distinguished insiders from outsiders based on a conceptualisation of refugees as "criminal, dangerous and deviant" (Banks, 2008, p. 43). Hodge (2015) analyses the Australian government's narratives from a perspective influenced by Michel Foucault and Judith Butler and concludes that the subjectivity of refugees is constructed in a way that criminalizes their bodies. Markham and Cover (2018) also analyse narratives to study how political discourse classifies the lives of refugees as deserving of either rights or exclusion. These critical theories have made useful observations regarding asylum issues, but in general, they are highly normative and do not seek to explain government decisions but to question them.

Explanations based on the circumstances of arrival

Other researchers have advanced the idea that asylum policies depend not on the nature of refugees or asylum seekers per se, but on the circumstances in which they reach the state's territory. This idea has not been extensively explored in the rest of the world but offers convincing explanations for the Australian case (Scott Lopez, 2003), where it is usually associated with a *culture of control*[2]. According to Cronin (1993), the public requires the government to exercise effective control over migratory flows. The government offers control solutions, and the opposition seeks to point out the flaws in such schemes. Refugees do not pose a threat because of their nature, but because their unauthorised arrival presents a challenge to the conduct of an orderly migration system (Crock, 1998; Schech, 2012). Theories and concepts associated with or based upon Cronin's culture of control have been widely used in the literature to explain the Australian case.

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2   It is worth noting that Cronin's *culture of control* is not related to a similarly-named concept in crimmigration theory. The culture of control caused by crimminological thought shifts focus *away* from the crime and towards the nature of the criminal, whereas under Cronin's culture of control, asylum seekers' actions are deemed more important than their identities.

Through anonymous interviews with former senior ministers, David Palmer (2008) finds that the culture of control is connected in decision-makers' minds with the values of nation-building and good governance. His study is especially useful to trace values and beliefs in speeches in Parliament. Similarly, McKenzie and Hasmath (2013) analyse statements in Parliament and find that the *People Swap* asylum policy in 2012 was heavily influenced by the culture of control and the electoral tactic of wedge politics (see Wilson & Turnbull, 2001). McKenzie and Hasmath's research does not consider policies enacted before 2011 or after June 2012 and therefore fails to capture Labor's decision to reinstate offshore detention. Nevertheless, it provides an excellent starting point to study the restrictive turn in UMA policies between 2012 and 2013. Similarly, Peter Chambers (2015) analyses Australian border security policies after 2013 and finds that geopolitical notions of security, jurisdiction and sovereignty in the government's Maritime Security Guide are compatible with the culture of control.

Mary Crock, Daniel Ghezelbash and other legal scholars have provided detailed legal descriptions of the shifts that my research question addresses and found that the restrictive policies adopted since 2012 show a convergence towards Asian standards on refugees (Crock, 2014; Crock & Ghezelbash, 2010; Crock, Mahony, & Fozdar, 2017; Ghezelbash, Moreno-Lax, Klein, & Opeskin, 2018). Crock's studies provide important insights into tensions between domestic political decisions and international law, but she does not attempt to explain any government's decisions. Reports prepared for the Parliamentary Library's Research Branch by Janet Phillips, Harriet Spinks and Ellibritt Karlsen (Karlsen & Phillips, 2014; Phillips & Spinks, 2013) were also useful for this thesis as they give a comprehensive description of the policies I seek to explain.

Chapter 3.

A Threat to Commonwealth Authority: a Conceptual Framework

"They can take my passport and my lover and my country and my name. But they cannot take my grief and use it to make their records neat. I will not give them that."

— Kathryn Heyman (2013), *Lucky*

Political scientists have developed a range of theories that aim to explain change in public policy, including the *policy streams*, *punctuated equilibrium* and *policy advocacy coalition* frameworks (Peter, 2003). Out of these, punctuated equilibrium theory is perhaps the most promising in its potential relevance to Australia's migration and asylum policies, but it is inadequate to explain the 2007-2013 period, which was characterised by rapid change in multiple directions. Indeed, Juliet Pietsch has described my case as "a period of disequilibrium with no real stasis" (2013, p. 152). Pietsch also suggests that the salience of asylum seeker issues may be explained by public opinion and the framing of *boat people* on the one hand, and the role of human rights organisations on the other (for a similar argument on these tensions, see also Boswell, 2007). I accept her intuition and seek to extend it.

The components of Australia's migration policy find themselves in opposition to each other and experienced radical change in a relatively brief period. Such a complex and contradictory case can only be explained by a combination of theories that account for pressure in either direction, as well as the circumstances under which change becomes possible or likely. There is no reason to assume governments react in a deterministic, billiard-ball fashion to external stimuli. As Stein (2006) points out, a specification of conditions and circumstances cannot explain individual responses. A convincing explanation must consider the interplay between external constraints and decision-makers' own processes, biases and belief systems.

In this chapter, I develop a conceptual framework that blends several theories in order to explain this case. First, I explain how Welch's (2005) theory of change in foreign policy contributes to an explanation of policy shifts. Second, I explain why the government, afflicted by a culture of control, prefers highly restrictive measures. Third, I explain how Boswell's (2011) *migration narratives* framework will assist me in bridging the gap between speeches in Parliament and policy outcomes. Finally, I discuss how insights gleaned from securitisation-based research may complement my study.

Accepting risk: change in foreign policy

Whilst immigration and asylum policy have sometimes been addressed as a purely domestic issue, some analysts have recognised its *intermestic* character (Rosenblum, 2003) and incorporated the external dimension of domestic decisions into foreign policy analysis (Boswell, 2003; Gebhard, 2017). Because Australia's asylum policies comprise mandatory detention in offshore camps, the international aspect of its migration policy is undeniable (Chambers, 2015; Crock, 2014; Schultz, 2014). Therefore, I rely on theories that explain change in foreign policy to account for the circumstances that enable and facilitate change in UMA policy. Whilst change in foreign policy may result from changes in governing coalitions (Lasagna, 1995) or changes in the sources of leaders' support (Mattes, Leeds, & Matsumura, 2016), policies may also be modified for different reasons. David Welch's (2005) and David Skidmore's (1994) theories introduce concepts and mechanisms relevant to this study.

Welch's approach, based on a combination of organisation theory, cognitive and motivational psychology, and prospect theory, contends that decision-makers are risk-accepting when facing losses and risk-averse when facing gains. Consequently, they are more willing to accept the risks and costs involved in foreign policy change in order to avoid losses than to gain an advantage. States may then carry out actions that entail a

policy shift to the extent necessary to minimise potential losses. In order to evaluate the current situation and their choices, states develop an operative reference point, which outlines their idea of an acceptable outcome, and they then assess how each choice will leave the state with respect to the reference point. Welch assumes that states are unitary actors that make a single decision; however, his decision to anthropomorphise groups does not eliminate the need to study "the struggles and deliberations that go on within the minds of individual decision-makers attempting to decide what options they favor themselves" (pp. 48-49).

Welch argues foreign policy change is especially likely when policy-makers face the repeated or catastrophic failure of previous policies, or when they are convinced that failure is imminent. Change in foreign policy may occur when leaders decide that the previous policy was based on erroneous assumptions, or that the instruments were inadequate, or when they assess that external changes have rendered current policies unresponsive to the environment or incompatible with state interests. However, if there is no evidence or expectation of a total failure of current policies, change is less likely. Whilst foreign policy adjustment may be more common, states tend to avoid major changes until policies fail catastrophically to avoid the cost of changing policies.

Change, however, is not equally likely for all states. According to Skidmore (1994), great powers often respond to changes in their environment by adopting measures to reshape that environment and make it compatible with their existing policies, which have become "stuck" (p. 47) due to the high political, intellectual and organisational costs of reform. Great powers mobilise their resources to modify their environment in a way that allows them to resist foreign policy change. Middle powers, meanwhile, also attempt to change their environment, but they are more likely to fail because they lack the tools to achieve it. Facing more substantial constraints, middle powers with a strong government not

beholden to pressure groups find it relatively easier to adapt and are more responsive to changes in their environment.

Based on these theories, I hypothesise that facing the prospect of failure in asylum policy facilitates policy change. Perceptions of catastrophic failure make policy change feasible, necessary and more likely. I expect that Australia will first try to shape the environment, but given its status as a middle power, attempts to shape the environment through multilateral or bilateral regional solutions are likely to fail, increasing pressure on the government to change policies.

I must make two further points on this hypothesis. First, I acknowledge the challenge of operationalising perceptions of catastrophic failure. However, this task becomes less problematic when applying Boswell's (2011; Boswell et al., 2011) migration narratives theory, which I explain below, as it provides a framework to assess policy-makers' reference points, their perceptions of the nature of the problem and possible state action to address it. Furthermore, the *culture of control* theory provides the standards by which politicians measure policy success and failure. Secondly, I reject a deterministic interpretation that unauthorised maritime arrivals must inevitably result in restrictive measures. Whilst boat arrivals are likely a necessary condition for the introduction of restrictive policies, they are not a sufficient condition. UMAs are not a problem per se, but due to the *culture of control* mechanism, they are seen as a threat to governance and values, which in turn demands a decisive response. The change hypothesis merely specifies the conditions under which the changes involved in the adoption of such restrictive policies become more likely.

Geography and expectations: a culture of control

Theories that see the circumstances of asylum seekers' arrival as problematic rather than the nature of asylum seekers themselves are usually based on some variation of the

culture of control argument, which was first articulated in the academic literature by Kathryn Cronin (1993) in a landmark assessment of the legal implications of Australian migration policy. In her chapter, Cronin argues that Australia "is truly the lucky country"[3] (p. 85) in terms of immigration control. Because Australia shares no land borders with other nations, because its major population centres are isolated from the rest of the world, and because it is not usually a transit country in international flight routes, it is in a unique position to control migrant flows. As a result, almost every person who entered Australia did so with permission, although Australia cannot avoid the issue of migrants or travellers who overstay their visas.

The essence of the principle of control, according to Cronin, is that the Commonwealth's[4] priority in immigration issues is to defend its natural advantage in its capacity to monitor and enforce border regulations. As Australian policies are premised on the assumption that borders will be controlled, the Commonwealth desperately seeks to maintain its right to choose which foreigners can enter, and to determine under what conditions and procedures they may do so. The theory also predicts that the government will offer control solutions and the opposition will point at flaws in the government's control because they perceive that control is a concern for voters (McKenzie & Hasmath, 2013).

Any situation that does not conform to the rules that the government has set is seen as a threat to the sovereignty and integrity of the Commonwealth, regardless of the identity or characteristics of the migrants. The Commonwealth is uncomfortable with the arrival of boat people no matter how desirable such individuals would have been if they had arrived

3   "The Lucky Country" was an expression coined by Donald Horne (2009) in the 1960s, originally intended as highly critical of Australian society. Horne argued Australia was *lucky* to achieve prosperity despite its citizens' conservatism and its leaders' incompetence. The expression has since been widely misinterpreted in the opposite sense and is now generally used in praise of Australia (Mackay, 2009). This commendatory usage was widespread in the 1990s and was probably the meaning intended by Cronin.

4   Australia is formally known as the "Commonwealth of Australia". To avoid confusion and slippage, the state, which represents a set of institutions, must be distinguished from the government, which temporarily holds power in a state (Hill, 2016). I therefore refer to the Australian federal state as "the Commonwealth" and to each federal government as "the government".

through established procedures (Palmer, 2008) or how few individuals arrive (McKenzie & Hasmath, 2013). Evidence has shown that, in line with expectations based on this theory, immigration ministers and other relevant officials believe that their migration and asylum policies cannot be implemented successfully if the Commonwealth is unable to control what happens at and within its borders. Effective border control is thus seen as a prerequisite for good governance and responsible nation-building (Palmer, 2008).

Literature on the *culture of control* forms the backbone of this thesis. However, the theory's over-reliance on cultural factors may diminish its explanatory power. Therefore, it may be useful to restate Cronin's ideas in structural terms in order to facilitate operationalisation. As Boswell (2007) has indicated, instances of irregular entry, illegal stay and the employment of illegal migrants are difficult to measure. Because the extent and the effects of migration are particularly hard to observe, they are open to rival claims which can hardly be verified. This "high degree of epistemic uncertainty" (p. 594) makes migration control issues highly susceptible to different framing attempts. I argue that the Australian geography makes the *irregular entry* part of this problem measurable and constrains how the issue can be framed, which enables and nudges (but does not force) leaders to enact certain restrictive policies. The specific framing used must resonate with the local culture in order to be effective, but a different culture may perhaps reach a similar outcome through different tropes and themes. Stripped of its cultural background, a control hypothesis may potentially apply to any country that for reasons of geography is capable of exerting highly effective surveillance and control over the influx of irregular migrants.

Most states find it impossible to police land borders effectively. However, in Australia's case, boat arrivals are relatively easy to monitor using the same tools the state deploys to detect and track vessels for traffic control and defence purposes. Whilst controlling

unauthorised maritime arrivals nevertheless requires the Commonwealth to spend a significant amount of resources, the attempt is not futile. The Commonwealth's capacity to measure and intercept suspected illegal entry vessels (SIEVs) then raises certain expectations among both policymakers and the public.

First, ministers and senior public servants, who share the values of nation-building and good governance as their priorities in designing migration policy (Palmer, 2008), believe that controlling the influx of irregular migrants is necessary to achieve those goals. Irregular arrivals are seen as a distraction that may force resources to be redirected away from other areas, including from expenditure on other migrants and from asylum seekers who sign up for the Humanitarian Program. Because the Commonwealth has the capacity to impose limits on this problem and attempt to control it, policy-makers believe enforcement action is imperative. As one anonymous former immigration minister explained in an interview, "you can only conduct good immigration policy and good refugee policy if you are able to manage your borders" (quoted in Palmer, 2008, p. 311). Second, the public expect the government to keep the border management issue under control because they believe that *stopping the boats* is feasible and an acceptable solution to the threat. This demand for tougher control stems from voters' perceptions of asylum seekers' unwillingness to follow established procedures, which is incompatible with Australian ideals of *fairness* (Mckay et al., 2012). Crucially, their leaders' political rhetoric strengthens perceptions of asylum seekers as *cheaters* or *queue jumpers* who try to exploit Australia's fair and just system (McAdam & Chong, 2014; McKenzie & Hasmath, 2013).

