

CLOSED BORDERS: A COMPARATIVE ANALYSIS BETWEEN THE  
IMMIGRATION DETENTION POLICIES OF THE UNITED STATES AND  
AUSTRALIA

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by

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## **ABSTRACT**

The United States and Australia are often regarded as being tough on immigration though the immigration concerns of the two countries are vastly different. This paper compares the mandatory detention policies in these two countries in terms of their motivation and authorization, immigration target, and facilities used to detain migrants. This comparison ensures the immigration policies most appropriately address the needs of their country. The results revealed many similarities between the United States and Australia's mandatory detention policies. These results raise concerns about current deterrence-motivated immigration practices in the United States and Australia and can be used to influence public opinion as well as provide support for sensible immigration reform.

## **I. INTRODUCTION**

On June 26, 2019, President Trump tweeted four pictures of controversial Australian anti-immigration advertising and stated “much could be learned” from Australia’s immigration policies (see: Figure 1). This tweet begs the question, what is it about Australia’s immigration policies that appeals to President Trump? While Australia is regarded for its harsh immigration policies and detention of immigrants, the United States’ push to strengthen immigration policies and implement deterrence strategies is relatively new. Are Australian style tough on immigration policies realistic for America?



**Donald J. Trump** ✓  
@realDonaldTrump



These flyers depict Australia's policy on Illegal Immigration.  
Much can be learned!



7:02 PM · Jun 26, 2019 · Twitter for iPhone

21.7K Retweets 70.6K Likes



**Figure 1:** A tweet from President Trump inciting that the United States can learn from Australian immigration policies.



## II. THE UNITED STATES

*"Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!"* -Emma Lazarus, located on the Statue of Liberty

### **Legal Authorization of Mandatory Detention**

Mandatory detention of immigrants was legally authorized by President Bill Clinton with the institution of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The act mandates that any migrant “present in the United States who has not been admitted or who arrives in the United States whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters (104<sup>th</sup> Congress, 1996, p. 33) shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed” (104<sup>th</sup> Congress, 1996, p. 35-36). The impact of these policies was profound, as the number of immigrants in Immigration and Naturalization Services (INS) detention increased from 8,500 in 1996 to nearly 16,000 in 1998 (ACLU, n.d.). This rapid increase ushered immigration authorities to turn to private companies to operate facilities in order to manage the influx of detainees. (Wessler, 2016). In 2005, the Department of Homeland Security (DHS) and Department of Justice’s (DOJ) introduced “Operation Streamline” which allowed people apprehended at the border to be criminally prosecuted and to be held in privately-operated Criminal Alien Requirement (CAR) prisons (Freedom for Immigrants, n.d.).

The 2003 United States Supreme Court case, *Demore v. Kim*, upheld mandatory detention for immigrants with pending removal cases for the time necessary to complete

those proceedings, which was found to be an average of a month and a half (Global Detention Project. 2016). In the opinion delivered by Chief Justice Rehnquist, the court held that detention during removal proceedings is a constitutionally authorized component of the removal process and therefore does not violate a person's Fifth Amendment right of due process (538 US 510). The minority dissented against the court's approval of lengthy mandatory detention (538 US 510).

### **Types of Migrants Subject to Mandatory Detention**

The United States does not maintain reliable data of who is in immigrant detention, however according to the 2018 Immigrations and Customs Enforcement (ICE) report, the majority of removals from the United States were of citizens originating in Central and South America (ICE, 2018, p. 17). Of the 141,045 removals made by ICE in 2018, 256,085 were Mexican citizens, 50,390 were from Guatemala, 28,894 from Honduras and 15,445 from El Salvador (ICE, 2018, p. 17).

Throughout history, Central Americans have migrated mostly for economic reasons, and while there are still migrants coming to live the "American Dream," today's migration flow sees a much higher prevalence of entire families seeking refuge from life or death situations in their countries of origin (Martinez, 2018). Many of these people are victims of situations worsened by United States policies, namely the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 which deported thousands of criminals to Central America in the early 2000s (Martinez, 2018). What resulted was the expansion of gangs born in the United States including the Mara Salvatrucha (MS-13) and the 18<sup>th</sup> Street gang across El Salvador, Guatemala, and Honduras (Martinez, 2018).

Citizens of these countries are subject to gang violence and the dangerous security operations trying to counter them (Martinez, 2018). The families in these countries are subject to harassment and violence of these gangs such as trying to recruit their children or demanding weekly extortion payments (Martinez, 2018). These situations leave thousands of families with the conflict of staying and facing nearly imminent death or risking the trip with the chance of escaping (Martinez, 2018). Although many migrants fear being apprehended by United States border security, they are more fearful of the violence in their home countries even more (Martinez, 2018). This is why so many Central American families choose to make the dangerous journey to the United States (Martinez, 2018).

