

REFUGEE LAW AND COMPARATIVE ASPECTS OF SOCIAL JUSTICE
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Australia's offshore processing regime

What is offshore processing?

Offshore processing (referred to by the Australian Government as "regional processing") is the term used to describe the arrangements by which Australia sends people seeking asylum who arrive by boat to either Nauru or on Manus Island in Papua New Guinea (PNG), where their refugee claims are determined. Australia is the only country in the world that uses other countries to process refugee claims. Offshore processing is justified by the Australian Government as "breaking the people smuggler's business model" by removing the financial incentive to send boats to Australia and ensuring that those who arrive by boat do not gain an "unfair advantage" over others.

Offshore processing raises the following key concerns:

- It seeks to punish rather than protect those in need.
- It seeks to transfer Australia's responsibility to protect to poorer, less well-equipped countries.
- It has led to prolonged and indefinite detention and enormous human suffering.
- The conditions of detention are inhumane, with grossly inadequate health care and inhumane treatment.
- The system exposes highly vulnerable people to further harm, with consistent reports of sexual, physical and psychological abuse.
- It undermines democratic principles of transparency, accountability and the separation of powers.
- It is extraordinarily expensive

The Pacific Solution

Offshore processing was first introduced in September and October 2001 by the Australian Government under John Howard. Manus Island ceased to house people seeking asylum in May 2004, and the last refugees left Nauru on 8 February 2008 when the policy was abolished under Kevin Rudd. The policy was practised in concert with a practice of intercepting and

as refugees could be, and were, resettled in Australia.

Between 2001 and 2008, a total of 1637 people were detained on Nauru and Manus Island, including 786 Afghans, 684 Iraqis and 88 Sri Lankans. Of these, 1153 (or 70%) were ultimately resettled to Australia or other countries, 705 of these in Australia. Others were resettled in New Zealand (401), Sweden (21), Canada (16), Denmark (6) and Norway (4), while 483 left "voluntarily" and one person died. In Nauru, some protection claims were assessed by the United Nations High Commissioner for Refugees (UNHCR) and others by the Australian Government, while on Manus Island the claims were assessed by the Australian Government.

The return of offshore processing

In July 2010, a significant increase in people arriving by boat led to the newly installed Prime Minister Julia Gillard announcing that the Government would resume offshore processing. This followed the failure of the then Government to implement a "refugee swap" with Malaysia, after this was ruled unlawful by the High Court of Australia. People began to be transferred to Nauru on 14 September 2012 and to PNG on 21 November 2012.

However, on 19 July 2013, the newly re-appointed Prime Minister, Kevin Rudd, announced shortly before an election that Australia had entered into an arrangement with PNG. Under this version of offshore processing, all (rather than some) people who arrived by boat would be transferred to PNG and, critically, they would never be resettled in Australia but rather in PNG and any other participating nation, but not in Australia. A similar arrangement was then made with Nauru. On 18 September 2013, under the newly elected Coalition Government, a policy of turning boats back was also implemented as part of a strategy known as "Operation Sovereign Borders".

The return of offshore processing has caused enormous suffering. In addition to refusing resettlement to Australia, the only "third country" also offering resettlement has been Cambodia, in a controversial deal that has only seen a handful of refugees on Nauru settle at extraordinary cost. There have been prolonged delays in refugee status determination, particularly in PNG. There have been significant protests and disturbances on both Nauru and Manus Island, one of which led to the violent death of one man.

There have been consistent and alarming reports of abuse (sexual and otherwise), including of those living in the community and of gay and lesbian people. There has been at least one

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self-immolation of two people in recent weeks, ending in the death of another man in Nauru. Yet, despite repeated international condemnation and significant opposition and protests, both major parties have refused to change the policy of offshore processing.

Two legal challenges in Australia to the constitutionality of offshore processing in PNG and Nauru failed, most recently in February 2016 following the rushed passage of validating legislation during proceedings. However, 267 people transferred to Australia for medical treatment have so far remained in Australia following national protests in February 2016.

In 2015, the "regional processing centre" on Nauru transitioned to "open centre" status, lifting restrictions on freedom of movement but, due to a lack of housing, recognised refugees remain in the processing centre, although the exact figure is not on the public record.

