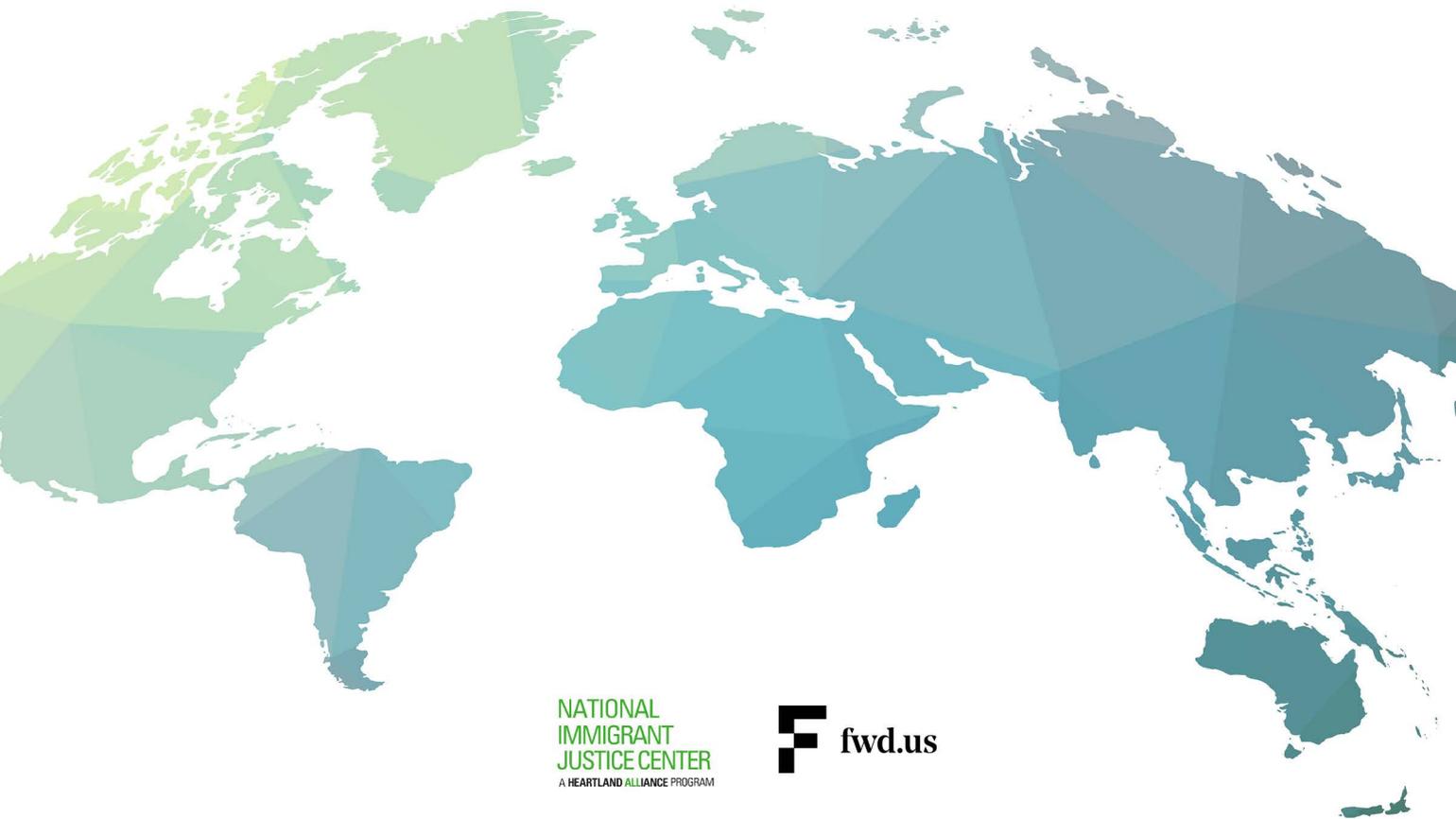


# Pushing Back Protection

HOW OFFSHORING AND EXTERNALIZATION IMPERIL THE RIGHT TO ASYLUM

CHAPTER 3:  
THE PACIFIC SOLUTION: AUSTRALIA'S INSULAR  
APPROACH TO ASYLUM SEEKERS



NATIONAL  
IMMIGRANT  
JUSTICE CENTER  
A HEARTLAND ALLIANCE PROGRAM

 fwd.us

## CHAPTER 3

# The Pacific Solution: Australia's Insular Approach to Asylum Seekers

---

**“The White Australia policy, which officially ended in 1973, continued under another guise. The colonial habit continues in Australia, with the government using Nauru and Papua New Guinea for exiling undesirable people.”**

— Behrooz Boochani, a Kurdish-Iranian asylee and award-winning journalist previously detained on Manus Island.<sup>174</sup>

*This is an excerpt of the full report, [Pushing Back Protection: How Offshoring and Externalization Imperil the Right to Asylum](#), co-authored by the National Immigrant Justice Center (NIJC) and FWD.us.*

*For access to Acknowledgements, Abbreviations, Terminology, other Chapters, and Closing Recommendations please click [here](#). Executive summary is [here](#).*