### **Facilities Used to Detain Migrants**

United States detention facilities are managed by Customs and Border Protection, Immigration and Customs Enforcement, and the Office of Refugee Resettlement. Upon apprehension after crossing the border, migrants are first incarcerated in Customs and Border Patrol (CBP) facilities (O'Connor, 2015, p. 8). It is at this point that families are separated, with fathers sent to different detention centers and mothers sometimes not knowing where their children are (O'Connor, 2015, p. 8). These facilities were initially built to house people for hours, not the usual one to three days or even longer most detainees are subject to (Bochenek, 2018). Migrants are placed in cage like cells, nicknamed "dog kennels" or "doghouses" (O'Connor, 2015, p. 8). These facilities are commonly referred to by CBP agents and detainees as "freezers" due to their frigid temperatures (Bochenek, 2018). The detainees are sometimes required to remove

sweaters or layers of clothing before entering the cell and are given Mylar blankets to keep warm (Bochenek, 2018). The “freezers” lack sleeping spaces, so detainees sleep on the concrete floor (Bochenek, 2018). Time in CBP cells is “the most difficult and traumatic” part of detention for women and children, according to a 2015 mental health assessment (O’Connor, 2015, p. 8).

From the freezers, migrants are transported to larger facilities (O’Connor, 2015, p. 8) where they wait for a hearing to determine if they will be allowed to stay in the United States or deported (“Detained,” 2018). Many of these facilities are operated by for-profit prison companies (“Detained,” 2018). According to data from the federal government, 60 percent of people are held in privately run immigrant detention centers (Freedom for Immigrants, 2018). For-profit prison company giants GeoGroup and CoreCivic dominate the private detention industry and as of 2018, together housed approximately 15,000 immigrants (Freedom for Immigrants, 2018).

The conditions in United States Border Patrol facilities have prompted several human rights groups such as Human Rights Watch and National Immigrant Justice Center to raise awareness of these abuses and demand better treatment. Much of the focus seems to be on the children, too young to care for themselves, who are held in jail-like facilities for weeks without contact with family (Hiller-Austin and Long, 2019). The act of detaining migrant children for weeks on end directly violates The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 which mandates that custody of unaccompanied migrant children is to be transferred to the Secretary of Health and Human Services no later than 72 hours after determining the child is unaccompanied (110<sup>th</sup> Congress, 2008, p. 34).

In June of 2019, a lawyer for the Department of Justice insisted that the government's responsibility to provide "safe and sanitary" living conditions for child detainees does not necessitate the government to provide hygiene products like toothbrushes or soap (Hiller-Austin and Long, 2019), (Bochenek, 2018). In fact, these children do not have regular access to clean clothes or showers and are often forced to sleep on concrete floors (Hiller-Austin and Long, 2019). These children are deprived of nutritious foods and are often fed the same unhealthy foods such as instant oatmeal and frozen burritos throughout the entirety of their stay (Hiller-Austin and Long, 2019).

The National Immigrants Justice Center and The Women's Refugee Commission report that more children are in detention centers because over the last few years the government has decelerated the rate families are reunited (Hiller-Austin and Long, 2019). This is because of an agreement created in May 2018 between the Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) to share information about unaccompanied migrant children in custody and their prospective sponsors (National Immigrant Justice Center, 2019, p. 1). This agreement changed the reunification/sponsorship vetting process controlled by the Office of Refugee Resettlement (ORR) and essentially used migrant children as bait to deport the undocumented sponsors volunteering to care for migrant children (National Immigrant Justice Center, 2019, p. 1). As a result, fewer sponsors come forward to care for these children, forcing them to remain in government custody (National Immigrant Justice Center, 2019, p. 1).

In 2018, 396,448 people were initially booked into an ICE detention facility, an increase of 22.5% over 2017 (ICE, 2018, p. 17). Data from ICE indicates its average

daily detention population was 39,322 people in 2018 (Cullen, 2018). According to the last most recent available data, there were 52,722 immigrants in detention as of September 10, 2019 (Kassie, 2019). Most are detained for an average of 34 days, with 70% of immigrants being held for one month or less (Freedom for Immigrants, 2018).

### **Mandatory Detention as a Deterrent Method**

Mandatory detention was introduced as a way to gain a better understanding of the people attempting to settle in the United States (104<sup>th</sup> Congress, 1996, p. 33). Since its legalization by the Clinton administration, subsequent administrations have pursued mandatory detention differently from allowing the criminal prosecution of persons attempting to illegally cross the border under the Bush administration, to the Obama administration temporarily ending the operation of family detention in 2009 (Freedom for Immigrants, n.d.). From 2009 until 2014, families seeking asylum were generally not detained during immigration proceedings (Freedom for Immigrants, n.d.). However, in 2014, the Obama administration reinstated mass family detention (Freedom for Immigrants, n.d.). The Trump administration has greatly expanded the idea of mandatory detention as a method to deter immigration.