In April 2016, PNG's Supreme Court ruled that the forced transfer and detention of asylum seekers on Manus Island were unconstitutional. The Australian Government, and the Labor Opposition, continue to rule out bringing the people held on Manus Island to Australia. New Zealand's previous offer to resettle 150 refugees within its existing quotas has so far been refused by the Australian Government. In May 2016, litigation was commenced in the High Court of Australia and in PNG to require the refugees and asylum seekers to be brought to Australia but there does not appear to be any immediate resolution to the issue.

Key statistics

These statistics are drawn from the Operation Sovereign Border monthly updates.

- At its peak in February 2014, there were 1325 people held in the Manus Island centre and 1107 in the Nauru centre, a total of **2,432** people detained.
- At its peak in August 2014, there were **222 children** in the Nauru centre (the Manus Island centre being designated for adult males).
- Between 18 September 2013 and 31 March 2016, **2,215 people were transferred** (770 to Manus Island, 1,355 to Nauru) but none since January 2015.
- Between 18 September 2013 and 31 March 2016, **536 people departed**, 303 of those in 2014.
- As at 31 March 2016, **1367** of the 2028 **refugee assessments** (67%) conducted have been positive. On Nauru, the refugee recognition rate has been 77% (866 out of 1131

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- As at 31 March 2016, there were **905** men in the **Manus Island** "regional processing centre" (395 of them being recognised refugees and 19 having been given a positive refugee assessment but awaiting final confirmation of their status). Another **59** refugees were living in the nearby East Lorengau Transit Centre and **28** refugees were living elsewhere (presumably still in PNG). This suggests that up to 992 refugees and asylum seekers sent to Manus Island remained in PNG.
- As at 31 March 2016, **866** of the people sent to **Nauru** have been designated as refugees and 265 people have been given negative refugee assessments. Since October 2015, some of the newly designated refugees have remained in the processing centre under 'open centre' arrangements because housing in the community was not available. It is unclear exactly how many are now in the community, although as at 3 May 2016 the Minister for Immigration has indicated around 700 are living in the community and 350 of those are employed. The number of people in the Nauru processing centre as at 31 March 2016 was 468. This suggests that the total number of refugees and asylum seekers on Nauru is between 1100 and 1200.
- Several hundred people sent to Nauru and Manus Island have been transferred back to Australia temporarily for medical and other reasons. As at February 2016, 267 people were in Australia awaiting possible transfer to Nauru and Manus Island, 37 of them babies born in Australia to asylum seeker parents.
- As at 30 April 2016, five refugees recognised in Nauru have taken up the Australian Government's offer of moving to Cambodia. However, three of them have since left Cambodia and returned to their home countries (Myanmar and Iran). Another two, originally from Syria, have moved to Canada to be reunited with family members resettled there.

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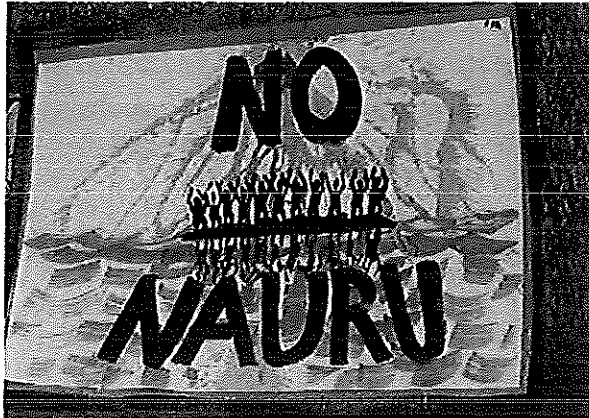


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Australia's Controversial Asylum Policies

The country's brutal policies are leaving it increasingly isolated.

By Gemima Harvey
 December 04, 2015

"For those who've come across the seas, we've boundless plains to share," goes the Australian national anthem. This is true, unless you are an asylum seeker. Despite the 1951 Refugee Convention stating that people should not be punished for their method of arrival when seeking asylum, for years Australia has been cracking down on those coming across the seas.

From offshore processing and boat turn-backs to law reforms that let Australia breach its non-refoulement responsibilities and that have chilling implications for potential whistle-blowers, Australia's policies disrespect peoples' right to seek asylum and disregard international laws that have human rights and protection for the vulnerable at their core.

An Overview of Offshore Detention

People who arrive by air in Australia with a valid visa such as a tourist or student visa and then apply for asylum are generally granted a bridging visa and are allowed to live within the community while their claims are assessed. Protection visas for those who apply in this way are approved in about 45 percent of cases annually. In contrast, asylum seekers who come by sea are either intercepted and turned back or transferred to Australian-funded detention centres in Pacific Island nations such as The Republic of Nauru or Manus Province, Papuan New Guinea. They will never be allowed to resettle in Australia even if they are found to be genuine refugees. More than 90 percent of asylum seekers arriving by boat are assessed to be refugees.

