

Refugee Rights and Policy Wrongs: A Frank up-to-date Guide by Experts by Jane McAdam and Fiona Chong, Published by NewSouth Publishing (2019)

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INTRODUCTION

Jane McAdam, a respected legal scholar, and Fiona Chong, a lawyer with a background in human rights, co-authored the book “Refugees: Why seeking asylum is legal and Australia’s policies are not.” Jane McAdam is the Scientia Professor of Law and Director of the Andrew & Renata Kaldor Centre for International Refugee Law at the University of New South Wales. Fiona Chong, a Columbia University Human Rights Fellow, has previously worked for the Refugee Advice and Casework Service and Refugees International, demonstrating her dedication to refugee rights.

This book attempts to untangle the complicated web of Australia’s refugee policy, exposing a three-decade narrative that frequently contradicts the government’s open acceptance of international legal commitments. Driven by a desire to provide clarity in a highly sensitive discussion, the story weaves through the maze of international refugee law, bringing light on where Australia’s laws falls short of global standards.

Beginning with an examination of the Refugee Convention’s definition and the rights it grants refugees under international law, the book delves into the practical application of these rights within the Australian legal system. It goes into the intricacies that arise when temporary protection is provided, as well as international human rights legislation, to shield persons from the risk of being returned to significant harm – what is known as ‘complementary protection.’

The accompanying chapters deliberately refute common fallacies about refugees and asylum seekers in Australia. The book’s journey then leads to an assessment of particular components of Australia’s asylum policy, measured against the standard of international law. Mandatory detention, a policy that has been in place in Australia since the early 1990s, is under investigation, as is the contentious practice of offshore processing in Nauru and Papua New Guinea. The research expands on the contentious policy of turning back asylum-seeker boats and investigates the potential outlines of a cooperative regional protection structure.

Real-life examples starkly demonstrate the human consequences of Australia's unique approaches to refugee legislation. Keyhan, an Afghan Hazara refugee, urges readers to go past stereotypes and recognise refugees' shared humanity. Dr. Munjed Al Muderis echoes this call, emphasising that each asylum seeker is more than a statistic—they are human beings deserving of dignity and understanding.

The book delves into the complexities surrounding asylum seekers in Australia, emphasising that these individuals, who are sometimes blamed for a variety of social worries, need to be heard. With significant words from people who have made the journey to Australia in search of asylum, the tale challenges the 'us vs them' paradigm, arguing that understanding and compassion may bridge the difference.

However, barriers abound, ranging from the isolation imposed by offshore processing to the shroud of secrecy that hangs over detention facilities. The book sheds light on the power dynamics at play, where employees are bound by confidentiality agreements while the government uses 'operational reasons' to withhold information. This veil of secrecy, along with the physical distance from prison facilities, prevents meaningful human interaction, continuing a circle of misunderstanding.

The author notes that Australia's laws and practices frequently violate international responsibilities that the government has gladly accepted – a conundrum for a country known for its multiculturalism and tolerance. The book provides a glimpse of the changing scene while respecting Australia's dynamic refugee policy. While individual rules may change, the international legal analysis presented remains a reliable guide across the volatile terrain of Australia's asylum system.

Strengths and Weaknesses

The author shows noteworthy strength in presenting a thorough examination of Australia's asylum policies and their compliance with international law. The extensive separation of chapters, each focusing on a specific topic, demonstrates a thorough consideration of the legal, humanitarian, and ethical components of the issues at hand. This structure helps readers understand the complexity of refugee

protection, temporary protection, mandatory detention, and regional cooperation.

The author expertly navigates the historical context of the Refugee Convention, tracing its history and the revolutionary effects of the 1967 Protocol. This gives readers a solid understanding of the legal frameworks and Australia's commitment to them. The examination of the voluntary nature of treaty commitments is an important subject, emphasising the conscious choice countries make in adhering to international standards. The author skillfully draws attention to Australia's departure from these standards, particularly with the implementation of Section 197C in 2014, which raises issues regarding compliance with the non-refoulement principle.