In 2017, the United States introduced a “zero tolerance” strategy to address illegal immigration which mandated that any adult illegally crossing the border would be prosecuted (Rhodan, 2018) regardless of their intent to claim asylum (Congressional Research Service, 2019, p.1). First time illegal border crossing offenses are a misdemeanor, whereas anyone who has previously been “denied admission, excluded, deported, or removed, or has departed the United States while an order of exclusion,

deportation or removal is outstanding and thereafter enters, attempts to enter or is found in the U.S.” can be charged with a felony (Congressional Research Service, 2019, p.1). Both offenses can be prosecuted by the DOJ in federal criminal courts (Congressional Research Service, 2019, p.1). The Trump administration asserted that this policy represented a change in the level of enforcement of an existing statute, rather than the implementation of a new statute, as previous administrations had been lenient on prosecuting illegal border crossings (Congressional Research Service, 2019, p.1). In a 2018 interview, former Secretary of Homeland Security, John Kelly, admitted that most of the immigrants crossing the border were not criminals and understood their reasons for coming to the United States but asserted that they would not “easily assimilate into the United States” (Mark, 2018).

A result of this “zero tolerance policy” is the widely publicized and heavily criticized act of separating migrant families (Congressional Research Service, 2019, p.1). A report released by the Congressional Research Service claims that family separation was not implemented by an explicit policy but rather, results as a consequence of prosecuting adults with minor children illegally crossing the border (Congressional Research Service, 2019, p.1). According to federal government data, as of February 2019, up to 3,000 were likely separated from their parents (Congressional Research Service, 2019, p.1). Further, thousands more were separated as per the DHS’s protocols prior to the 2018 policy change (Congressional Research Service, 2019, p.1).

Family separation was labeled a “result” of the zero-tolerance policy to justify the act and avoid fault, but it was a strategy implemented and directly anticipated by the Trump administration. In a 2017 interview with CNN, former secretary of state John

Kelly expressed that he would “do almost anything to deter the people from Central America to getting on this very, very dangerous network that brings them up through Mexico into the United States” and that he was considering separating immigrant families “to deter more movement along this terribly dangerous network” (Haltiwanger, 2018). The practice, beginning in 2018, is the first time the United States intentionally separated immigrant families as a strategy to deter migration (Cordero, 2018, p. 2).

President Trump issued an executive order on June 20, 2018 mandating that the DHS maintain custody of immigrant families awaiting criminal trial or immigration proceedings (Congressional Research Service, 2019). Subsequently, Customs and Border Protection stopped referring most illegal border crossings to the DOJ for prosecution and a federal judge ordered all separated families to be reunited with their families (Congressional Research Service, 2019). the following eight months, the DHS returned to some of the prior immigration policies and continued separating families as per the DHS protocols prior to the zero-tolerance policy (Congressional Research Service, 2019). It is fair to assume that this executive order was created in response to the massive public backlash, as President Trump has made his disdain toward Central American immigrants evident.

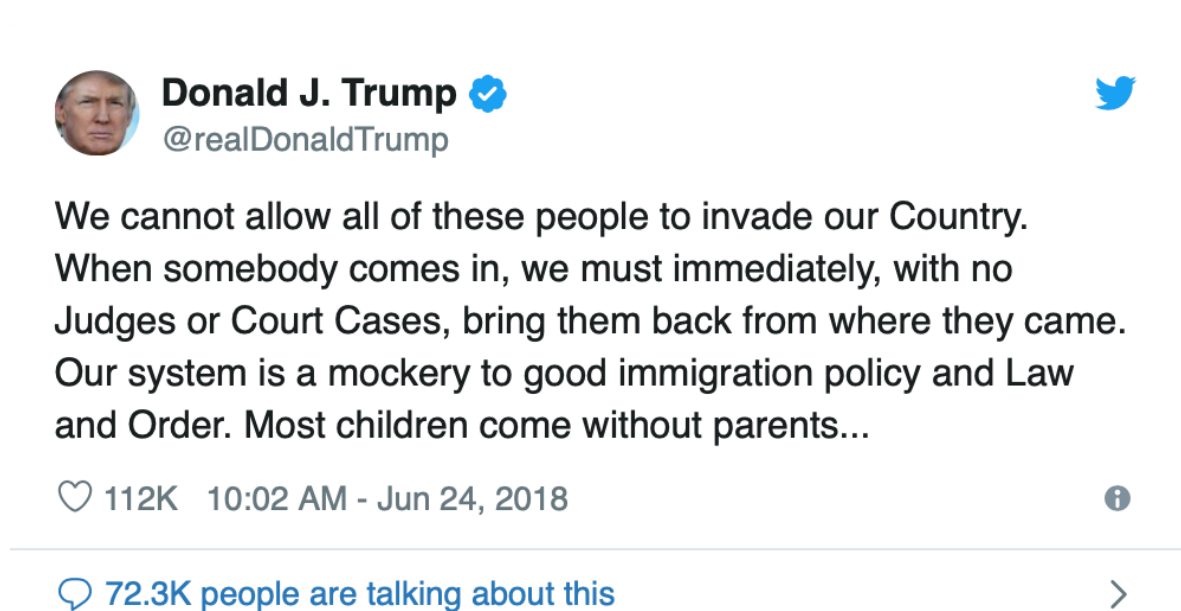
Contributions to anti-immigration rhetoric have been made by both liberals and conservatives, however, the sources of anti-immigration rhetoric used to justify current United States immigration policies stems from conservative politicians and is supported by conservative media outlets (Bump, 2019). These racially charged statements capitalize on peoples’ fear of the unknown by using false narratives about immigrants to illicit enough fear to make their policies sound reasonable (Anti-Defamation League, 2019). It



