

Timeline of Australia's refugee policies

Court of Conscience
Editorial Team

I 1950s–60s

World War Two and the Refugee Convention

The 1951 *Refugee Convention*¹ was adopted by the United Nations in 1951 to address the displacement of millions of European refugees during World War Two ('WWII').²

In 1967, the *Protocol Relating to the Status of Refugees* (the 'Protocol')³ expanded the 1951 *Refugee Convention*'s application beyond Europeans displaced by WWII.⁴ Australia ratified the Protocol in 1975, but never entirely incorporated its obligations under the Protocol into domestic legislation such as the *Migration Act 1958* (Cth).⁵

Currently, there are 148 State signatories to one or both of these instruments.⁶

The origins of offshore processing

In the 1960s, Australia set up its first offshore refugee processing centre (the Salasia Camp) on Manus Island, Papua New Guinea, to process thousands of refugees fleeing from Indonesia, which was planning a military takeover of West New Guinea.⁷

II 1970s–90s

During this period, maritime asylum seekers arriving in Australia were mostly from Indo-China following various wars and regime changes in the region. Vietnamese asylum seekers constituted the majority of boat arrivals between 1969–1982,⁸ before a 'second wave' of asylum seekers from the broader spread of Cambodia, Southern China and Vietnam arrived during the 1980s–mid 1990s.⁹

The end of the White Australia Policy

Before 1973, Australia's refugee policy was not distinguished from its immigration policy (the White Australia Policy) embedded in the *Immigration Restriction Act 1901* (Cth).¹⁰ Movement towards the abolition of the White Australia Policy began in 1966 and was completed by the Whitlam Government in 1973.¹¹

The development of Australia's refugee policy

Following a 1976 inquiry by the Senate Standing Committee on Foreign Affairs and Defence into the possibility of an Australian

refugee policy, the Government declared a formal refugee policy and determination procedure in 1977.¹²

By 1979, the suggestion of detention centres for asylum seekers arriving by boat was raised, although the Government refused to pursue this due to unfavourable public opinion and perceived impracticality.¹³

However, by 1989, after settling another wave of South-East Asian boat arrivals, the Australian Government's asylum seeker policy became increasingly restrictive.¹⁴ One element of the Government's refugee policy was the introduction of a 'planned system' to prevent immigration intakes from being 'undermined by unplanned (unauthorised) arrivals' who may not actually require international protection.¹⁵ Another element of the Government's refugee policy in the 1990s was the introduction of mandatory detention by the 1992 *Migration Reform Act* (Cth) ('*Reform Act*').¹⁶ Under the *Reform Act* (which remains in force), all non-citizens without a valid licence are detained while their visa claim is processed.¹⁷

iii Late 1990s–mid 2000s

1999

In 1999, the Government introduced Temporary Protection Visas. It also enacted people smuggling offences, and gave itself powers to search ships at sea and detain asylum seekers.¹⁸ At around the same time, a 'third wave' of maritime asylum seekers from the Middle East began arriving in Australia.¹⁹ These refugees fled primarily from the Taliban in Afghanistan and Saddam Hussein's regime in post-Gulf War Iraq.²⁰

The Tampa Incident and the Pacific Solution

On 29 August 2001, a Norwegian vessel, MV Tampa, arrived near Christmas Island carrying 430 people it had rescued earlier from a sinking fishing boat.²¹ The refugees on MV Tampa were mainly from Afghanistan.²² Australia tried to turn the Tampa away and deployed military force to board the ship and prevent it from approaching Christmas Island.²³

Following the Tampa incident, Australia introduced the 'Pacific Solution', a swathe of harsh laws directed at asylum seekers who entered Australia without a visa (referred to by the Government as 'unlawful' or 'unauthorised'

arrivals).²⁴ The Pacific Solution aimed to further deter 'unauthorised' maritime arrivals by introducing offshore detention centres to assess their visa claims. The Government also excised thousands of islands from Australia's migration zone to prevent asylum seekers who reached those islands by boat from applying for visas.²⁵

Late 2000s–2010: The abolition of the Pacific Solution, the closing and reopening of Manus Island and Nauru

In 2008, the newly elected Rudd Government dismantled the Pacific Solution and declared a more compassionate approach to the treatment of asylum seekers.²⁶ The Rudd Government abolished the temporary protection regime, and closed the detention centres on Manus Island and Nauru, but continued to process asylum seekers on Christmas Island.²⁷

