AUSTRALIA: AUSTRALIA'S BORDER AND ITS DISCONTENTS

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Introduction

Migration plays an integral role in Australia's national mythology, the development of its ongoing nation-building enterprise, and to a large extent the reason for its success. However, it is also the subject of a deep-seated national apprehension premised on racism and xenophobia, fear of losing identity, land, wealth, status, and a perennial sense of geographical and cultural isolation. Journalist Peter Mares calls it a

> deeply held, yet irrational anxiety that Australia is perpetually in danger of being overrun; that our sovereignty is brittle and our borders are weak. It is as though this continent were a rickety lifeboat and all the world's oppressed and poor are desperately swimming towards us, threatening to drag us under. (Mares, 2002, p. 27)

The contradictory roles in the national collective psyche emanate from Australia's settler-colonial origins. There has always been a need to reconcile the triumph of European settlement and the concurrent violent dispossession of the continent's aboriginal people; the importance of continued immigration from Britain to consolidate the settlement endeavour; and the need to ensure that future settlement did not threaten the enduring status quo of British dominance (see Cruickshank & Moreton-Robinson, 2016; Lake & Reynolds, 2008). In practice, Australian immigration policy has been premised on a culture of control from Federation onwards (Manne, 2016). Successive Australian governments have always sought to facilitate the 'right' kind of migration while simultaneously seeking to curtail the 'wrong' kind.

This chapter considers the evolution of this culture of control and highlights its key manifestations as they appear on the Australian border today. We argue that while a culture of control has existed from Federation, the focus of today's exclusionary policies towards 'boat people' emerged in the 1970s.

Leanne Weber's typology will then be utilized to characterize the functional and spatial dimensions of a border control policy that has since been obsessed with the threat of irregular migration to this country. The extraterritorialization of border control, the interdiction functions that Australia employs on the high seas, and at its airports, the punitive policies towards those already in Australia's control and care, and the creative manipulations of space, territory, and sovereignty to justify the continuation of these policies will be considered.

Finally, several important recent statements by key international human rights institutions and leaders, which denote the human rights violations inherent in some of these policies, will be highlighted. Lastly, this chapter will conclude with a broad overview of the impacts we are witnessing first hand on the ground in Australia of the Jesuit Refugee Service (JRS).

It is important to note here that there is a vast and impressive amount of literature on the Australian border and Australia's migration control policies. Our historical overview is by no means a definitive or comprehensive account, but rather a way of denoting the shifts in the nature of migration control over time, and the pivot towards stopping the boats post-1970s. Similarly, our characterization of the border today, and the human rights violations highlighted are limited to specific developments with which we have a direct or indirect connection through our work at the JRS.

A historical overview of migration control in Australia

The individuals involved and the techniques of migration control in Australia have shifted over time. Here, we focus on a major qualitative shift that separates the pre-1970s regime from the period after, noting that the specific tenor of debate and policy has always been subject to the prevailing economic circumstances, public attitudes, parliamentary dynamics, elite consensus, and global migration trends of the day.

From the 1800s until the mid-1970s, race was the primary and overt basis for excluding migrants from settling in Australia. Governments exercised their sovereign authority to exclude, largely via discursive and socio-legal mechanisms. In the early post-Gold Rush economic downturn, thousands of Chinese immigrants, until then essential for the goldfield

economy, were vociferously targeted as cultural imposters competing for local jobs. Newspapers would report the Chinese as "importing the mindset of 'slavery'; threatening the democratic 'way of life'; bearing social malaise and sexual degradation; and being vectors of disease" (Mayes & Thompson, 2017, para. 11). By the early 1880s, British colonial outposts across the Pacific Rim were developing anti-Chinese immigration laws. In 1881, the New South Wales (NSW) government passed the *Influx of Chinese Restriction Act* to prevent Chinese people from making their way into NSW from goldfields in Victoria and Queensland (Thompson, 2011). By the time of Federation in 1901, approximately 98% of people in Australia were of British Caucasian heritage, and the majority wanted to live in a country that remained true to its British customs and roots, whilst also limiting labour competition from Asia and the South Pacific (Jones, 2017). It was in this context that Australia's first passed the *Pacific Island Laborers Bill* and *Immigration Restriction Bill* in 1901 with bipartisan support (Neumann, 2015, p. 11). The Immigration Restriction Bill became the legal cornerstone of the White Australia Policy. It did not explicitly discriminate against particular races; however, it instituted an 'education test' whereby anyone unable to write a short paragraph in English or another European language could be deemed a prohibited immigrant (Neumann, 2015, p. 15).

In the first seven decades of the 20th the overwhelming majority of migrants were subject to the limitations imposed by the White Australia policy (Neumann, 2015, p. 11). Prospective refugees did not receive any concessions. For example, in 1916 when the Brisbane Hebrew Congregation enquired whether Australia would resettle Polish and Russian Jewish refugees, they were told that all Jewish immigrants would have to meet the normal criteria for non-British migrants (Neumann, 2015, p. 21). Neumann notes that in some circumstances, Australia appeared to disadvantage refugees who belonged to a national ethnic or religious group that was considered undesirable. This became clear, for example, in Australia's refusal to resettle 40,000 Anti-Bolshevik Jews from Russia and Ukraine in 1921 (Neumann, 2015, p. 22).

During and after World War II, both the Australian Labor Party (ALP) and the Liberal party (the equivalent of today's Liberal-National Coalition [LNP]) expanded and diversified Australia's immigration program with the assistance of the International Refugee Organisation (IRO). In 1950 alone, Australia resettled 70,212 displaced persons from Eastern Europe

on IRO ships (Neumann, 2015, pp. 135-136). However, these displaced persons were encouraged to migrate for economic reasons, specifically to grow Australia's population and fill labour shortages; they were welcomed as such, even though they were refugees. More importantly, the strict exclusion criteria of the White Australia policy still applied. Australia's early reluctance for a UN refugee convention appeared to stem precisely from the obligations it might entail to resettle non-White refugees. Secretary of the Department of Immigration at the time, Tasman Heyes, said:

> There are thousands of non-European refugees, and acceptance by Australia of a convention which provided that such a class of persons should not be discriminated against and should not be subject to any penalty for illegal entry, would be a direct negation of the immigration policy followed by all Australian governments since Federation. (Neumann, 2015, p. 137)

There were circumstances in the following decades in which Australian governments relented, for example, in the case of the revised mixed descent policy, which provided humanitarian visas to Ceylonese Burghers and Anglo-Burmese in the 1960s. Nonetheless, racial and ethnic factors remained the main determinants of exclusion.

In all of these contexts, Australian governments were generally able to exercise strong and effective migration control because there did not appear to be a risk that large numbers of migrants would cross the oceans and arrive at Australia's physical borders. Air and charter sea transport was too expensive for the average person, and those who travelled on ships predominantly came on steamers from Europe. Migrants sought and obtained Australian visas after which they were cleared by Australian customs officials at sea or airports. The Australian Defence Force (ADF) maintained a strong presence across the country's vast Northern coastline largely to prevent attacks by enemy ships or planes—a hangover dating back to World War Two—and illegal fishing vessels. Canberra's leaders saw little need to institute deterrence, surveillance, prevention, and return policies within the migration control architecture at the time.

Australia's migration control regime underwent a significant shift in the 1970s. The end of the White Australia policy meant that Australia's expanding migration program became, in theory, accessible to people of

all races or ethnic backgrounds.[1] As the Australian economy became more open to increasingly advanced Asian markets and their growing middle-class populations in the late 1980s, Hawke, Keating, and later Howard expanded the number of skilled visa categories and places attached to them over two decades (Neumann, 2015). Australia's migration program grew in size, complexity, and diversity, and migration, in general, became a less controversial topic in public discourse. Nonetheless, the demographic composition of the migration program was slow to change. There was strong opposition to the increasing proportion of Asians being admitted into the country throughout the 1980s (Blainey, 1984; Kelly, 2008). Public intellectuals such as Andrew Markus and Frank Bongiorno see the 1980s as the period which heralded the end of bipartisanship on race, and the birth of a conservative movement appealing to racial prejudice (Higgins, 2017, p. 176).

Race, ethnicity or religious-based exclusion in migration policy still bubbles to the surface at particular moments with lasting normative and policy consequences. In the aftermath of the Tampa crisis and lead up to the 2001 election, the then Prime Minister John Howard linked 'boat people' and Islamic terrorists in the public imaginary, taking political advantage of the heightened fears about attacks on Australian soil post 9/11.[2] The conflation of issues of terrorism and asylum was illogical, given that those fleeing the Taliban were more likely to be dissidents rather than fundamentalists (Winter, 2016). Nonetheless, Howard's discursive construction continues to play a role in public attitudes towards asylum seekers. A 2016 study on voter attitudes towards asylum seekers finds that the "single most

1 Cracks in the policy emerged after World War II when specific cohorts of non-white immigrants began to obtain citizenship. It was the Holt government that effectively scrapped the policy in 1966, but legislative changes came under the Whitlam government in 1973.

2 The *MV Tampa* was a Norwegian freighter that rescued 433 people seeking asylum in international waters 140 kilometres off the coast of Christmas Island in August 2001. The Australian government refused the *Tampa* permission to enter Australian waters, triggering a diplomatic dispute between Norway and Australia and generating political controversy in the lead up to the 2001 federal election. In a demonstration of Australia's strong response to breaches of its territorial border, Prime Minister John Howard ordered Australian special forces to board the vessel, and a few days later passed legislation that mandated the transfer of those on board to the islands of Nauru and Manus Island. In effect, the incident helped precipitate Australia's 'Pacific Solution' to boat people, and also ushered in an era of bipartisanship in border policy. See Mares, *Borderline* for a detailed examination of this period.

important driver of negative attitudes towards asylum-seekers' is religious prejudice, sometimes expressed as concern about Islamisation in Australia" (Muller, 2016, p. 11). Fifteen years after 9/11 and the Tampa crisis, the study identifies that there remains in prevailing public attitudes a syllogistic association in which asylum-seekers are equated with Muslims, Muslims with terrorism, and therefore asylum-seekers with terrorism (Muller, 2016, p. 12). Similarly, when the Abbott government resettled 12,000 people from Syria and Iraq between 2015 and 2017 under a one-off emergency humanitarian quota, some leaders called for Christians to be privileged over Muslims (Safi, 2015). The government obliged, arguing that Christians should be prioritized given their plight (Medhora & Safi, 2015). Nevertheless, despite debates about the make-up and size of the migration program and occasional burst of race-based migration policy, the emergence of multiculturalism as a doctrine in early-1980s, shift away from migration control based on racial or ethnic identity markers.