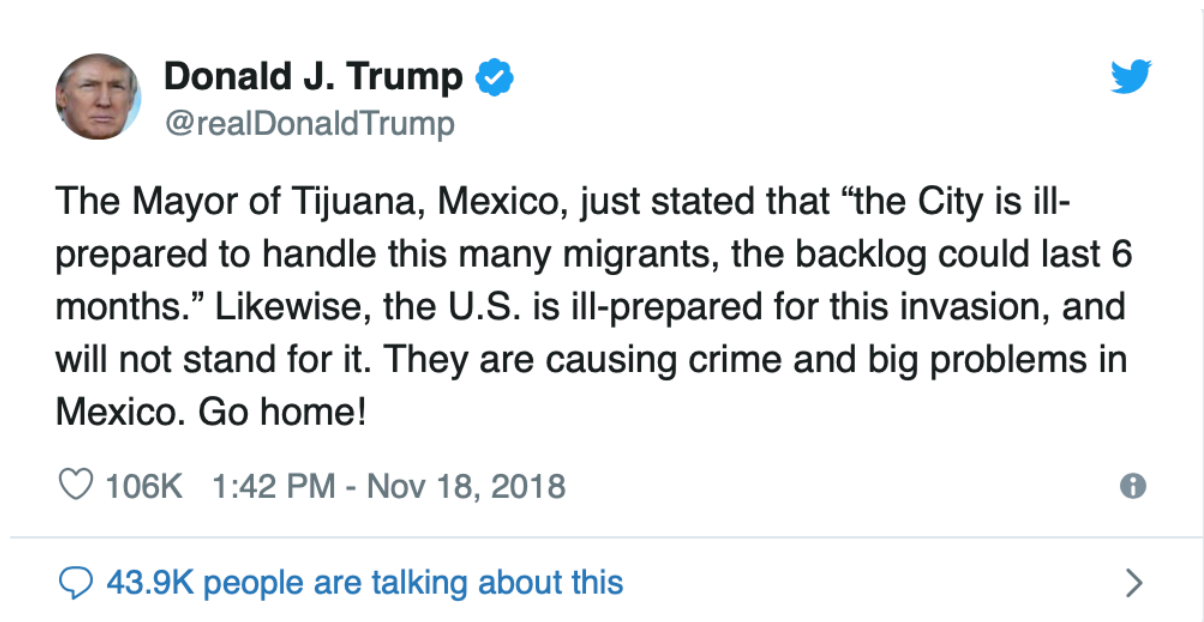
is fair to claim President Trump is at least partially responsible for facilitating this anti-immigration rhetoric in America. President Trump frequently makes disparaging remarks about Mexican immigrants during speeches and in his tweets; often referring to their immigration as an “invasion” (see Figures 2 through 4). During his first press conference as a presidential candidate, President Trump asserted that “when Mexico sends its people, they’re not sending their best... They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people” (Gomez & Korte, 2018). President Trump also alluded to the “success” of family separation as a deterrent during a press conference with reporters at the White House, stating “if they feel there will be separation, they don’t come” (Shepardson, 2018). Perhaps the most dangerous aspect of this anti-immigration rhetoric is the effects it has on United States citizens (Anti-Defamation League, 2019). Hate and intolerance towards immigrants has become conventional in our every-day lives (Anti-Defamation League, 2019). The space for mutual understanding is restricted by the fear instigated by anti-immigration rhetoric and as a result, the unwillingness of citizens to get proximate (Anti-Defamation League, 2019).

Mandatory detention does not deter immigration and is unlikely to in the future. DHS documents obtained by CNN show that the Trump administration’s zero-tolerance strategy did not deter immigrants from trying to cross the border illegally (Kopan, 2018). DHS staff predicted that the deterrent effects of the policies would be evident shortly after their implementation (Kopan, 2018). According to the documents, “there is no evidence of deflection from apprehensions between the ports of entry to the ports” (Kopan, 2018). Further, an analysis of data from a longer period of time by the Center for American Progress illustrates that the family detention policy used by the Obama

