

paradigm_shift
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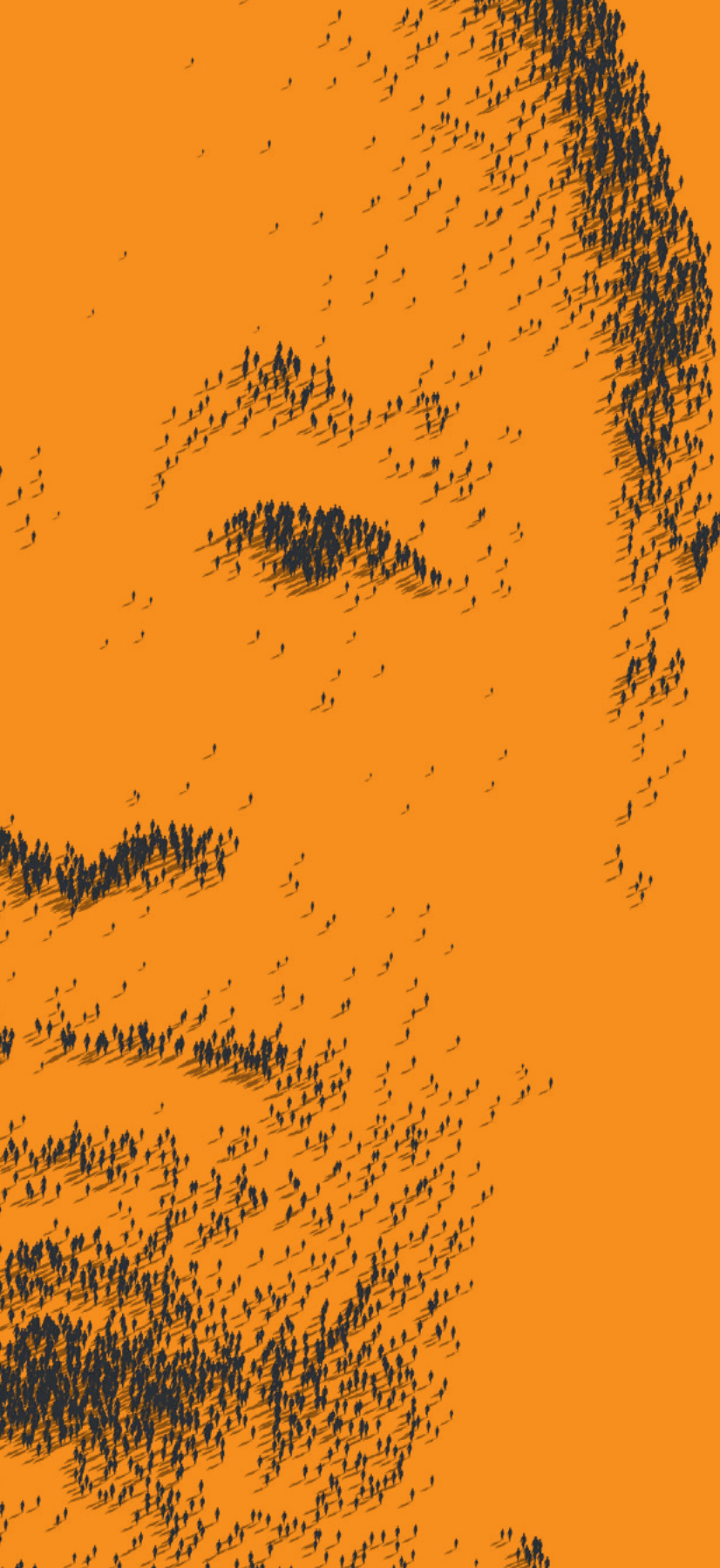
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Apathy, the mistreatment of non-citizens, and the problem with public accountability

It is a clear, if sometimes awkward truth, that important social connections exist not only between the citizens of a liberal democracy, but also between citizens and those non-citizens affected by their governments' actions that are carried out for their benefit.

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Apathy in the face of human suffering: when it is close to home it is most confounding, even if it does concern the mistreatment of non-citizens. Why don't we care more about the suffering of others, especially when it is within our power to end it?

Like the story of the mother, an Iranian asylum seeker, who needed heart surgery. Without it, she could die, but she was unwilling to leave her son – a minor with acute mental health issues – behind, alone, on Nauru, an island northeast of Australia in Micronesia. Would not any mother, or father for that matter, sympathise with this woman's position? For 18 months, the Federal Government refused to let her bring her son with her to Australia, where doctors recommended she come to have the operation. Instead, she remained in a hot mouldy tent with her son in the isolated detention camp, her life-threatening condition going untreated. Eventually, the woman was flown to Taiwan with her son for surgery. Stories detailing her plight were published in sympathetic media outlets like *The Guardian*. But the screaming headlines about Australia's asylum seeker policies were not about the mother. They were instead about the Australian Border Force Commissioner, Roman Quaedvlieg, who had been on paid leave since May 2017 while he was investigated over his personal conduct and allegations he abused his power to help his girlfriend get a job. In March 2018 – the same week it was reported the Iranian mother was flown to Taiwan – the government terminated Quaedvlieg's appointment for alleged misbehaviour.