The arrival of the first 'boat people' from Vietnam precipitated a shift in the axis of migration control from particular racial or ethnic identities towards those understood to threaten Australia's territorial sovereignty. The first boat carrying people fleeing South Vietnam at the end of the war, the *Kien Giang*, arrived at Darwin in April 1976 (Higgins, 2017, p. 20). Over the next three years, approximately 2,000 people fleeing the aftermath of the conflict arrived by boat in Australia (Phillips, & Spinks, 2013). Although Australia had signed the 1951 Refugees Convention and its 1967 Additional Protocol, the country had no overarching policy framework for responding to refugees or an in-country procedure for refugee status determination (RSD) in the mid-1970s. The Whitlam and Fraser governments had thus far responded to refugee crises on an ad hoc basis, often as one-off humanitarian gestures. For instance, Australia granted permanent visas to approximately 2,500 East Timorese who had fled the island in the lead up to Indonesia's invasion in 1975 (Higgins, 2017, p. 27). Even at this point, the possibility of hundreds if not thousands of 'boat people' arriving in Australia each year concerned politicians and the public alike (Neumann, 2015, pp. 270-275).

Government responses to boat arrivals at the time reflected tensions between fears over a loss of public confidence stemming from the perception of a loss of border control, and the need to maintain Australia's international reputation as a constructive liberal, middle power. As early as May 1975, officials from the Department of Labour and Immigration (DLI)

expressed concerns over how boat arrivals would create a precedent and incentivize others to make the trip. Concern grew as boats continued to arrive. By 1977, the Minister began to issue warnings that boat people were not guaranteed residence in Australia (Higgins, 2017, p. 33). This was, in part, prompted by a fear of public backlash about the loss of border control. Claire Higgins quotes Wayne Gibbons, Private Secretary to the Minister for Immigration saying of his government's response in 1976,

> our major fear then…was if we don't handle this well, the mood of the public will become paranoid…so we kept it as quiet as we could. As long as the public thought that these arrivals were small-scale, ventures of providence rather than organized operations, the government could continue to process and grant permanent visas to these individuals on land. (Higgins, 2017, p. 24)

Although boat turnbacks were discussed as a policy option at the time, Immigration Minister Michael Mackellar is quoted in 1978 as saying "it would take just one well-publicized sinking, and our international reputation would be mud" (Higgins, 2017, pp. 24-25). Prime Minister Malcolm Fraser saw the importance of publicizing a humane response to South Vietnamese refugees given Australia's consistently strong Anti-communist position during the Vietnam War, and his government's interest in promoting human rights abroad (Higgins, 2017, p. 33). Ultimately, Fraser and his replacement Bob Hawke presided over a regional agreement in which Australia resettled more than 100,000 Vietnamese refugees between 1979 and 1988, whilst also providing permanent visas to the overwhelming majority of refugees seeking protection in Australia (Betts, 2009; Refugee Council of Australia [RCOA], 2016).

Simultaneously, many of the foundational elements of Australia's current migration control regime came into play between the late 1970s and late 1980s. In her book *Asylum by Boat: The Making of Australia's Refugee Policy*, Claire Higgins describes concerns within government and the bureaucracy emerging in January 1979 "about big ships carrying groups whose bona fides were dubious" (Higgins, 2017, p. 116). Fraser had also created a 'Taskforce on Refugees from Indochina,' which was responsible for developing a plan for how the government would respond when confronted with the reality of a large vessel carrying irregular migrants. According to Higgins, the Taskforce took a comprehensive plan of action to the cabinet. It recommended, in order:

> A firm public statement that Australia would not accept the people concerned; interception and physically turning a vessel away; holding a vessel that docks at a remote location; containing people who arrive in remote and secure localities; persuading countries of origin to accept them back; accepting people as refugees but not allowing them resettlement in Australia; and finally granting those on board resettlement in Australia. (Higgins, 2017, p. 117)

The plan alone illustrates the fact that Australian politicians and bureaucrats had been considering a much broader range of deterrence, prevention, and punishment measures to deal with irregular migration for decades. As is clear from the Taskforce's plan, these went beyond the primarily discursive and socio-legal techniques employed to demonize and exclude prospective non-European migrants before the 1970s. The Taskforce's proposed advertising, interdiction, turn back, and third-country resettlement measures have been introduced in some form since the early 1990s to curtail boat arrivals. As Neumann writes, by the end of 1977, the public response to refugees that we are now accustomed to had been fully formed (Neumann, 2015, p. 12).

This was also the period in which Australia instituted a formal separation between what we now understood as the 'offshore' and 'onshore' components of the humanitarian program. By the late 1970s, the Australian government introduced refugee and special humanitarian visa categories into the migration program. Much like had happened in response to the Vietnamese exodus, Australian government officials would now select, vet, and help settle a quota of people from warzones, camps, or urban settings each year. Numbers in the 'offshore' component have remained consistently between 11,000 and 20,000 persons per annum since 1978-1979 (Phillips, 2017). Since 1989-1990, Australian governments have been taking away a place from the 'offshore' quota for each person arriving obtaining protection 'onshore.' This deliberate linking of the onshore and offshore numbers has helped foment the fiction that those seeking protection on Australian soil are somehow jumping a global refugee queue and therefore deserve punishment. It is a narrative that has also created divisions among migrant communities, as those resettled refugees trying to sponsor family's members are forced to compete for places in the quota with those seeking protection in Australia (see Tables 1 and 2).

Table 1. Number of resettled refugees and onshore asylum applicants per annum[3]

	Humanitarian program visa grants (offshore) + (onshore–plane arrivals)	Onshore protection applications–plane arrivals	Onshore protection–boat arrivals in community	Onshore protection–boat arrivals on PNG and Nauru
2017-2018	14,825 + 1,425	27,931	17,420 (June 2018)	219 (June 2018)
2016-2017	20,257 + 1,711	18,290	22,143 (June 2017)	1,174 (June 2017)
2015-2016	15,552 + 1,732	9,554	28,163 (June 2016)	1,296 (June 2016)
2014-2015	10,981 + 2,746	8,587	28,588 (June 2015)	1,600 (June 2015)
2013-2014	10,984 + 1,547	9,646	24,500 (June 2014)	2,358 (June 2014)

Source: own work based on Australian Government, Department of Home Affairs (n.d.).

Table 2. Top three countries of origin for refugees and onshore asylum applicants in Australia

	Humanitarian program visa grants (offshore) + (onshore–plane arrivals)	**Onshore protection applications–plane arrivals**	**Onshore protection–boat arrivals in community**
2017-2018	Iraq, Syria, Myanmar	Malaysia, China, India	Iran, Afghanistan, Sri Lanka
2016-2017	Iraq, Syria, Afghanistan	Malaysia, China, India	Iran, Sri Lanka, Stateless
2015-2016	Iraq, Syria, Myanmar	Malaysia, China, Iraq	Iran, Afghanistan, Sri Lanka
2014-2015	Iraq, Syria, Myanmar	Malaysia, China, Pakistan	Iran, Afghanistan, Sri Lanka
2013-2014	Afghanistan, Iraq, Myanmar	China, India, Pakistan	Iran, Sri Lanka, Afghanistan

Source: own work based on Australian Government, Department of Home Affairs (n.d.).

3 These numbers are taken from the Department of Home Affairs (DHA) website. The numbers in the column 'Onshore protection – boat arrivals in the community' only include people on a Bridging Visa E, and not those on a Bridging Visa C, or those without any form of visa. The numbers in the column 'Onshore protection – boat arrivals on PNG and Nauru do not include people who are not in the centres, but remain trapped on the islands. As noted previously, neither Nauru nor Manus Island offer safe haven, facilities to address basic healthcare needs, or economic opportunity. After the closure of the Manus Island detention centre in November 2017, the men on the island were transferred to accommodation in the town of West Lorengau in PNG. Conditions in these facilities have been criticized by numerous independent bodies such as the UNHCR.

Mandatory, indefinite onshore detention was the first institutionalized manifestation of new forms of migration control in Australia. This policy was introduced into law by the Keating Labor government in 1992 in response to a new wave of Indochinese boat arrivals in preceding years. Under this policy, any 'unlawful non-citizens' within Australia's migration zone were now to be detained unless afforded temporary lawful status via the granting of a bridging visa whilst making arrangements to depart or applying for a substantive visa (Phillips & Spinks, 2013).

Instituting and embedding mandatory onshore detention required political bipartisanship, a range of discursive and public relations techniques, new migration control laws, and a bureaucratic apparatus to implement the regime. This policy has remained in place since 1992, and between 1989 and 2012, an average of 5,991 people have been detained on shore each year (Phillips & Spinks, 2013). While it is beyond the scope of this chapter to unpack the dynamics that underpinned the introduction and institutionalization of mandatory detention, it is important to note that the normalization of Australia's mandatory and indefinite immigration detention regime signifies something about an environment that has enabled a raft of subsequent migration control policies.

Characterizing Australia's border control regime today

As the purpose of Australian migration control has changed over the years, so has the nature of the Australian border. The archetypal Westphalian national border—the highly militarized setting punctuated by fences, walls, soldiers, guns, and increasingly automated weaponry—has reemerged as a salient physical and political phenomenon across the globe (See Jones, 2016; Jones & Ferdoush, 2018). However, this kind of border has never been symbolically or practically important in Australia. The seas to Australia's north and the country's geographical isolation from key conflict hotspots act as a natural buffer zone and a fundamental pillar of migration control. Nonetheless, Australia's obsession with absolute control generates a multilayered, bureaucratized and complex border control system.

Leanne Weber's four-pronged typology offers a useful explanatory framework for understanding this increasingly "elusive and pluralistic" edifice. Weber argues that today's borders are functionally mobile, spatially mobile, temporally mobile, and personalized (Weber, 2006). These dimensions operate together concurrently and in interlocking ways as lines of defence

against irregular migration (Weber, 2006, pp. 84-85). The *personalized border* reflects the existence of an increasingly individualized, bio-political enforcement venture. As Weber writes, not only can some individuals be physically within the country's sovereign territory and legally outside it, those who hold valid visas need not be inside the country's borders to exercise rights and responsibilities associated with the visa (Weber, 2006, pp. 24-25).