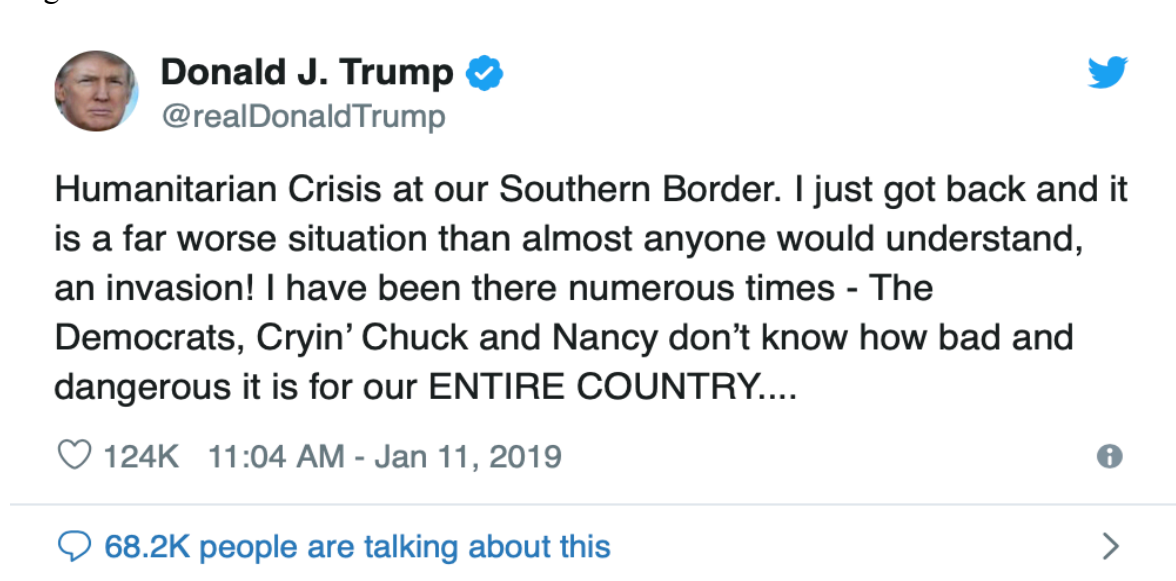
administration in response to an increase in Central American family arrivals did not deter immigration either (Wong, 2018, p. 1). This can be attributed to migrants fearing the conditions in their countries of origin more than the detention policies enforced by the United States government (Martinez, 2018).



**Figure 2:** A tweet from June 24, 2018 in which President Trump refers to the migration of Central and South Americans to the United States as an “invasion.”



**Figure 3:** A tweet from November 18, 2018 in which President Trump refers to the migration of Central and South Americans to the United States as an “invasion.”



**Figure 4:** A tweet from January 11, 2019 in which President Trump refers to the migration of Central and South Americans to the United States as an “invasion.”

### **III. AUSTRALIA**

*For those who've come across the seas, we've boundless plains to share* -Australian  
National Anthem

#### **Legal Authorization of Mandatory Detention**

Mandatory detention was legally introduced in Australia with the passing of the Migration Amendment Act in 1992 (Parliament of Australia, 2013). The policy obligated the government to detain all immigrants entering the country without a valid visa while Australian residency claims are processed (Parliament of Australia, 2013). Detention was initially intended to be a temporary measure to deal with the influx of Indo-Chinese boat arrivals but was later extended to all “unlawful non-citizens” with the enactment of the Migration Reform Act of 1992 (Parliament of Australia, 2013). The act was amended in 1994 to abolish the detention limit of 273 days to permit indefinite detention (Parliament of Australia, 2013).

#### **Types of Migrants Subject to Mandatory Detention**

According to a report released by the Australian Department of Home Affairs (DHA) regarding the immigrants in detention, 13.2% were from Iran, 11% were from New Zealand, 6.9% were from Vietnam, 6.3% were from Sri Lanka and 5.5% were from Sudan (Australian Government Department of Home Affairs, 2019, p. 7). Historically, asylum seekers in Australia were fleeing human rights violations in their countries of origin (Belhalfaoui, 2019). However, current data suggests the largest percentage of immigrants come from Iran, a country where self-expression is limited by force and can result in imprisonment (Belhalfaoui, 2019). Iran’s judiciary goes to great lengths to limit

free speech by imprisoning journalists, human rights activists, and political demonstrators for peaceful activism (Belhafaoui, 2019). Iran ranked the second highest in the world for executions in 2018, ordering the deaths of 273 (Euronews, 2019).

### **Facilities Used to Detain Migrants**

Australia has both on shore and offshore immigrant centers. On shore detention centers are used to detain people arriving unlawfully by sea or air, people who have overstayed their visas or had their visas cancelled (Jesuit Social Services, 2019, p. 1). According to Australian Border Force's website, there are seven immigration detention centers located on the mainland ("Immigration Detention," 2019). Off-shore detention centers have been located on Christmas Island and Nauru and Manus Island, Papua New Guinea (Global Detention Project, 2008). Though, the Manus center was closed in 2016 (Meixler, 2017). The Christmas Island center was closed in 2018 but in early 2019, the Prime Minister that the center will be reopening "both to deal with the prospect of arrivals as well as dealing with the prospect of transfers" (Austin, 2019). Off-shore centers are used to detain asylum seekers arriving by boat, often called "irregular maritime arrivals" (United Nations High Commissioner for Refugees, 2016, p. 1). The Australian government initially contracted the management of all of their immigrant detention centers out to private companies (Global Detention Project, 2008). However, as of early 2019, the Australian Department of Immigration also manages a few mainland immigration centers (Australian Government Department of Home Affairs, 2019).