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The asylum seeker issue in Australia – the government’s policies and the public’s responses – demonstrate both the fragility of our public accountability systems and the consequences for individual rights that can ensue.

These two examples send conflicting messages about public accountability in Australia in a field that has immense consequences for individual rights and liberties. To understand why Australians don’t care more about the wellbeing of the almost 2,000 asylum seekers and refugees currently detained at the behest of our government in miserable conditions on Nauru and Manus Island, Papua New Guinea – some for over four years – it helps to examine the issue in the context of the common public accountability challenges that liberal democracies face today. The asylum seeker issue in Australia – the government’s policies and the public’s responses – demonstrate both the fragility of our public accountability systems and the consequences for individual rights that can ensue.

On the one hand, the level of interest in the inquiries into the actions of the Border Force Commissioner suggest there are robust checks in place for challenging the questionable exercise of public power. According to its website, this is the agency responsible for “facilitating the lawful passage of people and goods”, for “investigations, compliance and enforcement in relation to illicit goods and immigration malpractice”, and for offshore detention. There was not one but two official investigations into the Quaedvlieg controversy: one by the Federal Government’s Australian Commission for Law Enforcement Integrity, the other by the Secretary of Prime Minister and Cabinet and head of the

Australian Public Service, Martin Parkinson. There has also been intense questioning in Senate Estimates hearings of public officials over the status of the investigations and Quaedvlieg’s ongoing position.

Why so much scrutiny of the Border Force Commissioner? There are no doubt multiple reasons. Foremost among them, however, must be how embarrassing it looks for a government that stakes its credentials on its tough stance on Australian border security to have the future of its top uniformed official under such a cloud.

Lest one conclude from the Quaedvlieg case that public accountability in Australia is in a healthy state, we can consider the diverse ways in which the Federal Government has sought to avoid accountability for the human impact its harsh border security policies have had on individual asylum seekers and refugees. Briefly, these policies, known today as ‘Operation Sovereign Borders’, have evolved over the last 17 years and are supported by both major Australian political parties. Asylum seekers are mandatorily detained and assessed offshore, and are unable to resettle in Australia ever, even after obtaining refugee status. They are also held in conditions so unbearable as to act as a disincentive for others seeking asylum to attempt the same passage to Australia. Meanwhile, new boats are intercepted and turned back by Australian authorities to the country they departed from.

The government’s attempts to avoid scrutiny of these policies have included diffusing and obscuring its exercise of power over the individual asylum seekers and refugees affected by its policies in two major ways. The first involves outsourcing the running of detention centres to private contractors, and the second is by detaining individuals offshore in countries with less robust accountability systems, where asylum seekers and refugees are removed from supportive advocacy networks and the Australian public is less conscious of their presence. The government’s efforts to prevent accountability have been both direct and indirect. For example, it has directly sought to limit the investigative power of national agencies and parliamentary committees as well as international human rights monitors by preventing visits to offshore detention centres. Indirectly, it has militarised the language around the handling of asylum seekers, so that ‘on-water’ matters have become beyond challenge, just like ‘operational security’ matters are for the defence force: which readily bats journalists’ questions away.

Accountability mechanisms can be understood to operate horizontally and vertically. That is, horizontally within government, through the separation of powers and public agencies empowered to restrain the political executive, and vertically, imposed by citizens and civil society from outside government. Again, the government has tried to thwart horizontal accountability of its treatment of asylum seekers by, for example, minimising the courts’ powers to scrutinise its decisions. It also punished the Australian Human Rights Commission for issuing a report that exposed the abuse and harm being done to children inside offshore detention centres, by cutting funding and trying to discredit the agency’s former head Gillian Triggs. The government’s attempts to shut down the effectiveness of vertical mechanisms of accountability have been no less severe. They have included passing laws making it a criminal offence punishable by jail for current or former immigration detention centre staff to publicly raise concerns about matters they witness inside the centres.