Moreover, the granting and possession of a valid visa is increasingly contingent on a whole of identity and behavioural factors such as age, employability, religious background, demonstrated adherence to 'Australian values' and criminal background. *Temporal mobility* refers to the ways authorities suspend or alter timeframes in order to enforce migration control. In particular, temporal mobility refers to the extraordinary application of migration control measures retrospectively in contravention of established rule-of-law principles. In this chapter, we will focus on the two remaining dimensions of the border in Weber's formulation, namely functional and spatial mobility.

FUNCTIONAL MOBILITY AT THE AUSTRALIAN BORDER

Functional mobility refers to increasing diversity of enforcement measures carried out pre-emptively beyond the physical border and in response to irregular migrants already within the sovereign territory (Weber & Bowling, 2004). The physical border remains intact, but is complemented by technologies and processes that employ surveillance, psychological manipulation, fear, and economic marginalisation to reinforce exclusion. The border deters, physically prevents entry, and punishes those already within territorial boundaries. The prospect of return to countries of origin also hangs over people seeking asylum, refugees, and migrants. Here we look at pre-emptive, interdictory, and response-based functions.

Pre-emptive functions

Australia operates a tiered and highly discretionary visa regime. Applicants from certain countries are required to meet much more stringent identity and financial requirements in order to obtain visas than others. For example, an Afghan national applying for a tourist visa will likely be required to provide financial statements, a letter of invitation or sponsorship, a detailed in-country itinerary, and a return ticket in order to be seriously considered even for a tourist visa. Even so, the chances of obtaining the visa upon meeting the requirements are low. McAdam writes that "it is highly unlikely that refugees will be able to get a visa of any other kind,

such as tourist or work visa…[they] will likely be screened out" (McAdam, 2013, p. 438). Although there are no stated public justifications for this tiered approach, such practices are likely aimed at preventing large numbers of visa holders from refugee-producing countries such as Afghanistan, Syria, or Myanmar from applying for protection once within Australia. The tiered visa regime is an essential screening-out tool to prevent what governments such as Australia likely see as the instrumentalization of a temporary visa to obtain permanent protection on shore.

Another form of screening-out is excluding potential refugees in transit countries from applying for Australian visas. Those who have left their countries of origin seeking protection and are in places such as Malaysia and Indonesia without access to work, basic services or possibilities for local integration, cannot apply for any form of Australian visa. They are generally ineligible for the Australian government's nascent Community Support Pilot (Refugee Council of Australia [RCOA], 2019c), and can be ineligible for resettlement even as UNHCR-recognized refugees (see Missbach, 2015). For example, in 2014, the Australian government announced that all asylum seekers arriving in Indonesia after July 1st that same year would no longer be eligible for resettlement in Australia. In justifying the move said "we're taking the sugar off the table. We're trying to stop people thinking they can go to Indonesia and wait around till they get to Australia" (Medhora, 2018, para. 3). This policy, coupled with Indonesia's refusal to grant these people any form of a long-term visa, provide them with work rights, access to basic services or financial support, has placed close to 14,000 refugees in endemic situations of limbo and poverty (Curby, 2018).

Using exclusionary or discriminatory visa policies to disincentivize forced migrants from attempting to seek protection in Australia is an increasingly important pre-emptive act of 'bordering' well beyond the realm of the physical border. The Australian government has also begun cutting the International Organization for Migration (IOM)'s funding to provide psychosocial support and financial assistance to asylum seekers in Indonesia (Harvey, 2018). This policy builds on the logic of exclusion by forcing asylum seekers who are already ineligible for resettlement into situations of destitution and homelessness, whereby they are desperate enough to consider returning to potential situations of harm.

Carrier sanctions are an additional form of pre-emptive migration control that the Australian government employs (Bloom & Risse, 2017). Carrier sanctions have existed since before Federation. Today they are

designed to root out irregular migration in the mass transport industry. All airlines and ships must check if their passengers have valid visas on the Australian government's 'Advanced Passenger Processing System,' a database that records names and visa statuses of all prospective and current non-citizens (Hirsch, 2016). Failure to detect or remove a passenger without a valid visa is now a criminal offence under the *Migration Act 1958,* and it incurs both an $18,000 fine and responsibility for the costs of removing the passenger from Australia (Hirsch, 2016). Australia's carrier sanctions regime is an effective mechanism for what Gammeltoft-Hansen, Hirsch, and others have called the "extra-territorialization of border control" (Hirsch, 2014), while also integrating or coercing corporations into the migration control regime via increasingly complex incentive structures (Bloom & Risse, 2017).

Australia has also launched successive advertisement campaigns to 'inform' would-be asylum seekers or irregular migrants of the grim realities of seeking asylum in Australia. In late 2013, soon after the then Prime Minister Kevin Rudd's declaration that all boat arrivals would be sent to Papua New Guinea for processing and resettlement, the Australian Labor Party (ALP) government commissioned an advertising campaign to reinforce Rudd's new policy in diaspora communities in Australia and within source countries (Chan, 2013). The multi-million dollar campaign aimed to dissuade people from arriving by boat to claim asylum in Australia. In February 2014, the Abbott Liberal-National Party (LNP) government produced a graphic novel for Afghan refugees depicting the physical and mental health struggles of asylum seekers sent to offshore detention centres (Laughland, 2014a). The same government produced a video featuring the commander of Operation Sovereign Borders Angus Campbell "warning all asylum seekers that [they would] not make Australia home" (Laughland, 2014b, para. 1).

Similarly, in 2013, Sri Lanka's national cricketers were recruited to warn Sri Lankan diaspora communities and citizens of the dangers of crossing the Indian Ocean by boat and the hardening of Australia's response to irregular migration (Muralitharan, 2013). This kind of signalling was designed to complement the restriction of regular visa pathways for people from refugee-producing countries. The government believed that people seeking asylum would seek irregular migration pathways if they did not have options to leave their countries safely and legally and this was the first line of defence to deter so-called 'illegal maritime arrivals.'

A second policy designed to physically prevent would-be 'boat people' from leaving their countries of origin or transit emerged in the aftermath of the Sri Lankan civil war. In 2013, opposition immigration spokesman, Scott Morrison toured Sri Lanka. During the visit, Morrison made a confident and seemingly final assessment of safety and stability in the country. Morrison's assessment correlated with the Australian government's interest in deterring Sri Lankan boat arrivals. He said,

> the overwhelming message…in terms of people coming to Australia… came down to…economy and lifestyle…the greatest threat and risk to life to Sri Lankans in Sri Lanka was if they got on a boat to Australia, not if they stayed in Sri Lanka. (Bishop, 2013, p. 68)

Although there was credible evidence from organizations such as Human Rights Watch that Sri Lankan Tamils were still at risk of harassment, imprisonment, or torture if returned, Morrison's narrative suited the Sri Lankan government who were at the time attempting to rebuild their international image (Human Rights Watch [HRW], n. d.). This coalescence of interests led to several practical cooperation measures, including the provision of two navy patrol boats, aimed at preventing departures from Eastern Sri Lanka ("Scott Morrison defends decision", 2013). In effect, Australia's bilateral relationship with Sri Lanka was strengthened by common interests in cooperation for deterrence. Australia exercises different kinds of leverage over other countries in the Asia Pacific region, including Indonesia, and Cambodia, to implement border control measures.

Interdiction functions

If pre-emptive control measures fail and migrants travel to Australia without valid visas, the Australian government intercepts, screens, and returns asylum seekers or migrants to transit or origin countries. Governments have employed two distinct forms of interdiction since 2012. First, in October 2012, the ALP government announced an 'enhanced screening process' to be predominantly applied to irregular migrants from Sri Lanka. The process involves interviews by RSD officers in international waters, within Australian maritime boundaries, or shortly after arrival on land (Australian Human Rights Commission [AHRC], 2013). Interviewers ask two questions: What are your reasons for coming to Australia? Do you have any other

reasons for coming to Australia? (Taylor, 2013) Based on information in the answers, the officer makes an initial finding of whether the interviewee's claims may engage Australia's protection obligations, which is then reviewed by a senior officer on the same day (Taylor, 2013). Interviewees are not informed of their right to seek asylum, or their right to seek legal advice and a person who is screened out is returned to their country of origin as soon as possible (AHRC, 2013).

Notwithstanding the serious procedural shortcuts employed in the process, lawyers, journalists, civil society groups, and whistleblowers have criticized successive governments for using the façade of a screening mechanism to return large numbers of people to countries of origin, particularly Sri Lanka. One whistleblower had claimed that when the process came into effect in 2012, the government had an expectation that 400 people per week would be returned straight to Colombo (Cooper, 2013).

A more extreme version of interdiction involves the interception and turn-back of boats carrying suspected irregular migrants, recognized refugees or people seeking asylum since 2013 under the Abbott LNP government's Operation Sovereign Borders (OSB) policy. A 'turn-back' is the removal of vessels from Australian waters, with passengers and crew returned to their countries of departure (Spinks, 2018). According to Spinks, the Australian government conducts operations in which passengers are transferred from one sovereign authority to another, where the Australian government ensures the safe return of the passengers and crew, or where Australian navy or customs vessels assist or escort a boat into a safe situation. Between December 2013 and March 2017, the Australian government carried out 33 of these operations involving 810 people (Spinks, 2018). Although the exact details of the operations and their impacts are unknown because the government does not publicly release them, boat interception and turn-back policies have an obvious physical preventative and demonstrative deterrence effect for potential future arrivals plus an enormous human cost. This effect that people who pay thousands of dollars to people smugglers for the boat journeys, only to be turned back, are no longer willing to take the financial risk.

Punitive functions

People seeking asylum who have successfully negotiated pre-emptive and interdictory migration control measures by arriving on Australian territory have been subject to a raft of punitive policies that continue

evolving. Arguably, these policies are designed to encourage their return to countries of origin or transit and to deter future arrivals by signalling Australia's hardline approach to irregular migration and asylum seekers arriving by boat. Punitive border functions revolve around the indefinite nature of offshore detention, the removal of support services for asylum seekers under the *Social Security Act in 1991*, and the subsequent, discretionary and often inadequate service and rights provision since then. This discretion has been instrumentalized to manufacture situations of destitution, extreme material hardship, and limbo, all of which constitute breaches of fundamental human rights. Here we will focus on understanding the logics of offshore processing and discretionary access to services for asylum seekers as they have manifested in the last five years.