In 2013, the United Nations Refugee Agency (UNHCR) reported that offshore processing centres, both in Nauru and in Papua New Guinea, "do not provide safe and humane conditions of treatment in detention," constitute arbitrary detention under international law and do not provide for adequate and timely solutions for asylum seekers. UN special rapporteur on torture, Juan Méndez, has raised concerns about Australia's violation of the rights of asylum seekers in relation to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and the

treaty body has called for the required standards of protection to be afforded to all people seeking asylum, regardless of their mode of arrival.

The offshore centres have come with a string of tragedies and controversies.

Last year Iranian asylum seeker Reza Barati was murdered, allegedly by security guards. Dozens of others were injured during the same unrest, on Manus Island, that also apparently involved police and locals who entered the camp.

Another Iranian asylum seeker on Manus, called Hamid Kehazaei, died after delays in getting him proper treatment for a blister that turned septic.

Cases of sexual abuse against asylum seekers and refugees, including against children, have surfaced from Nauru. In October, Office of the UN High Commissioner for Human Rights (OHCHR) spokesperson, Rupert Colville expressed concern about reports that Nauru police have failed to take action against alleged perpetrators of sexual violence, including that "impunity for such serious crimes increases the risk they will be repeated."

A national inquiry into children in detention culminated with a 2014 report, *The Forgotten Children*. It found that, "Children on Nauru are suffering from extreme levels of physical, emotional, psychological and developmental distress." The report notes that Australia's policies are in breach of the Convention on the Rights of the Child and raises concern that detention is mandatory and without a time limit. Latest figures show there are still 92 children at the processing center on Nauru.

The UNHCR said the detention of people seeking protection should be a measure of last resort. Yet, it remains the Australian government's preferred response – by punishing asylum seekers, in many cases already traumatized people who have fled persecution, with intolerable living conditions it is deterring others from coming. This is the government's way of "saving lives at sea."

While no one wants to see people drowning at sea, it's also clear that Australia's policies are far from, "The most humanitarian, the most decent, the most compassionate thing you can do," as former prime minister Tony Abbott has claimed.

Abbott told ABC radio, "As long as people think that if they can get here they can stay here, we'll have the illegal trade, we'll have the people-smugglers in business and we'll have the tragedies at sea. If you want to keep people safe you've got to stop illegal migration and that's what we've done."

A recent change of prime minister in Australia from Abbott to Malcolm Turnbull has seen an ease of the three-word slogans such as "Stop the Boats" but a continuation of the same policy.

Speaking with the ABC in September, Turnbull said, "We're concerned that people are detained there [Nauru and PNG], naturally it is not an ideal environment, we are doing everything we can to encourage them to return to where they came [from] and the government is actively looking at means of resettling them, whether it is in PNG, or indeed in Cambodia or looking at other options."

Last year, Australia signed a \$55 million deal with the Cambodian government to resettle refugees from Nauru. Under the agreement, refugees must voluntarily choose to take this option. So far, just four have. A Cambodian official recently announced the government is ready to accept more refugees, in groups of four or five. But convincing the refugees to resettle in Cambodia has not proven easy.

Countries that agree to resettle refugees under a deal with Australia must have signed the Refugee Convention, leaving few options in the Asia-Pacific region. The Philippines recently declined Australia's request, due to lack of capacity. And Kyrgyzstan is on a list of nations reportedly being considered.

What's Happening at Sea?

Operation Sovereign Borders puts military forces in charge of intercepting and towing or turning boats back to where they came from, often Indonesia (which has not signed the Refugee Convention).

What goes on at sea is veiled in secrecy, with the government refusing to answer questions relating to "operational matters."

Last month, the Australian Navy sent a boat of asylum seekers that came within 200 meters of Christmas Island (Australian territory) back to Indonesia. According to media accounts, the boat ran out of fuel off the Indonesian coast before eventually washing up on a beach. A police officer who assisted the asylum seekers told Fairfax Media, "They could've died if they sunk or if no one found them."

A recent report by Amnesty International details evidence that Australian officials intercepted a boat heading to New Zealand and paid the crew to take its passengers back to Indonesia. Amnesty International interviewed the men who received the money, as well as the passengers, in Indonesia. Local police, the report says, showed Amnesty the approximately \$32,000 they confiscated from the crew. Australian government ministers dismissed the evidence.