**During much of the 20th century, the White Australia Policy primarily narrowed migration to individuals of European descent, deliberately curbing the entry of Asian and Muslim migrants.**<sup>175</sup> This migratory policy even extended to Australian citizens of non-European heritage, who were subjected to forms of immigration restrictions that their white peers did not endure.<sup>176</sup> Though Australia's refugee policy was not racially restrictive on its face, the government's favoring of resettled refugees over arriving asylum seekers became a new iteration of its historical control of migration. Unlike asylum seekers whose arrival is not controlled by their country of refuge, refugees are carefully selected, their arrivals planned, and their numbers capped by the receiving nation.<sup>177</sup> Similar to the United States' presumptive detention policy that began around this time,<sup>178</sup> Australia adopted a formal mandatory detention policy in 1992 that applied to everyone who enters Australia without authorization, including asylum seekers. This policy was later aimed at deterring so-called “illegal maritime arrivals”—disproportionately punishing those who faced the most perilous journey to reach Australia's shores.<sup>179</sup>

Australia's offshoring policy stands out for its cruelty, which has resulted from its active campaign of vilifying mostly Asian, African, Middle Eastern and Muslim asylum seekers as a threat to its borders and national identity. From forcible turnbacks to the suspension of its own laws, Australia has conducted a two-decade project of stranding tens of thousands of asylum seekers in abhorrent offshore conditions. Its conversion of two former colonies—Nauru and an island in Papua New Guinea named Manus—into proxy detention centers has proven not only costly, but lethal. To date, asylum seekers remain stranded on these islands without recourse.

### 3.1. Australian Push-Backs and Territorial Excision

For decades, Christmas Island—a territory between Australia's mainland and Indonesia, which Australia annexed in the 19th century—acted as the Australian border for arriving asylum seekers. Christmas Island became the center of a controversy that launched Australian offshoring when, in August 2001, a Norwegian container ship called the MV Tampa rescued 433 Muslim asylum seekers fleeing Afghanistan.<sup>180</sup> The asylum seekers' small boat, the KM Palapa, had been stranded in international waters on its way from Indonesia; the Norwegian ship pressured the Australian authorities to permit these asylum seekers, many of whom faced dire medical emergencies, onshore. Despite their likely eligibility for asylum in Australia, a standoff ensued as then Prime Minister John Howard refused to allow the asylum seekers onto land. The following week, Howard stated in an interview, "I believe that it is in Australia's national interest that we draw a line on what is increasingly becoming an uncontrollable number of illegal arrivals in this country."<sup>181</sup>

Howard oversaw the passage of the 2001 Border Protection Bill, which authorized Australian authorities to board vessels, remove people, and make arrests. The bill retroactively justified<sup>182</sup> actions taken during the MV Tampa incident, and created legal pathways to halt future boat arrivals, an issue which had not up to that point been a priority for the Australian public.<sup>183</sup> These swift changes to asylum processing became law as a chorus of Australian leaders began describing asylum seekers arriving by boat as "queue jumpers," "criminals," or "terrorists."<sup>184</sup>

The Howard administration's hostile response to asylum seekers arriving at sea escalated from here. A cascade of policies were deployed to halt the arrival of new asylum seekers by boat. First, the Australian government elected to suspend asylum protections on Christmas Island (even though it is part of Australia) so as to permit turn-backs of boats and asylum seekers. This excision effectively converted parts of Australian territory into offshore processing locations, where domestic and international obligations not to turn back asylum seekers no longer applied.<sup>185</sup> Additionally, Australian authorities launched "Operation Relex," wherein its naval forces turned back boats of asylum seekers in contravention of the Refugee Convention.<sup>186</sup> Alarming, the Australian government often conducted these push-backs in international waters. A similar policy introduced in 2013, "Operation Sovereign Borders," further codified the policy of push-backs as Australia's maritime response to all migrants, including asylum seekers.<sup>187</sup>

Australian authorities also spent tens of millions of dollars on a campaign to deter asylum seekers from reaching its shores.<sup>191</sup>

### How the U.S. and Australia Traded Offshoring Tactics

Australia did not build its maritime interdiction policy in former colonies in a vacuum. Though unique in its insular geography, Australia tested and explored the limits of these interdiction policies in bilateral and multilateral forums, where Australian authorities shared and received information with their U.S. counterparts about the architecture of offshoring and push-back policies they used in the Caribbean—further discussed in Chapter 4.<sup>188</sup> As one former Australian official described it, those forums provided an opportunity for Australian policymakers to discuss the "margins" of the Refugee Convention.<sup>189</sup>

This information-sharing and communication on interception tactics were well underway by the time the MV Tampa was on every headline. As they troubleshooted their response, Australian officials were in daily contact with a senior U.S. policymaker, who consulted with them about the U.S. response to Haitian asylum seekers intercepted at sea in the 1980s and 1990s.<sup>190</sup> For more on these policies, see Chapter 5.



Australian Government



# NO WAY

**YOU WILL NOT MAKE AUSTRALIA HOME**

Image Credit: © homeaffairs.gov.au

**A poster displayed during Australia's media campaign to deter migrants and asylum seekers, which cost Australian taxpayers AUD\$ 22.5 million in 2013–2014.**

## 3.2. From Former Colonies to Asylum Jails

Neither its deterrence campaign against asylum seekers and migrants, nor the legal excision of its own territory, nor boat push-backs represented Australia's most extreme response to those seeking refuge. Australia's ultimate offshoring vehicle, dubbed the "Pacific Solution," was to strong-arm two Pacific islands to jail asylum seekers indefinitely. Nauru and Manus, which Australia previously controlled as protectorates<sup>192</sup> or colonies,<sup>193</sup> became jails where asylum seekers intercepted at sea were detained indefinitely—approximately from 2001 to 2008, and then again from 2012 to the present day

