

# A return to the 'Pacific Solution'

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**Over the last 50 years, Australian governments have introduced a range of measures that seek to deter asylum seekers. Current practice sees asylum seekers once again detained in offshore detention in neighbouring countries.**

According to the Australian government, Australia's response to refugees in need of formal resettlement is generous. Australia operates a formal UNHCR resettlement process, whereby after having complied with Australia's health and character requirements, refugees are offered protection in Australia. For most of the refugees resettled in this way, the journey to Australia is decades long, with many years spent waiting in refugee camps.

This 'generosity' to refugees is in stark contrast to Australia's response to the 'spontaneous' arrival of 'unauthorised' asylum seekers. Despite receiving relatively few asylum seekers compared to other industrialised nations, Australia has a well-developed punitive and restrictive approach to the arrival of asylum seekers by boat. In many cases, these asylum seekers have also waited in refugee camps for many years but for a variety of reasons have not been offered formal resettlement or have been unable to access the formal process. Both the Australian media and the government link these arrivals with illegal people-smuggling operations, with the individual asylum seekers characterised as 'illegal immigrants' who have 'jumped the queue' by arriving in Australia outside the formal UNHCR process.

The number of asylum seekers to arrive in Australian waters is increasing; in the first six months of 2013 Australia received almost 13,000 asylum seekers by boat. Due to the poor quality of the boats used by people smugglers to carry asylum seekers, the increase in boat arrivals is matched with an increase in the number of deaths at sea. Over the last 10 years there have been almost 1,000 deaths of asylum seekers in Australian waters. In response to both the increasing arrivals and the unacceptable number of

deaths at sea, the Australian government has expended much energy searching for a solution to the asylum seeker 'problem'.

## Seeking asylum in Australia

In 1976, a small number of individuals made their way to Australia by boat to seek asylum. These asylum seekers, called 'boat people', mark the beginning of Australia's association with asylum seekers who arrive without prior authorisation. While these first arrivals were small in number and were accepted with little public concern, over the following four years asylum seeker numbers increased and so did public anxiety. In response, the Australian government introduced a policy of direct resettlement of refugees from camps in Southeast Asia. This resulted in a larger and more formal process for resettlement in Australia, also leading to a reduction in the need for asylum seekers to travel to Australia by boat. To the Australian public, this process appeared to be more ordered and was largely accepted as a legitimate response to the refugee situation in Southeast Asia.

By 1989, further instability in Southeast Asia resulted in a new wave of asylum seekers arriving by boat on Australia's shores. From this point forward, a system of mandatory detention, including detaining asylum seekers in centres located in isolated and remote areas of Australia with limited access to the legal system, was applied to all asylum seekers. Most of these asylum seekers were never resettled in Australia but instead were repatriated after a lengthy period of detention.

This system of mandatory detention coped well with the small number of asylum seekers arriving in the early 1990s. However, increased instability in the Middle East in the late 1990s resulted in a relatively large

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number of asylum seeker arrivals from Afghanistan and Iraq, increasing pressure on Australia's onshore detention facilities. These arrivals triggered negative public opinion and significant public concern about the strength of Australia's borders. The government sought to manage this perceived threat by detaining all asylum seekers, including women and children, behind razor wire in detention centres in remote areas of Australia.

The government minister responsible for immigration declared that all unauthorised boat arrivals were 'illegal immigrants' who were a threat to Australia's sovereignty, and that those who arrive without a visa were 'queue jumpers' who stole places from the world's most vulnerable (namely those waiting for resettlement in refugee camps). Once the applications of these asylum seekers had been processed, they were almost exclusively found to be refugees (around 90%). Despite the legitimacy of their claims, many politicians – in both government and opposition – continued to use language that characterised the arrivals as a national emergency or a serious threat to the security of the nation.

The situation became more strained in 2001 when a cargo vessel, the *Tampa*, rescued almost 450 asylum seekers from a sinking Indonesian fishing ship. The political deadlock that resulted from the arrival of the *Tampa* coupled with the terrorist attack on the US just weeks later resulted in a conflation of the threat of terrorism with the arrival and presence of asylum seekers. In response to the arrival of asylum seekers, the government adopted the stance that for asylum seekers to be resettled in Australia they must be 'deserving'. According to the government, a deserving asylum seeker was one who had waited in a refugee camp for the ordered UNHCR process. The government reaffirmed this message by introducing additional measures to deter asylum seekers arriving by boat, and to limit the rights of those who did arrive. These measures included a system of visas offering temporary protection, the introduction of offshore processing and changes to the migration zone.