In 2012, a year which saw a record number of boat arrivals, the government announced statutory and practical arrangements for people to be sent to the islands of Nauru and Manus Island (Papua New Guinea - PNG) to be detained, have their claims processed, and resettled if found to be refugees.[4] The Pacific Solution mark II, as it is sometimes known, remains in practice albeit under increasing public pressure for change. At its peak in April 2014, there were a total of 2,450 people on the islands, including 1,273 people on Manus Island and 1,177 people on Nauru, including 190 children. Since the announcement of the US resettlement deal in 2016, 493 people have been accepted for resettlement there. There are 1015 people on the islands as of February 2019, and all children have recently been evacuated off Nauru (Refugee Council of Australia [RCOA], 2019).

Australia's offshore regime has caused enormous human suffering over the years. Numerous inquiries and reports by multiple Senate Committees, the Australian Human Rights Commission (AHRC), the UNHCR, Human Rights Watch, Amnesty International, and others detail the causes of this suffering. These include the inadequacy of tent-like accommodation, the oppressive heat, and mosquito-infested environs; the shortage of bathroom and shower facilities and unhygienic conditions within them; the inadequate access to education; the lack of any meaningful activity in the detention centres; the inadequacy of diagnostic technology, prescription medication, and basic medical facilities in the centres; the systematic delays in transfers for medical reasons; the daily incidents of self-harm and attempted suicide;

4 By way of comparison with the scale of 'irregular migration' in Europe, the largest number of people to arrive by boat in Australia was 20,587 in 2013.

the regular reports of rape, sexual violence, and child abuse at the hands of contractors and locals; and the multiple large-scale riots (See The United Nations Refugee Agency (UNHCR), 2018; Human Rights Watch (HRW), 2017; Pearson, 2018; Refugee Council of Australia (RCOA) & Amnesty International Australia (AIA), 2018). In 2017, a UNHCR report found that 88% of asylum seekers surveyed on Manus Island were found to be suffering from depressive or anxiety disorders, and/or post-traumatic stress disorder (PTSD). A smaller sample surveyed on Nauru found that 83% were found to be suffering from PTSD or depression (Sundram & Ventevogel, 2017). According to Gordon (2016), these are some of the highest recorded rates of mental illness of any surveyed population. 12 people have died in Australia's offshore detention centers as a result of violence, suicide, or inadequate medical treatment in the last five years, and hundreds more have been transferred to Australia on medical grounds after court orders (RCOA, 2019a).[5]

There are also few if any plausible resettlement options for recognized refugees on either island. Nauru is an island the size of Melbourne's international airport with a population of 10,000 people and is located in one of the most remote parts of the Pacific Ocean. It is almost entirely dependent on rents from Australia's offshore detention regime for its economic sustenance (Beldi, 2018), and it is hard to imagine how any recognized refugees would build a new life in a place with such few opportunities, and such entrenched local patronage networks. Similarly, PNG is one of the world's poorest countries; it does not have a functioning refugee resettlement program, and some of its laws—the criminalization of homosexuality, for example—would render refugees with particular kinds of claims patently unsafe.

Statements by Australian politicians reveal the widely held view that the offshore regime and its human consequences are necessary to deter boats from arriving in Australia. As recently as 28 October 2018, after multiple polls showed that a majority of Australians wanted children evacuated from Nauru (Australian Associated Press, 2018), Home Affairs Minister Peter Dutton claimed "I want people off Manus and Nauru overnight, but

5 The commonly known MedEvac Bill, is designed to ensure necessary medical care to people in offshore detention on Manus Island or Nauru. The Bill allows two independent Australian doctors to recommend temporary transfer to Australia if both doctors are of the medical opinion that the person requires treatment that he or she is not or cannot receive on Manus Island or Nauru. For more information, see RCOA (2019b)

I want to do it in a way that doesn't restart boats, and kids drowning again at sea" (Borys, 2019). Similarly, in 2015, when questioned by a journalist about the safety of female refugees on Nauru, Dutton acknowledged that he wanted a safe environment on the island, but reaffirmed government policy: "we're not going allow people who seek to come to Australia by boat to settle on the mainland" (Dutton, 2015, para. 6). It is this pervasive idea, linking the need for island detention centres with the efficacy of migration control, and the fact that a whole ecosystem of physical infrastructure, contractual relationships, and bureaucratic processes has been manufactured to serve it, that characterizes the punitive function at play. In this context, the means, however costly in economic, human, or moral terms, seem to justify the ends.

Academic Robert Manne and former immigration official Shaun Hanns both question this logic, arguing that 'stopping the boats' relies on the effectiveness of interdiction and turn-back policies and not on the cruelty of the offshore regime (Hanns, 2018). Had the deterrent effect of locking up innocent children, women, and men been so powerful, the boats would have stopped without the need for interception and turn-backs. Hanns posits many politicians and bureaucrats likely understand his argument but are hamstrung by the "myth […] that any kindness, any whatsoever, will restart the [people smuggling] industry" (Hanns, 2018, para 28). Manne goes further, calling out a pervasive "culture of automaticity" in which the relationship between means and intended policy ends has been forgotten or lost, and that the status quo policy continues in an all-consuming bureaucratic maze (Manne, 2018). Nonetheless, the idea remains salient in the political discourse, and the policy continues today.

The logic of demonstrative punishment for deterrence purposes is equally visible in how governments have treated 'boat people' in the Australian community.[6] From 2012 to 2014, the government imposed a 'No Advantage' policy on the approximately 31,000 people in this cohort, barring its subjects from applying for protection visas, working or studying (Murphy, 2012). In lieu of being allowed to work, the government provided welfare payments valued at 89% of the lowest welfare rate (approximately AUD 35 per day) available to Australian citizens (Rego, 2018). The payment rate was well below the nationally accepted poverty line of

6 People seeking asylum arriving by plane with valid visas have not been subjected to the No Advantage policy.

about $60 per day and was expected to cover rent, utilities, food, and public transport costs (Rego, 2018). Prime Minister Julia Gillard summed up the policy's logic when she said we must "[…] ensure that everyone is subject to a consistent, fair, assessment process […] and that arriving by boat does not give anybody an advantage in the likelihood that they would end up settling in Australia" (Gillard, 2013, paras. 81-82). The No Advantage policy precipitated several social, psychological, and economic problems for this group of people, including widespread poverty, homelessness, and work in unscrupulous cash-in-hand arrangements (Rego, 2018). According to Procter, Kenny, Eaton and Grech (2018), this cohort experienced unusually high rates of major depressive disorders, anxiety, and PTSD associated with their circumstances.

In December 2014, the new LNP government reintroduced work rights for this cohort, but at the same time announced that they would no longer be eligible for permanent protection in Australia even as recognized refugees under the government's own RSD process. The *Maritime Powers Legislation Amendment (Resolving the Asylum Caseload) Bill 2014* introduced two forms of temporary visas—the Temporary Protection Visa (TPV) and the Safe Haven Enterprise Visa (SHEV). TPV and SHEV holders would receive three- and five-year visas respectively, after which they would have to reapply and be assessed against changing conditions in their countries of origin. Moreover, TPV holders would not have access to fundamental rights and services such as tertiary education subsidies, public housing, or disability assistance, provided to every other class of humanitarian visa holder (Rego, 2018). Most tellingly, TPV and SHEV holders would have no right of family reunion despite the obvious fact that family members of these recognized refugees were likely languishing in situations of persecution (Rego, 2018). Finally, since late 2017, the government has begun excluding asylum seeker students, those who had transferred money overseas, those deemed 'work-ready' by departmental assessment, and those on other substantive visas who had applied for protection, from eligibility for vital support services such as the 89% welfare payment, torture and trauma services, and casework (Okhovat, 2018). Okhovat also indicates that pregnant women without complications, those with undiagnosed mental illnesses, and people over the age of sixty are deemed to be work-ready by the government's criteria and have less than a month to find employment before losing access to support services. Recent research based on a survey of key NGOs working with approximately 19,200 people in this cohort found

that 69% are either unemployed or not in the labour force, and that only 20% are job-ready. This policy of "manufactured destitution" is reportedly designed to reduce support provisions to 60% of the 13,299 people on it as of February 2018 (van Kooy & Ward, 2018).

Punitive border functions target subjects of border control—overwhelmingly people seeking asylum by boat in Australia's case—who are both outside and within Australia's sovereign territorial borders. These functions incorporate a wide a range of predominantly bureaucratic (and non-reviewable) measures designed to punish those deemed to be Australia's responsibility and to deter future arrivals.

SPATIAL MOBILITY AT THE AUSTRALIAN BORDER

For the border to be functionally mobile, it requires a level of in-built flexibility in the way space and time are used, and also a level of differential applicability for individuals or groups based on government or departmental discretion. *Spatial mobility* refers to the way in which physical or sovereign space is redefined, repurposed, and manipulated in the service of migration control. Here two means by which governments have redefined the meaning of or manipulated space or territory to exclude people seeking asylum arriving by irregular means are outlined.

Excising territory from the 'migration zone'

Australia's migration zone is defined in domestic law as the area in which all non-citizens must hold valid visas in order to enter or remain (Weber, 2006, p. 27). The policy of territorial excision from the migration zone first came into the political and legal vernacular in the aftermath of the 2001 Tampa crisis (Vogl, 2015). It was part of an extensive set of reforms aimed at regaining control of borders from the "waves of boats carrying smuggled migrants and heading towards Australia's territorial waters" (pp. 122-123). The first bill to excise parts of Australian territory from the migration zone, the *Migration Amendment (Excision from Migration Zone) Act 2001 (Cth),* was passed on 26 September 2001, with bipartisan support. It established a new legal category of geography called an 'excised offshore place,' which initially applied to 4,891 islands off the coast of Australia (Vogl, 2015), and was extended to include the whole mainland via an amendment in 2013 (Phillips, 2013). The bill's passage ensured any person without a valid visa who first reached Australian territory at an 'excised offshore place'

by sea was to be classified as an 'offshore entry person' (Vogl, 2015, p. 125). They were no longer eligible to apply for protection in Australia and to access independent administrative and judicial review of migration decisions. They could also now be legally transported to third countries for processing. Moreover, the bar on making visa applications onshore for those arriving on excised territories could only be lifted at the Minister's discretion and would remain in place even if the applicant entered the migration zone legally at a later date (Vogl, 2015).