Nauru is a small island with a population of about 10,000. Australia took control of Nauru in 1914 during the First World War, and maintained control until Nauruans claimed their independence in 1968. During this time, Australia oversaw the mining of phosphate, a valuable commodity and important fertilizer to catalyze Australia's agriculture industry.<sup>194</sup> Following its independence, Nauru briefly became one of the wealthiest nations in the world per capita upon taking control of its own natural resources.<sup>195</sup> However, by the 1990s, the phosphates deposits were nearly exhausted and Nauru found itself with mismanaged investments, an environmental disaster, and an economic crisis.<sup>196</sup>

Papua New Guinea was also held under Australian control from the First World War until 1975. One of its small islands, Manus, has approximately 60,000 inhabitants, most of whom relied on subsistence farming and fishing.<sup>197</sup> Papua New Guinea has its own tumultuous past, including the nine-year Bougainville civil war,<sup>198</sup> during which Bougainville island inhabitants started rebelling against the exploitation of the land by mining companies. Over 20,000 people died during this conflict,<sup>199</sup> and it was only in 2001 that a peace agreement was reached in which a

## Map depicting immigration detention facilities in and outside of Australia as of 2016

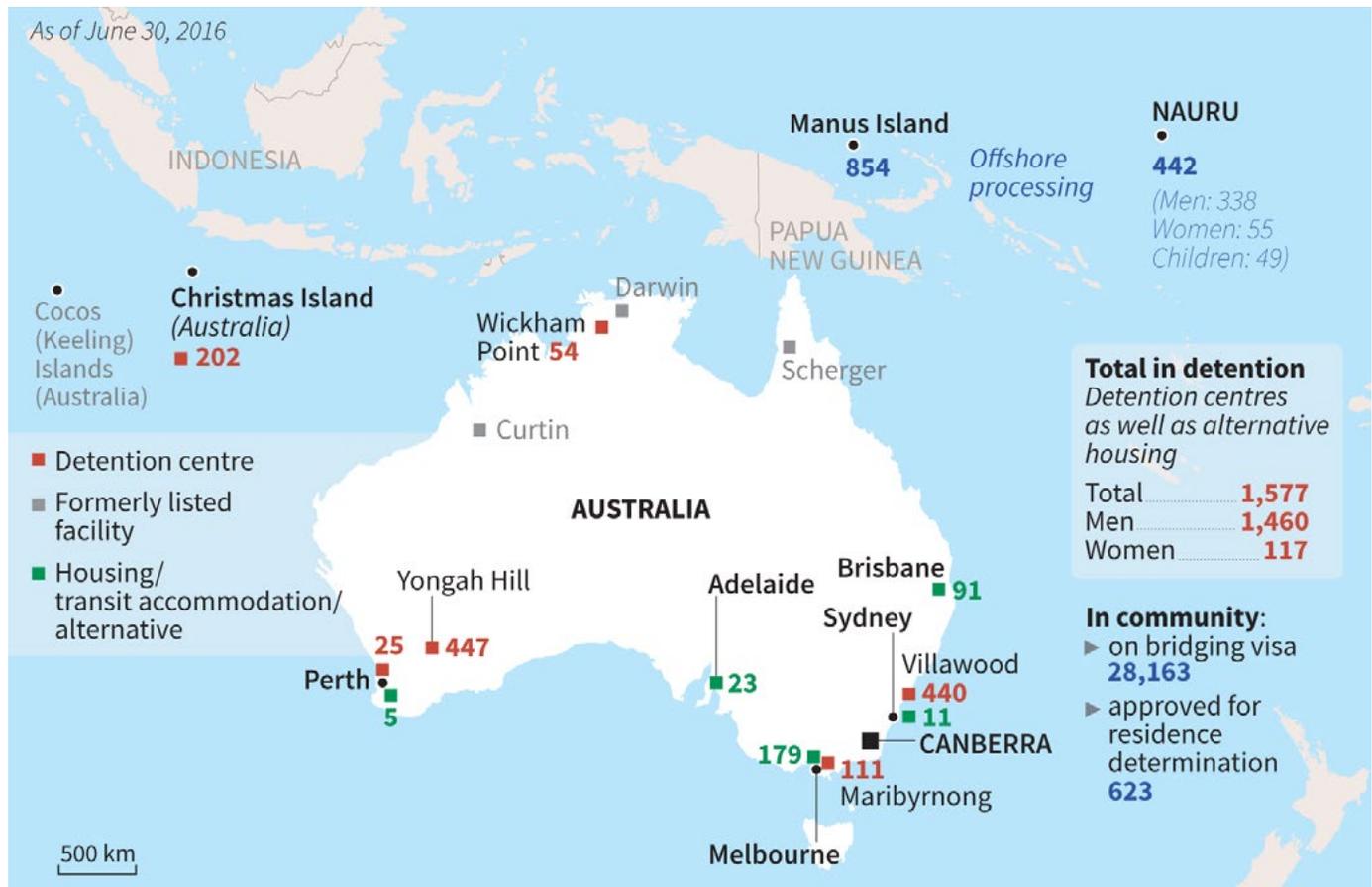


Image Credit: © AFP

ceasefire would be overseen by neighboring countries. Further, Manus Island faces extreme risk from climate change, and is highly vulnerable to rising water levels that have repeatedly flooded homes, destroyed animal habitats, and forced people to relocate.<sup>200</sup>

