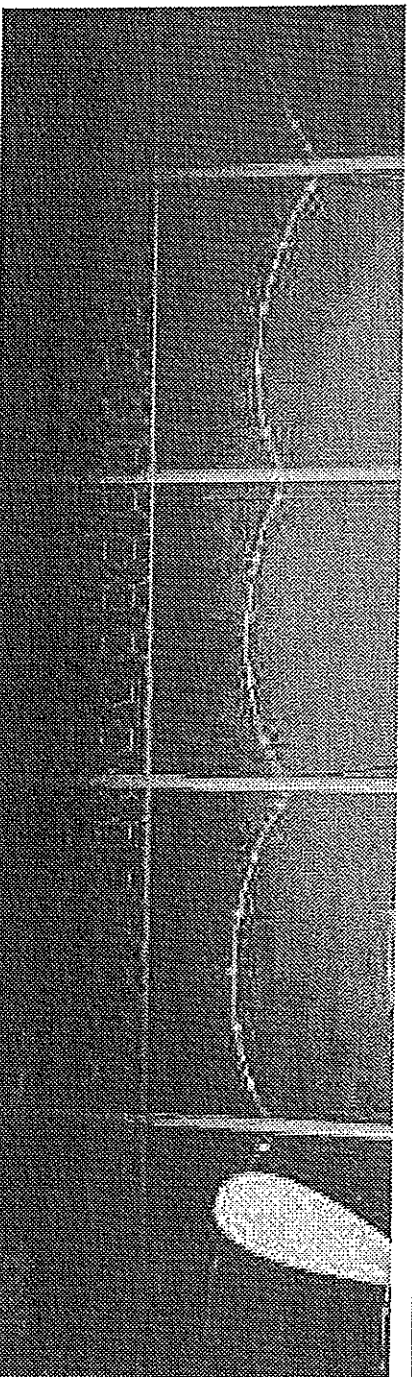


political terms. The Menzies government in 1951 easily survived the invalidating by the High Court of the Communist Party Dissolution Act. In the case of the Gillard Government, however, the consequences are shattering. This is partly because its policy towards refugees is now a mess, but more because the Prime Minister's own handling of the refugee issue is entangled with deeper doubts about her judgment and character, and above all about the way in which she was propelled to office.

Where refugee policy is concerned, there is an urgent need for a measured approach, and above all an abandonment of the "rabbit out of a hat" approach that has characterised Gillard's policymaking ever since she inhaled her absurd "East Timor" solution in July 2010. The number of people who arrive in Australia by boat and claim asylum is low in comparison to refugee flows in many other parts of the world. There is no credible evidence that red-blooded measures such as mandatory detention do anything to stop such flows, and the monetary



costs of running detention centres are enormous.

To put it bluntly, far too much effort has gone into appeasing the demands of "shock-jock" talkback radio hosts and their loyal audiences, who according to survey evidence are often grossly ill-informed as to the numbers involved. A sensible policy would be

to honour in good faith the obligations to which the Menzies government committed Australia when it acceded to the Refugee Convention in 1954, and to relocate refugee resettlement schemes to ensure that they assist groups such as Afghans in terror of a resurgence of the Taliban, who in their desperation are most likely to take

the risk of boarding a boat to reach what they see as safety.

The last thing anyone needs is another scare campaign, and more policies cralled in panic. Yet this is what Gillard seems most comfortable in offering.

A strong leader would be able to take on the shock jocks, but this points to a deeper problem which

the Government faces, namely its lack of leadership credibility. The High Court has not created a political problem for the Government; rather, it has added to a problem that was already well entrenched. It is partly that Gillard's political perambulations, captured in the foolish "real Julia" episode during the 2010 election campaign,

and, unfortunately for Gillard and the faceless men, Rudd refused to disappear (Ladly Macbeth again). Yet who would have thought the old man to have had so much blood in him? And the stark reality now, which Labor "strategists" are terrified to face, is that Rudd is probably the only potential leader with any hope of blocking an Abbott victory, and another long period for the ALP on the Opposition benches. The Gillard Government is by no means the worst in living memory. Anyone who makes such a claim has clearly forgotten the spectacular decay of the Whitlam government, which by 1975 was shedding very senior ministers as a result of the "Lans Affair". However, as a leader, Julia Gillard has proved to be excruciatingly and terminally inadequate. She was brought to office by a pygmy revolution, and has proved to be a mirror-image of her backers.