Earlier this year, contentious legal changes – the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 – came into effect. Among a range of measures, the legislation increases the government's powers to detain people at sea and to return them to other countries, while limiting avenues for judicial review. Australia is party to multiple treaties that codify its international obligations, including the fundamental obligation of not returning anyone to a country where their life or freedom would be at risk. This is known as non-refoulement. The changes included removing references to the Refugee Convention from the country's Migration Act and inserting new paragraphs that authorize violation of non-refoulement obligations, including that it's "an officer's duty to remove as soon as reasonably practicable an unlawful non-citizen...irrespective of whether there has been an assessment, according to law, of Australia's non-refoulement obligations in respect of the non-citizen."

Executive manager of the Kaldor Centre for International Refugee Law, Frances Voon, told *The Diplomat* that, "it is not open to Australia to devise its own idiosyncratic interpretation of its obligations under the Refugee Convention."

"This is contrary to the requirement that States interpret their treaty obligations 'in good faith'. This legislation authorizes the removal of a person from Australian territory even where this is in breach of Australia's non-refoulement obligations, presenting a significant risk that Australia may return people to persecution or significant harm."

The UN Committee Against Torture shares this concern, saying turning back boats could see asylum seekers sent to countries where they face a substantial risk of torture. Last year, Australian authorities intercepted a boatload of Sri Lankan asylum seekers and handed these people over to the Sri Lankan Navy after an "enhanced screening" process at sea. Media reports indicate the asylum seekers were asked just four questions via teleconference with officials in Sydney and Melbourne.

Voon said there is very little information available to the public about how such screening is carried out, due to the government's policy of not commenting upon "on water matters."

"In any event, UNHCR has stated that as a general rule, the processing of asylum claims at sea is not appropriate due to the practical difficulty of ensuring compliance with relevant international standards in such circumstances."

Border Force Act

Earlier this year, the government introduced a law called the Border Force Act that threatens contractors, including doctors, with two years prison if they speak out about abuse discovered while working for the immigration department. Australian barrister and human rights activist Julian Burnside described the "chilling effect" this creates, "It is fairly clear that all this is intended to discourage people in the detention system from speaking out." There is a defense for the disclosure of information done for the purpose of "lessening a perceived serious threat to the life or health of other detainees." However, human rights lawyer George Newhouse said to determine whether they will be covered by the defense provision, "whistleblowers have to make complex legal assessments about whether their disclosure has been 'adequately dealt with' under internal review procedures before they can speak out." Furthermore, the whistleblower protection does not cover workers outside of Australia, such as in Nauru or Papua New Guinea.

The UN special rapporteur on the human rights of migrants, Francois Crépeau, recently cancelled his visit to Australia because of the risk the Border Force Act poses to service providers who disclose "protected information." He said the threat of reprisals was unacceptable. "The Act prevents me from fully and freely carrying out my duties during the visit, as required by the UN guidelines for independent experts carrying out their country visits."

And now, in an effort toward transparency, and to circumvent the Border Force Act, Greens and Labor politicians have established an inquiry into offshore detention centers that will allow whistleblowers to disclose information under the protection of parliamentary privilege.

Restricted Media Access to Nauru

In 2014, the Nauruan Government hiked its media visa application price from AUD200 to AUD8000 (\$147 to \$5862), which is non-refundable in the case of rejection. This is an increase of 4000 percent.

Visa requests, to enable reporting from Nauru, by media organizations such as *Al Jazeera* and the *ABC* have been refused, while the *Guardian's* inquiry for information about obtaining a visa was ignored. The *ABC's* Ginny Stein said even before submitting her application she was informed that it had been rejected.

However, in October, the first foreign journalist in 18 months was granted access. In one piece, associate editor of *The Australian*, Chris Kenny criticizes foreign media outlets for airing complaints from asylum seekers in Nauru without actually being on the ground to verify them, while at the same time acknowledging that he is the first foreign journalist to be allowed to the island nation in almost two years. Kenny mentions that his support for strong border protection policies may have contributed to his application's success. News Corp declined to reveal to the *Guardian* whether it paid the \$8000 visa fee.

Not only are journalists barred from accessing Nauru but their questions to its government are also met with resistance. In an October press release, Justice Minister David Adeang said the reason the government refuses to answer many of the "ridiculous" questions posed to it by Australian journalists is because, "Nauru has no obligation to answer to Australian media...They do not show us the respect of a sovereign nation and in return we have little respect for them."