Both Nauru and Manus Islands were highly vulnerable as a result of economic, environmental, and political exploitation and they were not in a position to refuse an offer for development aid tethered to Australia's demand that they jail asylum seekers.<sup>201</sup> In return, Australia poured tens of millions of dollars into Nauru's economy and funded major upgrades of Manus' infrastructure, and fast-tracked Australian aid.<sup>202</sup> Despite formal memoranda of understanding,<sup>203</sup> the rushed character of these agreements was hard to miss. Nauru did not even join the Refugee Convention and the 1967 Protocol until 2011, while Papua New Guinea failed to provide any definition of asylum processing or incorporate the Convention and 1967 Protocol into its domestic law decades after ratification.<sup>204</sup>

During a brief change of leadership, the islands ceased to receive new asylum seekers from 2008 to 2012. However, calls in Australia for a return to offshore processing increased with a number of boat arrivals of asylum seekers labeled "illegal maritime arrivals."<sup>205</sup> In response, then-candidate for prime minister Kevin Rudd ran on a campaign of stopping the boats on security grounds, citing 9/11.<sup>206</sup>

When he won, Rudd made the historical announcement that none of the asylum seekers intercepted at sea, and placed on the islands by Australian authorities, would be settled in Australia.<sup>207</sup> This policy specifically targets asylum seekers arriving by boat; as the Australian Department of Home Affairs bluntly notes, “No one who attempts illegal maritime travel to Australia will be settled here.”<sup>208</sup> Rudd formalized an arrangement with Nauru and Manus, committing the small islands to “enhance[e]” their capacity as processing centers to receive asylum seekers transferred from Australian authorities, while arranging for the asylum seekers’ resettlement outside of Australia.<sup>209</sup> Fueling this policy was a rhetorical focus on trafficking prevention,<sup>210</sup> deterrence, and mitigating Australians’ distress at watching the deaths of boat travelers.

**Australia’s preoccupation with curbing asylum seekers arriving by boat has proved costly. Australia has spent \$7.6 billion for the transfer of 3,127 asylum seekers to Nauru or Manus since 2013.<sup>211</sup>**

This staggering figure does not include cash poured into resettlement deals with other countries or contractors retained to stretch the island’s modest infrastructure systems into full asylum processing centers.<sup>212</sup> In practice, Australia’s money did little to improve the filthy and devastating<sup>213</sup> conditions to which these asylum seekers were subjected. Additionally, Australia ignored alternative, and more cost-effective, ways to process and protect asylum seekers onshore.<sup>214</sup>

Due to Australia’s own manufactured crisis, 30,000 asylum seekers were left in legal limbo in Australia, with only the prospect of receiving temporary protection visas following Rudd’s 2013 announcement.<sup>215</sup>

### **3. 3. Impact on Asylum Seekers**

It is hard to understate the devastating, deadly impact on the mental and physical health of asylum seekers stranded in legal limbo in Australia’s offshore processing. Physically, these offshore detention centers are dirty, under-resourced, rife with cockroaches and rats,<sup>216</sup> and are ill-prepared to provide sufficient medical care. Individuals on offshore processing islands report harrowing journeys that include child births in detention, indefinite jailing, suicides, and deaths.<sup>217</sup> Longer term, this indefinite detention, with no trial date and no end in sight, causes both physical and emotional damage on adults and children,<sup>218</sup> which has led to extensive self-harm and suicide<sup>219</sup> on both islands.

Despite numerous deaths due to inadequate medical care, Australia refused to transfer offshored asylum seekers to its hospitals until 2019. Even then, it first restricted the transfer of ailing asylum seekers to Christmas Island;<sup>220</sup> while Australia recognized a duty of care to asylum seekers offshore, urgent transfers require litigation before asylum seekers can access the medical treatment they need on the mainland.<sup>221</sup>

**Children  
detained  
in Nauru  
protest their  
confinement in  
March 2015.**



Image Credit: Amnesty International

The Refugee Council of Australia calls the conditions on Nauru a “man-made crisis.”<sup>222</sup> In 2013, they reported that “children as young as 7 and 12 are experiencing repeated incidents of suicide attempts, dousing themselves in petrol, and becoming catatonic. At least two people have killed themselves, and three others have died. Many more are trying to kill or harm themselves. People are losing their hope and their lives on this island. This is Australia’s man-made refugee crisis in the country it still treats as a colony, Nauru.”<sup>223</sup>

In Manus, asylum seekers staged a protest when their detention center finally closed. Rather than facilitating their transfer to Australia, the Papua New Guinean authorities expected them to transfer to Nauru’s camp or integrate with the general population in the archipelago. Hundreds of people refused to leave the center, citing fear of what might happen to them in the local community, given that relationships between locals and the asylum seekers could be tense and violent at times.<sup>224</sup> The asylum seekers were left with no food, water, or electricity, with authorities raiding and destroying their belongings and shelters, until their forcible transfer to new facilities on the island.<sup>225</sup> Years of legal limbo, indefinite jailing, and hopelessness continued, causing some observers to compare these practices to those used on detained asylum seekers held at Guantánamo Bay.<sup>226</sup>