Excision has been an effective and consistent means of redefining sovereign territory in order to enable the physical and juridical exclusion of refugees, people seeking asylum, irregular migrants from Australia, and erode the right to seek asylum despite Australia's clear obligations under the Refugee Convention. A person ineligible to access the domestic legal framework, has also provided part of the basis for transferring people to offshore detention centres. In practice, Australia does not cede any practical control over its sovereign territory. Every single piece of land excised from the migration zone remains Commonwealth sovereign territory in law and practice. It is a mark of the Australian state's absolute sovereignty that it can construct and institutionalize legal fictions to define and redefine its territory for different governance purposes even when eroding its existing international obligations under international law.[7]

Effective control vs territorial sovereignty in other sovereign jurisdictions

The meaning and use of space in Australia's offshore regime also speaks to the redefinition and manipulation of space as a function of the border. Australia has instigated the establishment of the offshore detention centres on Nauru and Manus Island; has paid for their construction and funded their operations; engages the contractors who work there; is solely responsible for the placement and removal of all asylum seekers there; and is aware of all the risks and dangers posed by the arrangements and operations on both islands (Commonwealth of Australia, 2015). According to the Law Council of Australia, and the Human Rights Law Centre, such a level of involvement and decision-making power renders these asylum

7 See Lester (2018) to understand how 'absolute sovereignty' has been justified and put into practice in the arena of Australian migration law.

seekers "effectively subject to Australia's jurisdiction and control" (p. 13). In other words, Australia arguably has 'effective control' over asylum seekers transferred to the sovereign jurisdictions of Nauru and PNG. In reality, to maintain Australia's absolute sovereignty and control.

Australian leaders and bureaucrats challenge this claim. In a 2015 senate committee hearing, Secretary of the then Department of Immigration and Border Protection (DIBP), Michael Pezzullo stated that "the Australian government does not run the Nauru Regional Processing Centre. It is managed by the government of Nauru, with support from the Australian government" (p. 43). In a subsequent hearing, he noted:

> It would require a treaty level transference of sovereignty, an abrogation on the part of the government of Nauru, and an acquisition of sovereignty on the part of the Commonwealth of Australia, for Australia to have sovereignty in relation to, for instance, the administration of criminal justice [on Nauru]. (Commonwealth of Australia, 2015, pp. 11-12)

Put differently, Australia invokes traditional Westphalian notions of territorial sovereignty to deflect responsibility for the asylum seekers on the Nauruan and PNG governments. At the same time, Australia also retains a significant degree of decision-making power, formal and informal influence of the operation of the centres and substantial economic power over these countries. The ambiguity in the question of who controls the spaces and territories has allowed Australia to defend its inaction in the face of the human suffering proliferating on the islands. Nauru has invoked its own sovereignty by, for example, barring the majority of Australian journalists from reporting on the island's detention centres, and obfuscating Australian civil society scrutiny of the regime (Karp, 2016). Similarly, after the MedEvac Bill was passed in 2019, Nauru announced that residents granted medical assessment based on videoconferencing or other forms of online assessment would no longer be permitted medical transfer off the island (Koziol, 2019).

The definition of physical space and territory in the context of offshore detention is fluid and changing. This was aptly demonstrated in late 2017 when the Supreme Court of PNG declared the Manus Island detention centre unconstitutional and ordered its closure (Fox, 2017). The decision highlighted a rare moment in which PNG exercised its sovereign

right over the centre and superseded Australian policy. The decision raised a difficult question about what would happen to the men after the closure of the centre. How would the shift in control of the centre correlate with responsibility for the men? Ultimately, neither country accepted responsibility for the men's wellbeing and future. PNG argued that they were Australia's responsibility, and Australia reaffirmed that they would not be resettled in Australia. By default, the majority of men remain in Lorengau on the island in a situation of limbo and with limited access to fundamental rights and services.

Key human rights violations in Australia's border control regime

Many aspects of Australia's border control regime breach fundamental tenets of International Refugee Law (IRL) and International Human Rights Law (IHRL). In the last five years alone, key international human rights institutions have made numerous official statements regarding these breaches. It is worth recounting some of these statements here, as they constitute strong and credible critiques of the nature and function of the Australian border today. Despite Australia's ratification of many of the treaties that underpin these breaches, these pronouncements appear to have little impact on Australia's policies or public opinion.

Pronouncements focus on breaches of crucial civil, political, social, economic and cultural rights in Australian policy. The more punitive functions of Australia's regime, including mandatory detention, boat turnbacks and the cuts to support services for people seeking asylum in the community have come under specific scrutiny. Key rights engaged include freedom from torture, inhumane and degrading treatment; the right to life, liberty, family life, private life; the right to due process, adequate housing and health, among others.

Offshore processing and boat-turn backs

Multiple UN bodies have criticized Australia's offshore processing and detention policies. For example, UNHCR has weighed into debates about Australia's effective responsibility for the treatment of refugees and asylum seekers on Manus Island and Nauru on multiple occasions. In 2017, UNHCR's regional representative in Canberra stated that:

> As a signatory to the 1951 Refugee Convention, Australia remains responsible for those who have sought its protection. This includes a duty to consider claims for international protection fairly and efficiently, and to provide refugees and asylum-seekers with a minimum standard of living which is humane and dignified. (2017, para. 6)

Similarly, in 2017, the Office of the High Commissioner for Human Rights (OHCHR) noted the unfolding humanitarian emergency precipitated by the sudden closure of the regional processing centre on Manus Island on October 2017 (Colville, 2017). As noted before, it was the PNG Supreme Court that mandated the closure of Lobrum airbase as a detention centre forcing the Australian government to confront, if only temporarily, the prospect of responding to one of the only real and definitive assertions of national sovereignty by an offshore processing partner.

The OCHCR has also drawn attention to human rights breaches within the offshore regime as a whole, stating that Australia's offshore centres "are unsustainable, inhumane and contrary to its human rights obligations" (Colville, 2017, para. 2). In September 2018, Michelle Bachelet the new UN High Commissioner for Human Rights condemned Australia's offshore detention regime as an "affront to the protection of human rights" (Doherty, 2018, para. 18). More specifically, the OHCHR has referred to lack of safety on Nauru, including by expressing its "concern(s) about the serious allegations of violence, sexual assault, degrading treatment, and self-harm contained in more than 1,000 incident reports, many of which reportedly involved children" ("Australia and Nauru must end offshore detention", 2016, para. 1). The OHCHR recommended further investigations of these allegations. Previous Human Rights Commissioner Zeid Ra'ad Al Hussein linked the perpetuation of these alleged abuses with the higher likelihood of a return to situations of harm or persecution. Al Hussein stated in his maiden speech in 2014 that:

> Australia's policy of off-shore processing for asylum seekers arriving by sea, and its interception and turning back of vessels, is leading to a chain of human rights violations, including arbitrary detention and possible torture following return to home countries. (Al Hussein, 2014, para. 43)

In March 2015, the UN's Special Rapporteur Report on Torture, Juan E. Méndez established that Australia is breaching its obligations on the prohibition of torture, inhumane and degrading treatment stating that:

> Australia, by failing to provide adequate detention conditions, ending the practice of detention of children, and putting a stop to the escalating violence and tension at the Regional Processing Centre, has violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment, as provided by […] the Convention against Torture (CAT). (Mendez, 2015, p. 7)

The Committee Against Torture (CAT) also expressed concerns about Australia's policy of transferring asylum seekers to regional processing centres in Nauru and PNG, noting that "the combination of these harsh conditions, the protracted periods of closed detention and the uncertainty about the future reportedly create serious physical and mental pain and suffering" (Mendez, 2015, p. 7). The Committee has also questioned the differential treatment of people seeking asylum based on their mode of arrival or carriage of identity documents. It states that Australia should "guarantee that all asylum seekers or persons in need of international protection who are under its effective control are afforded the same standards of protection against violations of the Convention (CAT) regardless of their mode and/or date of arrival" (Mendez, 2015, p. 7).

In 2017, the UN Committee on Economic, Social and Cultural Rights stated that it was

> alarmed by the punitive approach taken by Australia in recent years towards asylum seekers arriving by boat without a valid visa. It also expressed its concerns about "policy of transferring asylum seekers to the regional processing centres for the processing of their claims, despite public reports on the harsh conditions prevailing in those centres, including for children. (Committee on Economic, Social and Cultural Rights, 2017, p. 4)

In October 2017, the UN Special Rapporteur on Extrajudicial Killings, Agnes Callamard, said that Australia's regime of secretive boat-turnbacks raises serious concerns" and "may intentionally put lives at risk, given that

security officials know, but disregard, the reality that returnees may be victims of brutal crimes when returned under these circumstances" (Human Rights Law Centre [HRLC], 2017, para. 2).

IMPACTS ON CHILDREN AND FAMILIES

In October 2016, the UN's Committee on the Rights of the Child drew attention to the "cramped, humid and life-threatening conditions" that children are exposed to in regional processing centres, including reported restrictions on drinking water and the lack of available paediatricians. The Committee's report also highlighted the "inhuman and degrading treatment, including physical, psychological and sexual abuse, against asylum-seeking and refugee children living in the Regional Processing Centres" (Anderson, 2016, para. 4) and expressed concern about

> spending prolonged periods in such conditions (a)s detrimental to the mental and physical well-being of …children, (which) has led to some as young as 11 years attempting suicide and engaging in other forms of self-harm. (Anderson, 2016, para. 4)

Similarly, in Australia's combined fourth and fifth periodic reviews to CAT in 2016 and 2017, it is stated that Australia should ensure that "…children and families with children are not detained or, if at all, only as a measure of last resort, after alternatives to detention have been duly examined and exhausted" (Concluding observations on the fifth periodic report of Australia, 2017)

Moreover, in December 201,7 UNICEF Australia stated that family separation for refugees on Nauru and Manus Island remained a serious concern and reaffirmed the paramount importance of family unity. UNICEF Australia said

> […] Australia's offshore processing arrangements have fractured a number of families for over four years, and could now lead to permanent separation for children and their loved ones, who have already experienced severe grief and trauma. (2017, para. 5)

ARBITRARY DETENTION

Former Special Rapporteur on the Human Rights of Migrants, François Crepeau visited Australia in 2016. In his 2017 report, he noted that the average

period of detention in an Australian centre is 454 days (Crepeau, 2017). He also stated that prolonged and indefinite detention has a profound effect on migrants' mental well-being, citing numerous cases of self-harm, Post Traumatic Stress Disorder (PTSD), anxiety and depression, as reported in consultations to him. Crepeau noted that the collective nature of these impacts "amounted to cruel, inhuman and degrading treatment". Additionally, Crepeau said that Australia has increasingly eroded the human rights of migrants, in contravention of the country's international human rights and humanitarian obligations. He recommended that "Australia develop and implement a human rights-based approach to migration and border management, ensuring that the rights of migrants, including undocumented migrants, are always given priority" (UN General Assembly, 2017, para. 6).