Australia's detention facilities, especially the offshore centers on Manus and Nauru, have received criticism from human rights groups, doctors and politicians alike

for their inhumane conditions. The conditions in the detention centers have caused detainees serious mental health problems, often prompting self-harm and even suicide (United Nations High Commissioner for Refugees, 2016, p. 1). Conditions have been widely publicized by journalists. In 2016 British newspaper, The Guardian, released The Nauru Files which included more than 2,000 incident reports exposing the living conditions that asylum seekers were enduring in the offshore detention center (Davidson, Evershed & Farrell, 2016). These reports exposed the horrendous abuses experienced by children in off-shore detention centers. Children, which make up less than 20% of those in detention, were involved in over half of the reports (Davidson, Evershed & Farrell, 2016). The files include 7 reports of sexual assault of children, 59 reports of assault on children, 30 of self-harm involving children and 159 of threatened self-harm involving children (Davidson, Evershed & Farrell, 2016). Recently, however, children are not typically detained in immigration detention facilities, but placed in other facilities instead (Refugee Council of Australia, 2019). As of February 2019, all children detained on Nauru have been removed or plans for their removal have been made; Nauru will not be used to hold asylum seeking children in the future (Guardian Staff, 2019).

According to a report released by the Australian DHA, as of August 31, 2019, there were 1339 people in immigration detention facilities (Australian Government Department of Home Affairs, 2019, p. 7). Of these 1339 people, 494 people arrived unlawfully by air or boat, representing 36.9% of the total immigration detention population (Australian Government Department of Home Affairs, 2019, p. 7). 845 of the 1339 people, 63.1% of the total immigration population, arrived in Australia lawfully but are in immigration detention for either overstaying or having their visas cancelled for

violating visa conditions (Australian Government Department of Home Affairs, 2019, p. 7). DHA data indicates 28.9% of those in detention had been detained for 91 days or less and 57.9% had been detained for 365 days or less (Australian Government Department of Home Affairs, 2019, p. 11). The average number of days a person seeking asylum spend in detention was 826 days (Refugee Council of Australia, 2019)

### **Mandatory Detention as a Deterrent Method**

Australia's deterrence policy is aimed at persons traveling to Australia by boat to claim asylum and attempts to prevent boats from ever reaching Australia (Isaacs, 2018). Boats are either returned to their point of departure (University of New South Wales, 2019, p. 1) or persons on the boat are transferred to offshore detention centers. Immigrants without visas have been seeking refuge by boat in Australia since the Vietnam War (Isaacs, 2018). Arriving at Australia's border by boat is not preferable, but some immigrants have no other option. (Cole, 2018, p. 104). These immigrants often require the aid of smugglers to flee their countries which is often more expensive than the cost of obtaining a visa and airfare (Cole, 2018, p. 104). The act of turning back suspected Illegal Entry Vessels (SIEVs) was introduced in 2001 and reintroduced in 2013 (Parliament of Australia, 2017).

In 2001, the Australian government implemented the "Pacific Solution" which diverted thousands of asylum seekers to offshore detention centers in Nauru and Manus Island to forego immigration processes (Global Detention Project, 2008). As a result, Australia's first detention camp was opened on Manus island ("Manus: Timeline of," 2017). This policy ended and the camp was closed in 2008, but Australia continues to transport "unauthorized asylum seekers" (immigrants typically arriving by boat without a

visa) to a detention complex on Christmas Island (Rummery, 2008). Christmas Island is not in Australia's official migration zone, so asylum seekers detained are prevented from accessing official refugee processes available on the mainland (Rummery, 2008). The Manus camp was reopened in 2012 as a response to an influx of asylum seekers (The BBC, 2017) and then closed in 2016 after the Papua New Guinea Supreme Court ruled that confinement in the facility "violated asylum-seekers' right to personal liberty" (Meixler, 2017).

In 2013, Australia introduced Operation Sovereign Borders, as a "military-led response to combat people smuggling and to protect our borders" (The University of Melbourne, 2013, p. 2). Under Operation Sovereign Borders, the government's policy is to turn back boats "where it is safe to do so" (University of New South Wales, 2019, p. 1). This is done through "turnbacks" which vessels carrying people seeking asylum are returned to just outside territory of departure or "takebacks" where Australia works with the country of departure to return persons aboard vessels by plane or an at-sea transfer (University of New South Wales, 2019, p. 1). The Australian government provides very little information regarding these actions, so it unclear if people aboard these boats are given the opportunity to seek asylum or what happens to the people once the boats are turned back (University of New South Wales, 2019, p. 1). Since the strategy was implemented, only two boats have made it to Australia's shores (Taylor, 2019). According to a report by UNICEF, the boat "turnbacks," onshore and offshore detention and other programs necessary to Operation Sovereign Borders amounted to more than \$9.6 billion since 2013 (Hunt, 2016).