An overwhelming number of asylum seekers subjected to offshore processing were Middle Eastern, Asian, or African.<sup>227</sup> Today, amidst the COVID-19 pandemic, the Australian Home Affairs Department estimates that about 239 asylum seekers still remain in Nauru and Manus, while hundreds were transferred onshore to receive medical treatment.<sup>228</sup> Despite the relatively small number left on the islands, Australia expects to spend approximately \$3.4 million per asylum seeker in 2021-2022.<sup>229</sup> Unfortunately, those high costs have not resulted in improved conditions, as the abuse and mistreatment of asylum seekers continues.<sup>230</sup> Meanwhile, Australia continues to push back incoming asylum seekers intercepted in Australian and international waters.<sup>231</sup>

Additionally, Christmas Island continues to act as a large domestic onshore site, as well. The Australian government built a sprawling prison for asylum seekers on the island to the tune of \$185 million.<sup>232</sup> This site first opened in 2018 and at least one asylum seeker has died there. Though it closed briefly in 2019, the prison recently reopened in 2020 at the cost of an additional \$26 million, only to house a Sri Lankan couple and their two small children.<sup>233</sup> The skyrocketing costs of these offshore sites, whether on Australia's Christmas Island or in the Pacific, have done little to dissuade Australia from its punitive and carceral approach to asylum seekers arriving by sea.

Behrouz Boochani, a Kurdish-Iranian asylee and award-winning journalist previously detained on Manus Island, underscored the irony of Australia—a former penal colony for white Europeans—subjecting primarily Muslim, Asian, Middle Eastern, and Africans to the same fate. “Sometimes I feel that Manus and Nauru are like a mirror,” Boochani said. “Australia sees its real face on that mirror, and they hate it. Because we are boat people. They call us boat people. But you are boat people, too.”<sup>234</sup>

## Pitting Refugees Against Asylum Seekers

Unlike the United States and the European Union, Australia's geographic isolation in the Pacific Ocean naturally limits migration. While Australia resettles a great number of refugees,<sup>235</sup> it has taken a particularly harsh stance against asylum seekers reaching its shores. Australia has created a hierarchy between refugees and asylum seekers, favoring refugees because of Australia's ability to control their numbers and arrival versus asylum seekers, whose arrival is driven by the urgency of their sudden flight.<sup>236</sup> An important element of Australia's refugee program is that it “allows Australia to choose who it will accept,” and it “favors young, healthy and skilled applicants,” resulting in few admissions from refugee camps in Africa and the Middle East<sup>237</sup> and an overwhelming preference for Christian refugees.<sup>238</sup> In addition, Australia uses its refugee resettlement numbers as political capital to try to rebut reasonable critiques of its asylum policies.

Australia and the United States have also used refugee resettlement as a bargaining chip to send more than one thousand Nauru and Manus refugees to the U.S., while Australia accepted Central American refugees.<sup>239</sup> The deal exemplifies the two nations' attempt to control migration and deter future asylum seekers' aspirations to seek protection in their country of destination.

