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Is Australia a Model for the UK? A Critical Assessment of Parallels of Cruelty in Refugee Externalization Policies

MARGHERITA MATERA

School of Social and Political Sciences, The University of Melbourne, Melbourne, Victoria 3010, Australia

TAMARA TUBAKOVIC

Department of Government, London School of Economics and Political Science, Houghton St, London WC2A 2AE, UK

PHILOMENA MURRAY

School of Social and Political Sciences, The University of Melbourne, Melbourne, Victoria 3010, Australia

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For several years, Australia has been regarded by some politicians and observers in Europe as a model for hard-line policies towards refugees. At the same time, Australia's implementation of refugee externalization measures has been subject to considerable scholarly attention and critique. Although the Australian approach has featured prominently in political debates in several European states, this article analyses the implications of a possible adoption of the Australian offshore detention approach for refugee policy-making in the UK, and the consequences this will have for the integrity of the international refugee protection regime. The article considers how states might influence each other's policies—both directly and indirectly—by focusing on a case study of offshore detention and processing with regard to Australia's influence on—and similarity to—the UK, to the extent that we observe policy parallels, as the article brings to light substantial policy convergence of detrimental practice of these two countries.

Keywords: Australia, UK, refugee externalization, offshore processing, detention, deterrence, pushbacks

Introduction

For over two decades, Australia has pursued a cruel and relentless policy towards people seeking asylum. A key characteristic of this policy is the process of

externalization which involves disrupting migration pathways, preventing individuals from reaching or entering state territory, and thus denying asylum-seekers access to refugee procedures and refugee status. Prominent examples of externalization include extraterritorial processing and detention; third-country interceptions; and bilateral and multilateral agreements with so-called 'transit' countries (Dastyari and Hirsch 2019; FitzGerald 2020). These practices frequently breach international law. They prevent asylum-seekers from fleeing dangerous regions, and leave people stranded without durable solutions.

Although these offshore processing practices are not unique to Australia, this approach has nevertheless generated significant political interest, to the extent that politicians consider replicating it or undertaking similar policies. As we illustrate in this article, its approach has been distinctive for the length of its long-term offshore detention, with its attendant denial of rights to asylum-seekers. It has been regarded by many politicians as a putative model for states that seek to adopt—or enhance—similar practices, such as the UK (Minns *et al.* 2018; Scarpello 2019). Politicians, some scholars, and media commentary have focused on Australia's offshore processing and detention policy as exemplars to be emulated. In Europe, parties have promoted the full or partial adoption of push-backs, offshore processing, and detention that are primarily identified with Australia. Many perceive Australia as a prototype, and as possessing a satisfactory standard for managing people seeking asylum.

This is a puzzle given the criticism and opprobrium that Australia has faced. It is striking when one considers that it 'has been highly criticised by UN experts and human rights organizations for the torturous conditions inside detention centres' (Akkerman 2021: 1). This interest in Australia's approach from some Global North (often wealthy) states raises significant questions for the future of the international refugee protection framework. There is mounting evidence of the harm of Australia's policy to asylum-seekers, of successive governments' cruelty in seeking to 'stop the boats' and the chipping away at the global refugee protection regime through externalization and deterrence policies. Despite this, governments in countries such as the UK continue to look to Australia as an inspiration for their own policies aimed at deterring arrivals. In focusing on the recent attempt by the UK to introduce a policy of offshore processing to a third country, this article seeks to assess how the Australian approach has influenced the approach recently adopted by the UK. We pose two key questions: how is Australia simultaneously the target of condemnation and a model for emulation by countries, such as the UK, which purport to be beacons of human rights? What does all of this tell us about the status of refugee protection in wealthy Global North states?

In accordance with the 1951 Refugee Convention (Article 1), we define a refugee within this article as 'someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion'. The term asylum-seeker is used to denote 'someone whose request for sanctuary has yet to be processed' (UNHCR n.d.).

We structure the article as follows. Firstly, we contextualize the spread of harmful practices towards refugees, providing a conceptual approach regarding deterrence and the death of asylum. Secondly, we analyse major features of the UK's latest immigration and asylum policy. Here, we identify and analyse how Australian policies of offshore detention and processing have been utilized and justified as a key source of policy learning in the UK. We evaluate the core similarities and differences between Australia's approach and the UK's Nationality and Borders Act, and the implications of the UK Memorandum of Understanding (MoU) with Rwanda for the provision of an asylum partnership arrangement.

The article concludes with a critical assessment of the parallels in cruelty, as illustrated by the Australian and UK approaches, in offshore processing, and boat pushbacks. We illustrate that Australia is a cautionary tale, and increasingly, so too is the UK. Those policies which offshore responsibility to third countries remain problematic and damaging, with considerable associated human and political costs. They fundamentally undermine humanitarian and long-term solutions to the challenges of refugee protection. The cruelty of these policies is amplified given that they are grounded on false claims about those arriving, and that there is limited evidence that such policies are effective. Crucially, the article also demonstrates the limitations of de-contextualized lesson-drawing between countries. Australia's offshore policy relies heavily on the cooperation of its neighbours. Although the UK is neighbour to several European states, many are reluctant to support the UK as it seeks to externalize its policies.

