

Why Does Australia to Send Refugees to Malaysia?

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Between 2003 and 2004, Marion Le, a Canberra-based lawyer, made regular trips to the remote island of Nauru in the South Pacific. But she wasn't going for a beach holiday. At the time, Nauru was part of the so-called Pacific Solution, Australia's policy of processing and detaining asylum seekers arriving by boat in offshore detention facilities.

From 2001 to 2007, thousands of asylum seekers were in offshore detention centers while Australian immigration officials decided their fate. Le, who helped many migrants file successful asylum claims to Australia, was among the Pacific Solution's many critics in Australia and abroad, saying the system was both a human rights violation and a breach of international law. After former Prime Minister Kevin Rudd came into office in 2007 and closed the centers on Nauru, Papua New Guinea's Manus Island and the Australian territory of Christmas Island, Le recalls feeling "relief" that the government was finally listening to the plight of those that had been confined. ([Watch a video about asylum seekers in South Africa.](#))

So it's something of a surprise that today, Le wants to have the facility in Nauru reopened. "It's the better of the two evils," she says. The second "evil" that Le is referring to has been nicknamed the Malaysian Solution. It's the latest plan by the Australian government to deter its longtime problem of "irregular maritime arrivals," and to stop the business of the people smugglers who get them here. The proposal, tabled by Prime Minister Julia Gillard in early May, mandates that asylum seekers arriving to Australia by boat will no longer be taken to Christmas Island, where they have access to getting an Australian visa. Instead, the first 800 asylum seekers will be sent to Malaysia — "to the back of the queue," as Gillard puts it. In turn, Australia will give a permanent home to 4,000 mainly Burmese refugees over a period of four years who are now residing in or near the Malaysian capital. "Now [the governments] are just people trading," says Le. "What they are suggesting is deplorable."

Since May 7, when the Malaysia Solution was announced, there have been more than 274 people who have arrived to Australia by boat. For the moment, they are in limbo on a detention center in Christmas Island. A formal deal between Canberra and Kuala Lumpur is close to being, signed according to Immigration Minister Chris Bowen, though it has not been announced where the affected migrants will be processed. Bowen told ABC Radio on June 9 that they will be processed in a third country. ([See how refugees are living around the world today.](#))

So far, Malaysia is the closest the Australian government has come to establishing a regional deal. But it's not the first. Gillard had hopes for building a detention center in East Timor, but President Jose Ramos-Horta told journalists on April 29 that this is not an option. There have also been talks with Papua New Guinea about reopening the facilities at Manus Island, and Thailand has reportedly expressed interest in participating in a similar scheme to Malaysia. Critics are concerned about the seemingly arbitrary nature of the location for offshore solutions. "I feel like Gillard is just throwing darts around the Pacific Ocean and hoping one sticks somewhere," says Le.

Malaysia, unlike Australia, is not a signatory to the UN Refugee Convention, and therefore does not have special national laws that recognize refugees, fleeing their homes for fear of

persecution, have different rights than illegal immigrants. "We have a country like Australia that has signed the Convention sending people to a country that hasn't signed the Convention, and where we know refugee protection is deeply problematic," says Graham Thom, a spokesperson for Amnesty International, which expressed concern over the agreement in a press release on May 8. The statement quoted a 2010 report by Amnesty which found that 6,000 refugees in Malaysia are caned annually for immigration-related offences, such as working, which is not legal for refugees in that nation. Bowen has since said that the 800 refugees coming from Australia will be issued with identity tags that should safeguard them against caning.

But particularly controversial has been the new policy's treatment of children. Bowen told the Australia Broadcasting Corporation (ABC) that unaccompanied children arriving to Australia by boat will not be exempt from being sent away. "I don't want children getting on boats to come to Australia thinking or knowing that there is some sort of exemption in place," Bowen told the news service. He said his concern was that parents would send their children alone on the perilous journey to Australia by boat.

Human-rights groups immediately condemned the new condition. "We think that what the government is doing is morally reprehensible," says Norman Gillespie, the chief executive UNICEF AUSTRALIA. "These are children. When they come seeking asylum in Australia the minister is obligated to help them." On June 4, 14 Labor Party MPs from Western Australia also signed an open letter voicing their disapproval of the Malaysia Solution. Two days later, Bowen backpedaled, saying that the fate of children arriving to Australia would be handled on a case-by-case basis.

Most Australians are unconvinced. A June 2 Galaxy research poll conducted by the *Daily Telegraph* showed that 66% of voters are against sending asylum seekers to Malaysia — and that was before Bowen's unpopular announcement regarding children. "It's a quick political fix to stop boats coming, rather than a genuine attempt to develop a regional coordinated framework," says David Manne, executive director of Melbourne's Refugee and Immigration Legal Centre.

Since the new year, pressure has been mounting on the Australian government to find a new offshore solution for Australian-bound refugees. Currently, all migrants and asylum seekers who reach Australia by boat are first taken to Christmas Island, which, while technically part of Australia, is only 220 miles south of Jakarta. As that facility filled up, detention centers have now reopened on the mainland. On Dec. 15, a [boat carrying 90 asylum seekers sank near Christmas Island](#) killing between 30 and 50 people. A coronial inquest into the incident is being held. Scott Morrison, the opposition's immigration spokesman, has said that Gillard's Labor Party has "blood on their hands" for having a policy in place that encourages refugees to enter the country. Like many nations that recognize refugees, Australia grants permanent residence to asylum seekers if their application is successful. The opposition parties think the Malaysian option will be costly, as Australia will be taking five times more refugees than Malaysia in the trade. Opposition leader Tony Abbott also believes that this option will be ineffective, that Malaysia will become the new back door for people seeking to come to Australia.

In April, asylum-seeker detainees set fire to several buildings in Villawood Detention Center in western Sydney, as part of a protest after two asylum-seekers had their refugee-status applications rejected. On June 9, a riot involving 100 refugees also broke out there after one

detainee was isolated in the compound. Morrison interprets the protests as symptoms of a system that's out of control: "With an average of more than three critical incidents being reported every day in the detention network, ranging from self-harm and serious assaults to riots, fires and even deaths, the Government must now be held to account for the daily failures now occurring in our detention system," he told the ABC on May 22. ([Watch a video about asylum seekers in France.](#))

Now refugee advocates like Le find themselves making the same appeal to Gillard's government as the opposition, which is also urging the government to re-open the detention centre in Nauru. Abbott and Morrison were both in Nauru over the weekend, and said that the center could be up and running in a matter of weeks. At least at Nauru, Abbott said in a recent speech, the government could guarantee that no illegal arrival would suffer physical abuse: "We could hardly expect Malaysia to maintain two regimes for illegal arrivals: a superior one for those coming via Australia and an inferior one for everyone else."

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