# Endnotes

174. Behrouz Boochani, "'White Australia' Policy Lives On in Immigrant Detention," *NY Times*, September 20, 2020, <https://www.nytimes.com/2020/09/20/opinion/australia-white-supremacy-refugees.html>.
175. For the "White Australia Policy" see, "Defining moments: White Australia policy 1901: White Australia policy enshrined in law," *National Museum Australia*, May 12, 2021, <https://www.nma.gov.au/defining-moments/resources/white-australia-policy>; see also Paul Power, "How one refugee signalled the end of the White Australia policy," *Guardian*, March 17, 2014, <https://www.theguardian.com/commentisfree/2014/mar/18/annie-white-australia-policy>.
176. Siobhan Heanue, "White Australia Policy: Documents reveal personal stories of life under Immigration Restriction Act," *ABC News*, September 3, 2017, <https://www.abc.net.au/news/2017-09-04/white-australia-policy-project-transcribes-history/8868680> (reviewing archival records that show Australian citizens of non-European heritage subjected to dictation tests and required to provide proof of naturalization, reference letters, or police reports showing good character, photographs, and handprints to return to Australia).
177. Harriet Spinks and Ian McCluskey, "Asylum seekers and the Refugee Convention," *Parliament of Australia*, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/BriefingBook44p/AsylumSeekers](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/AsylumSeekers).
178. Daniel Ghezelbash, *Refugee Lost: Asylum Law in an Interdependent World*, (Cambridge: Cambridge University Press, 2018), 45 (key difference is that Australia eliminated the possibility of parole, requiring detention until asylum seekers obtain a final decision on their protection claim).
179. Parliament House, "Chapter 5 - Mandatory detention policy," *Parliament of Australia*, 2004-2007, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2004-07/migration/report/c05](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2004-07/migration/report/c05).
180. "Defining Moments: 'Tampa Affair' 2001: Australian Troops take control of Tampa carrying rescued asylum seekers." *National Museum Australia*, May 7, 2021, <https://www.nma.gov.au/defining-moments/resources/tampa-affair#:~:text=In%20August%202001%20Australian%20troops,to%20bring%20them%20to%20Australia>.
181. Parliament House, "Chapter 1 - Border Protection: A New Regime," *Parliament of Australia*, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Former\\_Committees/maritimeincident/report/c01](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/maritimeincident/report/c01).
182. Barry York, "Australia and Refugees, 1901-2002: An Annotated Chronology Based on Official Sources," *Parliament of Australia*, June 16, 2003, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/Publications\\_Archive/online/Refugees4](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/online/Refugees4).
183. Paul Kelly, "The Race Issue in Australia's 2001 Election: A Creation of Politicians or the Press?," 18, *The Joan Shorenstein Center on the Press, Politics and Public Policy*, Spring 2002, [https://shorensteincenter.org/wp-content/uploads/2012/03/2002\\_08\\_kelly.pdf](https://shorensteincenter.org/wp-content/uploads/2012/03/2002_08_kelly.pdf).
184. Ben Doherty, "A short history of Nauru, Australia's dumping ground for refugees," *Guardian*, August 9, 2016, <https://www.theguardian.com/world/2016/aug/10/a-short-history-of-nauru-australias-dumping-ground-for-refugees>.
185. Court challenges to this policy of applying the migration laws selectively. See Savitri Taylor, "Where do the Rudd reforms leave us?," *La Trobe University*, July 22, 2013, <https://www.latrobe.edu.au/news/articles/2013/opinion/where-do-the-rudd-reforms-leave-us>.
186. "Australia's asylum policies," *Refugee Council of Australia*, March 1, 2021, <https://www.refugeecouncil.org.au/asylum-policies/4/>.
187. Janet Phillips, "Boat 'turnbacks' in Australia: a quick guide to the statistics since 2001," *Parliament of Australia*, June 22, 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/5351070.pdf>.
188. Ghezelbash, *Refugee Lost*, 83.
189. Ghezelbash, 47.
190. Ghezelbash, 83.
191. Sarah Whyte and Immigration, "It costs \$20 million to say: 'Don't call Australia home,'" *Sydney Morning Herald*, May 1, 2014, <https://www.smh.com.au/politics/federal/it-costs-20-million-to-say-dont-call-australia-home-20140502-zr2ii.html> (no way you will make an Australia home photo/campaign).
192. Doherty, "A short history of Nauru."
193. "Defining Moments: Papua New Guinea 1906: Australia takes control of Papua as an 'external territory,'" *National Museum Australia*, May 4, 2021, <https://www.nma.gov.au/defining-moments/resources/papua-new-guinea>.
194. "Nauru: Australian colonial control never really ended," *Solidarity*, February 19, 2014, <https://www.solidarity.net.au/refugees/nauru-australian-colonial-control-never-really-ended/>.
195. Robert Trumbull, "World's Richest Little Isle," *NY Times Magazine*, March 7, 1982, <https://www.nytimes.com/1982/03/07/magazine/world-s-richest-little-isle.html>.
196. Anne Davies and Ben Doherty, "Corruption, incompetence and a musical: Nauru's cursed history," *Guardian*, September 3, 2018, <https://www.theguardian.com/world/2018/sep/04/corruption-incompetence-and-a-musical-naurus-riches-to-rags-tale>; Jack Hitt, "The Billion-Dollar Shack," *NY Times Magazine*, December 10, 2000, <https://www.nytimes.com/2000/12/10/magazine/the-billion-dollar-shack.html>.
197. "Papua New Guinea Celebrates Independence," *NY Times*, September 16, 1975, <https://www.nytimes.com/1975/09/16/archives/papua-new-guinea-celebrates-independence-papua-new-guinea-is.html>.
198. Andie Noonan, "Timeline of key events: Papua New Guinea's road to independence," *ABC*, February 22, 2018, <https://www.abc.net.au/news/2015-09-16/timeline-of-papua-new-guinea-road-to-independence/6748374?nw=0>.
199. Keri Phillips, "Bougainville at a crossroads: independence and the mine," *ABC*, June 3, 2015, <https://www.abc.net.au/radionational/programs/rearvision/bougainville-at-a-crossroads/6514544>.