Australia as a 'Model': The Undermining of the International Refugee Protection Regime from within

Australia has been widely criticized for its approach towards asylum-seekers seeking to arrive by boat. Since the 1990s, successive Australian governments, irrespective of political party, have pursued a stringent policy of deterrence. Framing asylum-seekers as 'illegal arrivals', Australia has pursued an approach of interdicting maritime vessels, and offshoring arrivals to third countries where they have been effectively kept in indefinite detention. In some cases, it has pushed them back into international and foreign waters, under a 'pushback' policy. Although Australia has attracted international criticism, its policies of preventing access to domestic asylum procedures and of offshoring responsibility to other countries are not unique. Key measures such as long-term mandatory detention, and the extraterritorial processing of asylum claims were common in the US 'long before they were adopted in Australia' (Ghezelbash 2018: 1). Moreover, it is apparent that deterrence approaches aimed at preventing and pushing back asylum arrivals have become the norm in many countries in the Global North for some time (Jefferies and Ghezelbash 2021). With the growing movement of asylum-seekers, states have progressively hardened their migration control strategies.

In this section, we examine some literature on refugee externalization, to better contextualize the spread of harmful practices and narratives that we currently

observe between Australia and the UK, and analyse how the learning of cruel practice undermines international protection. Asylum-seekers face serious obstacles in their attempts to reach the territory and legal spaces of Global North states, to access asylum procedures and to submit claims for protection. These challenges relate to the lack of regular and safe channels. For decades, countries have sought to establish 'barriers that prevent asylum seekers from setting foot on their territories or otherwise triggering protection obligations' (Frelick *et al.* 2016: 191). This has led some scholars to declare the emergence of a global deterrence paradigm as the core normative framework guiding policy-making on asylum and migration (Gammeltoft-Hansen and Tan 2017).

Deterrence measures have taken many forms over the years to respond to changing flows in arrivals and the increasing securitization of migration issues. They include non-admission policies, such as restricting entry for nationals of certain countries, usually those from main refugee-producing countries; limiting access to asylum procedures by reducing the scope of who is admissible, for example, through safe third country provisions; non-arrival measures, such as enhanced migration control in international waters, as well as in third countries, which not only prevent access to the territory of asylum states, but in many cases prevent departures; and finally, the return and relocation of asylum-seekers and refugees to third countries through a series of formal and informal agreements (Frelick *et al.* 2016; Gammeltoft-Hansen and Tan 2017; Ghezelbash 2020). These measures are designed to deter and shut down both regular and irregular pathways to asylum. In implementing these externalization strategies, states have affected traditional understandings, and workings, of national borders. Through a range of agreements, we see host and transit states undertaking the border control work of destination countries. The securing of such agreements with third countries to manage migration flows, whether formal or informal, has become paramount objectives for externalizing states, albeit not a novel development.

Gammeltoft-Hansen and Tan (2017: 29) refer to the possible beginning of the end of deterrence as a dominant paradigm, as it faces numerous challenges. Yet, this is not the case in Australia and the UK, as this paradigm remains in place and is complemented with parallel policy approaches of specific pushbacks and offshore/third country processing and detention. We suggest that deterrence, refusal of entry, and offshoring of responsibility for people seeking asylum have become shared policy approaches across states, with very similar actions.

For Mountz (2020), the spread of such restrictive refugee policies represents the physical, ontological, and political death of asylum. These measures undermine the core foundation of the international refugee protection regime, challenge core principles of international refugee and human rights law, prevent people from exercising their right to seek asylum, and contain refugees to countries where their human rights are systematically violated. Moreover, these policies are deceptively framed as a security imperative or a life-saving humanitarian endeavour. It has been repeatedly demonstrated that deterrence policies have contributed to people risking their lives further as they are forced to rely on being trafficked in unsafe

and overcrowded boats (Costello and Mouzourakis 2016: 281). The escalating number of deaths at sea at the hands of smugglers has been attributed directly to these deterrence measures (FitzGerald 2019: 255). Scholars have argued that, although the wrongful acts take place outside the territory or 'legal order' of externalizing states, these states nevertheless remain accountable for the human rights violations that take place in international waters and the territory of third countries through the support that they provide (e.g. Dastyari and Hirsch 2019).

Although these deterrence measures effectively amount to a rejection of asylum, at the same time states are careful not to reject international refugee law outright (McDonough and Tubakovic 2022). Since externalization policies are predicated on the cooperation—or compliance—of third, predominantly Global South, countries, if states abandoned international refugee law, then these countries, which are hosting the largest number of refugees, could similarly reject the unequal burden placed upon them, potentially triggering refugee flows to the Global North. McDonough and Tubakovic (2022) observe, in the case of the EU, 'the open disregard of international refugee law would undermine EU capacity building efforts in third countries and expose the hypocrisy of asking host countries to develop asylum systems to reduce onward movement to Europe (p. 165).' Thus, states increasingly pursue more creative ways to overcome the constraints that international refugee law places on their pursuit of unrestrained immigration control. In addition, as Coen (2021: 342) points out 'ambiguities, diverging interpretations, and in some cases lack of codification' contribute to undermine the international refugee protection regime. Global North states have been major contributors to the erosion of this system, while also upholding the international refugee projection regime and engaging in international efforts to strengthen global solidarity through the Global Compact for example.

Moreover, the recent events regarding Ukraine have demonstrated that states *are* willing to welcome asylum-seekers, if they serve some politically strategic goal, or are ethnically palatable. The Australian government initially set up a temporary humanitarian visa for Ukrainians fleeing the conflict. The EU and its member states took steps early to provide temporary protection to Ukrainian citizens fleeing the war, in sharp contrast to how they have responded to refugee flows from the Middle East and Africa. This illustrates that, where there is the political will to act, the EU and member states are able to provide 'a more humane' response (Reilly and Flynn 2022: 1). As Venturi and Vallianatou (2022) argue, the 'EU solidarity to displaced Ukrainians illustrates the deeply politicized—and often discriminatory—nature of providing refugee protection'. Moreover, in the UK, the rhetoric, and immediate actions to offer safe passage and housing to Ukrainian refugees, stands in marked contrast to the hostile response to the Syrian refugees in 2015. Thus, the willingness to provide protection is selective in its application, with a hierarchy of deservedness.

