

Can Howard find refuge?



Illustration: *Matt Davidson*

Federal Politics
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May 14, 2006

With Indonesia breathing down the Government's neck and the backbench in revolt, the PM faces a tough time over asylum seekers.

John Howard hates backbench revolts, but the one over his latest anti-asylum seeker legislation, introduced to Parliament on Thursday, is more difficult than most. Australia's foreign policy interests are clashing spectacularly with its human rights obligations, and the stakes couldn't be higher.

The Government is desperate to thaw relations with Indonesia, in deep chill since Australia gave sanctuary to 42 West Papuans (another is still being processed). Indonesia has had its ambassador back in Jakarta since late March. Howard doesn't seem able, or feel it is appropriate, to pick up the phone to President Susilo Bambang Yudhoyono.

The controversial legislation aims to appease Indonesia by strongly discouraging West Papuans from fleeing to Australia. Boat people landing on our mainland will no longer be assessed here. They'll be sent off to Nauru. But the dissident Government backbenchers are appalled that asylum seekers' rights will be traduced.

In Singapore tomorrow, Foreign Minister Alexander Downer meets his Indonesian counterpart, Hassan Wirayuda, as part of an attempt to defuse the crisis in the relationship between Indonesia and Australia.

Wirayuda may want to know two things. Will the Government soften the asylum-seeker legislation to placate its rebel backbenchers? And can it guarantee the bill will pass the Senate? Downer will be reassuring if he's asked, but can't provide certainty.

As debate intensifies, increasing attention is being given in the media to stories of the human rights abuses by the Indonesians in West Papua. The secessionist movement is getting maximum publicity. It's just what the Indonesians don't want but have invited by their excessive reaction to the Australian handling of the earlier asylum seekers. This all comes as two Australian warships are sailing towards East Timor, in case further violence there requires evacuation of Australians and other foreigners or, less likely, the East Timorese ask for Australia's help. This follows recent rioting, in which several people died, after soldiers were sacked from the military. The deployment is in anticipation of possible trouble when the congress of the governing Fretilin party meets this week, with pressure on Prime Minister Mari Alkatiri to quit.

East Timor's Foreign Minister, Jose Ramos Horta, told yesterday's AM program that he had not been officially informed the ships were being dispatched and discounted suggestions of imminent violence. "I wait to hear a proper briefing" about the ships, he said. Australian sources think the presence of the ships will of itself be helpful to the Timorese authorities.

The Indonesians are apparently happy enough with the position Australia has been taking on East Timor, but putting everything together, suddenly there are multiple problems to our north.

The budget overshadowed Tuesday's party room revolt over the border legislation, but it will get plenty of prominence in coming weeks. The unhappy Liberals include Victorians Petro Georgiou, Russell Broadbent and Judith Troeth, as well as Bruce Baird and Marise Payne from NSW. Queensland National Barnaby Joyce also has concerns. Georgiou, Troeth and Broadbent said bluntly they could not support the legislation.

Last year, backbenchers led by Georgiou hammered out, in long and tough negotiations with Howard, a better deal for asylum seekers, including the release of families from detention and various protections. Georgiou and others feel the new legislation, due to be passed in June, is completely at odds with those earlier guarantees.

The United Nations High Commissioner for Refugees is also unimpressed. Last month, the UNHCR made public its concern about any country with a fully functioning system for assessing asylum seekers pushing off responsibility for handling claims made on its territory. It has been cool towards informal Australian approaches for it to do the processing.

In Friday's regular briefing in Geneva, the UNHCR criticised the Government for not consulting it in the drafting process. UNHCR spokeswoman Jennifer Pagonis was sharp about the prospect of processing on Nauru.

Pointing out that Nauru was not a signatory to the 1951 Refugee Convention, she said: "We had a bad experience with the arrangement set in place in Nauru after the Tampa incident, which left many people in detention-like conditions for a long period of time, with no timely solutions for the refugees, who suffered considerable mental hardship."