Furthermore, the examination of the lack of a specialised international refugee court and the UNHCR's supervisory function reveals a comprehensive awareness of the global refugee situation. The investigation of who qualifies as a refugee under international law and the delineation of their rights is thorough, giving light on the multidimensional character of persecution and the numerous rights available to refugees upon arrival.

The assessment of Australia's transition from permanent to temporary protection is enlightening, particularly in terms of the psychological impact on refugees. The implications for mental health, access to education, and broader fundamental and human rights implications are well articulated.

Chapter 9 stands out for its emphasis on the significance of international law and its application in Australia. The author skillfully illustrates the difficulties that Australia suffers in translating international human rights responsibilities into domestic law, highlighting the impact on refugees and asylum seekers seeking recourse for policy-induced injuries. The debate over the lack of a federal bill of rights and the contemptuous attitude towards UN expert committee suggestions gives a critical appraisal of Australia's legal landscape.

The author's apparent affinity with a specific point of view, however, is a problem. While the extensive study is useful, a more balanced examination of counterarguments or different perspectives could improve the work's credibility and objectivity. Accepting and interacting with



conflicting viewpoints would provide readers with a more holistic understanding of the complexities involved.

In Chapter 7 and the repeated information in Chapter 9, the author takes a consistent stance against Australia's deterrence-focused policy. While this is a reasonable point of view, a more in-depth exploration of the reasons for these regulations, even if eventually criticised, might help to foster a more balanced discussion. Furthermore, the proposal for Australia to set a good example in regional collaboration may be seen as idealistic without a more in-depth examination of the real issues involved.

Finally, the author exhibits a thorough understanding of the subject, skillfully integrating legal research with personal experiences to explain the effects of Australia's refugee laws. The problem is a lack of study of different perspectives, as well as a potential bias towards a particular viewpoint. Balancing the narrative by soliciting multiple perspectives would increase the work's credibility and develop a more comprehensive knowledge of this complicated and multifaceted problem.

CONCLUSION

To summarise this analytical investigation, it is clear that Australia's refugee policy, while costly and uncertain in efficacy, have broader ramifications beyond budgetary considerations. The human cost, exacerbated by enforced detention and uncertainty, harms not just refugees but also Australia's social fabric and ideals. The country's historical ideas of 'fair go for all' and dedication to international human rights objectives clash with policies that affect vulnerable people. The mismatch stems from a lack of firsthand experience with persecution fears, which is worsened by placing asylum seekers in distant or offshore areas, prolonging a cycle of misunderstanding and eroding empathy.

Financially, the growing detention and processing costs create ethical concerns about resource allocation. The striking discrepancy between offshore processing costs and community-based

options underscores the need for rethinking. The economic inefficiency, combined with the humanitarian toll, highlights the need for reform.

Australia's stance on overseas contributions demonstrates a misalignment of priorities. Spending more on deterrence measures while giving very little to global refugee protection undermines the country's ability to be a leading advocate for diversity and inclusivity.

The weakening of social cohesiveness and the challenge to core values highlight the necessity for responsible leadership. Historical examples, such as Ben Chifley's principled stand on displaced persons, demonstrate the possibility of humanitarian measures even in the face of widespread opposition. Leadership, then, requires to transcend popular opinions, appealing to the nation's higher ideals fostering unity.

As citizens, the call to accountability becomes critical. It is critical to demand transparency in all actions taken in Australia's name, whether at sea, in Nauru, or on Manus Island. Australians must confront preconceived notions about asylum seekers and join in informed debate, acknowledging the complexities of refugee migrations and the long-term, global character of the situation.

Recognising that there are no quick answers, the focus moves to practical solutions that are consistent with beliefs. Addressing the core causes of displacement, assisting host nations, and investing in global relationships demonstrate Australia's commitment to working towards comprehensive, humane solutions. Recognising the despair that leads people to seek asylum while providing an ethical response necessitates a nuanced approach.

In this complex context, the importance of combining pragmatism with principles is critical. Recognising that denying one person's dignity undermines our collective humanity, Australia must uphold international legal responsibilities and promote inclusive ideals. Access to basic services, respect for family unity, and prioritising the best interests of the kid are critical to reclaiming Australia's reputation as a rights-respecting, tolerant nation – one that truly reflects the essence of 'a fair go for all.'