It is thus clear that the current political and policy situation is characterized by a concerted effort by states to prevent and deport unwanted asylum-seekers, with evident convergence in policy approaches and narratives. Policy parallels and similarities are not a new phenomenon in deterrence. The reasons that states adopt

similar policies of deterrence have been the subject of growing academic and policy interest (e.g. FitzGerald 2020; Flynn 2014; Ghezelbash 2018; McAdam 2013a). States that perceive similar policy challenges might look to each other to learn how to institute the most effective measures. Ghezelbash (2018) and McAdam (2013a) illustrate how states often scrutinize approaches other governments have taken with asylum arrivals, what has worked, and how other state policies can help justify their own deterrence practices. In asylum policy 'there has been no doubt that States cast an eye around to see what others are doing—or can get away with—when it comes to tightening the rules on entry, entitlements and border security' (McAdam 2013a: 25).

While parallels have already been drawn between Australia's offshore policy and the UK's new *Nationality and Borders Act* and the Rwanda deal, how Australia's policy has been utilized as a source of learning and emulation in the UK, a state which prides itself on being a beacon of human rights, requires further attention. Of the external factors driving policymaking in the deterrence paradigm set out by Gammeltoft-Hansen and Tan (2017: 33), we identify one in particular—policy transfer—that is pertinent to our examination of the UK and Australia. For Dolowitz and Marsh (2000: 5), policy transfer refers to 'a process in which knowledge about policies, administrative arrangements institutions and ideas in one political setting (past and present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting.' We conceptualize this as a form of transfer of governance instruments. This broader category allows us to explore beyond the (possible) transfer of goals, content and instruments of policies and programmes, to also investigate similarities in the language and narratives that politicians adopt to frame problems, and which guide the development of solutions along similar paths (Boswell *et al*. 2011). We contend that this transfer is voluntary, stemming from the intentional choice by political actors to draw lessons from another country to then apply to their own political system (Dolowitz and Marsh 1996). This process can occur in the context of a perceived or actual crisis, where current governance approaches to refugee policies are deemed not fit for purpose, rejected, or replaced.

To this end, this article provides an empirically rich exploration of how UK politicians have referred to, or used, the Australian approach as a policy goal, and how they have sought to implement the policy through the introduction of the *Nationality and Borders Act* in 2022, and the subsequent MoU with Rwanda. In this article, we demonstrate that interaction of the UK and Australia is evident, with Australia promoting its approach internationally, including to the UK. There are parallels of policy, even if selective and not comprehensive, due to different scope conditions for policy adoption and implementation. There is recognition of similar challenges and possibly similar solutions, enhanced by government-to-government dialogue and knowledge-sharing (see Dolowitz and Marsh 2000). In so doing, we identify both similarities and differences of the UK and Australia. Crucially, for liberal democratic states in the Global North such as the UK, which advocate compliance with international law and the protection of human rights, interest in Australia's approach in the face of mounting evidence of

harm to asylum-seekers, to Australia's national standing, and the international refugee protection regime, developing a better understanding of why states in the Global North choose this path is important if the 'death of asylum' is to be prevented.

Emulating Australia: Examining the Relevance of Australia's Policy of Offshore Processing and Detention for the UK's Nationality and Borders Act

The issue of border control and stopping arrivals has been a significant priority for the UK government for some time. Notably, from 2012, the Home Office announced it was adopting a 'hostile environment' to immigration and asylum (Griffiths and Yeo 2021). This has brought tight checks on people's right to work in the UK; more complicated applications for the right to stay and more expensive application processes. For asylum-seekers, many of whom are undocumented, the policy was intended to weaponize the total destitution and rightlessness of vulnerable migrants, so much so that they would voluntarily choose to leave (Webber 2019). The government also introduced a highly controversial and violently implemented 'deport first, appeal later' practice, which was later ruled unlawful (BBC 2017). There was also a decisive rhetorical shift in the governments of the UK, especially since David Cameron, whose use of dehumanizing language regarding a 'swarm of people' was condemned in 2015. It featured in the pro-Brexit campaign promise to 'Take Back Control' of borders. Since Brexit, the UK government have sought to stem the number of people arriving across the Channel. It examined numerous measures to render the Channel an 'unviable' route. Home Secretary, Priti Patel introduced a controversial plan for UK border officials to actively push back small boats. This plan was similar to Australia's 'Operation Sovereign Borders', which utilizes military operations to prevent unauthorized arrivals of vessels transporting asylum-seekers to Australia, by intercepting and returning these vessels to the country of origin or departure. Since 2013, successive Coalition governments have worked towards 'zero tolerance' of maritime interceptions and used a pushbacks strategy to prevent boat arrivals (Gleeson and Yacoub 2021).

The UK, a country which claims to be a beacon of human rights and refugee protection, pushed this approach, despite opposition both within (see e.g. Joint Committee on Human Rights 2021) and outside of Parliament. Border Force officers joined a legal challenge with charity groups to prevent pushback from being implemented and threatened that they would not enforce the policy on the ground. In February 2022, the Royal Navy made it clear that 'it would not be using push back tactics in the English Channel' (Ministry of Defence 2022). Externally, the plan faced opposition from rights-based groups, the UN, and European countries including France. Confronted with internal and external opposition, the plan was abandoned as impractical.