	<b>Operation Sovereign Borders</b>	<b>Pacific Solution</b>
Year implemented	2013	2001
What it included	Turn back boats carrying immigrants attempting to reach the Australian shore “where it is safe to do so”	Diverted thousands of asylum seekers to offshore detention centers in Nauru and Manus Island to forego immigration processes
Effects	Two boats have reached mainland since its implementation	Australia’s first detention camp was opened on Manus island
Status	Operational as of October 2019	Ended in 2008, but Australia continues to transport “unauthorized asylum seekers” to offshore detention centers

**Table 1.** Comparison of Australia’s Operation Sovereign Borders and Pacific Solution. Data for Operation Sovereign Borders from Asylum Seekers Centre, n.d., University of New South Wales (2019), and Harvard Political Review (2019). Data for Pacific Solution from Global Detention Project (2008). The BBC (2017), and UNHCR News (2008).

Boat turnback efforts have been successful in decreasing the number of boats able to reach Australia’s shore (Taylor, 2019), but have not been successful in discouraging the arrival of immigrants by boat or people smuggling, as the original motives of the Australian government for implementation of Operation Sovereign Borders had intended (Parliament of Australia, 2017). According to Australian government data, there were 5 boat ‘turnbacks’ from 2001-2003 and 29 from 2013-2015 (Parliament of Australia, 2017). Australia’s detention policies have been the subject of much criticism. Former assistant high commissioner to the UNHCR, Erika Feller, expressed that these deterrence policies “were not envisaged in the 1951 Refugee Convention and runs counter to it” (Harvard, 2019). Further, there is no empirical evidence to suggest that the threat of being

detained deters immigration (Edwards, 2011, p. 1). Despite Australia introducing mandatory detention in 1997, immigrants continued to seek asylum throughout the 1990s and 2000s (Edwards, 2011, p. 2). The threats to a person's life in their country or origin is likely to be worse than any method of deterrence that a country of destination has developed (Edwards, 2011, p. 2).

Continuation of these policies, despite evidence against their effectiveness suggests an alternate motive for the continuation of these policies; especially given that these policies have been successful in limiting the types of people able to enter Australia (Cole, 2018, p. 97). Australia has a long history of openly discouraging migration from non-white majority countries such as China and even coined the term “white Australia” to encapsulate this idea (European Parliament, 2010). Though the policy was abolished in the 1970s, current “deterrent” immigration policies are undoubtedly influenced by these former sentiments, as they continue to be subtly perpetuated by politicians and media outlets alike (European Parliament, 2010; Manne, 2018). Sentiments expressed by government leaders have the greatest influence on public perception regarding immigration (Singh, 2018). According to a recent poll conducted by the Lowy Institute, 75% of Australians agreed that “accepting immigrants from many different countries makes Australia stronger” (Oliver, 2016). The same poll, conducted again in 2018, indicates less support for immigration (Oliver, 2018). Shortly before this poll was administered former prime minister, Tony Abbott, called for reducing the immigration rate to “ease pressure on infrastructure, house prices, and wages” (Oliver, 2018). It is fair to assume that Prime Minister Abbott influenced the 2018 poll results (Singh, 2018).

#### IV. COMPARISON

##### Legal Authorization of Mandatory Detention

	United States	Australia
Year	1996	1992
Act	Illegal Immigration Reform and Immigrant Responsibility Acts of 1996	Migration Amendment Act
Who	“Any migrant present in the United States who has not been admitted or who arrives in the United States whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters”	All immigrants entering the country without a valid visa

**Table 2.** Comparison of the legal authorization of mandatory detention. Data for United States from 104<sup>th</sup> Congress (1996). Data for Australia from the Parliament of Australia (2013).

Both the United States and Australia legally authorized mandatory detention around the same times. These acts were in response to a rapidly increasing immigrant population. Both acts targeted similar types of immigrants, those arriving illegally without proper authorization to enter the country.

##### Types of Migrants Subject to Mandatory Detention

	United States	Australia
Number of immigrants in detention	52,722 (As of September 10, 2019)	1,339 (As of August 31 <sup>st</sup> , 2019)
Top country of origin of asylum seekers	Mexico (as of 2019)	Iran (As of 2018)

**Table 3.** Comparison of the types of immigrants subject to mandatory detention. Data for United States from The Marshall Project (2019) and ICE (2018). Data for Australia from Australian Government Department of Home Affairs (2019).