Howard plans to talk to the backbenchers when he returns from his fortnight abroad. He made it clear, in strong remarks to Tuesday's party room meeting, that he regards this legislation as vital. After that meeting, a Coalition spokesman quoted him as saying he was very happy to discuss things, but there were some fundamental issues in this legislation and it wouldn't be negotiated out of recognition.

The Government will give assurances that children will not be closely confined. But it will be disinclined to cede major ground because that would upset the Indonesians.

However embarrassing, it doesn't matter if Government MPs cross the floor in the House of Representatives. But in the Senate, one Government senator voting with the other side can defeat a bill (provided it doesn't get the support of Family First senator Steve Fielding). Still, the odds are stacked in favour of the Government.

Joyce is unlikely to vote against. He's sympathetic to the plight of the Papuans; after speaking to individuals, he thinks there are clear examples of persecution: "I believe what they tell me." But his worries with the legislation are specific and limited. "My concern is what happens at the end of the process of assessment. It must be expeditious and people with a valid claim can't just be left on an island for years for political expediency. If another country won't take them, they must be allowed to come to Australia."

Although the Government wants asylum seekers sent elsewhere, Howard has indicated Australia qualifies as a third country, which would enable them to end up here.

In fact, it is hard to see how other destinations could be found. For one thing, other countries would think, "Why should we take these people when they landed, as first port of call, in Australia?"

The Government's own behaviour could also militate against other resettlement countries being found. David Manne, co-ordinator of the Refugee and Immigration Legal Centre in Melbourne and head of the legal team for the West Papuan refugees, accuses the Government of "defaming" Papuan refugees, which he says will have future consequences.

In a speech this month, Manne said Immigration Minister Amanda Vanstone had accused the West Papuan refugees of seeking to use Australia as a "staging post" for their political cause.

Such "radical rejection" by the Australian Government "will potentially make third-country resettlement even more difficult than it was for Afghans and Iraqis stranded on Nauru in the past", said Manne. "It is not clear why any other country, already reluctant to take up what are properly Australia's obligations and responsibilities, would be in the slightest interested in resettling people who have already been discarded as too troublesome politically".

So the Government's bind is that, at the least, the backbench will want an assurance that Australia will be the fallback for resettlement for people found to be in need of protection. But if they end up in Australia, Indonesia will be deeply displeased. And more asylum seekers will probably be encouraged to flee Papua.

Senator Troeth's objections to the legislation are more comprehensive than Joyce's. She says: "I cannot support the legislation. I consider it's a complete reversal of what we should be doing as a country. It completely abrogates our responsibilities to asylum seekers. I particularly object to women and children being sent to detention centres."

It would be a huge thing for Troeth or any other Coalition senator to defeat a bill that, however reprehensible, will have become, to put it bluntly, so important to the future of the Australian-Indonesian relationship.

Enormous pressure will be put on the party room critics. They will be told that if this legislation was defeated, the Government would have no other way of preventing Australia being exploited by the Papua secessionist movement, and Australia's relationship with Indonesia would be trashed.

On the other hand is the argument they are hearing from Manne and others: "The introduction of national interest and foreign relations, that is, political imperatives, into the protection equation . . . runs completely counter to the fundamental principles and practices of the international refugee protection system", which demands assessments should be made objectively, fairly and with due process.

There is another wrinkle. The legislation has been sent off to the Senate's legal and constitutional committee, for a report by June 13. This is chaired by Marise Payne and is sure to get many critical submissions, including one from the UNHCR.

Payne, a moderate, is in a very awkward position.

She is being targeted by her party enemies in her preselection. In contrast, Georgiou is well-placed to mount a campaign against this bill. He has just resoundingly beaten off a challenge to his preselection.

People such as Peter Costello, who supported Georgiou, insist the vote was not an endorsement of his policies. They're probably right. But the question of what is a mandate is always elusive: Georgiou can equally claim the victory was backing for his stand on asylum seekers. When Georgiou and his friends eyeballed Howard successfully over asylum seekers less than a year ago, no one would have thought the battle would be joined again and so soon. This time, it is much more of a challenge all round.