Despite some setbacks, the government has sought to establish numerous bilateral agreements post-Brexit with states to expedite returns. An agreement was signed with Albania in 2021 to accelerate the return of Albanian nationals whose asylum claims were rejected. Home Secretary Suella Braverman told Parliament in

October 2022 that although the scheme has 'had some success in removing people back to Albania within quite a short period of time', it must 'go further and faster' to make a real impact (Gallardo 2022). The UK has been unable to negotiate bilateral agreements with individual EU member states (Austria, Belgium, Germany, Greece, Italy, the Netherlands and Poland) or the EU, although on 14 November 2022, the UK did reach an agreement with France on border management of the Channel. Under the agreement, the UK has agreed to pay France more than €72 million for 2022–23 to fund increased security at ports for advanced surveillance to assist with detecting and preventing illegal crossings of the English Channel. Funding will be allocated to establish 'reception centres in the South of France to deter migrants entering France via the Mediterranean migration route from travelling to the Channel coastline [. . .] and to offer them safe alternatives' (Basso 2022).

The UK government had also been exploring other options further afield, which were ultimately reflected in its new policy. In June 2021, the Nationality and Borders Bill (HM Government 2021b) was unveiled, with the Home Office describing it as containing 'the most radical changes to the broken asylum system in decades' making it harder for those who enter illegally to stay in the UK (O'Carroll 2021). This was not the first time the UK government considered offshore processing, but it was the first time that the government succeeded in converting it into legislation. In the period leading up to the introduction of the bill, Australia's offshore processing featured as a reference point for the government.

Following a period of heightened attention over maritime arrivals to the UK and increasing political dissatisfaction with the perceived 'failures' of the current asylum system, a UK government internal document requested Foreign Office officials to 'offer advice on possible options for negotiating an offshore asylum processing facility similar to the Australian model in Papua New Guinea and Nauru' (cited in Lewis *et al.* 2020). It was reported that the UK Home Office studied Australia's offshore detention policy to assess its viability (Davis 2021) and that UK Minister for Immigration, Chris Philp, spoke with Michael Outram, Australian Border Force Commissioner in June 2020 to 'learn more about Australia's approach' (Pegg and Lewis 2020). In 2020, when the UK government raised the possibility of asylum-seekers being sent to the Ascension Islands, a Home Affairs source stated that when Patel sought advice from the Foreign Office on 'how other countries deal with asylum applications, Australia's system [was] given as an example' (Walker 2021: n.p.). Official documents seen by *The Guardian* showed the UK attempting to adopt a similar strategy to Australia's 'Operation Sovereign Borders' to block the Channel (Walker 2021: n.p.). The perceived success of Australia's 'stop the boats' policy appears to have provided inspiration to the UK's new Bill.

Moreover, this policy parallelism is evidenced in the UK Home Office determination to send asylum-seekers who arrive 'illegally' in the UK to be processed offshore, as articulated in its White Paper, *The New Plan for Immigration* (HM Government 2021a). What is particularly noteworthy in terms of similarity with Australia is how the government framed the 'problem' of boat arrivals as

threatening the integrity of UK sovereignty and the asylum system. In the White Paper, the government 'promise[s] to regain sovereignty' and 'to properly control our borders' by undertaking a 'comprehensive reform of our asylum system' (HM Government 2021a: 3). Following the *Tampa* affair, the Australian government had justified its approach of preventing maritime arrivals and offshoring asylum-seekers to third countries based on a particularly restrictive conceptualization of national sovereignty (Gelber and McDonald 2006: 269). Prime Minister John Howard argued that permitting the arrival of the naval vessel carrying asylum-seekers would 'undermine Australia's control over its sovereign territory' (Howard 2001a), maintaining that 'we decide who comes to this country and the circumstances in which they come' (Howard 2001b).

Both Australia and the UK have demonstrated a preoccupation with determining who is 'legal', and who is not, by framing their narrative around legal routes to entry and thus criminalizing any attempt outside of these approved pathways (Dettmer 2021). Australian governments contrasted boat arrivals to 'genuine refugees', who follow the proper assessment procedures and enter Australia through the appropriate legal channels (McKay *et al.* 2017). By implying the criminality of asylum-seekers arriving by boat, successive Australian government have constructed a narrative that positioned these asylum-seekers as 'other' and 'less worthy of ethical consideration' (Gelber and McDonald 2006: 282). They have perpetuated a (false) dichotomy between genuine and non-genuine refugees—and thus creating a binary between deserving and undeserving asylum-seekers (Martin 2021: 256), and 'good' or 'bad refugees' (McAdam 2013b: 437). Similarly, in the UK, the discourse around the new policy measures clearly articulates a demarcation between those deserving and undeserving of protection, a point articulated in the White Paper, which emphasized that 'for the first time, whether you enter the UK *legally or illegally* will have an impact on how your asylum claim progresses, and on your status in the UK if that claim is successful' (HM Government 2021a: 4). The Nationality and Borders Act also:

> seeks to fortify the distinction between people who arrive regularly and those who arrive irregularly. The former will be allowed to apply for asylum in the UK, while the latter will be shipped to processing centres offshore, thus denying them the right to apply for asylum in the UK (De Vries 2021).