This new immigration regime was designed to deter asylum seekers from making the journey to Australia. The system of temporary detention meant that if an asylum seeker did arrive they would be unable to work, access health care or English language classes, or apply for their families to join them. Migration zone changes meant that the islands around Australia's northern perimeter – i.e. the islands where most asylum-seeker boats arrive – would no longer be part of Australia's migration zone if you were an asylum seeker who arrived by boat. Upon unauthorised arrival to Australia, all asylum seekers were sent to, and detained in, an Australian-run immigration detention centre in a third county, namely Nauru and Papua New Guinea (Manus Island). This 'offshore' processing was what became known as the 'Pacific Solution', and was designed to ensure that any asylum seeker who did land on Australian territory would not gain an advantage over those 'deserving' refugees who were waiting in camps. With these changes introduced into Australia's immigration law, Australia's notion of 'good' and 'bad' refugees – those selected by the government from refugee camps versus those who come to Australia by boat – was translated into law.

In terms of deterring asylum seeker arrivals, the combination of offshore processing, temporary protection and mandatory detention was a 'success'. Between 1999 and 2001 (i.e. before the introduction of these measures), 180 boats carrying more than 12,000 asylum seekers arrived in Australian shores. In the five years after, 18 boats and fewer than 180 asylum seekers reached Australia.<sup>1</sup>

In 2008, the newly elected Labour government abolished the system of temporary protection and closed the detention centres in Nauru and Papua New Guinea, citing the inhumane nature of the Australian immigration system for asylum seekers. These measures effectively ended the Pacific Solution. Seeking to maintain the low number of asylum seeker arrivals, however, the government supported the continued processing of asylum

seekers at the Christmas Island<sup>2</sup> detention centre and established a new procedure for offshore processing: one that was specifically intended to operate outside the domestic legal framework. This procedure was applied only to those asylum seekers who arrived by boat.

### The current situation

In the years since the Pacific Solution was dismantled, arrivals of asylum seekers by boat increased one-hundred fold, outstripping the capacity of the immigration detention facilities at Christmas Island<sup>3</sup> and leading to a public perception that the government had become 'soft' on asylum seekers and had compromised Australia's border security.

Responding to worsening polls and increasing asylum seeker arrivals, in 2010 the government began to publicly discuss other ways to deter arrivals. The key solution proposed at this time was the implementation of a 'regional processing centre'. Asylum seekers would be detained in a third country where they would be processed, effectively a return to the Pacific Solution. The government argued that the proposal would deter arrivals as the people smugglers would not be able to sell a boat journey to Australia if such a journey would only take the asylum seeker to an offshore detention centre for processing.

In mid-2012, the government appointed an Expert Panel which made a number of recommendations including increasing Australia's annual intake of refugees for resettlement, reviewing the process for determining refugee status, making it legal to remove asylum seekers to any country, a 'no advantage principle' whereby any asylum seeker arriving by boat would not gain an advantage over those waiting in camps, and reopening the detention facilities on Nauru and Manus Island (similar to the government's 'regional processing centre').

All of these recommendations have since been approved and are now in effect.

Changes to Australia's asylum policy are dictated by federal elections. The 2013 federal election saw both major political parties propose policies that would seek to deter the arrival of asylum seekers and punish those who do arrive. During the campaign, the new conservative government proposed a return to a previous policy that will see the Australian Navy engaged in returning boats carrying asylum seekers to Indonesia. The new

government will retain policies of the previous government whereby no asylum seeker who has arrived after July 2013 has the chance of being permanently resettled in Australia. All asylum seekers are now being transported to detention centres on Papua New Guinea and Nauru for health and security assessments. If found to be refugees, they will remain there permanently, be resettled in another third country, or be offered temporary protection in Australia.



Offshore processing is once again a component of Australia's response to asylum seekers. With an increasing number of people seeking asylum globally, Australia is receiving more asylum seekers than ever, leaving the government searching for any response to the 'problem' of asylum seeker arrivals, even if that response is damaging to individual asylum seekers.

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1. Phillips J & Spinks H *Boat arrivals in Australia since 1976 2012* <http://tinyurl.com/Phillips-Spinks-2012>

2. An Australian territory in the Indian Ocean.

3. In May 2013 the number of people held in a detention centre at Christmas Island reached 2,962. The detention capacity of the island's facilities is normally 1094 but can be stretched to 2078.