In its September 2018 Annual Report, the UN Working Group on Arbitrary Detention said that it was concerned by "the rising prevalence of deprivation of liberty of immigrants and asylum seekers" worldwide and "the growing use of detention in the context of migration" (Doherty, 2018, para. 2). According to Doherty, three cases of arbitrary detention in Australia were highlighted by the group, including that of a stateless man detained for nearly nine years without charge or trial. Australia did not respond to the working group's concerns and ignored recommendations to release the men and compensate them for their illegal detention.

Lack of Adequate Access to Support Services in Australia

In late 2017, the Australian government cut support services to people who had been medically evacuated from Manus Island and Nauru. UNHCR stated it would leave refugees and asylum seekers "at serious risk of destitution […] and that any removal of such basic and fundamental support could wrongly coerce the most vulnerable to return to Papua New Guinea, Nauru, or their countries of origin" (Davidson, 2018, paras. 15-16).

In September 2018, the UN Special Rapporteur for Extreme Poverty and Human Rights, Philip Alston spoke about the cuts to basic income support, casework and torture and trauma counselling services for people seeking asylum in the Australian community. He said, "what is going to come out of this is putting people who are already living in poverty in an even worse situation than they currently are in" (Chalmers, 2018, para. 16). He added that "removing people from the payment would leave (people) at risk of hunger and homelessness" (para. 17) and that it is important "to ensure

that a minimum level of social protection is available for human decency" (para. 18). The proposed changes "seem designed…to send the message that if you are an asylum seeker in Australia, you will live in absolutely miserable conditions" (Chalmers, 2018, para. 14).

How Australia's border control regime impacts children, women, and men seeking protection

JRS Australia is a country office of the Jesuit Refugee Service, an international Catholic organization whose mission is to accompany, serve, and advocate for the rights of refugees and other forcibly displaced people. JRS works with people in urban settings, refugee camps, war zones, and detention centres.

JRS Australia works with people seeking asylum, including those transferred from Nauru and Manus, refugees on temporary protection visas, and migrants in vulnerable situations in the Australian community. JRS Australia provides emergency assistance, temporary shelter, a food bank, professional casework, community activities, employment support, school engagement, legal advice, targeted advocacy, and specialist support to women seeking asylum in order to combat the impacts of many of the policies listed above (Jesuit Refugee Service Australia [JRS Australia], n. d.). JRS Australia's frontline work with more than 3,000 people seeking asylum in 2017 has given us insights into the impacts of the punitive dimensions of Australia's border control regime on the lives of children, women, and men already in Australia.

People transferred from Nauru and Manus Island

As of February 2019, approximately 898 people had been transferred to Australia for medical treatment or to accompany sick family members since 2013. Of this group, approximately 403 people live in community detention, 149 live on bridging visas in the Australian community, and a further 39 are in closed detention centres (RCOA, 2019a). JRS Australia has supported children, women, and men from this cohort.

People transferred for medical reasons with whom JRS works are experiencing severe forms of PTSD, depressive or anxiety disorders, or what is known as Trauma Withdrawal Syndrome (TWS). People report regular, intrusive flashbacks triggered by sights or sounds, feelings of unexplained

fear, and the inability to trust anyone, suicidal ideations and chronic pain whose causes are not clearly determined yet. Many in the group are addicted to pain medication, widely used by health providers in detention environments. Some women have also experienced pregnancy loss or stillbirth.

TWS takes months, and in some cases, years to treat successfully. School-aged children have missed out on years of education and normal social interaction, which makes attending and succeeding in school extremely difficult once evacuated.

The vast majority of people JRS Australia has worked with want to be self-sufficient and rebuild their lives. People in these circumstances want to work, want their children to go to school, and on to university. However, some critical aspects of these policies reinforce a sense of hopelessness and despair. For example, when people transferred from Nauru and Manus are given bridging visas, they are often with work rights, but without study rights. This means that to upskill or adapt for the Australian workplace is considered a breach of visa conditions. Moreover, renewals of expiring bridging visas often take weeks, during which time people in these conditions are rendered unlawful, lose their jobs, and fall into situations of poverty. Medicare cards expire on the same day as bridging visas and cannot be renewed until a new visa is granted, creating disruptions in access to the medical treatment they were originally evacuated for.

These kinds of discretionary policies, applied without pattern or principle, reinforce a sense of inexplicable cruelty experienced on the RPCs. As a result, many say they have given up hope of understanding anything that happens to them and can no longer imagine being in control of their lives. JRS Australia works with people for whom surviving day by day has become the only reality imaginable. Moreover, the fear of being returned to the offshore centres or being deported to countries of origin is real and it weighs down on families reinforcing or even worsening symptoms experienced on Manus Island or Nauru.

PEOPLE SEEKING ASYLUM IN THE AUSTRALIAN COMMUNITY AFFECTED BY CUTS TO SUPPORT SERVICES

As mentioned in Section 2, since 2017, the Australian government has been tightening access to and eligibility for financial support, torture and trauma counselling, and casework services. JRS Australia works with many people seeking asylum who are waiting for their protection claims to be adjudicated on and are already facing the impacts of these cuts. JRS Australia is also

working with people seeking asylum who arrived by plane and on other substantive visas, who are not eligible for the program or not being assessed as vulnerable enough in practice.

JRS Australia has argued that these policy changes amount to forced destitution and could force thousands into situations of hunger, and homelessness, compound trauma, lead to social isolation, family breakdown or violence, and emotional and cognitive impairments for children over the long term (Okhovat, 2018). People are likely to gravitate towards unsecured, unregulated, casual, and potentially exploitative labour in order to pay rent or put meals on the table when left without access to a safety net.

Seventy two to eighty eight percent of people in this group have thus far been found to be refugees and could become citizens in the future if permanent protection is reintroduced (Okhovat, 2018). In any case, it is likely that these individuals will remain in the Australian community for years, if not decades. Creating a social policy that pushes these individuals into homelessness and destitution is counter-productive to the well-stated social policy goals of integration and social inclusion. The continuation of such policies, aimed at a small cohort of asylum seekers arriving by boat illustrates how pervasive the logic of deterrence by punishment is.

LACK OF PERMANENT PROTECTION AND GAPS IN DUE PROCESS

JRS Australia also works with people who arrived by boat between 2012 and 2014, and who do not have access to the normal Refugee Status Determination process in Australia. They are only eligible to apply for protection under a truncated and procedurally unfair 'Fast-Track' process introduced under the aforementioned *Resolving the Asylum Legacy Caseload Bill 2014* (Andrew & Renata Kaldor Centre for International Refugee Law, 2019).

As part of the Fast-Track process, the government replaced the independent merits review mechanism with a body called the Immigration Assessment Authority (IAA) without providing, in the overwhelming majority of cases, applicants with the opportunity to respond to the officer's doubts about their claim, to provide new information relevant to their case, or appear for a second interview (McDonald & O'Sullivan, 2018).[8] The removal of these core elements of independent review runs contrary to standards of procedural fairness applied more broadly in the Australian administrative

8 According to McDonald & O'Sullivan (2018), only 1.2% of applicants were granted an oral interview at the IAA between 1 July 2015 and 31 December 2017.

appeals system. In particular, it creates an imbalance between the principles of fairness and efficiency because of how the IAA's limited mandate is being interpreted in practice (McDonald & O'Sullivan, 2018).

Allowing applicants to present their case afresh a second time is crucial to the integrity of Refugee Status Determination. Moreover, interview environments can create significant stress and anxiety; stories are often complex, and re-traumatizing; country situations change in subtle or localized ways. It often takes more than a single interview with a DHA official for the complexities of cases to reveal themselves and informed decisions to be made.

Many people have to wait more than two years for judicial review hearings to determine whether there exists any 'legal error'. During this period, they are no longer eligible for SRSS payments and have to survive on short-term bridging visas, which are seldom recognized by employers. Destitution, homelessness, and ongoing limbo are significant challenges that affect this population.

Indefinite temporariness creates a lack of belonging, compounds past traumas, and causes new psychological ailments. This can, in turn, affect the ability to find and maintain employment, and result in a greater long-term resource burden on health and homelessness services provided by governments, charities, and communities.

Conclusions

The nature of Australia's border has been flexible across history. Its subjects and mechanisms of control have corresponded to political, social, economic, and technological realities. What is common across this history is a deep and enduring compulsion to exercise control over who comes to this country. This compulsion comes at a high moral, political, and economic cost, but appears to be fuelled both by racism and a desire to 'Other' people who come by undesirable means.

In this chapter, we have attempted to show how this obsession with border control has evolved and manifested in a range of complex spatial and functional dynamics of the border itself, made real by a raft of legal, political, and diplomatic fictions and the perceived need to exercise absolute sovereignty. In the process, Australia has demonstrated little regard for International Refugee Law and International Human Rights Law and has

progressively eroded the right to seek asylum. As the chapter shows, key international human rights institutions and leaders have laid bare the nature of these violations in numerous statements over the last five to ten years.

These statements of condemnation and their reputational consequences seem to have little effect on Australia's leaders, one of whom recently retorted that Australians "are sick of being lectured to by the United Nations" (Cox, 2015, para. 7). Australia's leaders also boast of having the best systems to manage migration in the world and seek to export this system, involving extra-territorialisation of border control and detention policies.

Through the work of JRS Australia, we have gained an understanding of the effects and the enormous cost of these punitive measures on asylum seekers, refugees, and migrants and the Australian community as a whole. Some of these dimensions are highlighted above. People seeking asylum and some refugees and migrants live in extremely vulnerable situations: in limbo, fear, hunger, destitution, and exploitation without access to due process. Nonetheless, they are incredibly resilient.

This can be via a mix of evidence-based advocacy, a people's movement that puts pressure on our decision-makers to shift policies, and a commitment to shifting hearts and minds over time.