At the crux of this policy is the desire for *control*, controlling who has the right to enter and who does not, and the right to *exclude*. As articulated by then Prime Minister Boris Johnson when signing the MoU with Rwanda on 14 April 2022:

> we must first ensure that the only route to asylum in the UK is a safe and legal one, and that those who try to jump the queue, or abuse our system, will find no automatic path to settlement in our country, but rather be swiftly and humanely removed to a safe third country or their country of origin (Johnson 2022).

These restrictive measures are presented as the only solution to ensuring that the UK remains an open nation to the world, and a global player in protecting the

international refugee regime. This is clearest in the UK Government White Paper on the *Nationality and Borders Bill*, where it states that 'the UK has a proud history of being open to the world… we also take pride in fulfilling our moral responsibility to support refugees fleeing peril around the world' (HM Government 2021a: 1).

The MoU with Rwanda marks an important step in implementing the Nationality and Borders Act. The agreement paves the way for the government to relocate asylum-seekers who arrive 'illegally' in the UK to Rwanda for processing. Under the scheme, individuals who are transferred to Rwanda would not be able to apply for asylum in the UK or have the option to return and settle in the UK. Their asylum claim would be processed in Rwanda, and those not given asylum could be given immigration status in Rwanda or removed to a third country.

There are several parallels with the distinction that Australia made, under its Pacific Solution, of denying anyone arriving by boat the right to be given refugee status in Australia. In July 2013, the Rudd Labor government took a further step in entrenching offshore processing by declaring that no person attempting to reach Australia by boat would ever be resettled in Australia (Rudd 2013). All future arrivals who were found to be refugees would be resettled in PNG, Nauru or in another third country. This policy was echoed later by former Australian Home Affairs Minister, Peter Dutton (2017), who stated that 'settlement in Australia will never be an option for anyone who attempts to travel to Australia illegally by boat. There are no exceptions.' As with the UK case, the Australian government has justified offshore processing and detention presenting itself as being a supporter of UNHCR resettlement programme and generous with refugee resettlement, arguing that irregular arrival or 'queue jumpers' take places away from those who 'properly' wait for resettlement. The UNHCR has been vocal in its criticism of the UK's policy to make a distinction between regular and irregular arrivals as it 'contradicts the Refugee Convention by creating a two-tier system' (De Vries 2021). It has also been critical of Australia for the same reason (UNHCR 2012, 2016; see also Doherty 2015).

Furthermore, it is also noteworthy when comparing the language regarding asylum-seekers and refugees that *fairness* constitutes a common narrative justifying offshore processing in these two cases. In the Australian case, the values of egalitarianism and 'fair go' have been utilized rhetorically to create a narrative of 'queue jumpers' and cheaters, with the aim to justify measures that punish those that attempt to arrive to Australia by boat. In so doing, successive Australian governments have attempted to construct a representation of asylum-seekers as incompatible with the values, beliefs, and characteristics of the Australian community (Gelber and McDonald 2006; O'Doherty and Lecouteur 2007). Similarly, in the UK, then Home Secretary Patel stated that 'it isn't *fair* to the vulnerable people who need the protection or the British public who pay for it' to allow those arriving illegally to 'cheat the system' (cited in O'Carroll (2021), own italics). She stated further 'We will welcome people through safe and legal routes while preventing abuse of the system, cracking down on illegal entry and the criminality

associated with it' (cited in Dettmer 2021). Moreover, in the White Paper and the MoU with Rwanda, the UK government refer to values, stating that 'the British people are fair and generous when it comes to helping those in need' (HM Government 2021a: 3, 2022). Those arriving by boat are consequently depicted as exploiting this welcoming attitude. The Nationality and Borders Act is therefore designed to 'increase the fairness' of the system, so that it can 'better protect those in *genuine need of asylum*,' and to simultaneously 'toughen our stance against illegal entry' (HM Government 2021a: 4). This is an example of the form of hypocrisy that is evidence as we observe a paradox, where the UK states that it cares about international norms and refugee protection, but at the same time is seeking ways to avoid providing this support.

Both the Australian and UK governments have sought to justify deterrence as being in the best interest of asylum-seekers themselves. Utilizing a narrative of saving of lives at sea, government officials have argued that the best way to protect people from drowning is to ensure that they do not get on boats in the first place. Australian Prime Minister, Tony Abbott, commented that 'The only way you can stop the deaths is, in fact, to stop the boats' (cited in Griebeler 2015). In presenting his government's policy to stop the flow of migrant boats crossing the English Channel, then Prime Minister Johnson said the objective was 'to save lives and avert human misery' (cited in Bourke 2021). Silverstein (2020: 728) has shown how the narratives that 'we must stop the boats of asylum seekers so the children don't drown' are drawn from discourses of 'care', located 'within a history of settler-colonial projects that work to create an image of Australia as a nation of 'white saviours', policy-makers as 'good caring humanitarians', and non-white children as requiring the 'benevolent care' of white governments.

Despite some similarities, there remain some key difference between Australia and the UK's approach to offshore detention. Firstly, based on information available on the MoU, Rwanda will be responsible for the processing and management of the detention centres, with financial assistance from the UK. The Australian government played a more significant role in the management of these centres. Although the governments of Nauru and Papua New Guinea agreed to process the protection claims of people seeking asylum and to resettle (either in their own territory or a safe third country) these centres were operated and serviced by private companies that were contracted and overseen (to a degree, with little legislative and media scrutiny) by the Australian government.