200. Gleb Raygorodetsky, "Faces of Climate Change," *Alternatives Journal*, March 5, 2013, <https://www.alternativesjournal.ca/people-and-profiles/faces-climate-change>.
201. Jo Chandler, "Welcome to Manus, the island that has been changed forever by Australian asylum-seeker policy," *Guardian*, December 15, 2014, <https://www.theguardian.com/australia-news/2014/dec/16/sp-welcome-to-manus-island-changed-forever-australian-asylum-seeker-policy>; "Nauru: Australian," 2014.
202. Parliament House, "Chapter 10 - Pacific Solution: Negotiations and Agreements," *Parliament of Australia*, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Former\\_Committees/maritimeincident/report/c10](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/maritimeincident/report/c10) (10.24-61 discussing bilateral agreements with Nauru and Papua New Guinea).
203. "Nauru: Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru, and related issues," *Australian Government*, August 3, 2013, <https://www.dfat.gov.au/geo/nauru/Pages/memorandum-of-understanding-between-the-republic-of-nauru-and-the-commonwealth-of-australia-relating-to-the-transfer-to-and>; "Papua New Guinea: Memorandum of Understanding between the Government of the Independent State of Papua New Guinea and the Government of Australia, relating to the transfer to, and assessment and settlement in, Papua New Guinea of certain persons, and related issues," *Australian Government*, August 2013, <https://www.dfat.gov.au/geo/papua-new-guinea/Pages/memorandum-of-understanding-between-the-government-of-the-independent-state-of-papua-new-guinea-and-the-government-of-austr>.
204. UNHCR, "Papua New Guinea," November 2010, [https://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNHCR\\_UNHighCommissionerforRefugees-eng.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNHCR_UNHighCommissionerforRefugees-eng.pdf) ("International obligations must be incorporated into national laws in order to be fully effective. At this stage, The Migration Act 1978 (the Migration Act) and its 1989 amendments authorize the Minister of Foreign Affairs "to determine a non-citizen to be a refugee" under section 15A. The current legislation does not provide any further details as to how this determination is to be made, nor does it outline the rights and obligations of asylum-seekers or refugees in PNG once they are recognized as refugees (e.g. type of documentation to be provided to them, residency status, and access to labour market). In particular, it does not provide a regularization clause for those who illegally arrived in the country. Currently, national legislation does not provide an adequate framework to deal with asylum-seekers and refugees in PNG.")
205. Spinks et al., "Asylum seekers" (In 2012, 17,202 asylum seekers arrived in Australia by boat. While this number is low compared to many other countries, it is a significant increase from the 2,726 arrivals in 2009 and the 161 arrivals in 2008.)
206. Alex Reilly, "Australian politics explainer: the MV Tampa and the transformation of asylum-seeker policy," *Conversation*, April 26, 2017, <https://theconversation.com/australian-politics-explainer-the-mv-tampa-and-the-transformation-of-asylum-seeker-policy-74078>.
207. Kevin Rudd, "Kevin Rudd's statement on sending all boat asylum seekers to PNG - full text," *Guardian*, July 19, 2013, <https://www.theguardian.com/world/2013/jul/19/kevin-rudd-statement-asylum-seekers>.
208. Hannah Ryan, "Australia's 'bizarre and cruel' refugee deterrence policy is keeping 1,500 people in limbo," *Taipei Times*, December 13, 2020, <https://taipeitimes.com/News/editorials/archives/2020/12/13/2003748615>.
209. UNHCR, "The Republic of Nauru," March 2015, <https://www.refworld.org/pdfid/563860c54.pdf>; "Nauru: Memorandum of Understanding," 2013; "Australia, PNG sign memorandum on Manus detention," *news*, <https://www.news.com.au/world/australia-png-sign-memorandum-on-manus-detention/news-story/6b786abea358ff9b04037742b17bcaa3>.
210. To ward off critiques that it was not restrictive enough, Australia ostensibly arrested asylum seekers arriving by boat on charges of human smuggling. Michael Koziol and James Massola, "Manus refugees given ultimatum as Turnbull government comes under pressure," *Age*, August 30, 2017, <https://www.theage.com.au/politics/federal/manus-refugees-given-final-ultimatum-as-turnbull-government-comes-under-pressure-20170830-gy715b.html>.
211. Refugee Council of Australia (RCOA), "Seven Years On: An Overview of Australia's Offshore Processing Policies," July 2020, 14-15, <https://www.refugeecouncil.org.au/wp-content/uploads/2020/07/RCOA-Seven-Years-On.pdf>.
212. RCOA, "Seven Years On" (This would not, for example, include any foreign aid that was used as part of any resettlement deal; for example, the \$40 million that Cambodia received in increased aid 26 as part of a deal to resettle refugees from Nauru, a deal that resulted in the resettlement of only seven refugees, many of them eventually returned to their home countries.)
213. Julie Morse, "Nauru: A 'Human Dumping Ground,'" *Pacific Standard*, June 14, 2017, <https://psmag.com/news/nauru-a-human-dumping-ground>.
214. Refugee Council of Australia, "Offshore processing statistics," May 13, 2021, <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/6/>.
215. Australian Human Rights Commission, "Lives on hold: Refugees and asylum seekers in the 'Legacy Caseload,' 2019" July 17, 2019, <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/lives-hold-refugees-and-asylum-seekers-legacy> (report on "legacy caseload").
216. Morse, "Dumping Ground."
217. Ryan, "Australia's 'bizarre and cruel.'" "Thirteen people have died. One was murdered. At least three killed themselves. A coroner found that one refugee had died of septic shock, which could have been prevented after the refugee experienced a small cut on his leg. More than 170 babies have been born in the seven years, inheriting their parents' temporary status. That figure, from February last year, is probably much higher now. More than 2,000 people who arrived in Australia by boat after July 19, 2013, were never sent offshore and are not subject to the strict ban, but the government has never offered justification or explanation for the differential treatment."
218. Michael Gordon, "Offshore detainees' mental illness among highest of any surveyed population: study," *Sydney Morning Herald*, November 21, 2016, <https://www.smh.com.au/politics/federal/offshore-detention-study-detects-mental-health-rates-amongst-the-highest-recorded-of-any-surveyed-population-20161121-gstw3o.html>.
219. Damien Cave, "A Timeline of Despair in Australia's Offshore Detention Center," *NY Times*, June 26, 2019, <https://www.nytimes.com/2019/06/26/world/australia/australia-manus-suicide.html>; Mridula Amin and Isabella Kwai, "The Nauru Experience: Zero-Tolerance Immigration and Suicidal Children," *NY Times*, November 5, 2018, <https://www.nytimes.com/2018/11/05/world/australia/nauru-island-asylum-refugees-children-suicide.html>.

