

THE CONVERSATION

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Malta's 'push back' stand-off: what can Australia learn?

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The Coalition should heed the legal lessons of an attempt by Maltese authorities to 'push back' Somali asylum seekers. EPA/Lino Arrigo Azzopardi

Malta has become the latest country to try to “push back” asylum seekers, implementing a policy similar to that being advocated by the Coalition as its “Real Solution” to the phenomenon of boats arriving on Australian shores.

In policies reminiscent of Australia, the Maltese government is scrambling to appear tough on migration and depict the arrival of asylum seekers as a crisis that warrants a security response.

Where has this 'Real Solution' landed Malta?

Like Australia, Malta has seen a significant increase in the number of people seeking asylum arriving by boat on its shores or within its territorial waters. Numbers surged after 2011 following conflict in North Africa. The stretch of water between Malta and Africa is known as "one giant graveyard", and United Nations High Commissioner for Refugees (UNHCR) figures suggest 1500 people drowned or went missing in this part of the Mediterranean Sea in 2011.

The Maltese government is currently trying to "push back" members of a group of 102 Somali refugees who arrived by boat on July 9. According to the Maltese NGO People for Change Foundation, the UNHCR and all other NGOs were denied access to the group which included 41 women, two infants and 59 men.

The Somali women and children on board were transferred to detention, in accordance with Malta's policy of mandatory detention. Detention centres in Malta have been criticised by various human rights groups – such as Amnesty International, Medecins Sans Frontières and Human Rights Watch – as inhumane and unhygienic.

The fate of the other Somali men on board is less clear. Media reports had suggested the Maltese government were preparing to deport them to Libya without assessing their claims for asylum.

Somalia is home to one of the world's worst humanitarian and security crises. Statistically, those the Maltese government are trying to push back are highly likely to receive some form of refugee protection. In 2012, 90% of those who applied for asylum in Malta received such protection. Similarly, most asylum seekers arriving in Australia by boat will secure refugee protection.

However, deportation to Libya, a non-signatory country to the 1951 UN Refugee Convention, exposes asylum seekers to arrest, detention and extortion.

On the planned deportation, Maltese prime minister Joseph Muscat reportedly told the Times of Malta that: "this is not push back, it is a message that we are not pushovers". University of Malta migration expert Maria Pisani notes that Malta's history and location between Africa, the Middle East and Europe, means "defending Europe from invasion" figures strongly in Malta's national consciousness. Racism is a real consequence of policies that portray migrants as dangerous.

To prevent their deportation, a number of NGOs including the People for Change Foundation and the Jesuit Refugee Service successfully applied to the European Court of Human Rights for an intervention. The Maltese government have agreed to suspend the deportations until the matters before the Court are resolved and a standoff continues.

Malta and 'push backs'

Up until now, the Maltese government's participation in other push back schemes had been unclear, although they supported Italy's previous policy of interdiction. Italy's interdiction practices were struck down by the European Court of Human Rights in the case of *Hirsi v. Italy*.

An incident in 2010 had brought the Maltese government into the spotlight. The Armed Forces of Malta (AFM) rescued half of the occupants of a vessel, taking them to Malta. The others boarded another vessel that returned to Libya. Amnesty International found those returned to Libya were placed in detention and beaten. AFM crew members stated that the people "volunteered" to go back to Libya, yet the UNHCR has questioned the logic of this.


Push backs are against international human rights law. States are obliged to temporarily admit asylum seekers intercepted at sea and not to commit refoulement by returning them to where they have left. In essence, push backs and turning boats around offer no solutions at all.

Leadership from the Catholic Church

Recent comments by the leader of the Catholic Church, Pope Francis, ought to make a significant contribution to the national debate on migration in the predominantly Catholic Malta. Their impact on Australia is yet to be felt.

Last week, Pope Francis visited the Italian island of Lampedusa where numbers of asylum seekers have arrived by boat from North Africa. The Pope criticised the "globalisation of indifference" and those that had "deadened their hearts" to the daily reality of asylum seekers and migrants kept out of the Global North. He was critical of policy that contributed to loss of life at sea.

Perhaps these comments will influence those attuned to religion on both sides of politics in Australia, and foster a more sophisticated global migration policy than the current "stop the boats" or "no advantage" mantras can offer.

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