Secondly, the countries entering in agreement with Australia have played a far less prominent decision-making role over relocation. The Rwanda agreement on the other hand is based on the principle of double voluntarism, which means that both the UK and Rwanda must agree on who is relocated to these detention centres (HM Government 2022). Rwanda could therefore veto the relocation of certain individuals. In response to criticisms from the African Union and individual African states following a similar agreement Rwanda signed with Denmark, 'the Rwandan government has already stated it will not accept relocation of citizens of neighbouring countries or those with criminal records' (Beirens and

Davidoff-Gore 2022). This means that the UK does not exercise full control over how many, and who will, be relocated to Rwanda.

Thirdly, the agreement is currently subject to a number of legal challenges which may either delay the implementation of the plan or scuttle it entirely. Although the UK government's attempt to introduce an Australia-style system could, on this occasion, be potentially short-lived, we suggest that policy transfer could occur in a number of stages and across longer periods of time. The UK White Paper and the Act illustrate that there is an *increasing trend* towards policy transfer. Although there remain some uncertainties, the stage has been set for more restrictive asylum policies. In fact, the appointment of former Australian Foreign Minister Alexander Downer, a key architect of Australia's offshore policy, to an independent Monitoring Committee, designed to provide oversight of the agreement and to hold both governments to account, raises serious questions as to the government's 'commitment to the British public and save lives' (Patel cited in Home Office 2022). Downer, who led the review of the UK's border force, recommends an increasing alignment with Australia's pushback and deterrence policies (Knaus 2022), and has publicly stated that the agreement with Rwanda 'is a good solution' to prevent boat arrivals from settling in the UK (Downer 2022).

Parallels in Cruelty: Why Australia Is Not a Model but a Cautionary Tale

We have illustrated that there has been a degree of policy transfer, as states often look towards each other regarding practices to solve challenges and assess what might be transferable and adopted. In this section, we develop this to argue that the process of policy transfer and mutual admiration set out above reflects a learning of cruel practice and the adoption of harmful models for refugee protection. This transfer of *detrimental* policies and practices disrupts refugee pathways and access to asylum procedures and undermines refugee rights. The hostile language, and the reproduction of narratives which position asylum-seekers as abusive and criminal, further contribute to the political death of asylum (Mountz 2020). There are serious consequences for the international refugee protection system, and the willingness to put to one side states compliance with international law and norms, as these states seek to avoid constraints on, and oversight of, their actions.

Firstly, the adoption of externalization through offshore processing and detention has resulted in *harm to refugees*. Australia's policies towards asylum-seekers and refugees have drawn criticism for violating international refugee, human rights, and maritime law (Moreno-Lax 2017; McAdam and Chong 2014). Asylum-seekers have been detained in high-security and closed detention centres, and operated and serviced by private companies contracted by the Australian government. Many reports and inquiries have shown that there is very little oversight by the Australian government of these private contractors, who effectively operate without accountability and impunity (Australian Human Rights Commission 2014, 2015; Commonwealth of Australia 2015, 2017), and little legislative oversight (Murray 2023). There has been widespread documented

physical, mental, and sexual abuse against men, women, and children (Amnesty International 2013, 2014, 2016; Commonwealth of Australia 2015; Farrell *et al.* 2016; UNHCR 2012, 2016). Senate inquiries have found that conditions in the processing centres are 'not adequate, appropriate or safe for the asylum seekers detained there' with several cases of abuse, self-harm, and neglect (Commonwealth of Australia 2015: 120, 2017). The International Criminal Court concluded in February 2020 that Australia's offshore detention regime 'constituted cruel, inhuman, or degrading treatment… such that it was in violation of fundamental rules of international law' (ICC 2020: n.p.). The government has been found, through the Australian court system, to have seriously breached its duty of care to asylum-seekers detained in these detention centres (O'Sullivan 2020).

Serious processing delays in these detention centres have resulted in the lack of timely and appropriate humanitarian solutions for all those subject to offshore processing (Gleeson and Yacoub 2021). Australia has the longest average period of detention ever recorded, with an average of 689 days (Human Rights Watch 2022), with some asylum-seekers having been in detention for over a decade (Refugee Council of Australia 2022). When processing centres reopened in 2012, neither Nauru and PNG had the 'legislative framework for RSD [refugee status determination] … nor any prior direct experience of conducting RSD' (Gleeson and Yacoub 2021: 2). Reports have shown that the protracted state of limbo has caused serious psychological damage, and harm to the welfare and well-being of those detained (Akkerman 2021; McAdam 2013b). The indefinite length of detention, coupled with the deficient processing capacities in PNG and Nauru, illustrates the arbitrary and punitive nature of Australia's offshore policy (Marr and Laughland 2014). Such mounting evidence of the harm inflicted on asylum-seekers and refugees by Australia's offshore processing and detention has failed to deter other states from considering, and in the UK case, implementing a similar policy. Rather, parallels of cruelty are evident. The UK Home Office has itself recognized that some asylum-seekers could face persecution if sent to Rwanda (Syal and Siddique 2022). Moreover, many practical aspects of the plan remain unclear. For example, aside from plans to convert a former hostel into a detention centre, there are no details on long-term plans to house these asylum-seekers. There is no clarification as to what will happen to individuals who are not granted asylum other than their removal to a third country (Nair 2022).