In April, the Nauruan government enforced a ban on Facebook citing its power to: "disrupt, embarrass, destroy one's reputation and to create instability."

Responding to the ban, former Nauruan President Sprent Dabwido was quoted in the *Guardian* saying: "We've seen what he's done [president Baron Waqa] to our local media by taking away its independence and turning it into his personal mouthpiece." Adding, "When he finds he can't do that with outside media, he refuses them entry, or simply won't respond to their telephone inquiries."

A group of refugee teenagers and children, using proxy servers, recently launched a Facebook page called "Free the Children NAURU" which attracted more than 24,000 likes in just 48 hours. A post from November reads, "We are very tired and now they are building new accommodation and we think they want to tell you that it is good now. But it's not good because all of Nauru is like a gaol."

Kenny, in his reporting from Nauru, writes, "Too many children are choosing to stay in the centers in the day rather than leave to attend school. It is not the children being detained that strikes me as the pressing welfare problem, but their refusal to take daily opportunities to leave."

This contrasts starkly with an *ABC* account that, "Many asylum seeker and refugee children do not go to school on Nauru, complaining about teaching standards at local schools and harassment from other students."

The Diplomat contacted the Free the Children NAURU group, via email, and was given information by someone who has worked with the children and is considered a "trusted adult" by their parents. They asked to remain anonymous due to possible repercussions.

Among an extensive list of reasons for the children not going to school, including language barriers and water restrictions, they wrote that children had experienced sexual harassment and discrimination while attending the local schools. After reporting an incident of inappropriate touching to the principal, a girl was allegedly threatened by the accused boy with a knife. The asylum seeker and refugee children have relayed to the source that teachers do not intervene when they witness such incidents. Others have complained of taunts such as, "this is not your country," "you are ugly refugees" and "we don't want you here." The contact said in the beginning attendance of children from the processing center at the local schools was about 80 percent and this is now down to about 10 percent. "Chris Kenny's comments could not be further from the truth. Aside from freedom, the asylum seekers and refugees parents and children place education as the opportunity they value the most," the source said.

Isolated Australia

Australia's human rights record was recently reviewed at a UN Human Rights Council session, where it drew

resounding criticism from a sizeable list of countries. Sweden's delegate said Australia was the only country in the world that used offshore processing and mandatory detention. Speaking about the review, Professor Sarah Joseph from the Castan Centre told the *ABC* "it was manifestly clear that we are not role models on issues of asylum. We are pariahs."

When it comes to human rights Australia is limiting itself to a "do what I say and not what I do" approach to regional leadership. Australia is compromising its ability to call out the abuses of other states, not only for being hypocritical, but also because the government needs the cooperation of states such as Indonesia, Sri Lanka and Cambodia to ensure it can carry out its strict asylum policies.

Last year, Human Rights Watch reports, Australia opposed the Council's resolution to establish an inquiry into series human rights abuses in the Asia-Pacific region, "including the deaths of up to 40,000 civilians in the final months of Sri Lanka's civil war." New prime minister Ranil Wickremesinghe later said, "Australia's silence on human rights issues was the price it paid for Sri Lanka's assistance in preventing ethnic Tamil asylum seekers fleeing to Australia."

And while Australia's policies do not make sense from a humanitarian point of view, they also appear irrational from an economic perspective. The national commission of audit report shows it costs more than AUD400,000 per year to keep one person in offshore detention. A *Guardian* article notes that letting the same person live in the community would cost less than AUD40,000. The article also details research by the International Detention Coalition, highlighting that Australia pays more than three times the amount of countries such as Austria and Canada, per day, to keep asylum seekers in immigration detention. This is attributed to the high cost of running detention centers in remote places.

Director of legal advocacy at the Human Rights Law Centre, Daniel Webb said, "We're currently spending \$1 billion a year detaining asylum seekers offshore. That's more than five times the United Nations refugee agency's entire budget for all of South East Asia."

And while Australia cruelly and wastefully spends time and money exporting its refugee protection responsibilities to other, less well-off, nations it has also slashed the foreign aid budget by about 20 percent in 2015-2016. The largest cut ever.

Changes on the Horizon?