Whilst geography makes migration flows measurable, it should be noted this information is not symmetrically available to all actors. As the Commonwealth relies on military and law enforcement instruments to measure and control SIEVs, the government is privy to

information that is unavailable to members of the opposition. However, the opposition also plays a role in policy-making (Kabala, 1993). Some of this information is eventually made public through journalism and other mechanisms, but timely and comprehensive reports are seldom publicly available. Because the opposition is in a state of ignorance concerning the facts[5] but is also aware that it may well trade places with the government at the next election, they will seek to *wedge* the government (McKenzie & Hasmath, 2013; Wilson & Turnbull, 2001) and point out flaws in the government's control solutions. Opposition pressure can then be expected to dragoon the government into enacting more restrictive control measures.

It is hardly revolutionary to predict an opposition party will criticise the government, as that is its institutionally recognised role. But an opposition may choose to engage in criticism of the government in a number of ways. For example, they could ignore the issue, as they do with other government decisions that lack asylum policy's salience and may trigger little more than token resistance from the opposition. They could support the government, even if they disagree on policy details, in order to show bipartisan consensus and capacity for responsible government, as usually happens in defence and most foreign policy issues. They could question the philosophical underpinning or the political foundations of the government's decisions based on ideology or the perceived interests of their base, which is a common trope in fiscal policy debates. I expect that whilst any of these possibilities may indeed occur, none will represent the main pattern of interaction between government and opposition. Instead, the culture of control framework predicts high salience and a pattern of interaction which is not unique but is nevertheless highly specific: the government will tout their control of the border, even as they warn about the

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5 Under certain circumstances, the Leader of the Opposition and relevant shadow ministers may be briefed on confidential information. However, this has generally not occurred on the matter of asylum seekers during this period, except for an expert briefing for the opposition under Julia Gillard. Even if it had, if the opposition were unable to disclose privileged information, my proposed mechanism would still hold.

enduring threat posed by UMAs, and the opposition will seek flaws in government control, forcing the government to fortify its position.

Based on all these considerations, I hypothesise that a culture of control creates incentives for governments to enact restrictive control policies through a) policymakers' expectations that failure to control entails a failure of governance and legitimacy, and b) interactions with the opposition that wedge and dragoon the government into pursuing more restrictive policies.

Why politicians speak: migration narratives of steering

Based on Niklas Luhmann's (1997) social systems theory, the *migration narratives* framework (Boswell, 2011) assumes that the political system is incapable of directing the behaviour of members of other systems because each system is self-referential and operates according to its own codes and logic. However, systems interact through a structural coupling mechanism. The political system processes information from surrounding systems, models their behaviour and then issues regulations, which must then be transposed by the receiving systems into their own codes and language. Because the dynamics of migration are extremely complex and intersect a number of systems, Boswell contends that the political system develops a highly simplified model of the migration issues it aims to regulate. Politicians are therefore under pressure to develop simple migration narratives that allow them to gain an understanding of the issues, make relevant decisions and justify their logic to critics, groups targeted by the policies, officials tasked with implementation and the public at large.

These narratives set out policy-makers' beliefs about problems in migration issues and the possibility of state intervention. Specifically, narratives include sets of claims on three different aspects (Boswell et al., 2011):

1. statements of fact regarding *the nature and scale of migration problems*, specifying the target population at which policies should be directed. As examples, Boswell et al. suggest the problem of migration may be defined as the exploitation of powerless victims by traffickers, or the exploitation of legal loopholes by economic migrants.

2. claims about *the causes of the problem*, as well as the possibilities of state intervention to address those causes and control or stop the problem. Causal stories may attribute blame to specific actors or factors.

3. claims and expectations about how policy decisions have affected the problem or are likely to do so in the future. Politicians are expected to call for action to address the problem based on their assumptions about how policy intervention will influence its targets.

According to Boswell et al., for each actor, the attractiveness of any given migration narrative is determined by a combination of factors, including:

• whether the narrative matches *the actor's interests*. Policymakers will generally be attracted to narratives that are compatible with their ideology and general worldview. Interests are acknowledged to play a key role in knowledge selection and utilisation, but narratives may also shape interests.

• its *cognitive features*, such as coherence and consistency. Actors are unlikely to be attracted to narratives that do not display a reasonable level of internal consistency and cannot be supported by any available facts, as they would later struggle to convince the public or other decision-makers.

• its *persuasiveness*, which is determined by its plausibility and its openness to multiple interpretations. A migration narrative which contains a certain set of

causality claims would be more likely to succeed if it appeals to actors with varying policy beliefs.

The migration narratives framework does not assume that each actor's interests are fixed or determined only by material factors. Instead, interests and narratives are seen as mutually constitutive. Interests influence what pieces of information each actor selects and how this information is used, but that actor's decision to highlight certain aspects of reality over others will also shape their perceptions of their own interests. This framework provides a plausible mechanism to explain how politicians' rhetoric is connected to policy outcomes, and it will assist in operationalising and measuring policy-makers' perceptions of asylum issues.

Additionally, the theory also predicts politicians select and deploy expert opinion to use as a shield. Expert knowledge is used in a symbolic fashion because it is not valued for its content but as a way to signal the authority and legitimacy of policy decisions (Boswell, 2009). Boswell predicts that "expert knowledge will be used as a strategy of political mobilization where protagonists consider that issues can be (at least partially) settled on technocratic grounds" (p. 89) and a high-risk decision must be taken. Politicians will also deploy expert knowledge as a source of substantiation in social regulation contexts "where contention revolves around appropriate mechanisms of steering rather than distribution or norms" (p. 89). Based on Boswell's predictions, I expect Australian policy-makers to rely on the substantiating power of expert knowledge to secure their legitimacy in complying with the dictates of the culture of control.

A note on critical security studies

As detailed in Chapter 2, a number of studies on both the Australian case and the rest of the world have relied on critical security approaches, particularly securitisation theory (Balzacq, 2005, 2011), to account for migration policies that aim to prevent or punish the

irregular entry of migrants who are deemed illegal. It would be reasonable, then, to question why I did not take an approach that supplements these precedents.

Whilst I recognise that securitisation can be a useful and powerful tool, I decided not to frame my hypotheses in terms of securitisation because I found the theory struggled to answer my research question. The Australian case in particular has been said to defy predictions made by securitisation theory because deliberation on the matter of asylum seekers led to a re-securitisation of the issue rather than its removal from the security agenda (McDonald, 2011). It is worth noting that choosing to securitise is just one among a range of decisions from which a government may pick. Therefore, as Boswell warns, "limiting the focus of research to processes of securitization may constrain observation of alternative trajectories in the framing of migration issues" (2007, p. 592). This does not, however, preclude researchers from incorporating advances in the field of critical security into their studies, even if the theoretical underpinning is deemed unsuitable for a particular research question. Drawing attention to the institutional and political reasons behind migration policy-making does not negate the role of security and securitisation in justifying and mobilising actors to enact such policies. It is simply a different approach to a related but different question.

As Boswell herself points out, her distinction between the *system of politics* and the *administration*, two components of the wider *political system*, roughly corresponds to the distinction between political *discourse* and *practice* in securitisation theory. A link could therefore be devised to make this sociological approach compatible with Paul Roe's (2008) analysis of securitisation actors and stages that provide *moral* and *formal* support in assessing an issue as a security threat and then implementing extraordinary measures. Nevertheless, the Luhmannian foundations on which Boswell's approach is based may not be immediately compatible with securitisation approaches in their underlying

epistemological and theoretical assumptions. Whilst I believe a bridge can be built between these two approaches, to do so would represent a considerable undertaking which would exceed the scope of this study. Such an enterprise would quickly prove too ambitious for an undergraduate thesis, more so than the expected gains from added conceptual complexity would seem to justify.

Furthermore, securitisation theory can describe how a threat was constructed and specify under what circumstances such intersubjective construal may succeed, but it cannot necessarily explain why politicians made the decision (not) to engage in securitisation. It would need to be complemented by theories capable of making substantive rather than procedural predictions, such as my *culture of control* hypothesis. Framing my study in securitisation terms would increase complexity, but I do not believe it would allow me to formulate different or better hypotheses. Therefore, in the interests of parsimony and internal validity, I do not take a securitisation approach.

However, I acknowledge that it would be injudicious to dismiss critical literature entirely, as securitisation literature has identified a number of relevant actors and processes that cannot be ignored. Key to this study, I accept the general conclusion that the unauthorised arrival of asylum seekers has broadly been construed as a threat (Ghezelbash et al., 2018). If one were to consider the issue in securitisation terms, it may be argued that securitisation succeeded insofar as Parliament and the public all accepted the matter of boat people as a security issue, specifically a threat to the State and its policy-making capabilities, as well as a threat to the human security of refugees themselves[6]. This was a constant throughout the period. However, *active* securitisation (Roe, 2008) did not always occur: as I show in Chapter 4, politicians and the public did not consistently support restrictive measures to respond to this threat.

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6   I do not believe that the government succeeded in convincingly linking unauthorised maritime arrivals to terrorism, similarly to what occurred in most of the European Union (Boswell, 2007). I find no evidence of such a linkage after 2008.

My variables and hypotheses are thus premised on a different conceptual framework which dispenses with the core of securitisation theory in favour of an approach focused on the causes and consequences of politicians' perceptions, but which is also imbued with the insights previously identified in relevant critical literature. I expect my proposed framework will be cogent, more parsimonious than possible alternatives I rejected and, crucially, better suited to offer a convincing explanation of the case in question.

Chapter 4.

The Australian Case: Research Design

"The separating ships were bound away / to the cities of refuge / built for the age of progress.

...

Argentina? Or Australia? / Less politics, in Australia..."

— Les Murray (2013), *Immigrant Voyage*

In this thesis, I have adopted a qualitative research paradigm. I perform an in-depth analysis of the phenomena I seek to explain in relation to their context. My research design was flexible and it was modified as needed during the data-gathering and analysis processes in order to gain a deeper understanding of the research problem (Maxwell, 2012).

The method used in this thesis is a *case study*, which Yin (2009) defines as "an empirical inquiry that investigates a recent phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident" (p. 18). Because my research question requires an explanation of Australian policies on unauthorised maritime arrivals (UMAs) between late 2007 and 2013, my study focuses on Australian policies in this period as a single case.

This use of the case study method is idiographic, as it aims to "describe, explain, interpret, and/or understand a single case as an end in itself rather than as a vehicle for developing broader theoretical generalizations" (Levy, 2008, p. 4). Specifically, under Levy's typology, I conduct a *theory-guided case study*, which consists in an idiographic study which, unlike total history, is structured by a conceptual framework and focuses only on certain aspects of reality as determined by theory. In this thesis, I eschew comparison with other states and focus entirely on explaining Australian policies. As Levy

argues, although critics have sometimes claimed that scientists should not be concerned with explaining individual cases, "this argument reflects an excessively narrow view of . . . social science" (p. 4) because "scientists' explicit and structured use of theory to explain discrete cases often provides better explanations and understandings of the key aspects of those cases" (p. 5).

Whilst I do not dismiss the importance of hypothesis-generating case studies and other design decisions that aim to formulate generalisable propositions, there are several reasons that justify my decision to investigate Australia's policies as a single-case idiographic case study. First, Australia's case is anomalous and unexpected. Australians are neither racist nor xenophobic, and indeed multiculturalism and openness to migration are tenets of Australian society (Jupp, 2007; Markus, 2018; Markus et al., 2009; Moran, 2011). Nevertheless, Australia is the only state to rely on large-scale offshore detention of irregular migrants, apart from a limited pilot trial in Libya by Italy and the temporary detention of migrants in Guantanamo Bay by the United States in the 1990s (R. Brooks, 2017; McAdam & Chong, 2014). Therefore, Australia's unusually restrictive asylum policies seem inconsistent with the country's wider migration and population policies and values.

Second, it is also curious that Australian policies on mandatory offshore detention have not remained stable but have experienced radical change over a relatively short period of time. Indeed, the same leaders who denounced these policies as immoral later decided to enact more restrictive versions (Karlsen & Phillips, 2014; McKenzie & Hasmath, 2013; Phillips & Spinks, 2013). These changes have not been adequately explained in previous studies.

Third, as explained in Chapter 3, several wide-scope, generalisable theories have failed to account for the Australian case, which has contradicted predictions by securitisation

theories (McDonald, 2011) and been assessed as a period of disequilibrium that cannot be explained by punctuated equilibrium theory (Pietsch, 2013).

Fourth, there are ethical reasons to seek to understand how these restrictive policies were decided. As I describe in the next section of this chapter, Australia's offshore detention camps are characterised by extremely poor living conditions, which have often been criticised by human rights advocates both foreign and domestic. Furthermore, although offshore detention policies are still rare, policymakers in several other states are considering adopting policies similar to Australia's. Influential European far-right politicians (Loewenstein, 2018) and US president Donald Trump ("Full transcript: Donald Trump and Malcolm Turnbull telephone conversation," 2017) have expressed interest in Australia's policies. In June 2019, President Trump tweeted that "Much can be learned!" (Trump, 2019) from Australia's approach.

In the next section, I turn to a brief description of the Australian case in order to describe the policy outcomes I seek to explain.

A brief history of Australian asylum

Australia has faced the challenge of irregular migration since the early 1970s, when the Vietnam War pushed thousands of people to flee from the horrors of the conflict and its aftermath. However, Australian asylum policies were initially inconsistent. Large refugee intakes, for instance following the Tiananmen Square massacre in China, alternated with periods of closed borders and tighter control (Jupp, 2007; Phillips & Spinks, 2013). In 1992, Paul Keating's government established mandatory detention for irregular migrants in prisons located within Australian territory. Since then, restrictive asylum policies have essentially been expanded, with few exceptions (Phillips, 2014; Pietsch, 2013).

A key turning point in the asylum policy debate was the Tampa incident in August 2001 (Phillips, 2014; Phillips & Spinks, 2013). In response to an Australian request, a

Norwegian freighter, the MV Tampa, rescued irregular migrants from a boat sinking in the Pacific. Unable to care for over 400 migrants' needs, Captain Arne Rinnan initially set course for Indonesia, but the migrants demanded to be taken to Christmas Island, an Australian territory located over 1500 km from the continent (J. Burke, Brace, & Jordan, 2001). Captain Rinnan requested permission to enter Australian territorial waters and unload the migrants, but the Australian government denied his request. When Captain Rinnan eventually decided to enter Australian territory without permission, the Norwegian vessel was intercepted and boarded by the Special Air Service Regiment (SASR), a special forces unit in the Australian Army. The SASR prevented the Tampa from docking at Christmas Island and transferred all 433 migrants to HMAS Manoora, a landing platform amphibious ship operated by the Royal Australian Navy (RAN) (Phillips and Spinks, 2013). In response to this incident, the government led by Prime Minister John Howard (LP[7], 1996-2007) launched an asylum policy known as the Pacific Solution.