Professor Mahy is director of the Asia-Pacific College of Diplomacy at the Australian National University and co-author of *The Theory of Politics: An Australian Perspective*.

# Our humanity must prevail over our sovereignty

The High Court's 'Malaysian solution' decision points the way, JOSEPH WAKIM writes

Last week's High Court decision vindicated what human rights advocates have been pleading for years: humanity must prevail over sovereignty.

Prime Minister Julia Gillard assures us that a "genuine sense of Australia's national interest and our national spirit" is what guides the Government's charter on boat arrivals seeking asylum. Yet this is exactly what was at stake with the Malaysia solution. Our national identity sits in joyful strains: "For those who've come across the seas, we've boundless plains to share". Indeed we have been "renowned of all the lands" for our fair and welcoming character.

The Malaysian swap deal is a remnant of the condemned Pacific Solution: the cruel logic of dispatching desperate people to poorer neighbours: "out of sight, out of mind".

John Howard may have trumpeted about our right to "decide who comes to this country and the circumstances in which they come". But the High Court decision

implicitly reminded us of our moral, humanitarian and legal obligations. The Pacific solution demonised asylum seekers and dropped every dehumanising name onto them "short of bombing them".

While the High Court has effectively deconstructed the Malaysia solution, a new book will trace the fate that ignited the Pacific solution. *Overboard* was written by Walker-Nahouri, the first Australian to have interviewed people smugglers. It reveals that it was a convicted ring leader of people smugglers who ironically vowed that we "turn back a boat, just once, no one will be coming".

*Overboard* reveals that the then attorney-general Phillip Ruddock twice affirmed that "the strongest message that has ever been given was the message to turn around boats". In an interview on SBS radio in July 2001, one of the most notorious – and now prosecuted –

people smugglers, Keis Asfour, had this to say: "If Australia closes the door and... a ship is turned back, I will stop this thing."

Five weeks later, the government became "accomplices in the conspiracy of alienating rejected humans". The asylum-seekers who were rescued by the Tampa were turned back with spectacular media theatrics that guaranteed international headlines to "send a strong message to people smugglers".

In the light of this contaminated conception, the Gillard Government should distance itself from any offshore "solution".

To find a sustainable solution, the Government needs to redefine the problem.

The problem is not the dishonesty of the desperate humans who risk their lives to seek asylum. In Australia, more than 90 per cent of these "boat people" are deemed genuine refugees, unlike those who

arrive by plane. The problem is not the people smugglers, many of whom see themselves as saviours, as they will always feed on the desperation.

Unlike the Howard government, which vilified the asylum-seekers, the Gillard Government treats them as victims of the real villains – the smugglers. But a different description emerges from both *Overboard* and the recent report by the Centre of Policy Development, *A New Approach: Breaking the Stalemate on Refugees & Asylum Seekers*: the latter states "smuggling enterprises are innovative, entrepreneurial and easily move between legitimate and illegitimate activities". Shifting the blame from asylum-seeker to people smuggler will never break the stalemate.

The problem is not the pull factors and the need to market Australia as inhospitable. All the money spent to prove that we are not a soft touch was misguided as asylum-seekers

kept coming. There may have been fewer boats during the Pacific solution, but there were more people per boat, which meant that the voyage was more treacherous.

We cannot keep escaping the global problem of people fleeing from inhuman conditions, whether it is war, occupation, genocide, torture, persecution, famine or sinking islands.

Rather than a paranoid protection of borders, this requires global and regional cooperation, headed by the United Nations High Commissioner for Refugees.

The real problem is more the push factors than the pull factors. And the inconvenient truth is that we participate in military operations in favour of regime change in the name of human rights, which inadvertently and inevitably "push" citizens to run for their life.

The Gillard Government should heed the warnings in the book and the recommendations of the report:

maximum 30 days' detention for adults, and 14 days for children, especially as 60 per cent of those resettled in Australia are under the age of 25.

With rigorous on-shore processing, it is also recommended that mandatory detention is phased out and replaced with less expensive and less damaging alternatives.

The taxpayers' money spent on inhuman detention centres is better spent on programs that arrange repatriation and resettlement.

With Australia only receiving 1.04 per cent of the global total of asylum-seekers, we could take a fairer share off our poorer regional neighbours.

Refugees are among our most loyal and peace-loving citizens who take nothing for granted.

But the High Court tolerated that human rights should be taken for granted, and that this is genuinely our national spirit.

Joseph Wakim is the founder of the Australian Arabic Council and a former Multicultural Affairs commissioner.