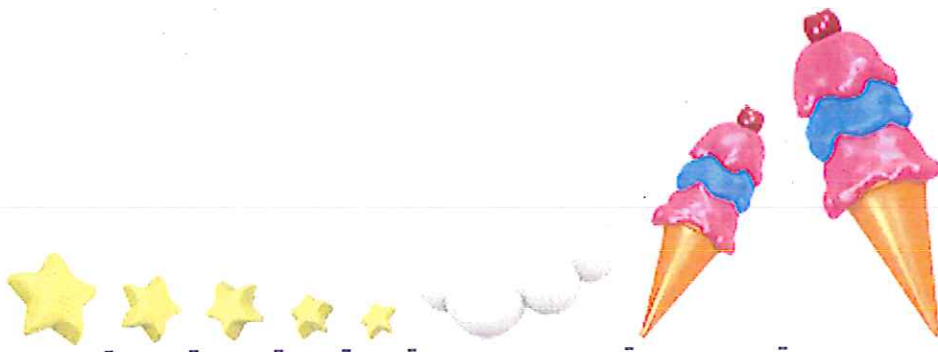
A glimmer of hope comes in the form of an amended Senate bill, championed by the Greens, which, if passed through the House of Representatives, would require all children (on the Australian mainland) to be released from immigration detention, allow media to access detention centers, and reverse the Border Force Act. Unfortunately, this does not help the children on Nauru. But, if passed, the bill would at least go some way in bringing transparency back to a controversial system that is cloaked in secrecy.

Australia's policy of "keeping people safe" by stopping "illegal migration" involves turning their boats back at great risk and sending individuals to places that are inadequately equipped to process, protect and integrate them. These policies vilify people seeking asylum as "illegals," dehumanizing them, making harsh policies more palatable to the Australian public. But is it really a choice between deaths at sea and draconian style policies that cause immense human suffering and despair? Greens politician Adam Bandt has called for finding a more humane solution, "We can find a better way that allows people to come here, through safer pathways, so they don't die at sea and so we don't lock them up and destroy lives." As prominent barrister and refugee advocate Julian Burnside has said, "It is shameful that we are now trying to treat asylum seekers so harshly that they will be deterred from seeking our help at all." He offers alternatives here.

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PNG court rules Australia's Manus detention centre unconstitutional

26 April 2016 **Australia**



Papua New Guinea's Supreme Court has ruled that the detention of asylum seekers and 156

refugees on Manus Island is unconstitutional.

Australia sends asylum seekers to the Manus Island detention centre under its **offshore processing policy**.

But the five judges on the Supreme Court's bench ruled the camp breached section 42 of the constitution, which guarantees personal liberty.

The court said "all steps" should be taken to end the "illegal" detention.

Currently around 850 men are held on the island, around half of whom have been judged genuine refugees.

'Breach of rights'

Papua New Guinea's constitution guarantees personal liberty for all people, except in defined circumstances relating to crime, illegal immigration and quarantine.



Getty Images

In 2014, Papua New Guinea's government amended section 42 of the constitution to add a paragraph that allowed for "holding a foreign national under arrangements made by Papua New Guinea with another country".

But the Supreme Court ruled this amendment was unconstitutional, as it did not meet a requirement to respect "the rights and dignity of mankind".

It said that because the asylum seekers and refugees had not voluntarily entered Papua New Guinea, the situation of illegal immigration did not apply to them.

"The detention of the asylum seekers on Manus Island in Papua New Guinea... is

unconstitutional and illegal," it said.

"Both the Australian and Papua New Guinea governments shall forthwith take all steps necessary to cease and prevent the continued unconstitutional and illegal detention of the asylum seekers or transferees at the relocation centre on Manus Island and the continued breach of the asylum seekers' or transferees' constitutional and human rights."

Manus Island: a controversial 'solution'

- The camp first opened in 2001 under Prime Minister John Howard.
- It was formally closed in 2008, but reopened in 2012 when a spike in asylum seeker arrivals became a major political issue for the Labor government.
- In 2013 Australia agreed to give Papua New Guinea A\$400m (\$309m; £212m) in aid in exchange for housing a camp and to resettle genuine refugees.
- Deadly riots broke out in February 2014 when local residents entered the facility. In January 2015 some detainees barricaded themselves inside their compound and went on hunger strike.
- Private security contractor Broadspectrum, formerly Transfield Services, currently runs the camp.
- Australia's government says its refugee policy has led to a sharp drop in the number of migrant boats.
- UN agencies and rights groups have criticised conditions at the camp and say Australia is shirking its responsibilities towards refugees and migrants.

Manus Island: Australia's Guantanamo?