Kate Ausburn/Flickr



Dr Cynthia Banham

This time, we might ask why the government has put so much effort into avoiding accountability for its treatment of refugees in offshore detention? A possible answer is that if the Australian public does not know the upsetting details of the suffering of individuals inside the centres – the toxic accommodation tents, the suicide attempts, what the actual day of a child kept in offshore detention looks like – it will not question the humanity of the actions the government takes to prevent asylum seekers arriving in Australia by boat. Pursuing such policies would make Australians uncomfortable, but would be accepted by the majority as a necessary evil. Or, as the former prime minister, Tony Abbott, explained to the ‘countries of Europe’ in 2015, it would ‘gnaw at our consciences’ but it was ‘the only way to prevent a tide of humanity surging through Europe and quite possibly changing it forever’.

Something else is going on, aside from the government obscuring the full picture of how asylum seekers are deterred from coming by boat so that, while the public’s conscience is *gnawed at*, it will still accept the measures are necessary and justified. What of the public’s obligation to demand to see the full picture, in all its ugliness, to insist on robust accountability of its elected representatives for policies that damage the physical and mental wellbeing of a minority of others, among them children? Of course, there are many examples of civil society actors in Australia challenging the government over its treatment of asylum seekers. They include refugee advocacy groups, human rights NGO’s, sections of the media, religious groups and some medical professionals. But the offshore detention regime remains in place and, while there have been small victories for advocates, the calls for change have not coalesced into a force strong enough to be of concern to the government at the ballot box.

The question posed at the start of the essay – why don’t we care more about the suffering of others, especially when it is within our power to end it – led me to examine the existing scholarship on public accountability,

looking for a clue. Public accountability is a two-sided relationship between governors and the governed that entails responsibilities on both sides. Sifting through the literature with fellow contributor, Kirsty Anantharajah, we were struck by the lack of close examination of the responsibilities of the governed to demand accountability; most of the focus is on the governors. Flowing from this, there is minimal exploration around the question of what underpins the responsibilities of the governed in the public accountability relationship. This led us to explore the ethical dimension of accountability which, while sometimes (if infrequently) discussed in the literature, is most often considered in relation to the motives of account givers in serving the people who elected them.

What can we say about ethics in the context of public accountability? Ethics has an inherent social quality. As Jean-Marc Coicaud and Daniel Warner write, it is about feeling that our individual lives extend to the lives of others. We recognise that others have rights and acknowledge that there exists a duty to respect them. Proponents of accountability argue it will become more effective when it is understood to encompass an ethics of doing what is right and having a regard for others. However, must this regard for others be limited to fellow citizens? When a public official’s actions encompass harm to a non-citizen, is there no ethical obligation on the part of the citizens who elect that government to demand accountability?

It is a clear, if sometimes awkward truth, that important social connections exist not only between the citizens of a liberal democracy, but also between citizens and those non-citizens affected by their governments’ actions that are carried out for their benefit. Citizens and non-citizens are linked not only by a common humanity, but also by the fact that the world is thoroughly internationalised and globalised. The policies pursued, and privileges enjoyed, in wealthy countries are not without consequence for those in distant, less prosperous or more troubled, places.

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To take one example of where a social connection between citizens and non-citizens affected by the Australian Government’s actions has been largely overlooked in public discourse, consider the issue of arms exports. Earlier this year the Federal Government announced it was creating more jobs by increasing the manufacture and export of arms for warfare. Religious-based justice groups pointed out the ethical issues implicit in pursuing national prosperity by growing an industry whose existence depends on ensuring the continuation of wars that terrorise, maim and kill civilians and cause them to flee their homes and countries. There are obvious social connections between Australian citizens profiting from the manufacture and export of such weapons and the populations overseas where these wars will be fought – between us and them. They are connections the government would have voters overlook.

I link the issues of jobs from arms exports to the cruel treatment of refugees because at the core of the ethical case against both is a dimension that is so often missing from public and political discourse in the fields of security, immigration, defence and foreign policy.

Australians don’t often talk about this, but globalisation and internationalisation connect all of humanity, and renders the ethical obligation to have regard for the rights of others in assessing the acceptability of their government’s conduct inescapable. There is a clear deficiency in the way we understand and practice public accountability around the obligations of citizens to make accountability demands of their government, where the rights of others (non-citizens) are concerned.

It was the Iranian journalist and refugee on Manus Island, Behrouz Boochani, who pointed out that Australian citizens have a stake in holding their government to account for its treatment of others. In *The Saturday Paper* he wrote that by failing to do this, the Australian public risked the future of its own democracy. The resistance of refugees on Manus Island against their treatment was:

“in order to return something valuable to the majority of the Australian public, to return what it has lost, or what it is in the process of losing”.

The apathy we have seen with regards to offshore detention is only possible because of a widespread denial by the public of the social connections that exist between citizens and non-citizens affected by its government’s policies. Were such connections acknowledged, it would be much harder to be so dismissive of the wellbeing of others.



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