References

Al Hussein, Z. R. (2014, September 8). *Opening statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights at the Human Rights Council 27th Session*. OCHCR website. Retrieved from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14998&LangID=E

Anderson, S. (2016, October 7). UN slams Nauru's treatment of asylum seeker, refugee children. *ABC News*. Retrieved from https://www.abc.net.au/news/2016-10-07/un-slams-nauru-treatment-of-refugee-children/7914132

Andrew & Renata Kaldor Centre for International Refugee Law. (2019). *What is the Legacy Caseload?* Kaldor Centre website. Retrieved from https://www.kaldorcentre.unsw.edu.au/publication/legacy-caseload

Australia and Nauru must end offshore detention; investigate claims of abuse – UN rights office. (2016, August 12). *UN News*. https://news.un.org/en/story/2016/08/536522-australia-and-nauru-must-end-offshore-detention-investigate-claims-abuse-un

Australian Associated Press. (2018, October 27). Almost 80% of voters support NZ resettlement for children on Nauru, poll shows. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2018/oct/28/

almost-80-of-voters-support-nz-resettlement-for-children-on-nauru-poll-shows

Australian Government, Department of Home Affairs. (n.d.). *Visa statistics*. Retrieved from https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live

Australian Human Rights Commission (AHRC). (2013, June 26). *Tell me about: The 'Enhanced Screening Process'*. AHRC website. Retrieved from https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/tell-me-about-enhanced-screening-process

Beldi, L. (2018, September 5). Nauru faces uncertain economic future as asylum seekers leave and the money dries up. *ABC News*. Retrieved from https://www.abc.net.au/news/2018-09-06/when-asylum-seekers-stop-where-will-nauru-get-its-money/10199362

Betts, A. (2009). *Protection by persuasion: International cooperation in the refugee regime*. Cornell, NY: Cornell University Press.

Bishop, J. (2013, February 4). *Joint press conference Julie Bishop MP and Scott Morrison MP* [Video]. Julie Bishop MP website. Retrieved from https://www.juliebishop.com.au/joint-press-conference-julie-bishop-mp-and-scott-morrison-mp/

Blainey, G. (1984). *All for Australia*. Sydney, AU: Methuen Hayes.

Bloom T., & Risse, V. (2017). Examining hidden coercion at state borders: why carrier sanctions cannot be justified. *Ethics and Global Politics, 7*(2), 65-82. https://doi.org/10.3402/egp.v7.24736

Borys, S. (2019, June 16). Federal Government under mounting pressure to resettle refugees on Manus Island and Nauru. *ABC News*. Retrieved from https://www.abc.net.au/news/2019-06-17/pressure-on-federal-government-resettle-refugees-manus-nauru/11215064

Chalmers, M. (2018, September 5). Removing asylum seekers from support payments 'sends a message'. *ABC News*. Retrieved from https://www.abc.net.au/news/2018-09-06/asylum-seekers-removed-from-support-payments/10203008

Chan, G. (2013, August 9). Labor to press ahead with asylum seeker ads, despite criticism. *The Guardian Australia*. Retrieved from https://www.theguardian.com/world/2013/aug/09/labor-presses-ahead-with-asylum-ads

Colville, R. (2017, November 3). UN concerned over 'unfolding humanitarian emergency' at Australia's offshore processing centre. *UN News*. Retrieved from https://news.un.org/en/story/2017/11/569892-un-concerned-over-unfolding-humanitarian-emergency-australias-offshore

Committee on Economic, Social and Cultural Rights. (2017). Concluding observations on the fifth periodic report of Australia. Retrieved from https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAUS%2fCO%2f5&Lang=en

Commonwealth of Australia. (2015). Obligations and performance of the Commonwealth in relation to the Nauru Regional Processing Centre. In Parliament of Australia (Ed.), *Taking responsibility: conditions and circumstances at Australia's Regional Processing Centre in Nauru* (pp. 11-57). Retrieved from https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Final%20Report/c02

Cooper, H. (2013). Asylum seeker 'enhanced screenings' dangerous: former official. *ABC News*. Retrieved from https://www.abc.net.au/news/2013-06-10/asylum-seeker-enhanced-screenings-dangerous-former-official-says/4744628

Cox, L. (2015, March 10). Tony Abbott: Australians 'sick of being lectured to' by United Nations, after report finds anti-torture breach. *The Sydney Morning Herald*. Retrieved from https://www.smh.com.au/politics/federal/tony-abbott-australians-sick-of-being-lectured-to-by-united-nations-after-report-finds-antitorture-breach-20150309-13z3j0.html

Crepeau, F. (2017). *Report of the Special Rapporteur on the human rights of migrants on his mission to Australia and the regional processing centres in Nauru*. Relief Web website. Retrieved from https://reliefweb.int/sites/reliefweb.int/files/resources/G1709891.pdf

Cruickshank, J., & Moreton-Robinson, A. (2016). *The white possessive: Property, power, and indigenous sovereignty*. Minnesota, US: University of Minnesota Press

Curby, N. (2018, October 27). Asylum Seekers Homeless in Indonesia. *The Saturday Paper*. Retrieved from https://www.thesaturdaypaper.com.au/news/politics/2018/10/27/asylum-seekers-homeless-indonesia/15405588007061

Davidson, H. (2018, May 19). Vinnies blasts 'cruel' cut in benefits to asylum seekers on medical treatment. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2018/may/19/vinnies-blasts-cruel-cut-in-benefits-to-asylum-seekers-on-medical-treatment?utm_source=esp&utm_medium=Email&utm_campaign=GU+Today+AUS+v1+-+AUS+morning+mail+callout&utm_term=275403&subid=25051220&CMP=ema_632

Doherty, B. (2018, September 14). Australia is reported to UN human rights council over illegal detention of asylum seekers. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2018/sep/15/australia-is-reported-to-un-human-rights-council-over-illegal-detention-of-asylum-seekers

Dutton, P. (2015, October 6). *Nauru detention centre, regional resettlement options*. Minister for Home Affairs website. Retrieved from https://minister.

homeaffairs.gov.au/peterdutton/2015/Pages/nauru-detention-centre-regional.aspx

Dutton, P. (2018, October 29). *Joint Doorstop Interview, Townsville*. Minister for Home Affairs website. Retrieved from https://minister.homeaffairs.gov.au/peterdutton/Pages/joint-doorstop-interview-townsville.aspx

Fox, L. (2017, October 31). Manus Island detention centre to permanently close today, 600 men refusing to leave. *ABC News*. Retrieved from https://www.abc.net.au/news/2017-10-31/manus-island-detention-centre-to-close-at-5pm-today/9102768

Gillard, J. (2013, August 23). Full transcript: Gillard's asylum policy speech. *SBS News*. Retrieved from https://www.sbs.com.au/news/full-transcript-gillard-s-asylum-policy-speech

Gordon, M. (2016, November 21). Offshore detainees' mental illness among highest of any surveyed population: Study. *The Sydney Morning Herald*. Retrieved from https://www.smh.com.au/politics/federal/offshore-detention-study-detects-mental-health-rates-amongst-the-highest-recorded-of-any-surveyed-population-20161121-gstw30.html

Hanns, S. (2018, November 18). I left the immigration department to speak out. *The Monthly*. Retrieved from https://www.themonthly.com.au/issue/2018/november/1540990800/shaun-hanns/i-left-immigration-department-speak-out

Harvey, G. (2018, October 26). Surviving while seeking asylum. *Inside Indonesia*. Retrieved from https://www.insideindonesia.org/surviving-while-seeking-asylum

Higgins, C. (2017). *Asylum by boat: Origins of Australia's refugee policy*. Sydney, AU: University of New South Wales Press.

Hirsch, A. (2014, December 5). The extra-territorialisation of migration control and the right to seek asylum. *Right Now Magazine*. Retrieved from http://rightnow.org.au/opinion-3/the-extra-territorialisation-of-migration-control-and-the-right-to-seek-asylum/

Hirsch, A. (2016, December 8). To stop boat deaths, abolish carrier sanctions and let asylum seekers travel by plane. *Right Now Magazine*. Retrieved from http://rightnow.org.au/opinion-3/carrier-sanctions-stop-asylum-seekers-getting-planes/

Human Rights Law Centre (HRLC). (2017). *Australia's refugee policies come under more UN fire for "putting lives at risk*. HRLC website. Retrieved from https://www.hrlc.org.au/news/2017/10/28/australias-refugee-policies-comes-under-more-un-fire-for-putting-lives-at-risk

Human Rights Watch (HRW). (2017). *Australia/PNG. Refugees face unchecked violence: Keeping people on Manus Island leaves hundreds at risk*. HRW

website. Retrieved from https://www.hrw.org/news/2017/10/25/australia/png-refugees-face-unchecked-violence

Human Rights Watch (HRW). (n. d.). *World Report 2013: Sri Lanka*. HRW Website. Retrieved from https://www.hrw.org/world-report/2013/country-chapters/sri-lanka#

Jesuit Refugee Service Australia (JRS Australia). (n. d.). *About JRS Australia*. JRS Australia website. Retrieved from https://www.jrs.org.au/about-us/

Jones, B. T. (2017). Australian politics explainer: The White Australia policy. *The Conversation*. Retrieved from https://theconversation.com/australian-politics-explainer-the-white-australia-policy-74084

Jones, R. (2016). *Violent Borders: Refugees and the right to move*. New York, NY: Verso Books.

Jones, R., & Ferdoush, M. A. (2018). *Borders and mobility in South Asia and beyond*. Amsterdam: Amsterdam University Press.

Karlsen, E. (2016). *Australia's offshore processing of asylum seekers in Nauru and PNG: a quick guide to statistics and resources*. Australian Parliamentary Library. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/Offshore

Karp, P. (2016, June 14). Keeping journalists out of detention centres helps stop boats, says Cormann. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2016/jun/14/keeping-journalists-out-of-detention-centres-helps-stop-asylum-boats-mathias-cormann-bill-shorten-election

Kelly, P. (2008). *The end of certainty*. Sydney, AU: Allen and Unwin.

Koziol, M. (2019, February 19). Nauru bans 'telemedicine' for medical transfers in threat to new Australian laws. *The Sydney Morning Herald*. Retrieved from https://www.smh.com.au/politics/federal/nauru-bans-telemedicine-for-medical-transfers-in-threat-to-new-australian-laws-20190219-p50yqh.html

Lake, M., & Reynolds, H. (2008). *Drawing the global colour line: White men's countries and the international challenge of racial equality*. Cambridge, UK: Cambridge University Press.