The Pacific Solution essentially consisted of three elements. First, Christmas Island and other Australian territories far from the mainland were formally excised from the migration zone, so that asylum seekers arriving in these territories could not legally apply for visas under the 1951 Refugee Convention (Karlsen & Phillips, 2014). Second, the Howard government ordered the RAN to intercept and capture any suspected illegal entry vessels (SIEVs) before they reached the continent under *Operation Relex* (Maley, 2003; Senate Select Committee on a Certain Maritime Incident, 2002). Third, Australia opened permanent *regional processing centres* for asylum seekers outside its territory, specifically

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7 The Liberal Party of Australia (LP) is the main party in a centre-right coalition, along with the mostly rural National Party (the Nats) and two other parties in states and territories where the LP and the Nats have merged: the Liberal National Party (LNP) in Queensland and the Country Liberal Party (CLP) in the Northern Territory. This alliance, which has always needed to come together to form government since the 1940s, is commonly known as *the Coalition* and represents one of the two large parties in Australia's two-party system (Elder & Fowler, 2018; Parliament of Australia, n.d.). Despite its name, the modern Liberal Party is largely conservative. The Coalition's main opponent is Australia's oldest political party, the centre-left Australian Labor Party (ALP). The ALP has often been able to govern in its own right without forming coalitions, as in 2007-2010. However, between 2010-2013, the ALP formed a minority government supported by several independent and Australian Greens (AG) MPs.

in Manus Island, an island in Papua New Guinea (PNG), and in Nauru, an island nation in the Pacific (Phillips, 2014; Phillips & Spinks, 2013). Most people on intercepted SIEVs, including the Tampa asylum seekers, were immediately taken to these centres.

These policies remained stable during the Howard years, although Operation Relex was later folded into general-purpose Operation Resolute. However, between December 2007 and early 2008, Kevin Rudd's government (ALP, 2007-2010) put an end to the Pacific Solution by closing the detention camps in PNG and Nauru. The Rudd government decided that asylum seekers would instead be detained within Australia and only as a last resort, when migration officials considered that they posed a genuine risk to public safety (Phillips & Spinks, 2013).

In the next few years, the number of UMAs increased significantly due to changing circumstances in the Middle East (Phillips, 2017). Table 1 summarises the number and outcomes of protection visa requests between 2008 and 2013. Most UMAs in this period were citizens of Afghanistan, Iran, Pakistan, Sri Lanka and Iraq (Department of Immigration and Border Protection, 2013). Migrants from these countries also had generally high grant rates and were well represented in Australia's voluntary Humanitarian Program intake (Department of Home Affairs, 2017).

TABLE 1. UMA Primary Protection visa grants and refusals, 2008-2013 (Reprinted from Department of Immigration and Border Protection, 2013)

	2008-09		2009-10		2010-11		2011-12		2012-13	
	Grant	Refusal	Grant	Refusal	Grant	Refusal	Grant	Refusal	Grant	Refusal
Afghanistan	176	0	1440	402	863	1422	952	225	1850	505
Iran	4	0	58	49	277	720	853	579	545	237
Pakistan	0	0	6	11	9	32	73	46	377	118
Stateless	5	0	173	79	373	503	298	122	297	41
Sri Lanka	5	10	315	95	233	265	192	84	161	680
Iraq	15	0	135	85	183	282	201	69	155	71
Other	4	0	7	18	56	35	139	80	90	18
Total	209	10	2134	739	1994	3259	2708	1205	3475	1670

Following a leadership spill[8], Julia Gillard (ALP, 2010 - June 2013) formed a new government in July 2010 and initially continued Rudd's policies. In May 2011, however, the government proposed the *People Swap* policy (also called the *Malaysia Solution*), under which Australia would have sent 800 undocumented asylum seekers to Malaysia, agreeing in return to resettle 4000 UN-registered refugees from Malaysia in Australia. This policy was declared illegal by the High Court and rejected by Parliament in late 2011 (McKenzie & Hasmath, 2013).

After the failure of the *People Swap* policy, Gillard formed an independent panel of experts, led by former defence chief Angus Houston, which made a series of short-term and long-term recommendations. The Gillard government followed the Houston panel's short-term recommendations and reopened the Nauru and PNG detention camps in 2012 (Karlsen & Phillips, 2014). The government also enacted a new law that excluded the entirety of the Australian territory from the Australian migration zone (Phillips, 2014). In June 2013, Kevin Rudd resumed as prime minister, replacing Gillard, and further tightened asylum policies, announcing that no applicants arriving by boat would receive asylum in Australia. In September 2013, the Coalition won the election and the new government of Tony Abbott (LP, September 2013 - 2015) immediately launched Operation Sovereign Borders (OSB), a military operation similar to Howard's Operation Relex. Thus, Gillard, Rudd and Abbott restored all the components of the Pacific Solution that Rudd had dismantled almost six years earlier, completing the policy turns that constitute the case in question.

According to Mary Crock and Daniel Ghezelbash (2010), Australia's restrictive UMA policies have created two critical problems. First, they have stripped refugees of the

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8   In Australia, a leadership spill is an internal party procedure in which MPs and senators elect a new party leader. When the leadership is spilled for the party currently in government and a new party leader is chosen, the winning candidate is appointed Prime Minister of Australia. This procedure was used by Julia Gillard to forcefully replace Kevin Rudd as PM in 2010, and it was used again by Rudd in 2013 to take Gillard's position back.

protections to which they are entitled by law. As the status determination process affords ministers significant discretion and obstructs judicial review (see also Cronin, 1993), Australia provides a degraded protective regime for asylum seekers. Whilst attempting to discourage asylum seekers from embarking does not necessarily contravene international law, most legal literature has deemed Australia's actions a clear violation of the spirit of the law (McAdam & Chong, 2014). Secondly, an indefinite offshore detention scheme does not provide a durable long-term solution to the challenge posed by regional asylum flows. Indeed, the recurrence of this issue over the last two decades has shown the deterrence strategy to be an ineffective way of achieving its stated goals — to protect Australia's national security whilst treating genuine refugees humanely and avoiding deaths at sea (Maley, 2003).

Taken together, these two issues have resulted in squalid conditions for migrants held in offshore detention and little to no prospect of improvement. Some investigative journalism reports (Farrell, Evershed, & Davidson, 2016), essays by historians, journalists and other community leaders (G. Brooks, 2013; Keneally, 2013; Perlman, 2013) and a few academic studies (Essex, 2016; McAdam, 2013; McAdam & Chong, 2014) have spotlit the violent and insalubrious conditions faced by people held in detention, as well as a lack of access to medical attention and a number of suicides, including by children as young as 10 years old. Some children held in detention in Nauru have been known to suffer from *resignation syndrome,* which causes them to stop responding to any external stimuli, including pain ("What is resignation syndrome?," 2018). People held in detention have limited opportunities to seek review or redress through the courts, and they have also lost the right to receive legal aid (McAdam & Chong, 2014), leading legal experts to claim that for both refugees and scholars, navigating Australian asylum law "can feel like a slippery fish - extremely difficult to grasp hold of" (Crock et al., 2017, p. 2).

Accordingly, Australian governments have faced intense pressure following the release of several scathing foreign and domestic reports. In addition to criticism from Australian medical ("Almost 6,000 doctors sign letter to PM demanding children be taken off Nauru," 2018) and human rights organisations (Amnesty International Australia, 2018; Australian Human Rights Commission, 2017; Karlsen & Phillips, 2014), United Nations agencies including the Special Rapporteur on Torture have denounced the "fatal consequences" of these policies (Office of the High Commissioner for Human Rights, 2019).

The following table summarises the evolution of different aspects of Australian policies towards UMAs since Howard until the early stages of the Abbot government, which constitute this study's dependent variable.

TABLE 2: Australian UMA policies, 2001-2013 (Chambers, 2015; Chan, 2015; Crock, 2014; Crock & Ghezelbash, 2010; Crock et al., 2017; Fozdar & Banki, 2016; Karlsen, 2012; Karlsen & Phillips, 2014; Keneally, 2013; Maley, 2016, 2003; McAdam, 2013; McAdam & Chong, 2014; McKenzie & Hasmath, 2013; Phillips, 2014, 2017; Phillips & Spinks, 2013)

	HOWARD 1996-2007 Liberal Party	**RUDD I** 2007-2010 Labor Party	**GILLARD** 2010-2013 Labor Party	**RUDD II** 2013 Labor Party	**ABBOTT** 2013-2015 Liberal Party
Offshore detention camps	**YES** Detention camps established in 2001.	**NO** Temporary detention in Christmas Island. Offshore detention camps closed.	Initially: **NO** Temporary detention in Christmas Island. In 2012: **YES** Detention camps gradually reopened. Some	**YES** All UMAs sent to offshore detention.	**YES** Migration Amendment Bill 2013.

			UMAs transferred. Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012. Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012		
Indefinite mandatory detention	**YES**	**NO** Detention only for people deemed to pose a threat	2011: **NO** Migration Amendment (Complementary Protection) Bill 2011. 2012: **CONTRADICTORY** **YES:** Detention camps reopened. "No advantage" principle introduced. **NO:** Large numbers of refugees released on bridging visas.	**YES** All arrivals after July 19 to be detained and processed offshore.	**YES**

Military operation assigned specifically to intercept boats	**YES** Operation Relex (2001-2006), later folded into general-purpose Operation Resolute.	**NO** However, Operation Resolute continues	**NO** However, Operation Resolute continues	**NO** However, Operation Resolute continues	**YES** Operation Sovereign Borders established as a military-led task force with a unified command structure. Customs and Border Protection naval fleet significantly expanded. Army conducts coastline patrols.
Legal measures on visas adopted to exclude asylum seekers from mainland	**YES** Some islands excluded from "migration zone" under Refugee Convention. TPVs created. Migration Amendment (Excision from Migration Zone) Act 2001	**NO** TPVs abolished. No new measures. Labor party opposed an expansion of existing measures.	**YES** Entire territory of Australia excluded from "migration zone". "No advantage" principle introduced. No TPVs, but bridging visas used widely.	**YES** No UMAs will ever be granted visas after July 19. Genuine refugees are to be resettled elsewhere.	**YES** TPVs re-introduced. No permanent visas granted; some visas revoked; some migrants who had visas deported.
Boat turnarounds	**YES** Policy allows it, but the option is rarely exercised	**NO** Policy rejected by Rudd government.	**NO** Policy not adopted by Gillard following Houston report.	**NO** Policy rejected by Rudd government.	**YES** RAN ordered to intercept and turn back any SIEV.

	successfully due to practical complexity.				
Restrictive government rhetoric *	**YES** Howard says "we will decide who comes to this country and the circumstances in which they come".	**NO** Rudd seeks "compassionate policy".	Before 2012: **NO** Gillard announces community-based detention. Coalition's policies said to be "hollow and heartless" After 2012: **YES** Boat people are "queue jumpers"; Gillard blames people traffickers.	**YES** Rudd decides "any asylum seeker who arrives in Australia by boat will have no chance of being settled in Australia as refugees".	**YES** Border security to be preserved at all costs.

* Whilst government rhetoric is not a policy outcome and therefore not part of the dependent variable, I include it in this table to summarise each government's positions for the benefit of readers who are not familiar with the case.

Data and techniques

Since this thesis seeks a detailed understanding of how and why UMA policies were adopted, changed or maintained, and places special emphasis on the interaction between actors, processes and constraints (Stein, 2006), I employ the *process tracing* analytical technique. According to Bennet (2010), the process tracing technique allows both descriptive and causal inference, and offers four types of tests (straw in the wind, hoop, smoking gun, and doubly decisive) to evaluate a hypothesis. Process tracing involves examining "diagnostic pieces of evidence" (Collier, 2011, p. 824) in a temporal sequence. In this study, I analyse speeches in Parliament to identify the variables that determined continuity and change in public policies. In interpreting data, I take an empathic approach

(Crotty, 1998; Palmer, 2008), seeking to understand how and why policymakers arrived at their standpoint and decisions even if their views differ from mine.

In line with predictions based on my hypotheses and previous studies that relied on a similar design (McKenzie & Hasmath, 2013; Schech, 2012), I find that documentary analysis of parliamentary speeches facilitates a specification of the preferences and perceptions of key actors for several reasons. First, some of the key decisions on policy changes required the introduction of new legislation, which must be debated and justified in Parliament (Karlsen & Phillips, 2014).

Secondly, because the Australian practice of *Question Time*, formally known as *Questions without notice*, offers regular opportunities for opposition lawmakers to demand explanations and criticise government policy, and for government ministers to justify all government decisions, including those that do not need Parliament's consent, as well as criticise the opposition through the use of Dorothy Dixers[9]. Question Time interactions are generally considered as especially important in Australian politics and are closely watched by the media (Elder & Fowler, 2018; "Senate Brief No. 12 - Questions," 2018). During the 2007-2013 period, immigration ministers included both MPs and senators. Furthermore, under the Australian system, when a question is put to a minister who is not a member of the House where the question is put, that minister is represented by another minister. Therefore, speeches in both Houses must be taken into account.

For these reasons, I included in my analysis second reading debates (see Elder & Fowler, 2018 for a description of the Australian legislative process) in each House, but also the mechanisms of Questions without Notice, Matters of Public Importance and Statements

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9   It is common practice for ministers to provide government backbenchers with questions framed in a way that enables ministers to explain the government's position and announce new decisions. Furthermore, these questions sometimes end by asking if the minister is aware of any alternative policies, in order to allow the minister to criticise the opposition's proposed alternative, which is normally not permitted by the standing rules (Loginova, 2013). These questions are commonly known as *Dixers* after Dorothy Dix, an American advice columnist who published answers to questions purportedly from readers, but which she had written herself ("Senate Brief No. 12 - Questions," 2018).

on Indulgence. I also analysed documents referenced by MPs and senators and entered into the official record, as well as press releases and transcripts of press conferences and media interviews, especially for the Second Rudd Government, during which Parliament sat for only one day.

The sources for my data are the House of Representatives Hansard, the Senate Hansard, the Prime Ministers' Transcripts collection and the Australian Parliament's database of press releases and interview transcripts. All items are available through the Parlinfo database at http://parlinfo.aph.gov.au and categorised by topic and author, although I also relied on search engines specifically for the Hansard at https://www.aph.gov.au/hansard and PM transcripts at http://pmtranscripts.pmc.gov.au. To find relevant evidence, I searched these databases for relevant keywords, mainly "asylum," after applying the appropriate filters. Therefore, the resulting documents pass an external criticism test (Milligan, 1979), as they come from an authentic and reliable source.