Secondly, offshore processing has been an extremely *costly* policy (Gleeson and Yacoub 2021). In addition to the physical, health, and psychological harms to asylum-seekers and refugees noted above and documented in detail elsewhere, there are significant financial costs. Several reports detail the costs of offshore detention. In 2019, a report, 'At What Cost?', outlined the human and financial costs of Australia's offshore detention. Financially, the cost of offshore detention and processing was estimated at around AUD9 billion in 2016–20. Offshore processing costs the Australian government 'in excess of $573,000 per person per year' (Asylum Seeker Resource Centre, Save the Children and Get Up 2019: 19). The UK government has also acknowledged the significant costs of

operating a similar system, yet appears committed to a parallel approach. In assessing the Downing Street proposal to establish processing centres in Ascension or St Helena, the Foreign Office concluded the plans would have been 'extremely expensive and logistically complicated' given the islands' remoteness. It estimated costs to be around £220 million to build 1000 beds and £200 million for running costs (Lewis *et al.* 2020). The UK government has promised Rwanda an initial £120 million as part of an economic transformation and integration fund, as well as agreeing to pay processing (approximately £12,000 per person, comparable to costs for processing a case within the UK), operational, accommodation, and integration expenses (Pursglove cited in House of Commons 2022). In addition, it has estimated that the costs associated with sending asylum-seekers to Rwanda at £30,000 per person (Allegretti and Rankin 2022). The willingness of states to invest heavily in measures that 'push border enforcement progressively farther offshore' has been a trend over the last 20 years (Mountz 2020: 5).

Thirdly, the policy has failed to achieve its purported objectives of preventing dangerous journeys and savings lives at sea (Gleeson and Yacoub 2021). In giving evidence before the UK House of Commons Committee into Channel crossings in November 2020, Gleeson stated that the policy 'did not work in Australia. It was introduced with the goal of trying to deter people from seeking asylum in Australia by boat, but in the first 12 months of the policy we saw more people arrive in Australia by boat than at any other time in history or since' (House of Commons 2020). As Pickering and Weber (2014: 1008) note, research by parliamentary services has:

> called into question any straightforward causal link between deterrence policies involving military interdiction, offshore detention and temporary protection visas on the one hand, and reductions in boat arrivals on the other.

Although the Australian government has now virtually halted all *arrivals* onshore, this hides the dark reality that asylum-seekers continue to risk their lives but are violently thwarted and pushed-back by the Australian navy through its Operation Sovereign Borders (Doherty 2021; Gleeson and Yacoub 2021). Australia's policy does not 'save lives at sea' and 'break the business model' of people smuggling networks (Gleeson and Yacoub 2021: 16). UK government officials concede that the new policy's success will not be based on the number of people the UK reallocates to Rwanda but on the deterrence effect of forestalling arrivals in the first place (Beirens and Davidoff-Gore 2022). Yet, initial figures show that this policy is having little effect on deterring arrivals. Almost 40,000 people crossed the Channel as at 1 November 2022 (BBC 2022; Jones 2022).

Fourthly, the failed Rwanda deportation flight on 14 June 2022 calls into question the viability of policy learning across different contexts. While the UK maintains the success of Australia's policy given their shared 'island' status, it has discounted the contextual differences which have enabled Australia to ruthlessly repel asylum arrivals. Australia has no Human Rights Charter, and it is not party

to a Court equivalent to the European Court of Human Rights, unlike the UK—although there is now mounting interest for the UK to withdraw from the European Convention on Human Rights. As already noted, Australia benefits from stronger ties with third countries within the region and has a long history of actively shaping migration governance in the Asia-Pacific region (Loughnan 2019). Moreover, the European Court of Human Rights rulings, which halted the Rwanda deportations, suggest that the UK still faces several legal constraints which do not inhibit Australian policymakers. While the UK government has welcomed the high court ruling, which deemed the Rwanda deal legal, its wish to apply a blanket removal of all asylum arrivals, arguably the cornerstone of its policy, has nevertheless been rejected (Syal and Taylor 2022).

Despite these failures, externalization policies are adopted and maintained for political reasons, for electoral success. They are not intended to respond to real problems (see e.g. Boochani 2021; Pickering and Weber 2014). As Ghezelbash (2018: 28) points out:

> [T]he competition to appear tough on irregular arrivals can be pitched as much to a domestic audience as it is to potential undocumented migrants. The arrival (or threat of arrival) of irregular migrants can be damaging to the re-election prospects of governments.

Fifthly, these policies undermine the global standing of states as they seek to distance themselves from their responsibilities and from legitimate governance responsibilities (Murray 2023). Our examples illustrate serious and potentially long-term implications for the legitimacy of states' claims to be effective liberal democratic polities. The once-legitimate functions of governance and legislature are distanced from accountability. Externalization policies are often removed from view or scrutiny. Australia has been characterized by considerable secrecy about refugee externalization policies such as boat interception and boat push-backs, as well as a lack of information on offshore detention centres. The lack of adequate access to detention centres for the media compounds the lack of accountability by the Australian state. The Australian government has controlled and limited access of journalists and independent observers to their detention centres (see Ghezelbash 2020). This renders informed opposition difficult (see Marr and Laughland 2014; Mathew 2002: McAdam and Chong 2014). Secrecy 'creates environments that are harmful' (Nethery 2019) and there is substantial international evidence that 'shows that secretive sites of incarceration are places in which human rights abuses will—inevitably—occur'. Nethery (2019) illustrates that secrecy is established in five ways: securitization and militarization of offshore processing; the lack of accountability for service providers; restrictions placed on the media; access blocked to independent observers; and the fact that a democratic deficit on Nauru benefits secrecy. We also add that bipartisan support for these measures further undermines the democratic and liberal credentials of these states. In the Australian context, the fact there has been a common approach of the governments of the major political parties—apart from the Greens Party and

some independent MPs, such as Andrew Wilkie—has rendered sustained, effective, and widespread opposition difficult. With some notable exceptions, the media either repeated government rhetoric or reported on refugee rights and, in some cases, supported the policies of governments uncritically (Loughnan and Murray 2022).

