

Has the treatment of  
asylum seekers  
significantly essay



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Has the treatment of asylum seekers significantly changed since the Rudd Government ended the 'Pacific Solution'? The Australian government's approach to asylum seekers has been highly controversial and well publicized, both nationally and internationally, over the past two decades. Australia is a state that has developed and grown through immigration, however all throughout its history, policies have been implemented to prevent foreign settlers from arriving in the country. While the Rudd government has softened asylum policies, more could be done to ensure a more humanitarian and international approach is adopted. Prime Minister Paul Keating began the mandatory detention for asylum seekers in 1992, in response to the growing concern of the number of people seeking asylum in Australia from Cambodia, China and Indonesia (Freeman). Initially an asylum seeker could only be detained for a maximum of 273 days, however this restriction was removed in 1994; thereby permitting individuals to be indefinitely detained (Freeman).

It is not an uncommon practice to detain asylum seekers while their documentation is being processed. Criticism of Australian immigration policies has arisen due to the poor conditions of the detention centres, the treatment and mental health of individuals detained and the length of detention (Freeman). Australia's governmental policy on asylum seekers came under international scrutiny in 2001 during the "Tampa Affair" when a Norwegian freighter, MV Tampa, rescued 438 asylum seekers from a shipwreck and attempted to land on Australian territory (Freeman). Under international law, any shipwrecked survivors are to be taken to the closest port in order to receive medical treatment (Freeman). However, Prime

Minister John Howard refused MV Tampa entry into Australian waters after the ship requested permission to transport the survivors to the closest port, which was Christmas Island (Freeman). Howard's government ordered MV Tampa to return to Indonesia, a journey that would take 12 hours (Freeman).

Howard tried unsuccessfully to cover his actions by introducing a retrospective Border Protection Bill into parliament – which would have permitted the government to exercise “reasonable force” to order any ship out of Australian waters (Freeman). The MV Tampa refused to follow Howard's orders to return to Indonesia and successfully landed on Christmas Island, due to the remaining survivors' urgent need for medical treatment (Freeman). The Howard government responded by introducing the Pacific Solution, “a three-pronged bill that excised Australia's Pacific islands from its immigration zones, tasked Australian Defence Force patrol boats to intercept arrival and set up asylum camps on these islands where detainees would be processed before being removed to third world countries when their status was determined” (Freeman). Howard was arming the government with greater power to prevent another Tampa incident and to preclude any boat passengers landing on Australian territory. Howard's actions during the Tampa affair and his legislative response to the incident were condemned by the international community. Australia was reported, by Norway, to the International Maritime Organization and the United Nations High Commissioner for Refugees for infringements on human rights (Freeman).

Interestingly, the Australian public largely approved of the new immigration policies and this was reflected in the polls; John Howard's popularity <https://assignbuster.com/has-the-treatment-of-asylum-seekers-significantly-essay/>

increased during the latter half of 2001 (Freeman). ? However, public opinion began to shift as stories of attempted suicide, the mental health of detainees and the detention of children became more prevalent in the media; consequently criticism of governmental policy on the treatment of asylum seekers increased. When ten years of conservative government came to an end, one of the first moves of the new Labour government was to reform Australia's treatment of asylum seekers and refugees. During the 2007 campaign, Kevin Rudd made undertakings to reform Australia's immigration policies, while Labour has delivered on some of its election promises and instituted large reforms, change has been slow moving, quashing opportunities to make a difference (Crock, p.

7). After election, Prime Minister Kevin Rudd claimed to have terminated the Pacific Solution, declared the Pacific islands apart of the Australian immigration zone, allowed boats carrying asylum seekers to enter Australian waters and closed asylum detention centres on the mainland, only camps on the Pacific islands remained open (Freeman). While these policies appear to have deviated substantially from those of the Howard government, when implemented they were disappointingly 'watered' down. The opposition argued that Labour softened Australia's asylum policy and was unable to control the flow of foreign settlers, thereby reigniting fear within the public that Australia is vulnerable to being invaded by sea (Crock p. 7-8).