A brief note on axiological assumptions

Given the highly charged nature of the matter under study, I must make a brief note on the ethical and political foundations underpinning this thesis. The conditions under which the people directly affected by these policies are held are deplorable and must be unequivocally denounced. However, I do not seek to assess any government's moral culpability, nor do I attempt to justify the soundness of their strategic planning.

Whilst numerous academics have decided it is either impossible or inadvisable to maintain a neutral point of view, normative approaches have often traded explanatory power for reproach. Justified or not, a narrow focus on criticism may preclude researchers from considering all relevant data and interpretations. Substituting a receptive, empathic approach with a belief that politicians are completely detached from

all precepts of morality would do a disservice not only to the scientific community but also to every individual who has been involved in or affected by these policies. And if it is the duty of the researcher to help bring these policies to an end, an adequate explanation would surely prove more effective than public condemnation from an ivory tower.

Chapter 5.

The High Ground: The First Rudd Government (2007-2010)

> "I am happy to debate policy when the Liberal Party get one."
>
> — Senator Chris Evans (2009b)

During the 2007 election campaign, the Australian Labor Party (ALP) made a commitment to ending most parts of the Pacific Solution. Led by Kevin Rudd (ALP, member for Griffith), the party promised to end Temporary Protection Visas (TPVs), which were designed to prevent asylum seekers from gaining access to Australian territory, and shut down the offshore detention camps in Nauru and Manus Island, among other relatively liberal reforms. Upon winning the election and taking office in December 2007, Prime Minister Rudd immediately set to work on his new migration and asylum policies and gave effect to many, though not all, his commitments (Phillips & Spinks, 2013). On February 8 2008, the last asylum seekers held offshore were resettled in Australia. Furthermore, in July 2008 Senator Chris Evans, the Minister for Immigration and Citizenship, announced the government intended to detain asylum seekers after processing them only as a last resort, abolishing indefinite detention, although temporary detention would still be necessary in order to conduct security checks. Whilst the government largely failed to end detention for lengthy periods in the short term (Crock, 2014), this change in detention policy began to ease restrictions and enabled more UMAs to be released starting in late 2010 (Phillips & Spinks, 2013).

I do not necessarily claim that my change hypothesis can explain this initial change. Whilst the situation could perhaps be framed as the incoming government's perception that the Howard-era policies were repeatedly failing on the human rights aspect, a convincing and more parsimonious explanation may be found in the fact that the governing coalition changed and brought a new ideology and different values with it (Hill,

2016; Lasagna, 1995; Mattes et al., 2016). However, after taking office, I contend that the culture of control mechanism started to push the government away from the moral high ground and towards more restrictive policies. In this chapter, I aim to explain why policy outcomes did not reflect such incentives during the early Rudd years.

Tough but humane: The Rudd government's narrative

Three key aspects of the government's narrative must be described in order to explain policy responses: the scope and nature of the problem, its causes, and the possibility of state action to address it. First, during the 2007-2010 period, government MPs and senators described the nature of the problem largely as the exploitation of poor migrants from war-torn nations by unscrupulous people smugglers. Senator Evans, the Minister for Immigration and Citizenship, consistently framed the issue of asylum seekers in terms of the impact of criminal people-smuggling networks, which he characterised as evil:

> We are absolutely committed to stamping out people smuggling. We are working very hard to ensure that this evil trade is shut down, but we are dealing with a surge in people smuggling in the region. It is a surge that is impacting on all our neighbours as well. We are absolutely committed to maintaining strong border security measures and to doing everything we can to attack the people smugglers and disrupt their operations. (Evans, 2009a)

Secondly, the problem of unauthorised maritime arrivals (UMAs) was said to be a result of a worldwide increase in the severity of push factors (see Crock & Ghezelbash, 2010), i.e., conditions such as war, famine, natural disasters, genocide or oppression that impel migrants to seek asylum in order to survive. Senator Evans attributed the problem specifically to the deteriorating political situation in Afghanistan and Pakistan, as well as the aftermath of civil war in Sri Lanka:

> we are experiencing a surge in people-smuggling activities as a result of the displacement of persons from countries in turmoil and war. Since the situation in Afghanistan deteriorated, we have seen tens of thousands of people fleeing Afghanistan, and we have seen many Afghanis who were

residing in Pakistan fleeing Pakistan because of the deteriorating security circumstances there. And, of course, we have seen the war in Sri Lanka lead to an increased movement of people there. (Evans, 2009a)

Mr Rudd himself echoed this rhetoric. Responding to criticism from Leader of the Opposition Malcolm Turnbull (LP, member for Wentworth) through a Dixer, Prime Minister Rudd claimed that, contrary to Liberal accusations, slight increases in boat arrivals under the Rudd government were entirely caused by push factors:

Asylum claims in Australia by Afghans, Sri Lankans and Iraqis have basically followed the global trend around the world. When numbers have fallen around the world, they have fallen in Australia. When numbers have increased around the world, they have increased in Australia. (Rudd, 2009e)

A third aspect of the government's narrative that must be assessed is the expected effects of state action. As the Rudd government believed that push factors were mainly responsible for the number of arrivals, ministers downplayed the effect that Australia's unilateral deterrence measures might have. Indeed, responding to concerns that his asylum policy changes could be used by people smugglers to market their services, the Prime Minister argued that people smugglers' "vile" business would not be affected by government decisions:

I say to the honourable gentleman, the Leader of the Opposition, that I am sure that those engaged in the vile trade of people-smuggling would be conveying any sort of message to those who are the victims of their trade around the world in order to encourage their trade. Whether or not that information is accurate, that is the sort of dissimulation and disinformation in which people smugglers would engage. They do not represent an honourable profession. They represent a dishonourable profession which trades in lies, so it would not surprise me what people smugglers said to anyone at any time in any place in order to increase their trade. (Rudd, 2009c)

In approaching asylum policy, Prime Minister Rudd repeatedly claimed his government would be "unapologetically tough but humane" (Rudd, 2009d), emphasising the importance of international law and human rights in asylum policy. Stephen Smith (ALP,

member for Perth), the Minister for Foreign Affairs, explained that Australia was required by law and morality to conduct search and rescue (SAR) operations and save migrants at sea even if it meant accepting them as refugees:

> The obligation and the requirement on the part of the Australian government, its officials and its agencies, and the obligation on Australia, is to discharge our humanitarian and our search and rescue operations on the high seas. That is in the interests of Australia and in the interests of Australian citizens and that was done. . . . But whether there were to be immigration, refugee or asylum seeker consequences or not, Australia had a moral, a humanitarian and a national interest obligation to discharge our duties to rescue people in distress at sea, and that is what we did. (Smith, 2009a)

Senator Evans characterised the policy outcomes of the Howard government's asylum policies as "indefensible—to say it is morally indefensible is probably very strong, but I think it is indefensible" (Evans, 2008b). In May 2008, Senator Evans further announced that temporary protection visas (TPVs) would be abandoned along with indefinite offshore detention because they were inhumane and ineffective:

> What I announced this week was that we were abolishing the temporary protection visa regime. We are very proud of that, because it was an inhumane treatment of people found to be refugees by international legal principle. The previous government maintained a Pacific strategy—a means by which people were detained in foreign countries in camps designed to send the message that people could not enter this country unlawfully. It was a cruel and ineffective policy. (Evans, 2008a)

However, in line with expectations based on the culture of control hypothesis, the government also deemed strong border control essential. Senator Carol Brown (ALP, senator for Tasmania) explained that

> the government firmly believes that the control and management of our borders is integral to the nation's security . . . all of these measures are the actions of a government that is strongly

committed to protecting our borders and reducing[10] the number of people arriving illegally in our country. (C. Brown, 2009)

Senator Evans dismissed the idea that a government should be judged on the number of boat arrivals, as that number is determined by push factors and is therefore beyond Australia's influence. Instead, he clearly linked the government's legitimacy to how effectively it could respond to boat arrivals and process irregular migrants to ensure compliance with the law:

> Our policy commitments have been honoured. What we are seeking to do is ensure there is strong border security. . . . The allegation is that if boats arrive you are weak on border security, even though you intervene. On that basis the Howard government was weak on border security, because 12,000 people arrived in three years, and Malcolm Fraser was weak on border security, because a couple of thousand arrived in two years. It is a nonsense. (Evans, 2009e)

Consequently, the government was keen to show "the legal arrangements in place are exactly those that applied under the previous Howard government" (Evans, 2009c), even as it stressed that it had brought the Pacific Solution to an end and Australia would no longer have "children behind razor wire" (Rudd, 2009e). Notwithstanding its commitment to humane treatment, the government aimed to prove that it was also capable of delivering an acceptable level of border security, in line with the control hypothesis. Although the government took steps to abolish indefinite detention, Prime Minister Rudd explained temporary mandatory detention was necessary to bring asylum seekers into the Australian legal system:

> We believe in an approach which is balanced, which is tough but humane, when it comes to the challenge of asylum seekers. . . . This government makes no bones about the fact that we maintain a policy of mandatory detention to ensure that asylum seekers undertake health, identity and security checks when they arrive. (Rudd, 2009b)

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10 Senator Brown's remark about government action to reduce the number of arrivals refers to the government's multilateral action, which I explain below, rather than Howard-era deterrence.

Senator Evans insisted that the government's policies were not *soft* and that they had retained all border control measures instituted by the previous government, despite the fact that the government had effectively dismantled the main components of the Pacific Solution. Indeed, Senator Evans's rhetoric was contradictory to the extent that he assured Parliament that the government had terminated offshore detention and TPVs but also claimed that the government had retained all of Howard's measures, which was an untrue and inconsistent position:

> there has been no softening of border security measures under this government. We have one of the toughest and most comprehensive border security regimes in the world, and that is because we retained all of the Howard government's border security measures—every one of them—and built on them by supplying more funds and more patrols. The border security measures that we have retained include the excision of offshore islands, mandatory detention of all unauthorised boat arrivals, and offshore processing on Christmas Island of unauthorised arrivals. We have also maintained and extended extensive air, land and sea patrols; we have put a priority on the prosecution of people smugglers; and we have heightened the strategic regional engagement of source and transit countries to address people smuggling. (Evans, 2009a)

The government's use of "offshore processing" here was quite different from previous or future offshore detention schemes, although the expression contributed to the persuasiveness of the government's narrative by remaining open to multiple interpretations. Government members like Senator Evans claimed Australia maintained its *offshore processing* solutions because asylum seekers were mostly processed at the Christmas Island Detention Centre, with overflow capacity available in Darwin to cope with a possible surge in arrivals. However, whilst most asylum seekers were initially kept away from the continent, this form of offshore processing took place almost entirely within Australian territory. This rhetoric obscured the Rudd government's decision to dismantle John Howard's most extreme measures, in line with Mr Rudd's priorities

regarding humane treatment, whilst enabling the Prime Minister to plausibly claim to be tough on border security.

A major round of discussion on asylum issues was prompted by an operation in October 2009 in which HMAS *Armidale* and Australian Customs Service (ACS) vessel *MV Oceanic Viking* rescued and detained 78 asylum seekers in cooperation with Indonesian authorities. As the operation took place in the Indonesian SAR zone, the refugees were taken to Indonesia but refused to disembark until an agreement was reached with Indonesian authorities the following month. During the incident, the opposition continued to criticise the government's perceived control failings. Although that particular boat never reached Australian waters, the opposition took advantage of this high-profile standoff to demand an inquiry and to claim that the government's position was no longer tenable. Senator Nigel Scullion (CLP, senator for the Northern Territory) compared the government's border protection policies to the leaky roof of a pub he had once visited and argued that

> Those on the other side stand condemned because they remain in denial and, whilst they remain in denial, the boats will continue to come and the people on those boats will continue to put their lives in danger. (Scullion, 2009)

Similarly, Senator Alan Eggleston (LP, senator for Western Australia) claimed that the government's "mixed messages" were at fault for an increase in UMAs, demanded an inquiry into alternative policy options, and assessed the situation as a serious failure of the government's policies:

> The situation is now becoming quite urgent, with ever-increasing numbers of boats appearing on our coastline. The facts are clear: the Labor Party policy has failed. They have lost control of our borders. (Eggleston, 2009)

The government, however, disagreed. The Prime Minister did not consider the average number of arrivals as significantly different from the Howard government's:

> In the period we have been in government—bearing in mind that the Howard government had almost 250 vessels arrive, bringing almost 15,000 people—we have had something like 38 vessels arrive with about 1,700 people. So far, this runs at an average of 20 per year. It will go up and it will go down, but that is basically the average over the period of the Howard government. (Rudd, 2009a)

As the government believed it was unable to affect the number of boat arrivals through unilateral action, a number of arrivals similar to the previous years did not seem particularly concerning. The government's reference point was a scenario in which Australia reacted to UMAs by efficiently processing them. The Prime Minister believed he was meeting that challenge and insisted that his policy would be successful because his government was able to maintain border control. Both the Prime Minister and the Immigration Minister again repeated their conceptualisation of the causes of the problem as a global issue and continued to stress the importance of *push* factors as more important in determining asylum flows than changes in Australian migration policies:

> What you will see if you analyse the movement of Afghan people across the world is that the trend line of those arriving in Europe and the trend line of those arriving in Australia are almost mirror images of each other. They peaked at the time of the Taliban government and began to fall after the fall of the Taliban government. They were not actually considering domestic policies in Australia when the Taliban were setting out to murder them. It was not their biggest consideration. (Evans, 2009d)

The Prime Minister also defended his policies and counter-attacked by questioning the facts behind the opposition's criticism, showing he did not share the opposition's perceptions regarding policy failure:

> The Liberal Party is not about fact on the question of immigration policy; it is about the politics of
> fear. There is no substantive basis to their claims of policy success. There is no basis to their claims
> of policy failure. (Rudd, 2009e)

However, the government did believe that bilateral and multilateral cooperation might reduce the number of SIEVs attempting to reach Australia by coordinating a regional containment strategy:

> We expect to expand our cooperation with these governments into the future, including Indonesia,
> and we believe that is the right way to go. This is a global problem; it is a regional problem; it is a
> national problem for all of us. (Rudd, 2009e)

Indeed, the *Oceanic Viking* incident briefly renewed discussion on what Senator Fierravanti-Wells (LP, senator for New South Wales), the opposition's Shadow Parliamentary Secretary for Immigration, called the "Indonesia solution" (2009a), i.e., the construction of detention camps in Indonesia. On this point, the Foreign Minister explained that he believed the expansion of Australian-supported processing facilities in Indonesia, such as the Tanjung Pinang detention centre, may be one way to address the issue of boat arrivals: "we are open to further assistance to Indonesia so far as detention centres and the facilities and conditions available in detention centres are concerned" (Smith, 2009b). However, the government did not see this as a priority, heightened regional cooperation did not materialise and the government was unable to find a lasting multilateral solution (Crock, 2014).