Following the closure of Manus Island and Nauru, the number of boat arrivals increased 100-fold, far beyond the capacity of Christmas Island.²⁸ In response to public scrutiny and political pressure, the Government reoriented its asylum seeker policy in 2010 by increasing Australia's refugee intake, allowing the removal of asylum seekers to any country, introducing a 'no advantage' policy for asylum seekers arriving by boat (compared to those waiting in camps), and reopening the Manus Island and Nauru detention facilities.²⁹ This policy shift effectively reinstated the Pacific Solution.³⁰

iv 2010s

2011: Malaysian transfer deal

In July 2011, the Gillard Government signed a transfer agreement with Malaysia whereby 800 asylum seekers would be transferred from Australia to Malaysia in return for Australia's commitment to resettle 4000 refugees from Malaysia.³¹ The High Court held the agreement to be invalid as it would leave asylum seekers without legal protection from persecution, in contravention of the *Migration Act*. Nevertheless, the Government pledged to resettle 4000 refugees from Malaysia, as promised, albeit using part of its existing Humanitarian Programme quota.³²

Domestic policy

In 2013, the Coalition Government introduced Operation Sovereign Borders, under which

it adopted a 'zero tolerance' stance towards maritime arrival asylum seekers.³³ Operation Sovereign Borders involved a more militarised approach to intercepting and turning boats back.³⁴ The new policy also created the Australian Border Force, removed government funded legal aid for asylum seekers arriving by boat, and reintroduced the temporary protection regime but without the possibility of permanent resettlement in Australia.³⁵

The processing centres on Manus Island and Christmas Island were closed in October 2017 and October 2018, respectively.³⁶

Resettlement deal with New Zealand

Australia has repeatedly rejected a standing New Zealand offer to resettle 150 refugees.³⁷ Home Affairs Minister Peter Dutton has argued that accepting the deal would encourage more maritime arrival asylum seekers to use New Zealand as a backdoor entry option into Australia. As of July this year, Minister Dutton indicated that Australia may accept the resettlement deal 'when and if' doing so will not encourage boat arrivals.³⁸

Resettlement deal with the United States (US)

In November 2016, Australia announced a deal with the US which would resettle 1250 refugees from Manus Island and Nauru.³⁹ In a leaked 2017 phone call between US President Donald Trump and former Australian Prime Minister Malcolm Turnbull, President Trump emphasised that the US retains discretion as to whether it honours this target.⁴⁰

In September 2017, a small group of refugees were resettled in the US under this deal.⁴¹ However, the US has rejected 300, primarily Iranian, refugees,⁴² despite the Iranian refugees comprising the largest population of refugees on Manus Island.⁴³ In June 2019, Minister Dutton declared that the

target of 1,250 refugees would not be met and only 531 refugees had been resettled under the deal so far.⁴⁴

In return for the US resettling refugees from Manus Island and Nauru, Australia was reportedly to accept dozens of Central American Refugees and two Rwandans accused of mass murder in the US. However, as of June 2019, only those two Rwandans have been resettled in Australia.⁴⁵

The closure of the Manus Island detention centre

In April 2016, the Supreme Court of Papua New Guinea held that the detention of asylum seekers on Manus Island violated the country's constitutional right to personal liberty.⁴⁶ As a result, the Manus Island detention centre was closed in October 2017.⁴⁷ Hundreds of detainees refused to leave the centre due to concerns over the safety of their new accommodation arrangements.⁴⁸ After vital services such as electricity, water and healthcare were shut down, Papua New Guinean authorities forcefully removed the remaining asylum seekers.⁴⁹

Medevac Bill

In February this year, the Medevac Bill was passed,⁵⁰ allowing asylum seekers requiring urgent medical assistance to be temporarily transferred to Australia upon the recommendation of medical professionals.⁵¹ After passing the Bill, the Government announced it would reopen Christmas Island, where it would treat asylum seekers requiring medical treatment.⁵² However, the Government later announced that Christmas Island would again be closed less than four months after its reopening.⁵³ This July, Minister Dutton introduced a new Bill to Parliament to repeal the Medevac legislation.⁵⁴ At the time of writing, the lower house has voted in favour of the repeal.⁵⁵ ¶

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