The opposition continued to point out problems with Labours policy on border control, particularly during the boat arrivals from Afghanistan and Sri Lanka in 2009-2010 (Crock, p. ; Oakes). Initially, Rudd was not concerned about the number of individuals seeking asylum in Australia because of a <https://assignbuster.com/has-the-treatment-of-asylum-seekers-significantly-essay/>

resurgent Taliban and the war in Sri Lanka were factors likely to increase boat arrivals (Crock p. 7). However, on 9 April 2010 the government significantly curtailed the rights of asylum seekers by suspending the processing of refugee claims from individuals that arrived from Afghanistan for six months and those from Sri Lanka for 3 months (Crock p. 8).

A Joint Media Release from Stephen Smith MP (Minister for Foreign Affairs) and Brendan O'Connor MP (Minister for Home Affairs) stated that ' the combined effect of this suspension and the changing circumstances in these two countries will mean that it is likely that, in the future, more asylum claims from Sri Lanka and Afghanistan will be refused' (Smith & O'Connor). Refugee advocates disapproved the policy changes and some indicated it was step towards reintroducing the Howard government's approach to asylum seekers (Crock p. ). The Labour government's asylum policies were not radical reforms but rather continued to uphold many of the structures established by the coalition. The government was perceived to have softened asylum policy but had made little substantive reform to the Coalition's policy and law (Crock p3).

Crock points out ' the new government did little more than continue a process of rationalisation and retreat from excess that began in 2005 while the conservative Coalition was still very well and truly in power'. It was not the Labour government which began the scale back of the hard-line reforms of the Howard government, but rather change was instigated long before Rudd came to power. Controversial immigration law cases decided by the High Court in 2004 shaped policies regarding the legality of mandatory detention (Crock p. 3).

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Illegal immigrants, such as Mr Al-Kateb, were released from detention following pressure from backbenchers and the public. Further, children were exempt from mandatory detention and incarceration was only a measure of last resort from June 2005 (Cork p. 3-4). In addition aspects of the Pacific strategy were downsized, such as the closure of Manus in 2004 (ABC News).

By the time Rudd came to power most of the asylum seekers had their application for Australian residency approved. The policy reforms implemented by the Rudd government were made due to necessity and practicality rather than radical changes to asylum policy. For example, the Labour governments removal of Temporary Protection Visas had minimal impact as most of the applicable individuals had already been approved for permanent residency by the Howard government (Cork p. 4).

Further, the Temporary Protection Visa scheme ' was abandoned because it was ultimately seen for what it was: a cruel and ineffectual policy that never succeeded in deterring asylum seekers' (Cork p. 4). Rudd did not deviate substantially from the Howard Governments asylum policy, this premise is demonstrated through the Labour governments failure to completely put a stop to the ' Pacific Strategy'. Aspects of the Coalition's policies continued to be practiced, such as offshore processing and the exclusion of offshore territories in Australia's migration zone (Cork p. 4).

While Rudd's policies were no where near as strict as the Howard governments approach to immigration, which led to offshore deaths through Operation Relex, aspects of Labours strategies emulated the push-back policy advocated by the Coalition (Cork p. 4; Whitmont). This can be seen

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through the Rudd government's attempt to turn back boat people intending to land on Australian shores to Indonesia (Hodge). Rudd continued the practice of offshore processing on Christmas Island, this became an attractive destination of people smugglers; evidenced by the fact the facility has and continues to exceed its capacity (Crock p5; The Australian) After the 2007 election, refugee advocates were filled with hopeful anticipation that a new government would bring much needed change and reform to asylum policies. However, Labours achievements, while were initially perceived to be positive steps in obtaining a more internationally align and humanitarian approach to the issue, have failed to substantially affect governmental policy and law.

Crock correctly points out that ' the April 9 freeze on processing marked a return to Australian ' exceptionalism', insofar as no other country or credible institution at the time was proposing that either Sri Lanka or Afghanistan had become (or were likely to become) ' safe' places for the people who have been taking flight from those countries'. This approach may be in breach of the Refugee Convention because it is effectively discriminating against the processing of visas on the basis of ones nationality. While the opposition will continue to evoke fear in the public that ' softer' asylum policies will be dangerous for the country, it is not in Australia's national interest to continue to uphold the punitive approach of the Howard government. References ABC News, 2004, Last detainee leaves Manus island, ABC, Available at: <http://www.abc.net.au/news/stories/2004/05/30/1119172>. tm [accessed 26/9/2010] Crock,

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