During the *Oceanic Viking* stand-off, the opposition also attempted to link the nature of the problem to the risk of allowing criminals into Australia, claiming illegal migrants arrived without documents because they likely posed a security threat: "They want to hide their identity. They want to hide their past" (Fierravanti-Wells, 2009b). In response, Senator Evans reiterated that the government was confident in its capacity to control the border and assess the background of and possible risks posed by any unauthorised

arrivals. Senator Gavin Marshall (ALP, senator for Victoria) also minimised the risk posed by these arrivals and emphasised the government's responsibility to protect them by controlling the border, describing the victims of people smugglers as

> "some of the most defenceless and vulnerable people . . . [who] come here seeking refuge—refuge from some of the most hideous and sickening circumstances that exist in the world today." (Marshall, 2009)

It has sometimes been argued in academic literature that racism was the motivation behind Australia's migration policies. Whilst politicians' public speeches may not be the most reliable indicator of racist motivations, I note that government rhetoric unequivocally rejected any suggestion that migration policy may be based on racial or ethnic considerations. For example, facing accusations of racism made by a union leader and highlighted in Parliament by Christopher Pyne (LP, member for Sturt), Prime Minister Rudd distanced himself from such remarks. The Prime Minister argued that the government remained committed to tolerance and inclusion but sought to conduct migration policies in an orderly manner, as adherence to the law was necessary for successful nation-building, which Palmer (2008) considers one of the two main values in the Australian culture of control:

> My own view is that in Australia there is a strong, fundamental tradition of racial tolerance and inclusion, of which all Australians are proud. It is not my view that there is a racist sentiment in the Australian society. It is my view that this country is built on a culture of tolerance—one which embraces our neighbours; one which seeks to include people from different ethnic origins; one which seeks to embrace properly, through our orderly refugee program. It is a culture in which we can say to those who come here from offshore: your future in this country can be part of the nation-building program of Australia's 21st century. Ours is a nation which brings all peoples from the world together in one and forges our one Australia. That is the one that I believe in.

Explaining policy outcomes

All these statements show that my culture of control hypothesis holds for this period. Despite Labor's ostensible concern with providing humane treatment for asylum seekers, government leaders decided to maintain certain aspects of the Howard-era policy that they believed would assist them in detecting SIEVs and then controlling asylum flows by forcing irregular arrivals to go through established processing procedures. Prime Minister Rudd decided to close the detention camps in Nauru and Manus Island because he believed that deterrence was futile. However, the government did not consider allowing all asylum seekers to resettle in Australia without detention because the Prime Minister and his cabinet accepted that good governance necessitated strong border control measures. Furthermore, even as they stressed the importance of human rights, the government sought to tout their strong control of the border and downplay the changes that had occurred since Howard because its legitimacy was staked on its ability to control the border. As expected, the opposition attempted to pressure the government to adopt more restrictive policies. The examples I have quoted of criticism from opposition members and senators illustrate the main pattern of interaction during the Rudd years.

However, the government certainly did not share the opposition's assessment that asylum policy had failed or was likely to do so. Because the government assumed that the problem was caused entirely by push factors, especially armed conflict in Afghanistan, and Australian policies were unable to influence asylum seekers' decisions, the question was one of whether the government succeeded in processing migrants as they arrived. The government's reference point was managing the influx of asylum seekers successfully, and it was easily met by their perceptions of the status quo. By the government's own standards, its policies made significant progress in processing migrants more efficiently and humanely. The change hypothesis contends that change is only likely when decision-makers face losses, especially when their policies are seen as

failing repeatedly or catastrophically. This was not the case in the First Rudd Government. Unconcerned about major failure in their policies, government leaders had significant incentives to continue pursuing their preferred policies and found little reason to change course.

To sum up, the government's narrative throughout the First Rudd Government conceptualised asylum seekers mainly as victims of people smugglers, who were seen as heinous criminals who threatened migrants' lives and the integrity of Australia's border security. Therefore, policies should aim to restrict people smugglers' business whilst ensuring humane treatment for asylum seekers. Government policy-makers found the causes of the problem in push factors which constituted a global trend affecting all Western states, particularly conflict in Afghanistan. In light of this conception of asylum issues, government leaders expected that deterrence would be ineffective, but temporary mandatory detention was nevertheless required in order to conduct checks and ensure adequate border control. Indeed, the culture of control mechanism was clearly present in Prime Minister Rudd's decision not to abandon the mandatory detention requirement. Whilst the parties disagreed about the goals of asylum policy, the causes of the problem and the degree to which government policy was successful, all key policy-makers underlined the importance of ensuring strong border control, which was seen as more important than other goals. Meanwhile, the opposition's rhetoric portrayed asylum seekers as possible threats, and opposition members relentlessly criticised the government's failure to stop boat arrivals by attributing them to Prime Minister Rudd's softer stance. These perceptions and narratives remained generally stable for both government and opposition until mid-2010, leading to no major changes in policy outcomes in this period.

Chapter 6.

Worst Case Scenario: The Gillard Government (2010-2013)

> "We sought compromise. We offered compromise and that compromise was not accepted. … [T]he time for politicking about this is at an end. The time for action is here."
>
> — Julia Gillard (Gillard, 2012d)

Gillard's early plans

Following a leadership spill, Julia Gillard (ALP, member for Lalor) replaced Kevin Rudd as party leader and Prime Minister on 24 June 2010, thus becoming the first female Prime Minister of Australia. Gillard then led the party to a federal election in August which resulted in a hung parliament; the ALP then formed a minority government supported by three independent MPs and the Australian Greens (AG), who held the balance of power in the Senate (Holmes & Fernandes, 2012). Gillard remained in power until she was replaced by Rudd following another leadership spill on 26 June 2013.

During the first few months, the Gillard government's narrative did not significantly differ from the Rudd government's, and Senator Chris Evans continued to hold the immigration portfolio in Gillard's first government. The culture of control mechanism continued to put pressure on the Labor government, which initially sought to continue Rudd's policies and rhetoric regarding *tough but humane* border protection. On the first day in her new job, in fact, the new Prime Minister stated that the government needed to respond to UMAs with strong border protection measures to allay voters' anxiety and meet their demand for border control:

> Of course, I understand that Australians feel a sense of discomfort, disquiet and even anxiety when they see boats intercepted at sea and asylum seekers taken to Christmas Island and potentially other locations for processing. It does make people anxious; I understand that. They look to the government to make sure that we are managing these questions, to make sure we are

understanding the full complexity of these questions and to make sure that we are protecting the nation's borders. (Gillard, 2010c)

During the early stages of this period, the government was not concerned about the number of arrivals and continued to measure policy success based on its processing capacity. Senator Evans maintained Labor's previous position that detention in Christmas Island was necessary to conduct checks, but the government would attempt to process migrants quickly to assess their status and, if necessary, grant them protection:

any persons detected entering Australian waters unlawfully will be detained. Those seeking asylum will be mandatorily detained and taken to Christmas Island. They will remain in mandatory detention until such time as they have completed health, identity and security checks and before their asylum claims are considered and determined. (Evans, 2010a)

Although the Rudd government had ordered a suspension on asylum claims from Afghan and Sri Lankan nationals shortly before Rudd was replaced, this did not represent a major departure from previous policy. The Gillard government explained that "country information from both countries is changing" and that the government had "seen a large increase in rejections particularly of Afghans but also of Sri Lankans who have been found not to be refugees" (Evans, 2010b). Chris Bowen (ALP, member for McMahon), who replaced Senator Evans as Minister for Immigration and Citizenship in September 2010, announced in late September that, after receiving further information on conditions in Afghanistan, the Department of Immigration and Citizenship "is now better positioned to assess asylum claims from Afghans based on more up-to-date country information" and therefore "the government has formed the view that we should lift the suspension . . . effective immediately" (Bowen, 2010b).

Although the immigration detention network soon came under stress due to an increase in boat arrivals (Phillips & Spinks, 2013), the government's understanding of the nature and causes of the problem remained mostly stable. The reference point was still efficient

management of arrivals. As the government extended Australia's onshore processing capacity by opening and expanding processing centres within the Australian mainland, the Prime Minister again conceptualised the problem as the exploitation of vulnerable victims of armed conflict by "evil" smugglers. She explained that the ALP had decided to end the Howard-era policies because in late 2007 they had observed

> that people smugglers remained very active throughout the region, more displaced Iraqis and Sri Lankan nationals were seeking the services of people smugglers to come to Australia, illegal movements of asylum seekers were being caused by conflicts in Sri Lanka and in the Middle East, and that there is always chatter amongst people smugglers about a range of factors and of course they do deliberately misrepresent the policies of Australian governments—and that is not just our government—in order to induce customers for their evil trade. (Gillard, 2010b)

However, whilst Gillard still argued that push factors outweighed Australian attempts at deterrence, her government slowly began to shift towards a position that did not necessarily dismiss deterrence as pointless. Minister Bowen explained to Parliament that push factors had led to an inevitable increase in UMAs, but he also believed that a rigorous assessment to separate genuine refugees from mere economic migrants may have a deterrent effect on the latter:

> the reasons leading to detention pressures on our system are the number of arrivals and the increased rejection rates. Rejection rates of asylum seekers have gone up. That is a key point because, in the end, the best deterrent for people coming to Australia is to know that their claims are vigorously and rigorously assessed and that people who do not have a valid claim for protection will have that claim rejected. (Bowen, 2010a)

The opposition agreed that Australia needed to take action to address push factors in Afghanistan. Indeed, Scott Morrison (LP, member for Cook), the opposition's Shadow Minister for Immigration and Citizenship, claimed Australia needed to "give Afghans a greater sense of confidence in the future of their nation" (Morrison, 2010b) by continuing Australia's strong military involvement in the Middle East. However, the opposition also

demanded that the government reopen the detention camp in Nauru. The shadow minister warned that

> The boats keep coming under Julia Gillard. Yet another arrival shows that as long as Labor is in business, the people smugglers are in business. . . . Today we have seen further evidence of the cost of this government's failure to secure Australia's borders (Morrison, 2010c)

In line with predictions based on the culture of control hypothesis, the shadow minister claimed that the opposition supported the government's attempts to expand and restore order in a detention network that had experienced unrest, but also criticised the government's failure to control the problem. The opposition demanded that the government "stop the boats" rather than just try to respond to arrivals in a passive way:

> They have the support of the Coalition to take whatever appropriate action is necessary to restore order in the network. However, the real challenge is not just to deal with the crisis in our detention network. The challenge is to finally implement policies, proven by the Coalition in Government, to stop the boats. (Morrison, 2010a)

The Prime Minister rejected the opposition's plan to reopen the detention centre in Nauru, arguing it would prove ineffective, as most people held in detention under Howard had been resettled in Australia. Gillard labelled Nauru as *Camp Detour*

> because the truth is that 96 per cent of the people processed on Nauru and resettled came to Australia or New Zealand—overwhelmingly to Australia. . . . the reality is that offshore processing being done as a one-off by the Howard government meant people were processed and then overwhelmingly came to Australia. (Gillard, 2010b)

However, as the government began to accept the opposition's demand for action, its narrative began to shift with regard to the expected effects of deterrence. In October, the Prime Minister announced that she was seeking a regional processing agreement with East Timor in order to deter those who engage in "irregular migration" in the region from attempting to reach Australia. The Prime Minister claimed that

> People around the globe get on the move for all sorts of reasons. Some of them come from source countries that are within our region; some do not. They transit through our region and people are aware of the common stopping-off points as they move through our region seeking forward transit and ultimately transit to Australia. The aim of the regional processing centre is to take away the incentive to engage in that forward transit to Australia. It is to take away from people smugglers the very product that they sell. It is to take away from people an incentive to keep moving, and it is certainly there to take away an incentive for people to undertake a difficult and dangerous journey at sea. (Gillard, 2010d)

Whilst the government believed that this plan might help, it eventually met resistance from East Timor (Jupp, 2015). The Prime Minister ceased to pursue it, and the plan was never implemented. This outcome is compatible with my change hypothesis. The East Timor processing centre was one of many options the government considered at the time to relieve pressure on the immigration detention network, along with expanding onshore detention centres. Prime Minister Gillard had explained to Parliament in September that the new government was still assessing its options with regard to asylum seekers, because "that is the normal part of prudent planning" (Gillard, 2010e). However, the government decided not to rely on offshore processing or detention because there were no incentives for radical policy change, as there was no perception that the government's processing policies were failing:

> As a government we have more assets patrolling our borders than ever before. We have a stringent mandatory detention policy. We have made some moves in relation to the circumstances of children. . . . Whilst the opposition continues to play cheap politics—three-word slogans, stop this, end that, wreck, demolish—we will get on with the job of delivering in the national interest while the opposition stews in its own juices of bitterness (Gillard, 2010a)

The Malaysia Solution

However, boat arrivals continued to increase. The number of UMAs rose from 2726 in 2009 to 6555 in 2010[11], a similar level to the 5516 arrivals Australia had seen in 2001

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11 All UMA figures by calendar year exclude people smugglers' crew.

(Phillips, 2017). In 2011, arrivals slightly decreased, but remained high at 4565. At this point, the government's perceptions of policy failure began to increase. Such change in perceptions, however, cannot be explained by the number of arrivals alone, as the previous ALP government had also experienced an upward trend in boat arrivals in 2008-2009. Instead, it was a change in the government's reference point that allowed a gap to emerge between the status quo and the government's new reference point.

The government's narrative, combined with the opposition's relentless censure and demands to *stop the boats*, had an effect on the government's perceived interests and eventually moved the goalposts. The government began to take heed of the opposition's suggestions because, as James Jupp (2015) observed, "Abbott had said 'stop the boats' often enough to get the message over". The culture of control mechanism demanded that the government deploy all available measures to manage asylum flows effectively. An almost exclusive focus on push factors before late 2010 had allowed both the Rudd and Gillard governments to deem their asylum policies successful if their processing solutions adequately coped with the influx of migrants. But because the government had come to accept the opposition's narrative on the expected effects of deterrence measures, it could no longer judge policy success or failure based on processing capacity alone. Instead, since measures were available that may reduce the number of boat arrivals, and these measures were now seen as plausible and effective, then a successful application of those measures became the new reference point and any other outcome was deemed unacceptable. This shifted the government's operative frame from possible gains from new measures to expected losses if the measures were not adopted.