Australia's controversial asylum policy

Policy 'won't change'

Australian Immigration Minister Peter Dutton said in a statement that the court's decision did not change Australia's immigration policy.

"People who have attempted to come illegally by boat and are now in the Manus facility will not be settled in Australia," the statement said, repeating the government's long-standing policy.

The opposition Labor party urged the government to hold urgent talks with Papua New Guinea, while opponents of hard-line immigration policy declared offshore processing of asylum seekers dead.



"The game is up. The government has got to shut the Manus Island detention camp and bring these people here," Greens Senator Sarah Hanson-Young said.

"This is an important decision and I welcome it. It shows that the Australian government has been illegally detaining refugees on Manus Island for years."

Papua New Guinea's Prime Minister Peter O'Neill said the Manus Island centre should eventually close, during an address to Australia's National Press Club in March this year.

"Who is going to pay for it? Certainly the PNG government does not have the resources to resettle the refugees," he said. "We are also reassessing the numbers who are supposed to be resettled."

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Turnbull announces Australia's refugee resettlement deal with US

the guardian

Refugees held in Australian offshore detention to be resettled in US

Malcolm Turnbull announces one-off agreement for refugees on Manus Island and Nauru to be resettled in US under auspices of the UNHCR

Paul Karp and Paul Farrell

Saturday 12 November 2016 19.12 EST

The Australian government has announced a landmark “one-off” resettlement deal to the United States for some refugees held at Australia’s remote offshore detention facilities on Nauru and Manus Island.

On Sunday the prime minister, Malcolm Turnbull, and the immigration minister, Peter Dutton, announced a deal that would prioritise families, women and children for settlement with “the prospect” that some others of the 1,616 people found to be refugees so far in offshore detention would be resettled in the US.

“I can now confirm that the government has now reached a further third-party resettlement arrangement,” Turnbull said. “The agreement is with the United States. It is a one-off agreement. It will not be repeated. It is only available to those currently in the regional processing centres.”

“It will not be available to any persons seeking to reach Australia in the future. Our priority is the resettlement of women, children and families.”

At the press conference, at Maritime Border Command in Canberra, Turnbull refused to say how many refugees the deal would apply to but said the deal showed the government “can source and provide alternative resettlement options”.

The remaining refugees on Nauru will be eligible for 20-year temporary visas on Nauru.

The US resettlement would be contingent on vetting by the United States Homeland Security agency.

Turnbull said that the scheme would be “administered with” the United Nations High Commissioner for Refugees.

Speaking in New Zealand before the announcement, US secretary of state John Kerry said the US had agreed to “consider referrals from [the] UNHCR on refugees now residing in Nauru and Papua New Guinea”.

But a statement from the UNHCR said while it welcomed the deal and would endorse referrals to the US, it was “not a party to it” and had no formal role in processing.

Refugees held in Australian offshore detention to be resettled in US | Australia news | The Guardian

“The arrangement reflects a much-needed, long-term solution for some refugees who have been held in Nauru and Papua New Guinea for over three years and who remain in a precarious situation,” the statement said.

“It is on this basis that UNHCR will endorse referrals made from Australia to the United States, on a one-off, good offices, humanitarian basis, in light of the acute humanitarian situation. The full details of the agreement are not yet known, and UNHCR is not a party to it.”

Australia’s opposition leader, Bill Shorten, also offered his cautious support for the resettlement deal.

“It has taken the government three-plus years to negotiate this deal, but we are pleased if it is an end to indefinite detention,” Shorten said.

“We will certainly in principle work with the government. But we do welcome this. We do want to see people moved out of these facilities.”

The Greens’ immigration spokesman, Nick McKim, welcomed the deal as an admission indefinite offshore detention was unacceptable but added there were “still significant levels of uncertainty” for refugees because the number eligible and the timeframe is unspecified.

The Human Rights Law Centre’s director of legal advocacy said the announcement was important but “long overdue”.

“Today’s announcement may be a starting point, but there is an awfully long way to go,” he said.

Human Rights Watch’s Australia director Elaine Pearson said the deal was not perfect but was a “major step forward” to resolving the impasse of Australia’s asylum seekers.

“We look forward to seeing more details about this agreement, and we urge both the US and Australia to move quickly to avoid more mental anguish and trauma for people who have suffered so much,” she said.

If the government’s resettlement plan succeeds it is likely to reduce the populations of Australia’s notorious regional offshore detention centres.