220. Hannah Ryan, Nick Evershed, Andy Ball, Nell Geraets, and Alexander Spring, "Interactive timeline: what happened to every person caught up in Australia's offshore processing regime," *Guardian*, December 9, 2020, <https://www.theguardian.com/australia-news/ng-interactive/2020/dec/10/timeline-australia-offshore-immigration-detention-system-program-census-of-asylum-seekers-refugees> (13 died, mostly by suicide and/or due to lack of medical attention since 2013); Helen Davidson, "The medevac bill is law: what does that mean for ailing offshore refugees?," *Guardian*, March 1, 2019, <https://www.theguardian.com/australia-news/2019/mar/02/the-medevac-bill-is-law-what-does-that-mean-for-ailing-offshore-refugees>.
221. "Medical transfer from offshore processing to Australia," *UNSW Sydney and Kaldor Center for International Refugee Law*, December 15, 2020, <https://www.kaldorcentre.unsw.edu.au/publication/medevac-law-medical-transfers-offshore-detention-australia>.
222. Refugee Council of Australia (RCOA), "Australia's man-made crisis on Nauru: Six years on," September 2018, <https://www.refugeecouncil.org.au/nauru-report/2/>.
223. RCOA, "Australia's man-made crisis," 3.
224. "Refugees refuse to leave as Canberra closes PNG camp," *Strait Times*, November 1, 2017, <https://www.straitstimes.com/asia/australianz/refugees-refuse-to-leave-as-canberra-closes-png-camp>.
225. Damien Cave, "With Asylum Seekers Cleared From Manus Island, New Phase Begins," *NY Times*, November 24, 2017, <https://www.nytimes.com/2017/11/24/world/australia/manus-island-detention-refugees-asylum-seekers.html>.
226. Jon Donnison, "Manus Island: Australia's Guantánamo?," *BBC*, June 12, 2015, <https://www.bbc.com/news/world-australia-33113223>. For more on Guantánamo Bay's history as a migrant offshore prison, see Chapter 4.
227. "Questions Taken on Notice," *Parliament of Australia*, February 27, 2017, [https://www.aph.gov.au/~media/Committees/legcon\\_ctte/estimates/add\\_1617/DIBP/QoNs/AE17-170.pdf](https://www.aph.gov.au/~media/Committees/legcon_ctte/estimates/add_1617/DIBP/QoNs/AE17-170.pdf).
228. Ben Doherty, "Budget immigration costs: Australia will spend almost \$3.4m for each person in offshore detention," *Guardian*, May 11, 2021, <https://www.theguardian.com/australia-news/2021/may/12/australia-will-spend-almost-34m-for-each-person-in-offshore-detention-budget-shows>. See also, Ryan et al., "Interactive timeline."
229. Doherty, "Budget immigration costs."
230. Evan Young, "Asylum seekers in PNG 'scared and devastated' after reportedly being held at gunpoint," *SBS News*, April 22, 2021, <https://www.sbs.com.au/news/asylum-seekers-in-png-scared-and-devastated-after-reportedly-being-held-at-gunpoint>. Though litigation has pushed Manus to wind down its function as Australia's proxy detention center, there are currently no plans to close Nauru to current or future arriving asylum seekers. See Ghezelbash, *Refugee Lost*, 127.
231. "Australia's borders are closed to illegal migration," *Australian Government*, <https://osb.homeaffairs.gov.au/>; Kaldor Centre for International Refugee Law, "Turning Back Boats," August 2018, [https://www.kaldorcentre.unsw.edu.au/sites/kaldorcentre.unsw.edu.au/files/Research%20Brief\\_Turning%20back%20boats\\_final.pdf](https://www.kaldorcentre.unsw.edu.au/sites/kaldorcentre.unsw.edu.au/files/Research%20Brief_Turning%20back%20boats_final.pdf) (regarding Operation Sovereign Borders); Ghezelbash, *Refugee Lost*, 84-94 (detailed account of Australian push-back policies and impact of legal challenges).
232. Helen Davidson, "Coalition uses budget to announce it will close Christmas Island centre - after spending \$185m," *Guardian*, April 2, 2019, <https://www.theguardian.com/australia-news/2019/apr/02/australia-federal-budget-2019-refugees-jobactive-josh-frydenberg-christmas-island>.
233. Helen Davidson, "Inside Christmas Island: the Australian detention centre with four asylum seekers and a \$26m price tag," *Guardian*, January 25, 2020, <https://www.theguardian.com/australia-news/2020/jan/26/inside-christmas-island-the-australian-detention-centre-with-four-asylum-seekers-and-a-26m-price-tag>; Ben Doherty, "How Australia's immigration detention regime crushed Fazel Chegeni," *Guardian*, December 20, 2015, <https://www.theguardian.com/australia-news/2015/dec/21/how-australias-immigration-detention-regime-crushed-fazel-chegeni> (recounting the journey of Fazel Chegeni Najad, a stateless Kurdish asylum seeker held indefinitely for four years whose mental health severely deteriorated before he escaped the Christmas Island prison, and was found dead two days later.)
234. Megan K. Stack, "Behrouz Boochani Just Wants to be Free," *NY Times Magazine*, August 4, 2020, <https://www.nytimes.com/2020/08/04/magazine/behrouz-boochani-australia.html>.
235. York, "Australia and Refugees, 19012002" ("On a per capita basis, this resettlement program continues to place Australia among the most generous recipients of refugees in the world.")
236. Kelly, "The Race Issue" (discussing how Australia distinguishes "the 'honest' migrants who await their deliverance in camps and the 'dishonest' who jump queue.")
237. Kelly, "The Race Issue," 14.
238. Ben Doherty, "Australia's immigration policy is meant to be blind to race, but is it?," *Guardian*, April 5, 2018, <https://www.theguardian.com/australia-news/2018/apr/05/australia-says-its-immigration-policy-is-blind-to-race-what-do-the-facts-show>.
239. Rod McGuirk, "Australia: Most of 1,100 refugees in US deal have resettled," *Associated Press*, October 19, 2020, <https://apnews.com/article/donald-trump-australia-barack-obama-immigration-united-states-6c1cc40c7c7362fbcade3a52f0e50b57>.