The combination of an increase in boat arrivals and the government's new-found faith in deterrence measures forced the government into a position in which deterrence policies were seen as necessary. I find a clear trajectory in the government's increasing openness

to deterrence. In 2009, Senator Evans had claimed that deterrence was useless because asylum seekers did not consider Australian policies whilst fleeing from the Taliban. In mid-2010, as I quoted above, new minister Chris Bowen claimed that the best form of deterrence could be achieved passively, simply by processing asylum seekers effectively. By late 2010, when the East Timor solution was proposed, the government claimed that active deterrence measures were possible and desirable, and expected some gains from pursuing the East Timor solution, which eventually did not justify expending the political capital necessary to negotiate with East Timor and for Parliament to enact a bill. But by September 2011, Prime Minister Gillard responded to shadow minister Morrison's criticism of the government's changing positions by explaining that, in the last few months, the government had come to believe that deterrence measures were key to securing an acceptable level of border control:

> the objective of the government, and I hope it is shared as an objective of this parliament, is absolutely clear. It has been clear over a long period of time now, clear over many long months. That objective has been that we should take the most effective action possible to deter people from getting on leaky boats and from potentially risking their lives. We should take the most effective action possible to deter people from putting themselves in the hands of people smugglers who are seeking to profit from their misery. Our objective has been over many long months—apart from sending the most effective message of deterrence—that in designing a policy we should make sure that we are doing our best to protect Australia's borders but that, at the same time, we are doing our best to protect the values that Australians hold dear. (Gillard, 2011h)

Given the government was now operating in the domain of loss and believed it needed to deter UMAs rather than manage them, major policy change became possible. As my hypothesis predicts, however, the government did not immediately embrace radical change. Instead, because there was no perception that policy failure was repeated or catastrophic, Australia attempted to shape its environment so that its existing policies would remain effective.

To achieve that goal, in May 2011, Prime Minister Gillard introduced the *People Swap* policy, also called the *Malaysia Solution*. The People Swap policy[12] consisted in an exchange of migrants with Malaysia. Under the agreement, Australia would have sent 800 asylum seekers who arrived by boat in the future to Malaysia. In return, Australia would have resettled 4000 refugees from Malaysia in addition to Australia's usual refugee intake under the Humanitarian Program. Given the lopsided nature of this exchange, the People Swap constitutes perhaps the clearest example that immigration policy-making in Australia prioritises *control* rather than numbers. The government's ability to set its own policy and choose which migrants it will accept and under what circumstances is more important than any other specific policy objectives (McKenzie & Hasmath, 2013). As Prime Minister Gillard explained, this policy aimed to shape the environment Australia found itself in by disrupting people smugglers' business model:

> This arrangement of course is to break the people smugglers' business model and to take out of the hands of people smugglers the very product it is that they sell. They seek to prey on misery; they seek to say to people that they can get them to Australia, that their asylum claims will be processed here and if those claims are found to be valid, they will be able to stay. The arrangement that Prime Minister Najib and I are committed to is an arrangement that will break this business model. 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. (Gillard, 2011a)

Immigration minister Chris Bowen explained that the government and the opposition now both agreed that deterrence was necessary, even if they disagreed about how it should be achieved, showing the government had accepted part of the opposition's narrative:

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12 In assessing government rhetoric, I acknowledge Jaffa McKenzie and Reza Hasmath's (2013) analysis of the causes of this policy. In line with their findings, I agree that, as the Rudd government had, the Gillard government demonised people smugglers rather than asylum seekers themselves. I also agree that a distinction was made between *genuine refugees* who were to be rescued from Malaysia on the one hand, and unworthy *boat people* seeking to *jump the queue* on the other. However, whilst McKenzie and Hasmath find that this kind of language was generally reserved for press releases and seldom used in Parliament, I find that the government's conceptualisation of the nature of the problem was consistent and recurrent in Question Time and in Matters of Public Importance.

> The member for Cook [shadow minister for immigration Scott Morrison] and I agree that the business model of the people smugglers should be broken. We have different ways of expressing that. He talks about sugar on the table. He talks about pull factors. He calls people who arrive by boat illegal immigrants; I don't. But I think we do agree that we should break the business model of the people smugglers. We disagree, however, on methods to do that. I think he and I agree that boat journeys to Australia are dangerous. I think everybody would agree with that—every member of the House and almost every member of the community, I am sure, would agree with that, apart from a few extremists. The government should take action to discourage those sorts of journeys. The government should take action to make sure that people realise that that is not the answer to their problems and that the risks and costs to be paid are not worth it. (Bowen, 2011)

As expected, the government used expert knowledge to substantiate their policy claims. In fact, the government claimed that, on the basis of expert advice from the Secretary of the Department of Immigration and Citizenship, it believed that the Malaysia Solution would change the environment in such a way that the problem would be eliminated:

> What I am endeavouring to explain to the Leader of the Opposition—based on the expert advice we have been given by the Secretary of the Department of Immigration and Citizenship . . . —is that the secretary said it is up to 800 asylum seekers. Of course, our hope is that we would not need to transfer that many. Our aim is that we do not have to transfer that many, because the advice to us is that the strength of the deterrence effect is such that this will smash the people smugglers' business model. (Gillard, 2011d)

Although the Malaysia Solution aimed to secure the borders by shaping the environment, the government also tried to show it had not abandoned its *humane* approach:

> I can confirm that this government has taken steps to address the difficulties we saw in detention under the Howard government—most particularly, difficulties relating to the treatment of women and children. (Gillard, 2011j)

Indeed, the government also decided to release thousands of irregular migrants held in detention on bridging visas[13], and also decided to merge the legal arrangements used for both boat and air arrivals (Phillips & Spinks, 2013). These decisions relieved pressure on the immigration detention network, which was struggling to meet the government's demand for detention. The relatively liberal nature of these decisions may have been influenced by the government's underlying preferences for humane treatment, but it also reflected the government's failure to successfully process and manage irregular arrivals.

The opposition argued the government's Malaysian plan would not work, and Australia should instead return to the Howard-era policies. Tony Abbott (LP, member for Warringah), the Leader of the Opposition, consistently pushed the Prime Minister to reopen the camp on Nauru:

> Now that Nauru has announced that it intends to ratify the UN convention on refugees while Malaysia will not ratify the convention, will the Prime Minister pick up the phone to the President of Nauru to reopen a centre which is humane, cost effective and proven in the fight to stop people smuggling? (Abbott, 2011)

In response, Prime Minister Gillard argued that the government had no intention whatsoever of reopening the detention centre in Nauru, because the government had received expert advice from the Department, which it had shared with the opposition, that the Nauru plan did not offer adequate deterrence:

> Ours is a more effective approach to taking out of the hands of people smugglers that very product that they seek to sell to asylum seekers. The Leader of the Opposition's approach is to say that they have the ability to end up in Australia via a detour to Nauru. That is the difference, and we will keep pursuing the agreement with Malaysia. (Gillard, 2011e)

Bowen also defended the government's position on two other opposition proposals. First, on the matter of Temporary Protection Visas (TPVs), he argued that they would not be

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13 Bridging visas allow migrants to remain in the community, usually without the right to work, while their status is determined.

effective because, by preventing family reunification, they "encouraged women and children to get onto boats" (Bowen, 2011). Secondly, he acknowledged that "turning back the boats did remove the incentive to come to Australia" in the early stages of the Pacific Solution, but claimed that this was no longer possible because Indonesia would not accept them. The Prime Minister also argued that the Malaysia Solution rendered boat turnarounds unnecessary: "They believe they are coming to Australia but they end up somewhere else. It is a virtual turnaround of boats" (Gillard, 2011b).

Facing such constraints, the government hoped that the Malaysia Solution would allow them to shape the environment, but it also realised it would need to achieve significant regional cooperation from its neighbours:

> I have made an important policy decision on behalf of the nation. That policy decision is that we should do everything we can to break the people smugglers' business model. We can best do that— indeed, we can truly only do that—by working for a regional solution with countries in our region. We are doing so. (Gillard, 2011f)

If the Malaysia Solution had been adopted, it would not have represented a major departure in government policy for several reasons. The Malaysia Solution was a one-time exchange rather than an ongoing arrangement to transfer asylum seekers offshore, and therefore did not constitute a permanent solution. It did not entail any form of immigration detention beyond that which already existed at the time. Although the government would have broken its promise not to send UMAs to a state that was not a party to the 1951 Refugee Convention, Prime Minister Gillard explained that the government had secured from Malaysia comparable human rights protection for the asylum seekers it would have sent, and the immigration minister inspected the sites where they would be transferred and found them acceptable. The government also steadfastly refused to reopen the detention centre in Nauru or to consider indefinite offshore detention. And finally, whilst the Malaysia Solution did contemplate processing

in Papua New Guinea (PNG), the government's proposal for an offshore processing centre was limited, temporary and would mainly have been used to supplement Australia's onshore processing capacity rather than to replace it.

However, the Malaysia Solution was not adopted. Although an agreement was reached with Malaysia, the government failed to enact it. The plan was blocked in late August by the High Court, which decided that the government could not transfer asylum seekers to a state that was not a party to the 1951 Refugee Convention. The High Court also decided the human rights protections the government had secured from Malaysia were insufficient. The government then introduced a bill in Parliament that would have allowed the implementation of the Malaysia Solution and asked the opposition and the Greens to support it so that the government had the same tools that had been available to any previous government. The Prime Minister explained that the government would ensure the protection the High Court demanded but also needed to have the ability to decide its own immigration policy:

> I believe across this parliament people generally want to ensure that we do have an orderly migration system and that we are doing what we need to do to protect Australia's borders but that, at the same time, we are extending the compassion and concern that our nation has shown over many decades towards refugees—that is, that we honour our obligations under the refugee convention. . . . executive government [must have] the powers it needs to implement offshore processing as it sees fit but always in accordance with our obligations under the refugee convention. (Gillard, 2011g)

However, neither the opposition nor the Greens supported the government and Parliament did not pass the necessary changes. At this point, the government started to feel it had lost control of asylum policy, as the existing policies were perceived as deeply inadequate and the government's preferred option to shape the environment had become unattainable. Prime Minister Gillard continued to insist that the government needed the

ability to set its own immigration policy and repeatedly berated the opposition for voting against granting the government such power, claiming the Leader of the Opposition "is determined to see more boats landing on Australia's shores" (Gillard, 2011i) because "he believes it is in his narrow political interest to see more boats" (Gillard, 2011c). A final attempt to legislate the necessary changes was made in early 2012 through a private member's bill introduced by Rob Oakeshott (independent, member for Lyne) (Karlsen, 2012) to "ensure that the Government has sufficient power to implement offshore assessment arrangements" (Bowen, 2012a). Facing the prospect that the bill would fail, the government then offered to rely on Nauru instead of PNG for processing, but the bill was nevertheless negatived in the Senate on 28 June 2012.

The government's attempt to shape the environment failed for domestic reasons rather than due to Australia's inability to influence it. It is worth noting some academics have cast doubt on how effective the Malaysia Solution could have been in providing a durable, long-term solution to the problem (Crock & Ghezelbash, 2010; McAdam & Chong, 2014). Nevertheless, whilst the reasons for failure were predominantly domestic, the hypothesis holds to the extent that Australia tried to shape its environment so as to avoid major policy change but failed, and this increased pressure for change.

Reopening Nauru

The government quickly reacted to that pressure. On the day Oakeshott's bill was negatived, the government announced it would establish an Expert Panel on Asylum Seekers (Phillips & Spinks, 2013). Led by Air Chief Marshal Sir Angus Houston, a former Chief of the Defence Force, the panel would work quickly "to provide a report to me and to the nation about the best way forward for our nation in dealing with asylum seeker issues" (Gillard, 2012g). The report was released on 13 August 2012 and contained 22 recommendations, including that the government establish processing centres in Nauru

and PNG, that the Humanitarian Program be significantly increased, and that the Malaysia Solution be revived and implemented (Karlsen & Phillips, 2014).

Prime Minister Gillard soon announced the government accepted all the recommendations, although in fact she did not implement all of them:

> The government later today will seek to introduce amendments that will enable us to commence processing on Nauru and on PNG in the form recommended in this report. . . . It is time to get this done. That is what the Australian nation wants to see. (Gillard, 2012e)

The government quickly introduced the Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012 to reopen the offshore processing camps in Nauru and PNG. The government had little trouble persuading Nauru to engage in this scheme, as Nauru is financially completely dependent on Australia (Jupp, 2015). The government also introduced another bill, the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012, which enacted several legal measures designed to exclude UMAs and provided that:

> all arrivals in Australia by irregular maritime means cannot make a valid application for a visa unless the Minister personally thinks it is in the public interest to do so. Those people are also subject to mandatory immigration detention, are to be taken to a designated regional processing country and cannot institute or continue certain legal proceedings. (Bowen, 2012b)

The Prime Minister also admitted that, in line with the Houston report's recommendation that a *no advantage* principle be applied, the government would "work out what kind of time people would have waited to be processed and get resettlement opportunities . . . if they had not got on a boat" and then ensure that "people in Nauru and PNG do not get a resettlement opportunity before that time has expired" (Gillard, 2012c). Although the meaning of the *no advantage principle* was initially unclear in practice (Phillips & Spinks, 2013), the government's new position effectively amounted to offshore detention in Nauru, the exact measure it had vowed never to adopt, and the delays it introduced often

lasted several years (Jupp, 2015). Additionally, despite the Houston panel's recommendation, Australia never again pursued the Malaysia Solution.

