



REVIEWING AUSTRALIAN IMMIGRATION POLICY BASED ON A NEW DEFINITION OF SUCCESS

Marissa Price

SYNOPSIS

Australia must urgently review the way that it deals with asylum seekers by looking at models and policies in other countries to inform a new strategic direction. The current criteria for successful migration policy dictates that illegal arrivals are a serious border control issue for the Australian Government. Although current Australian policies have stemmed the flow of 'boat people' and are therefore successful according to this criteria, these policies fail numerous other important definitions of success, including positive international relations, multicultural and inclusive communities and adherence to traditional principles of egalitarianism. For example, Australian migration policy breaches international obligations under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, however adept it has proven to be at keeping illegal migrants out of the country. Refugees in regional processing centres, particularly children, are suffering from clinically diagnosed mental health conditions and health care professionals working in immigration detention facilities cannot fulfil their duty to act in their patients' best interests, nor fulfil the obligations of their [employment](#). A new immigration policy could adequately secure Australian borders, ensure human rights of asylum seekers are upheld, support economic development, improve Australia's global reputation and set a renewed course for Australian identity.

AUSTRALIA'S BILATERAL ARRANGEMENTS TO DEAL WITH 'BOAT PEOPLE'

Australia is the only country in the world that detains and imprisons asylum [seekers](#), treating them as criminals. The Australian Government forged agreements in 2001 with the governments of Papua New Guinea and Nauru to hold asylum seekers offshore for [processing](#) under the Pacific Solution. These agreements were revived in August 2012 by the then Gillard Government. This arrangement denied those people access to the rights and benefits of claiming refugee status in Australia. Howard's Coalition Government introduced temporary protection visas, which had the effect of distinguishing between legal and illegal [arrivals](#).

Rudd's last minute Regional Settlement Arrangement was designed to wrong foot the Coalition in the lead up to the 2008 election and decreed that no matter where an asylum seeker arrived in Australia, if they came by boat they would be transferred to Papua New Guinea. If the asylum seeker was considered a genuine refugee, they would be [settled in PNG](#). Abbott's 'turn back the boats' policy was one prong in a multifaceted approach to the issue of illegal arrivals, named the Regional Deterrence Framework.

Despite clear opposition from Indonesia, Australia remained committed to the dangerous practice of [turning illegal boats](#) around and escorting them back to their point of departure, enforced and supported by the Australian Navy under the terms of Operation Sovereign Borders. At the same time, the Abbott Government substantially expanded the facilities that dealt with detention and processing on [Nauru](#). These policies represented breaches of both the 1951 *Refugee Convention* and international maritime laws.

THE LEGACY OF AUSTRALIA'S BORDER PROTECTION POLICY

Australia must review its policy in light of dehumanisation caused by refugee quota trading and the breaches of human rights in regional detention centres. Australia has trade quota arrangements with countries – PNG and Nauru – which allows Australia to abrogate its international responsibilities to accept refugees to another party. But the two participants are not equal because PNG and Nauru rely on Australia for economic aid, which makes any trade between them inherently unfair, biased and weighted. Trading refugee quotas devalues migrants, rather than supporting and integrating them into an inclusive and successful community.

The findings of the [National Inquiry into Children in Immigration Detention](#) in 2014 painted a stark picture of the risks of offshore detention, especially on vulnerable detainees:

- Children in immigration detention have significantly higher rates of mental health disorders compared with children in the Australian community.
- The right of all children to education has previously been denied.
- There have been numerous reported incidents of assaults, sexual assaults and self-harm involving children in detention.
- Children born in immigration detention are stateless, and may be denied their right to nationality and protection.
- Children detained indefinitely on Nauru are suffering from extreme levels of physical, emotional, psychological and developmental distress.

In addition, health care professionals working in immigration detention facilities cannot fulfil their duty to act in their patients' best interests and fulfil the obligations of their employment. Doctors and healthcare professionals working on Nauru and Manus Island provided firsthand accounts of conditions in offshore detention facilities, in contravention of the secrecy and disclosure provisions of the *Australian Border Force Act 2015*. Although the Australian Government signed a [penalty exemption](#) on 30 September 2016 for doctors, nurses, psychologists, psychiatrists, counsellors, midwives, pharmacists and dentists, other professionals such as lawyers, teachers, social workers and security personnel are still liable for two year prison sentences if they speak about conditions in regional detention centres.

ALTERNATIVES TO CURRENT AUSTRALIAN POLICY

Although no country has cracked the key to successful immigration policy making, Australia can incorporate elements from various systems that have proven effective. Countries have adopted many [different approaches](#) to illegal arrivals, ranging from open access and borderless states in parts of Europe to the comprehensive and punitive policies of Australia. Countries operating as flourishing social democracies, such as Sweden, have developed policies within their own frameworks and have arrived at an immigration system that [works for them](#).

Australian policy could incorporate components of Canadian immigration policy, which, prior to 2012, focussed on relocating asylum seekers and migrants to parts of the country with less residents and locations in need of workers. This policy correlates with similar agenda ideas in Australia, where the Federal government have issued a [Green Paper on Developing Northern Australia](#). The aim of this strategy is to double Australia's agricultural output, build an energy export industry worth

\$150 billion; and grow the tourist economy in northern Australia to 2 million international tourists a year. Unfortunately, Canada passed legislation in 2012 that [infringes](#) upon the human rights of asylum seekers who arrive by boat, much like in Australia, by undermining the guaranteed rights afforded to refugees under the 1951 *Refugee Convention* in the name of national security.

Sweden, with their universal approach to welfare, is struggling to achieve equity between native access to entitlements and benefits and immigrant access to entitlements and benefits. But the important lessons from Sweden are that welfare considerations are essential to creating effective immigration policy and that balance is [critical](#) to ensure the positive integration of asylum seekers into new communities.

New Zealand households have a more positive view of immigrants than their Australian and European counterparts because they have a greater humanitarian view of refugee resettlement and do not view asylum seekers as threats to their own job security. New Zealand policy makers looked specifically at the issue of illegal boat arrivals in a 2012 policy review and declared that labelling any refugee as illegal, regardless of their mode of arrival, was in contravention of New Zealand's international obligations. Instead, refugees are issued with a temporary visa until their status is determined, with detention only occurring on rare occasions where the identity of the applicant cannot be confirmed or creates ramifications for national security. Furthermore, The United Nations Association of New Zealand (UNANZ) recommended following the Hong Kong and Belgium examples of relying on the goodwill of citizens to house refugees, as these countries report reduced costs and fairer outcomes. Australian policy makers could study the numerous examples provided by The UNANZ Policy Paper 01 (October 2012) in more depth, with a view to adopting and developing strategies for the effective societal integration of asylum seekers from non-European backgrounds.

A revamped Australian immigration policy that highlights ways to turn the perceived threat of migration into a national advantage could transform the way we view asylum seekers and migrants. Our current trajectory in border control policy is successful according to a very narrow view of a multifaceted and complex human issue. However, our actions are having a negative impact on other complex and important matters before policy makers, such as Australia's international identity and the cohesion of our communities. Everything we are doing now is making matters worse for the portfolios dealing with the domestic and international fallout of our controversial border control policies. Changing the definition of success from reducing illegal boat arrivals to efficiently integrating people of diverse talents and abilities into our communities will aid the development of a more prosperous Australian society that abides by international conventions.