

US deal is a good news story for refugees -- here's why it took so long

Written by Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide

The Australian government has announced a [new deal](#), [long-expected](#) in policy circles, that will see asylum seekers on Nauru and Manus Island transferred to the US.

This is the first positive news in three years for asylum seekers and refugees on Nauru and Manus Island. It is a circuit breaker that has received support from Labor.

However, it is worth observing that this could only be considered a good deal in a world where developed countries have a strong aversion to receiving asylum seeker claims at their borders.

In September, Australia [pledged](#) to take a group of Central American refugees housed in camps in Costa Rica.

In a rational world, Central Americans on the border of the US would be settled in the US and Afghans, Iraqis, Iranians and Sri Lankans placed on Nauru and Manus by the Australian government should be resettled in Australia.

However, by any measure, the refugees involved would see the US deal as far better than spending any more time in Australia's offshore detention centres.

A good offer

Asylum seekers do not have the luxury of choosing where they end up. There is no right to asylum in international law - only the opportunity to make an asylum claim. Receiving countries are free to make deals with other countries to resettle asylum seekers, constrained only by the principle of [non-refoulement](#) (which means not returning refugees to countries where they are likely to face harm).

The US has the largest refugee resettlement program in the world. It offers the opportunity to establish a new life free from violence and religious persecution. Yes, there is talk of intolerance faced by Muslims in the US, but similar attitudes exist in Australia.

US deal is a good news story for refugees -- here's why it took so long

Written by Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide

The US offers these refugees the protection of a sophisticated constitutional and legal system. It's a gross exaggeration to suggest Donald Trump's America could be anywhere near as unsafe as the conditions that refugees flee.

Nonetheless, the transition to the US will not be easy, and is made considerably more difficult by the fact that some of these people have been detained under very stressful conditions for as much as three and a half years. Many spirits have been broken. These refugees will need considerable help in resettling successfully.

While welcoming the government's announcement, Labor has [criticised](#) the time it took to reach this deal. But it is important to recognise why the government has been in no hurry to find a durable solution.

A long time coming

The government has subscribed to the principle of ["no advantage"](#); first articulated in the 2012 report produced by the Expert Panel on asylum seekers. The principle states that asylum seekers should receive no advantage from taking a boat to Australia over asylum seekers who did not make that journey.

According to the UNHCR, resettlement needs in 2017 are [projected to be 1.19 million people](#) . In 2015, the total number of resettlement places offered around the world was [134,000](#) . Based on these figures, the average waiting time for resettlement is in the range of nine years.

The whole point of offshore detention and processing was to send a strong message that it was not worth taking a boat bound for Australia. The government was happy to pursue, in a half-hearted and expensive way, resettlement options in Cambodia, PNG and Nauru. These were not viewed as attractive resettlement options.

But the condition of asylum seekers and refugees on Nauru and Manus under Australia's care soon became an international embarrassment. With whistleblowers, journalists, doctors, civil society organisations in Australia, international NGOs and the government's own Human Rights

US deal is a good news story for refugees -- here's why it took so long

Written by Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide

Commission keeping the spotlight on conditions on Manus and Nauru, the government eventually had to find a durable solution for asylum seekers and refugees.

An encouragement for people smugglers? Not likely

The government remains concerned that finding a durable solution for refugees on Nauru may be an encouragement for people smugglers. This is an understandable fear, but recent history suggests it is [most unlikely to lead to a resumption of boats](#) heading for Australia.

From 2002 to 2004, the Howard government resettled refugees on Nauru in Australia, and this did not lead to a resumption of boat arrivals. The threat of offshore detention is an enormous disincentive. Furthermore, Immigration Minister Peter Dutton has been very clear the US arrangement is a one-off deal. Anyone who subsequently arrives on Nauru or Manus will face the uncertainty of if and when they will be resettled.

The announcement today that refugees must accept any resettlement option presented to them or face 20 years on Nauru or return to their country of origin where they fled persecution may be reasonable if a durable resettlement option is offered, such as is the case under the US deal.

But if a different iteration of this deal ever emerges in future and resettlement is to a country that is not a signatory to the [Refugee Convention](#), or does not have the capacity to resettle and integrate refugees (such as Cambodia), this amounts to pressuring refugees to return to a place of danger or live in limbo for much of their lives.

The proposed lifetime ban

The US deal is not contingent on legislation, now before parliament, for a lifetime ban on any people processed on Nauru and Manus since mid-2013 entering Australia. This is important as the ban is wrongly conceived, and has rightly been rejected by Labor.

It is already abundantly clear that asylum seekers arriving by boat will not be resettled in Australia. Whether they will be able to visit Australia in some other capacity later in their lives will not be high on an asylum seeker's list of concerns.

US deal is a good news story for refugees -- here's why it took so long

Written by Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide

The effect of this bill is to punish for life an extremely vulnerable group of refugees, simply for the legitimate act of seeking protection and, in some cases, seeking reunification with family members.

Although it is possible for people in this position to apply to the minister to lift the ban, this may well turn out to be costly, time-consuming and complicated.

The government should be content to offer a good news story to the refugees on Nauru with its announcement of the US deal, rather than hitting them with a final punishment as they leave Australian government control to begin their new lives.

Alex Reilly is currently conducting research into labour supply in the Australian vegetable industry for Horticulture Innovation Australia, and into international students and work for the Fair Work Ombudsman. Alex is a volunteer on the Management Committee of the Refugee Advocacy Service of South Australia, which offers means tested legal and migration assistance to asylum seekers who are not eligible for government assistance.

Authors: Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide

Read more <http://theconversation.com/us-deal-is-a-good-news-story-for-refugees-heres-why-it-took-so-long-68716>