In line with Boswell's (2009) predictions as explained in Chapter 3, the government again deployed expert advice as a source of substantiation to secure its legitimacy and try to settle the matter on technocratic grounds. This was only possible because government and opposition had come to agree on their preferred course of action (i.e., deterrence) but disagreed about the mechanism. The Prime Minister relied on the symbolic value of the Houston panel's expert advice to assert the legitimacy and urgency of implementing measures that would allow the government to regain control over its asylum policy:

> Whilst the government was prepared to compromise, that was not met by compromise from the opposition; in those circumstances, where the parliament was gridlocked, I asked three eminent Australians to provide a report to chart the way forward, and they have done a very good job indeed.
>
> Consequently, we are now prepared to act. We are prepared to act in the terms of this report. We have been prepared for some time now to have offshore processing. Having received this report, we are now determined to see offshore processing in the form recommended by Angus Houston and his team. (Gillard, 2012a)

This was particularly useful to the government when Michael Keenan (LP, member for Stirling), the Shadow Minister for Justice, Customs and Border Protection, criticised the government for changing its position on Nauru. The Prime Minister explained that the government would follow all of Houston's recommendations, which in fact it did not:

> The advice from the Houston report takes a different approach. The advice from the Houston report does not recommend one strategy; it recommends an integrated package. The aim of the integrated package is to ensure that if people risk their lives at sea, if people give their money to a people smuggler, they get no advantage from it. So one element of that integrated package is a regional processing centre on Nauru which would operate in a different way than detention centres in Nauru have operated in the past, and, in particular, the operation in Nauru would have built into it the

same amount of waiting time to get a resettlement opportunity as people would have experienced before they risked their life at sea (Gillard, 2012b)

In introducing these changes, the Prime Minister admitted to Philip Ruddock (LP, member for Berowra), the former minister who had created the Pacific Solution in 2001, that her previous policies had completely failed, and the government determined that a new approach was needed:

> The government implemented [Rudd's promised] policies, as the member is aware. The government then determined that it was appropriate to have an approach of breaking the people smugglers' business model through the agreement with Malaysia . . . there were difficulties in the High Court with that approach. . . . the government then came to parliament to change legislation to enable offshore processing, and we know that we faced a gridlock in this parliament. We sought compromise. We offered compromise and that compromise was not accepted. People will have their views about that history and people will pursue their views in the public arena about that history, I am sure. But I say to the member who asked the question and to others more generally today in this parliament that I believe the time for politicking about this is at an end. The time for action is here. (Gillard, 2012d)

Prime Minister Gillard also accepted responsibility for the failure of her policies:

> I am of course prepared to accept responsibility for my actions as Prime Minister, my actions as Deputy Prime Minister and my actions as a member of this government. I am prepared to do that every day that I am in this government. I accept responsibility for my actions. . . . It is difficult for our nation as it is for nations around the world to work out the right set of policies. . . . Yes, it challenges us. There is no doubt about that, and aspects of it are very hard.

The regional processing bill was agreed to by both Houses two days later, whilst the bill containing legal measures to exclude UMAs was passed by the House of Representatives in November 2012 and by the Senate in May 2013. When the first bill passed the House, the Prime Minister celebrated the government's new tools to control the border:

> Today the House has put in place arrangements for offshore processing. Today the House has done what the Australian people have wanted us to do for a long time. We have worked together to get this done. ... This House today can send a very clear message, too—and it has—to asylum seekers who are contemplating risking a voyage at sea. That message very clearly is: do not risk it, do not give your money to a people smuggler because you will not be better off as a result of having taken that step. (Gillard, 2012f)

In September 2012, Australia again began to transfer asylum seekers to Nauru, and the first transfers to Papua New Guinea occurred in November (Phillips & Spinks, 2013). These asylum seekers' claims would then be assessed by the states in which the camps were located. If found to be genuine refugees, they were still eligible for resettlement either in Australia or a different country. However, as I explain in the next chapter, the second Rudd government would soon shut the door on resettlement in Australia.

To sum up, the Gillard government initially continued Rudd's narratives and policies, but soon came to believe that deterrence was possible, and then decided it was necessary. Gillard sought to shape Australia's environment to eliminate the problem through the People Swap, but failed to enact legislation that would allow it. The government was then forced to rely on offshore detention in Nauru to regain its sense of control over the borders when the number of UMAs rose in 2012. However, it was not the increase in boat arrivals alone that forced the government to adopt that policy, but the fact that the government was now operating in a reference frame that led it to perceive losses. Had the government not embraced a narrative that recognised addressing pull factors as a priority, it may not have had any incentives to rely on offshore processing or detention for deterrence purposes. But when the government faced a massive rise in boat arrivals and no chance of altering the environment, the narrative it had come to embrace forced it to respond with extreme measures to take back control.

Chapter 7.

The Next Phase: The Second Rudd government and the early Abbott government (2013)

"There are no measures deployed by governments in the battle against people-smuggling which are particularly palatable. All of them have great difficulties, contradictions and painful choices associated with them."

— Malcolm Turnbull (2012)

The Rudd narrative

The next phase of the Australian response to UMAs came into effect throughout the 2013 federal election campaign. The election escalated confrontation between the parties, even as their positions became ever closer. Voters were mainly interested in the state of the economy, job security, health and welfare. The matter of asylum seekers was largely irrelevant for voters, perhaps because the ALP's and the Coalition's positions had converged and there was essentially no difference between the parties (Jupp, 2015; Phillips, 2014). Although the election was held in September, the campaign unofficially began in January 2013 when Prime Minister Julia Gillard (ALP, member for Lalor) announced the date (Johnson, Wanna, & Lee, 2015). However, Gillard did not lead her party to that election. She was defeated in a leadership spill on 26 June by Kevin Rudd (ALP, member for Griffith), who had been the leader of the ALP and Prime Minister before her. Whilst Gillard announced she would retire from politics following her defeat, Kevin Rudd formed government and became the Prime Minister of Australia on 27 June.

Rudd's first day back as Prime Minister was also the last sitting day of the 43rd Parliament, since an election would soon be held and the official campaigns were about to begin. Before the House adjourned, however, the Prime Minister took the opportunity to address

Parliament and explain his vision for the next few months and beyond, should he win the election. He celebrated Australia's proud history of multiculturalism and immigration:

> We are a multicultural miracle to the rest of the world and as a result of which there is a huge dynamism in this country brought to our shores by successive waves of migrants over multiple decades. We are proud inheritors of that. So we have a rational basis to be optimistic about our future. (Rudd, 2013b)

The Prime Minister also claimed that he still did not support the Pacific Solution he had dismantled in 2008:

> For those opposite who have trumpeted the 'Howard solution' as it was back in those days, I would say one thing: it was a staging post at Nauru, and 70 per cent of them all ended up back in good old Australia—an uncomfortable fact but a fact nonetheless. (Rudd, 2013b)

This led some members of the opposition to believe that he may wish to reverse Labor's new position in support of deterrence. Indeed, Scott Morrison (LP, member for Cook), still the shadow immigration minister, warned the House that Rudd's policies in his previous government had failed:

> The new Prime Minister started the boats, and he cannot be trusted to stop the boats. . . . when he was given that opportunity in 2007 he chose to abolish strong border protection measures and instead put in place much weaker measures. We know that, as the boats continue to arrive one after the other, the Prime Minister—as he was then—will continue to make excuses. He went through a series of chronic failures. (Morrison, 2013a)

Julie Bishop (LP, member for Curtin), the Deputy Leader of the Opposition, warned that Rudd had created the problem he was now tasked with solving:

> He created a massive problem that has seen 45,000 people try to come to Australia via a revitalised people smuggling trade which has led to hundreds of deaths at sea. . . . Shame on you! It is a monumental policy failure and at the core of it is this current Prime Minister's work. (Bishop, 2013)

Morrison also argued that, even if Rudd decided to maintain the Gillard government's measures regarding offshore processing, the government's control solutions would still prove inadequate, as the government was unwilling to support TPVs and boat turnbacks:

> We all know the government's total opposition to the Howard government border protection measures, and it would seem that this government under this Prime Minister is no different to the one under the member for Lalor that this Prime Minister has succeeded. They will continue to deny that Prime Minister Rudd, now the restored Prime Minister Rudd, stands by his decision to get rid of the proven measures of the Howard government. He stands by that decision, because the first thing they did in the Senate was to vote against temporary protection visas. (Morrison, 2013a)

However, it soon became clear that Prime Minister Rudd had no intention of returning to his 2008 policies. Despite some changes in the Cabinet, the ALP government under Rudd still believed that deterrence was possible and desirable. Indeed, further restrictive changes continued to occur both in narrative and policy. In response to criticism from Senator Christine Milne (AG, senator for Tasmania), the Leader of the Australian Greens, the government's new Minister for Foreign Affairs, Senator Bob Carr (ALP, senator for New South Wales), explained the government now conceptualised the problem of irregular arrivals as economic migrants paying people smugglers to try to exploit Australian policies:

> These are not cases of people under persecution who have cobbled together, in their desperation, money to buy a fishing trawler and set out onto the high seas; these are people who have been captured by money-making criminal syndicates, and you will not recognise it. That is the transformation. That is the change. The second change is that these are increasingly not people fleeing persecution, because in respect of Iranians, for example, they come from majority ethnic and religious groups. They are paying for passage with people-smugglers. This is a transformation in the evidence before us. As the great Lord Keynes said, unprompted, 'If the evidence changes, I change my opinion.' I say the challenge for those good Australians who have argued a refugee case in the past is to re-examine their position. The evidence before us is they are economic refugees, not people fleeing persecution, and are being brought here by people-smugglers. (Carr, 2013)

When a journalist asked Prime Minister Rudd about the philosophical position he would take regarding boat arrivals, the Prime Minister explained that his priority would be to maintain control and ensure that migration was conducted in an orderly way, offering strong evidence that the culture of control mechanism affected his views:

> The great thing about this country is we have long believed in a system of orderly migration. The problem with the current situation is that I really fear that we begin to see some fragmentation for the overall national support for a system of orderly migration in Australia. . . . We actually have to be very attentive to a basic national interest, which is to sustain broad public support for a system of orderly migration. . . . On the question of the attitude I bring to bear on asylum seekers, it will be in the national interest, mindful of the need to sustain popular support for the overall integrity of the migration program. (Rudd, 2013i)

The Regional Resettlement Agreement

Whilst the Prime Minister did not support the Pacific Solution, he admitted in July that the government's existing policies were failing, and accepted responsibility for that policy failure:

> I think we should have adjusted our policy earlier once regional circumstances changed in 2009-2010. I'm fully up-front in acknowledging that. No one gets every policy call perfectly and I certainly haven't, and never pretended to do so. (Rudd, 2013f)

The government claimed that it would continue to seek regional cooperation, particularly through private bilateral negotiations with Indonesia. However, despite intense diplomatic efforts, Australia did not manage to create a regional visa regime or any other multilateral containment scheme. Facing claims in the media that Australia should expect a massive increase in boat arrivals, the Prime Minister acknowledged that the government's control failure necessitated some form of further policy change:

> It's a real problem. It's a growing problem. I accept that. I recognise it. And we are required therefore to adjust our policy against these new facts. I've been signalling that quite plainly in recent times. (Rudd, 2013h)

In mid-July, the Prime Minister continued to escalate his rhetoric. Following the well-publicised death of a child on board an asylum seeker boat in distress, he insisted that policy change with regard to UMAs was now a government priority and, in line with the change hypothesis, he foreshadowed significant change:

> This tragedy underlines the absolute importance for Australia to continue to adjust its policies to meet changing circumstances in the region and in the world when it comes to border security. . . . We will continue to adjust our policies as appropriate – that's the right thing to do. . . . This is an absolute priority for me, an absolute priority for the Government, to continue to adjust our policy to changing circumstances. And I will have more to say about this. (Rudd, 2013c)

Prime Minister Rudd later said that the severity of the UMA situation had led Cabinet to consider radical change. The government was now reconsidering the foundations of Australian policies, and all options were on the table:

> The bottom line is this: Australia so far has had a reasonably generous approach to the assessment of asylum seekers from around the world. What's happened now under Foreign Minister Bob Carr and others is those criteria are being looked at afresh and we'll have more to say about that in due course. (Rudd, 2013d)

Two days later, the government announced its Regional Resettlement Agreement (RRA) with Papua New Guinea. Prime Minister Rudd announced that Australia would step up offshore processing in Papua New Guinea, which would replace detention in Christmas Island. Crucially, the government announced that asylum seekers who arrived by boat would under no circumstances be resettled in Australia:

> Today we're announcing a new resettlement arrangement between Australia and Papua New Guinea. From now on, any asylum seeker who arrives in Australia by boat will have no chance of being settled in Australia as refugees. Asylum seekers taken to Christmas Island will be sent to Manus[14] and elsewhere in Papua New Guinea for assessment of their refugee status. If they are found to be genuine refugees they will be resettled in Papua New Guinea, an emerging economy

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14 The Australian regional processing centre in Papua New Guinea was located in Manus Island.

with a strong future; a robust democracy which is also a signatory to the United Nations Refugees Convention. If they [are] found not to be genuine refugees they may be repatriated to their country of origin or be sent to a safe third country other than Australia. (Rudd, 2013e)

The Prime Minister explicitly said that he expected his new policy to have a strong deterrent effect:

> Our expectation and the expectation of our officials is as this Regional Resettlement Arrangement is implemented and the message is sent loud and clear back up the pipeline that the number of boats will decline over time as asylum seekers then make recourse to other more normal UNHCR processes to have their claims assessed. In the period ahead our Governments intend to make sure that the message is delivered loud and clear to people smuggling networks around the world, and those criminal elements within Australia who may be supporting them that the hopes that they offer their customers for the future are nothing but false hopes. (Rudd, 2013e)

This policy change again represented a major departure from the ALP's previous policies. For the first time under Labor, the government closed the door on UMA resettlement in Australian territory, even for genuine refugees. The RRA had no upper limit on the number of refugees that could be transferred to Papua New Guinea. Furthermore, because Papua New Guinea agreed to withdraw its reservations to the 1951 Refugee Convention, the government claimed it needed to introduce no further legislation to conduct the RRA. In August, the government also added Nauru, which had recently become a party to the Convention, as a possible country of resettlement for *genuine* refugees. The government's plan gave effect to the Houston panel's recommendation that a *no advantage* principle be applied, but it went far beyond Gillard's policy of temporarily preventing UMAs from lodging an asylum claim. Rudd's policy instead reinstated legal measures to permanently exclude UMAs from Australia's permanent protection obligations, thus restoring a key component of Howard's Pacific Solution.