It is important to note that the United States does not keep reliable data of who is in immigrant detention, however according to the 2018 Immigrations and Customs Enforcement report, the top country of origin for removals from the United States were of citizens originating in Mexico (ICE, 2018, p. 17). Immigrants seeking asylum in America are fleeing gang violence perpetuated by United States policies (Martinez, 2018). The largest portion of immigrants seeking asylum in Australia are fleeing violence perpetuated by their governments (Belhalfaoui, 2019). The United States has a larger concentration of immigrants from South and Central America whereas Australia's immigrant population is less specific to a certain region. This can be attributed to the geography of the two countries. The United States is connected to South and Central America and immigrants can travel by foot, whereas Australia is an island only accessible by air or by sea.

### Facilities Used to Detain Migrants

	United States	Australia
Management of detention centers	Customs and Border Protection, ICE and the Office of Refugee Resettlement	DHA
Average number of days spent in detention	34  (According to government data from 2017, before implementation of Trump's zero-tolerance policy)	826  (According to 2019 data from the Refugee Council of Australia)

**Table 4.** Comparison of the facilities used to detain migrants. Data for United States from ICE (2019), Customs and Border Protection (2019), and Freedom for Immigrants (2018). Data for Australia from Australian Government Department of Home Affairs (2019) and Refugee Council of Australia (2019).

The difference in average days spent in detention can be attributed to the United States' recent implementation of tougher illegal immigration enforcement policy. Australia, on the other hand, has a longer history of harsh immigration enforcement and detaining immigrants. Facilities in both the United States and Australia have been criticized for their inhumane conditions. Most, if not all, detainees in United States and Australian detention centers develop severe mental health problems (O'Connor, 2015, p. 8), (United Nations High Commissioner for Refugees, 2016, p. 1).

Human rights groups in the United States and Australia have paid close attention to the treatment of children in detention facilities. The United States continues to detain and keep migrant children in government custody, whereas Australia no longer detains children in immigration detention centers (National Immigrant Justice Center, 2019, p. 1), (Refugee Council of Australia, 2019). This could be because Australia has a longer

history of harsh immigration detention policies and thus a longer history of criticism from human rights groups prompting Australia to adopt alternatives to child detention.

The immigration policies of the United States and Australia violate the Refugee Convention which both countries have agreed to uphold (Margolis, 2018). The Refugee Convention establishes that immigrants fleeing persecution in their home countries have the right to claim asylum (Margolis, 2018). It also states that asylum seekers are not to be punished upon arrival to a country of refugee; meaning criminalizing illegal border crossing is a treaty violation (Margolis, 2018). The policies of the United States and Australia undermine the countries' treaty obligations and do exactly what the Refugee Convention intended to prevent (Margolis, 2018).

#### **Mandatory Detention as a Deterrent Method**

	<b>United States' Zero-Tolerance Policy</b>	<b>Australia's Operation Sovereign Borders</b>
Year strategy was implemented	2017	2013
What strategy included	Any adult illegally crossing the border would be prosecuted	Turn back boats "where it is safe to do so"
What strategy was responding to	Illegal immigration	Combat people smuggling and secure Australia's borders

**Table 5.** Comparison of Mandatory Detention as a Deterrent Method. Data for United States from Time (2018). Data for Australia from Asylum Seekers Centre (n.d) and the University of New South Wales (2019)

Perhaps President Trump in his tweet claiming the United States could learn much from Australian immigration policies was a reference to their deterrent motives. It is fair to assert that the United States looked to the Australian boat-ban when implementing the

Zero-Tolerance policy and criminalized illegal border crossings. Both the President of the United States and the Prime Minister of Australia claim that their immigration policies are in place to deter people from risking the dangerous journey of immigration. These policies have been unsuccessful in their ability to deter immigration but has succeeded in limiting types of people entering the country. The continuation of these policies suggests that this ability to limit immigrant entry was the underlying motive all along (Anti-Defamation League, 2019), (Cole, 2018, p. 97).

Anti-Immigration rhetoric from leaders heavily influences public opinion in both the United States and Australia. In 2019, both the United States and Australia have had white jingoist citizens carry out mass shootings specifically with the intent to kill immigrants (Gelineau, 2019). These terrorists targeted areas they knew specifically would have a high number of immigrants. The Australian gunman cited American conservative commentator Candace Owens as influential and President Trump “as a symbol of renewed white identity and common purpose” in his manifesto (Gelineau, 2019). The United States gunman did not directly cite the President, but used Trump’s phrase, “Hispanic invasion of Texas” in his manifesto (Woodward and Yen, 2019). Together these shootings claimed 63 lives (Attanasio, 2019), (Gelineau, 2019).

## **V. CONCLUSION**

The immigration detention policies of the United States and Australia aim to limit the types of people entering their countries. These policies result in targeting of specific types of immigrants, justified by a normalization of xenophobia in American and Australian society. Neither country has successfully implemented deterrence methods that discourage immigration, and as data trends suggest, are unlikely to in the future. Understanding the similarities between the immigration detention policies of the United States and Australia is especially important when elected leaders look to other countries as examples. This knowledge helps reveal the true intentions behind adopting similar policies; especially when the policies have been ineffective in the example country, result in human rights violations and violate international treaty obligations.



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