Laughland, O. (2014a, February 11). Australian government targets asylum seekers with graphic campaign. *The Guardian Australia*. Retrieved from https://www.theguardian.com/world/2014/feb/11/government-launches-new-graphic-campaign-to-deter-asylum-seekers

Laughland, O. (2014b, April 11). Angus Campbell warns asylum seekers not to travel to Australia by boat. *The Guardian Australia*. Retrieved from

https://www.theguardian.com/world/2014/apr/11/angus-campbell-stars-in-videos-warning-asylum-seekers-not-to-travel-by-boat

Lester, E. (2018). Making migration law: The foreigner, sovereignty, and the case of Australia. Cambridge, UK: Cambridge University Press. https://doi.org/10.1017/9781316779910

Manne, R. (2016, October 25). How we came to be so cruel to asylum seekers. *The Conversation*. Retrieved from https://theconversation.com/robert-manne-how-we-came-to-be-so-cruel-to-asylum-seekers-67542

Manne, R. (2018, September 22). This pains me, but it's time to compromise on Australia's cruel asylum seeker policy. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2018/sep/23/this-pains-me-but-its-time-to-compromise-on-australias-cruel-asylum-seeker-policy

Mares, P. (2002). *Borderline: Australia's response to refugees and asylum seekers in the Wake of the Tampa*. Sydney, AU: University of NSW Press.

Mayes, C., & Thompson, M. (2017, May 12). Australia's history of racialized border control and weaponized values. *ABC Religion & Ethics*. Retrieved from https://www.abc.net.au/religion/australias-history-of-racialized-border-control-and-weaponized-v/10095792

McAdam, J. (2013). Australia and asylum seekers. *International Journal of Refugee Law, 25*(3), 435-448. https://doi.org/10.1093/ijrl/eet044

McDonald, E., & O'Sullivan, M. (2018). Protecting vulnerable refugees: Procedural fairness in the Australian fast track regime. *University of New South Wales Law Journal, 41*(3), 1-47. Retrieved from http://classic.austlii.edu.au/cgi-bin/download.cgi/cgi-bin/download.cgi/download/au/journals/UNSWLawJl/2018/34.pdf

Medhora, S. (2018, November 19). Scott Morrison: barring resettlement from Indonesia is 'taking the sugar off the table. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2014/nov/19/scott-morrison-resettlement-indonesia-sugar-table

Medhora, S., & Safi, M. (2015, September 10). Scott Morrison says Christians will be focus of Australia's refugee intake. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2015/sep/10/scott-morrison-says-christians-will-be-focus-of-australias-refugee-intake

Mendez, J. E. (2015). *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. OCHCR website. Retrieved from https://static.guim.co.uk/ni/1425873116713/Mendez-report.pdf

Missbach, A. (2015). *Troubled transit: Asylum seekers stuck in Indonesia*. Baltimore: Project MUSE.

Muller, D. (2016). *Islamisation' and other anxieties: Voter attitudes to asylum seekers*. Melbourne, AU: Melbourne Social Equity Institute and the Centre for Advancing Journalism. Retrieved from https://socialequity.unimelb.edu.au/__data/assets/pdf_file/0007/2598460/Islamisation-and-Other-Anxieties.pdf

Muralitharan, M. [notopeoplesmuggling]. (2013, February 21). *"Don't be Sorry," Not to people smuggling campaign* [Video]. Youtube. Retrieved from https://www.youtube.com/watch?annotation_id=annotation_209094&feature=iv&src_vid=pwgYZnQPDMg&v=6jJPwgFc07U#t=2s

Murphy, K. (2012, November 21). The 'no advantage' myth in refugee processing. *The Conversation*. Retrieved from https://theconversation.com/the-no-advantage-myth-in-refugee-processing-10940

Neumann, K. (2015). *Across the seas. Australia's response to refugees: A history*. Melbourne, AU: Black Inc. Publishing.

Okhovat, S. (2018). *Starving them out: How the Australian government is forcing people seeking asylum into destitution*. Sydney, AU: Refugee Council of Australia.

Parliament of Australia. (2012). *Transcript of press conference: Sydney: 14 September 2012: Asylum seeker transfer to Nauru; Expert panel recommendations; 'No advantage' principle; Tony Abbott*. Parliament of Australia website. Retrieved from https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22media/pressrel/1914303%22

Pearson, E. (2018). *For Refugees on Nauru, little joy on children's day*. HRW website. Retrieved from https://www.internationalaffairs.org.au/australianoutlook/refugees-nauru-little-joy-childrens-day/

Phillips J., & Spinks, H. (2013). *Immigration Detention in Australia. Australian Parliamentary*. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/bn/2012-2013/detention#_Toc351535440

Phillips, J. (2017). *Australia's Humanitarian Program: a quick guide to the statistics since 1947*. Australian Parliamentary Library. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/HumanitarianProg

Phillips, J., & Spinks, H. (2013). *Boat arrivals in Australia since 1976*. Australian Parliamentary Library. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/BoatArrivals

Phillips, M. (2013, May 6). Out of sight, out of mind: excising Australia from the migration zone. *The Conversation*. Retrieved from https://theconversation.com/out-of-sight-out-of-mind-excising-australia-from-the-migration-zone-14387

Procter, N. G., Kenny, M. A., Eaton, H., & Grech, C. (2018). Lethal hopelessness: Understanding and responding to asylum seeker distress and mental deterioration. *International Journal of Mental Health Nursing*, *27*(1), 448–454. https://doi.org/10.1111/inm.12325

Refugee Council of Australia (RCOA). (2016). *How do refugees come to Australia under its Refugee and Humanitarian Program*? RCOA website. Retrieved from https://www.refugeecouncil.org.au/getfacts/seekingsafety/refugee-humanitarian-program/history-australias-refugee-program/

Refugee Council of Australia (RCOA). (2019a). *Offshore processing statistics and Operation Sovereign Borders*. RCOA website. Retrieved from https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/

Refugee Council of Australia (RCOA). (2019b). *Medevac bill: The facts*. RCOA website. Retrieved from https://www.refugeecouncil.org.au/umt-bill-facts/

Refugee Council of Australia (RCOA). (2019c). *The Community Support Program*. RCOA website. Retrieved from https://www.refugeecouncil.org.au/community-support-program/

Refugee Council of Australia. (RCOA), & Amnesty International Australia (AIA). (2018). *Until When? The Forgotten Men on Manus Island*. Retrieved from https://www.amnesty.org.au/wp-content/uploads/2018/11/20181119-EMBARGOED_Until-When-The-Forgotten-Men-on-Manus_RCOA-AI.pdf

Rego, N. (2018). Deterrence by punishment: A critical overview of policies towards asylum seekers in the 'Legacy Caseload'. *Asylum Insight*. Retrieved from https://www.asyluminsight.com/c-nishadh-2/#.W9ovCpMzaUk

Safi, M. (2015, September 8). Calls to prioritise Christian refugees are discriminatory – Australia's grand mufti. *The Guardian Australia*. Retrieved from https://www.theguardian.com/australia-news/2015/sep/09/calls-to-prioritise-christian-refugees-are-discriminatory-australias-grand-mufti

Scott Morrison defends decision to gift patrol boats to Sri Lanka (2013, November 19). *ABC News*. Retrieved from https://www.abc.net.au/news/2013-11-18/morrison-defends-decision-to-gift-patrol-boats-to-sri-lanka/5098320

Spinks, H. (2018). *Boat 'turnbacks' in Australia: a quick guide to the statistics since 2001*. Australian Parliamentary Library. Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1819/Quick_Guides/BoatTurnbacksSince2001

Sundram, S., & Ventevogel, P. (2017). The mental health of refugees and asylum seekers on Manus Island. *The Lancet, 390*(10112), 2534-2536. https://doi.org/10.1016/S0140-6736(17)33051-9

Taylor, S. (2013, October 31). Sri Lankan boat arrivals: enhanced screening, diminished protection. *The Conversation*. Retrieved from https://theconversation.com/sri-lankan-boat-arrivals-enhanced-screening-diminished-protection-19601

The United Nations Refugee Agency (UNHCR). (2017). *Australia should not coerce vulnerable people to return to harm: Statement by United Nations High Commissioner for Refugees Regional Representation in Canberra*. UNHCR website. Retrieved from https://www.unhcr.org/en-au/news/press/2017/8/594558104/australia-coerce-vulnerable-people-return-harm.html

The United Nations Refugee Agency (UNHCR). (2018). United Nations observations on Australia's transfer arrangements with Nauru and Papua New Guinea. *UNHCR website*. Retrieved from https://www.unhcr.org/en-au/5bb364987.pdf

Thompson, S. (2011). *1881 Influx of Chinese Restriction Act*. Migration Heritage Centre NSW website. Retrieved from http://www.migrationheritage.nsw.gov.au/exhibition/objectsthroughtime/influx-of-chinese-restriction-act-of-1881/index.html

UN General Assembly. (2017). Human rights of migrants - Report of the Special Rapporteur on the human rights of migrants (A/72/173) [EN/AR]. Retrieved from https://reliefweb.int/report/world/human-rights-migrants-report-special-rapporteur-human-rights-migrants-a72173-enar

UNICEF Australia. (2017). *Statement: Family unity for refugee families and children is paramount*. UNICEF Australia website. Retrieved from https://www.unicef.org.au/about-us/media/december-2017/statement-family-unity-for-refugee-families-and-c

van Kooy, T., & Ward, T. (2018). *An unnecessary penalty: Economic impacts of changes to the Status Resolution Support Services (SRSS)*. Melbourne: Refugee Council of Australia. Retrieved from https://www.refugeecouncil.org.au/srss-economic-penalty/

Vogl, A. (2015). Over the Borderline: A Critical Inquiry into the Geography of Territorial Excision. *University of South Wales Law Journal, 38*(1), 114-145. Retrieved from http://www8.austlii.edu.au/cgi-bin/download.cgi/cgi-bin/download.cgi/download/au/journals/UNSWLJ/2015/5.pdf

Weber L. & Bowling, B. (2004). Policing migration: A framework for investigating the regulation of global mobility. *Policing and Society: An International Journal of Research and Policy, 14*(3), 195-212. https://doi.org/10.1080/1043946042000241802

Weber, L., (2006). The shifting frontiers of migration control. In S. Pickering & L. Weber (Eds.), *Borders, mobility, and technologies of control* (pp. 21-43). Dordrecht, NL: Springer. https://doi.org/10.1007/1-4020-4899-8_2

Winter, B. (2016). Keep us simple, keep us safe: the post-9/11 comeback of the Average Australian Bloke. *Mémoire(s), identité(s), marginalité(s) dans le monde occidental contemporain*, 16. https://doi.org/10.4000/mimmoc.2477