Prime Minister Rudd explained that, because previous policies had failed and Gillard's changes had been insufficient, the government believed this measure was now necessary to ensure adequate border control:

> It's a hard-line approach. It's a necessary approach. It is also the most humane approach. But as Prime Minister I am committed to maintaining the integrity of our borders through a robust system of border security and orderly migration. Our first responsibility as the Government of Australia is to maintain our national security and to maintain the integrity of our borders. (Rudd, 2013g)

He explained that Australia was ready to accept refugees and, if the new policy worked, was willing to increase its humanitarian intake to 27,000, as recommended by the Houston panel. But those migrants would be required to comply with Australia's established *orderly migration* procedures in order to receive protection:

> Access to our humanitarian program must be through the international organisations which resettle people around the world, not through criminal operators who have pushed people onto unseaworthy vessels with tragic consequences. The new arrangements will allow Australia to help more people who are genuinely in need and help prevent people smugglers from abusing our system. (Rudd, 2013a)

The Prime Minister also acknowledged that the policy would not be immediately successful, but argued that success or failure should be measured in terms of how effectively it could provide border control by reducing the number of boat arrivals over time:

> I think the real evaluation here lies in what the intelligence and security agencies inform us about the likely impact of these arrangements over time in bringing numbers down over time. . . . what we're seeking to do through these arrangements is send a clear and undiluted message to every people smuggler in the world that your business model is basically undermined. . . . We'll see how long it takes to have an effect. (Rudd, 2013e)

Operation Sovereign Borders

The opposition, led by Tony Abbott (LP, member for Warringah), shared Labor's perceptions about policy failure. The Liberals did not support the government's handling of border control, but their proposed policies were in practice almost indistinguishable from Labor's. Unlike John Howard, Tony Abbott's rhetoric did not evidence hostility to multiculturalism (Jupp, 2015), although some academics contend that the Coalition's ideas and policies on asylum seekers did have a negative effect on multiculturalism (Moran, 2011). Instead, during the campaign, Abbott was mainly concerned with attacking the government's control flaws. Under Abbot's narrative, Australia's actions were the primary cause of UMAs, and the government could not be trusted to institute adequate deterrence policies: "It is not push factors. It is pull factors. It is the sugar on the table. Mr Rudd put it there" (Abbott, 2013b)

As he had done under Gillard, Abbott continued to criticise the Rudd government for not providing an effective border control solution. He insisted that the opposition believed the problem of boat arrivals must be addressed by implementing three key Howard-era deterrence policies:

> Mr Rudd has been thrashing around like a fish on a deck of a boat on this one. Look, if he wants to make a difference he should just put in place the policies that were proven to work under John Howard and the previous Coalition Government: temporary protection visas; rigorous offshore processing for everyone who arrives illegally by boat in this country; and the willingness to turn boats around where it is safe to do so. (Abbott, 2013a)

Morrison asserted that the government's RRA was inadequate because the agreement was not legally binding and could not guarantee that Papua New Guinea would indeed accept all Australian refugees. Abbott stated that the Liberals would not scrap the agreement, but they would seek to improve it after implementing boat turnbacks and TPVs:

> A deal with another country is no substitute for firm action by Australia. We cannot rely on other countries to solve our problems for us. . . . We've got to do it ourselves and, sure, other countries can help but if we're not prepared to implement temporary protection visas here for all of the people who, for whatever reason, don't get to other countries, if we're not prepared to be fair dinkum about actually getting them to other countries, as opposed to simply talking about getting them to other countries and if we're not prepared to turn boats around where it's safe to do so, we are not going to fix this problem. (Abbott & Morrison, 2013b)

Instead, the Coalition proposed its own alternative policy, Operation Sovereign Borders, a military operation to intercept SIEVs similar to Howard's Operation Relex. According to Abbott, the catastrophic failure of the ALP's policies necessitated radical policy change:

> It is a national emergency. This is one of the most serious external situations that we have faced in many a long year. That's why it must be tackled with decisiveness, with urgency, with the appropriate level of seriousness. That's why we need to have a senior military officer in operational control of this very important national emergency. (Abbott & Morrison, 2013a)

Morrison explained that, in addition to reintroducing TPVs, the Coalition's policies would bring all relevant civilian and military agencies under the command of a single senior military officer to share information and facilitate deterrence, interception and, if necessary, boat turnbacks:

> Our policy approach is based on four key areas. Disruption and deterrence on the ground and up through the chain and I should stress that includes disruption and deterrence here in Australia. . . . Then there is detection, interception and transferring. That's predominantly the work that is done at sea in terms of this operation and there can be no substitute, no substitute for a deterrence at sea when you're looking to protect your sea borders. . . . Then we have the offshore detention and assessment task and that relates predominantly to the running of our processing centres and our detention operations offshore in particular. . . . And then there is the issue of returns and removing and resettlement. Those are the policies that are designed to get people back to where they have come from, at the end of the day. (Abbott & Morrison, 2013a)

On 7 September 2013, the Coalition defeated Labor in the federal election by a substantial majority (Johnson et al., 2015). Although the Abbott government formally began on 18 September, the Coalition's ministers began working on implementing their policies immediately after the election, including the introduction of TPVs and Operation Sovereign Borders. When Question Time resumed in November, Morrison, who had become the Minister for Immigration and Border Protection, celebrated the Coalition's perceived success in controlling the border:

> The good news I have to report to the member for Bass is that for the first time in five years, since the previous government dismantled the measures that worked, the Australian government once again has the upper hand over the people smugglers. . . . We said when we were in opposition and campaigning at the last election that we would make a difference from day one—and a 75 per cent reduction in the first eight weeks, I would say, is a good start. But it is not a final outcome and it is not the outcome we are seeking. The outcome we are seeking is the outcome that was achieved by the Howard government—that was the last government to stop the boats—and as each week passes we hope to see better results. (Morrison, 2013b)

To sum up, the Rudd government, which had come to espouse a narrative that embraced deterrence as a plausible mechanism for state action, continued Gillard's regional processing policies but soon decided that they had not adequately addressed the problem. As the government again faced failure, it announced Labor's most restrictive measures under a new policy that prevented UMAs from being resettled in Australia under any circumstances. For reasons I assume were exogenous, the Rudd government lost the election. The Abbott government then set out to enact the policies it had demanded for years, but in doing so, it found many of them had already been implemented—not by the Coalition but by Labor's Gillard and Rudd.

Chapter 8.

Limitations and opportunities for further research

No academic study can possibly aim to describe or explain a complex social phenomenon and its context exhaustively and completely, especially at the undergraduate level. It is simply not possible for any scientist to evaluate reality in its entirety, and the decision to focus on certain aspects of social phenomena as guided by theory must of necessity set other aspects aside (Levy, 2008; Yin, 2009). Whilst writing this thesis, I identified a number of limitations in my study. In this chapter, I anticipate criticism, justify my decisions and discuss some opportunities for further research.

- In this study, I focused on the evolution of Australia's policies towards asylum seekers who arrive by boat, as my research question referred specifically to unauthorised *maritime* arrivals. However, *boat people* represent only a small minority of the asylum seekers who arrive in Australia every year, most of whom arrive by plane (Keneally, 2013). As Australia's attention and restrictive policies were aimed almost exclusively at UMAs, I believe my decision regarding the research question was appropriate, but an observer may wonder why governments generally did not react in the same way to boat arrivals. I can offer three possible answers to that question.

  1. Boat arrivals are far more visible than plane arrivals precisely because they are less common. Whilst flying is a normal part of Australian life, asylum seeker boats are difficult for most Australians to imagine and therefore arouse curiosity and seize the public's imagination. As Boswell (2007; 2011) has argued, openness to multiple interpretations allows some migration issues to become more salient than others.

2. The cultural context must not be overlooked. Australians enjoy one of the highest aviation safety records in the world. Australian flag carrier Qantas, the world's longest continually operating airline, has had no fatalities since the commercial introduction of jet engines ("Is Qantas still the world's safest airline?," 2014; "Qantas - Airline Ratings," 2019). Whilst Australians have had no reasons to fear planes in general, the same is not true of boats. Many immigration and security scholars have highlighted a persistent cultural anxiety regarding the possibility of invasion which has always been associated with the sea (A. Burke, 2008; Cronin, 1993; Jupp, 2007; Martin, 2015). Boat arrivals are more likely to excite the imagination because they resonate more strongly with Australia's cultural context.

3. In the 1990s, Kathryn Cronin (1993) argued that Australia found it easier than other states to control migration because it was a final destination on most airline routes. As the number of passengers was lower than in the world's main hub airports, the government found it easier to control them. Whilst I accept that this may have contributed to long-term cultural expectations that control was possible, the logic behind this argument ceased to apply after 2001, when security checks became more stringent in a post-9/11 world.

- As I am explaining why Australia under the ALP decided to re-establish the restrictive policies it had abandoned, I do not consider policies or rhetoric after 2013. However, a number of developments took place after 2013 which pose interesting questions. Why did the Coalition sign a deal to relocate refugees in the United States in 2017? ("Full transcript: Donald Trump and Malcolm Turnbull telephone conversation," 2017) Why has the Coalition rejected New Zealand's offer to accept the refugees since 2016? (Davidson, 2016) Why did the Coalition

evacuate some children from Nauru in 2018? (Conifer & Belot, 2018) Why did the Medical Evacuations Bill pass the House of Representatives in 2019 and why does the government now wish to repeal it? ("Labor withholds support for repeal of medevac bill," 2019) Future studies should tackle these further developments in UMA policies.

- This study considers only UMA policy, but not wider immigration or population policy as a whole. However, previous studies have described Australia's policies towards asylum seekers as largely detached from a more open migration policy (Fozdar & Banki, 2016; Maley, 2016). As I mentioned in chapter 7, whilst Rudd and Abbott instituted Australia's most restrictive asylum policies, they also significantly increased the intake of UNHCR refugees in the Humanitarian Program. Migration policies that did not specifically apply to UMAs are beyond the scope of my thesis, however, I note that the decision to increase the refugee intake through authorised channels is perfectly compatible with my culture of control expectations.

- Some observers, such as Nicholas Reece, have argued that the Rudd government's decision not to resettle any refugees in Australia was in fact an electoral tactic to negate the Coalition's advantage: "Labor's policy to support off-shore processing and the settlement of asylum seekers in PNG was aimed at shutting down debate on an issue that was seen as a Coalition strength" (Reece, 2015). I agree that Labor's decision had that effect, but like James Jupp (2015), I contend that Labor's policies were already similar enough that any possible advantages were negligible. However, even if Prime Minister Rudd believed adopting such a policy was necessary to neutralise the opposition's strength and have a fighting chance in the election, my hypothesis would still hold to the extent that he believed he was in the domain of losses.

- Australia has endured several years of political turmoil. Since Gillard's leadership challenge against Kevin Rudd in 2010, Australia has seen eight leadership spills in eight years, four of them successful (A. Brown, 2018). International Relations scientists have already acknowledged that a high turnover of prime ministers hurt Australia's international standing (Lemahieu, 2019). It is also possible that it may have affected UMA policy, either by imposing constraints on multilateral action or by creating different domestic incentives for the government. For example, political infighting may have led to less consistent UMA policies simply because different leaders were at the helm, or it may have increased consistency in order to reassure the public that the party is capable of responsible government. However, the effects of volatile leadership in this period of instability, which lasted at least until August 2018, are still unclear and lie beyond the scope of my thesis.

Chapter 9.

Conclusion

> "this unmourned multitude who trudge
>
> across earth's thunderous surface
>
> Belgrade to Kosovo to Baghdad burning."
>
> — Dorothy Hewett (2013), *Exodus*

Australia's UMA policies have always been as noteworthy as they are puzzling, especially with regard to Labor's decision to dismantle the Pacific Solution only to reintroduce its components one by one. Previous studies have generally assumed that the increase in boat arrivals inevitably led to the government's decision to backtrack on its policies. However, I believe such an explanation fails to take into consideration the interaction between external stimuli and ministers' own beliefs. Politicians do not react to changes in their environment with Pavlovian passivity, nor do they inevitably find themselves ensnared by the irrevocability of their previous decisions. Their interests, decision-making processes and personal cognitive attributes all play a role in policy-making.

As I have shown, the culture of control determined the policies adopted by every government, although decisions were also shaped by perceptions of the problem, the way in which it may be addressed and the expected outcome of existing policies. When Kevin Rudd dismantled the Pacific Solution in late 2007-2008, he and his party believed that Australia was virtually powerless to affect the factors that determined the number of migrants seeking asylum by boat. Asylum seekers, the immigration minister explained, did not stop to consider Australia's domestic policies whilst they were fleeing from certain death at the hands of the Taliban. The government's reference point was not an Australia with no boat arrivals but a nation that managed its share of a global problem successfully.

The real test of leadership that the Prime Minister faced was securing border protection by processing boat arrivals efficiently whilst ensuring a humane approach.

Julia Gillard's government initially continued the same rhetoric and the same policies. But the narrative began to shift over time. The government still conceptualised the problem as evil people smugglers preying on desperate refugees, but their beliefs regarding the expected effects of state action started to change. Gillard and her ministers began to accept the idea that Australia may be able to take some action to disrupt people smugglers' business model. As the government explored that possibility, it came to believe that deterrence would be useful.

The government's reference point then changed – the Coalition's rhetoric and the government's openness to the narrative underpinning those solutions had moved the goalposts. An Australia that was capable of addressing whatever problems the world sent its way was no longer an acceptable outcome. The culture of control mechanism led ministers to believe any plausible control solution was necessary; if deterrence was possible, then it must be used. In time, the new reference point became an Australia that successfully achieved deterrence. Stopping the boats was no longer seen as impossible, and because it was possible, deterrence was of paramount importance.

Australia tried to shape its environment through the multilateral Malaysia Solution, but failed. Facing an increasing gap between the status quo and the reference point, the government enacted radical change to avert the catastrophic failure of its existing policies. The Nauru camp, hitherto considered unacceptable, was reopened. Offshore processing was reintroduced. Under the *no advantage* principle, asylum seekers languished in offshore detention camps for years.

Gillard's policies soon proved insufficient. Labor had come to embrace deterrence, but its shift was incomplete and its policies were inadequate, so Rudd's second government

made UMA policies more stringent yet again. Australia again tried to shape its environment through intense diplomatic negotiation and summits, and again it was unsuccessful. Admitting failure, Rudd decided to step up regional processing and announced the ultimate deterrence measure – asylum seekers would never be resettled in Australia, even if found to be genuine refugees.

The Coalition's victory in the 2013 election then sealed Australia's double U-turn on UMA policies. Tony Abbot and Scott Morrison reintroduced Temporary Protection Visas and escalated military involvement in asylum policies under Operation Sovereign Borders to try to turn the boats around. In doing so, Abbott effectively restored John Howard's Pacific Solution, except this new iteration was even more restrictive, as the government decided to support Rudd's decision that refugees could never resettle in Australia. However, whilst the election of a conservative government with a policy narrative that emphasised the power of deterrence marked Australia's return to the Pacific Solution, it did not significantly change UMA policy. The shift was already almost complete. The Coalition's most important victory on the issue of asylum seekers was not won at the ballot box but in the hearts and minds of the party sitting on the opposite side of the Table of the House.

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