Over the last three years the remote facilities have been plagued by reports of shocking conditions, poor management and deteriorating mental health of asylum seekers.

The Guardian’s publication of the Nauru files showed the devastating trauma and abuse inflicted on children on Nauru.

An asylum seeker was beaten to death by guards in a wave of unrest on Manus Island in February 2014, and on Nauru in May 2016 an asylum seeker self-immolated in front of staff from the UN high commissioner for refugees.

Asked about the potential closure of the Manus Island detention facility in the wake of the announcement, Dutton noted Papua New Guinea had announced it would close and he had nothing to add.

But he said that “no element” of the government’s policy on offshore detention would change, and Australia would “still rely on regional processing which is why Nauru will remain in its current status forever”.

According to the latest figures from Australia’s immigration department there are 872 people held in the Manus Island detention centre and 390 held in the Nauru facility.

A number of refugees are also currently on the mainland in Australia undergoing medical treatment for serious physical or mental conditions who may be eligible for the resettlement deal.

The Australian government’s deal will only apply to those who have received positive refugee determinations on Manus Island and Nauru. On Manus Island there have been 675 positive refugee determinations out of 1,015 and on Nauru there have been 941 positive determinations out of 1,195.

Turnbull said he anticipated people smugglers would “use this agreement as a marketing opportunity” but the government had “put in place the largest and most capable maritime surveillance and response fleet Australia has ever deployed” to stop journeys by sea.

“Any people smuggling boats that attempt to reach Australia will be intercepted and turned back.”

Speculation the Australian government was preparing to finalise a resettlement deal with the US was sparked by the announcement in September it would take refugees from camps in Costa Rica.

It ramped up two weeks ago when the government proposed a lifetime travel ban on resettled refugees visiting Australia, a measure Dutton said needed to be in place to facilitate third-party resettlement.

Labor has opposed the measure, labelling aspects of the plan “ridiculous” because it would prevent a refugee resettled in a third country from coming to Australia as a tourist or on a business trip.

Turnbull ramped up pressure on Labor, accusing it of opposing the ban due to “theoretical possibilities” that refugees would want to visit Australia as tourists in 30 or 40 years.

The opposition should instead focus on “the security of Australia’s borders today and tomorrow”, the prime minister said, describing the travel ban as important to send the “strongest and most unequivocal message to people smugglers” that no refugees would reach Australia.

Among those on Manus and Nauru are people from Iran, Syria, Sri Lanka, Pakistan, Bangladesh and Iraq, as well as some who are stateless.

Behrouz Boochani, an Iranian journalist detained on Manus Island, told Guardian Australia refugees he had spoken to would be happy to go to the US.

“Be sure that most people would love to go to America, but some people need to join their families in Australia,” he said. “I think Australia has to respect them because they want to join their families.”

Topics

Australian immigration and asylum

The deal had been under negotiation for months before being announced in mid-November, shortly after Mr. Trump was elected. As a presidential candidate, he pressed for a temporary ban on all Muslim immigration, though his campaign later said that the ban would apply only to migrants from “terror-prone regions.” His executive order on immigration, enacted on Friday, banned immediate entry into the United States by people from several predominantly Muslim countries, and it further fueled speculation that the deal with Australia might be derailed.

Dougal Robinson, a research fellow at the United States Studies Center at the University of Sydney, estimated that fewer than 2,000 detainees would be sent to the United States. “They’ve already had significant vetting by Australian authorities and any refugees that will be settled in the U.S. will be subject to ‘extreme vetting’ by Department of Homeland Security,” Mr. Robinson said. “If the Trump administration at any point is going to accept refugees then these refugees are probably better placed than most others.”

Mr. Trump’s order closed the nation to refugees and people from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. The majority of refugees on Manus and Nauru are from Iran and Iraq, and it is unclear whether a proven refugee on Nauru and Manus who is from those countries and had been successfully vetted by the Homeland Security Department would receive the same treatment as a refugee not from those countries. “We don’t have a clear indication of the mechanics of the deal and how it will work,” Mr. Robinson said.

The Australian government has pledged never to accept migrants who attempt to come to the country by boat. Those who are intercepted at sea are housed indefinitely on offshore islands, which the government says is necessary to deter human traffickers who often pack migrants into boats for the long journeys.

Mr. Turnbull said Monday that Australia had border security arrangements that were the envy of the world. “We’ve got very strong systems,” he said. “We’re proud of those, and we’ll maintain them, and where we can, we will enhance them.”

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