Furthermore, externalization denies voice and agency to asylum-seekers, undermining the legitimacy of government and policy (Murray 2023). Asylum-seekers are not involved in decisions that have a directly harmful impact on their lives.

Finally, the increasing policy convergence among western governments on externalization risks eroding the international refugee system. There is a shift away from rights and responsibilities, from protection and humanitarian assistance, to securitized discourses on the need to stop boats, dismantle smuggling networks, and prevent unauthorized movement at all costs. Offshore processing policies and detention challenge core principles of international refugee and human rights law, prevent people from exercising their right to seek asylum, and confine refugees in countries where their human rights are systematically violated (McDonough and Tubakovic 2022). Furthermore, the creation of false dichotomies between 'bogus' and 'genuine' refugee fragments what should be an 'indivisible category of protected persons' (Mouzourakis 2020: 171). Such 'artificial' labels (Mouzourakis 2020) create the pretence that states are abiding by the international protection regime, while simultaneously narrowing, if not completely closing, spaces for asylum-seekers to submit protection claims. These measures have allowed states, especially the Global North, to continue to argue for the protection of laws and norms that make up the international refugee regime that was established in the post-World War II context while introducing measures that make it increasing difficult for people to seek asylum. As the UNHCR (2021) argues

> such measures have the potential to erode the international protection system, and if adopted by many States, could render international protection increasingly inaccessible, placing many asylum-seekers and refugees at risk of limbo, mistreatment or refoulement.

Such action undermines the network of legal instruments, institutions, norms, principles, and rules that underpin the international refugee protection regime.

Conclusion

In this article, we analysed how Australia's approach to refugee externalization has been considered a 'model' in the UK, while illustrating that there is policy parallelism of both Australia and the UK. We have interrogated the ways Australia's externalization has been utilized in debate and policy actions in relation to the Nationality and Borders Act. We have demonstrated emerging parallels and policy learning between this Act and Australia's offshore policy. We have illustrated similar patterns of refugee externalization policies and comparable

agreements. There is a similarity of narratives and of policy-execution, despite differences of institutions and legal frameworks between the states. We make the case that *both* Australia and the UK are, in effect, cautionary tales for other countries and regional bodies.

We posed two key questions: how is Australia simultaneously the target of condemnation and a model for emulation by countries that purport to be beacons of human rights? What does all of this tell us about the status of refugee protection in wealthy Global North states? We have illustrated the Australia's cruel policies are admired and are the source of inspiration, despite domestic and international condemnation. We have illustrated that the status of refugee protection is increasingly under threat, by policies of deterrence, by the putative end of asylum rights, and by the willingness of states to publicly support refugees while at the same time undermining their essential rights. Little has changed in Australia's policy, despite aspirations for the Albanese Labor government. Written in 2002, Pickering and Lambert's (2002) comment remains valid:

> Australia now operates a refugee policy that assumes that refugees *can* and *should* be effectively deterred from both claiming and gaining refugee status . . . deterrence has now been deployed across a continuum in refugee policy, with traceable beginnings questionable means and with no end in sight (Pickering and Lambert 2002: 65).

If the UK continues to follow this Australian path, one can expect this externalization approach to become even more entrenched in other states too, particularly as they observe near-impunity of these states, and a refusal to permit UN committee members to assess the implementation of the obligations of Australia's obligations under the Optional Protocol to the Convention Against Torture. The restrictive policies pursued by Australia and the UK have not only 'pushed the boundaries of what is acceptable under both international and domestic law' (Ghezelbash 2018: 3), but they have also, we argue, contributed to the normalization of state practices that place violent deterrence front and centre of national, and regional, refugee policies. This parallelism on deterrence measures across jurisdictions:

> has the potential to unravel the protection regime . . . repeated non-compliance with international protection norms, particularly by wealthy liberal democracies, severely undermines the legitimacy of these norms (Ghezelbash 2018: 3).

Our critical assessment of the Australian approach to offshore detention and processing constitutes a 'cautionary tale' for other states. These policies of offshoring should not be viewed, as then Prime Minister Johnson presented, 'the prototype of a solution to the problems of global migration that is likely to be adopted by other countries' (The Guardian 2022). These policies remain damaging, with substantial human and political costs. The sustainability of these policies and other deterrence measures is slowly coming 'under threat' from mounting legal challenges, the dissatisfaction of refugee-hosting countries, and the growing cost of maintaining such a system in the face of ineffectiveness

(Gammeltoft-Hansen and Tan 2017), as well as contestation within the UK and Australian polities. Despite secrecy and lack of adequate scrutiny, and although major government parties of both sides of politics undertook these draconian policies, there have been examples of resistance and domestic pushbacks in Australia. Steps were taken to highlight the conflict of the policy of successive governments with Australia's commitment to international protection. There were campaigns, marches, a plethora of letters written by thousands of concerned citizens, and expert testimony to the harms of these policies. Some medical specialists; scholars; journalists; refugees; members of civil society; and community groups continue to contest these policies and the harms inflicted on people seeking protection. However, the extent to which there may be a meaningful policy change depends crucially on the availability and persuasiveness of alternative policy frameworks to these refugee externalization policies (Gammeltoft-Hansen and Tan 2017). An alternative, which brings together the concerns of host, transit and receiving countries is required for humanitarian and long-term solutions to the challenges of refugee protection.

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