face the facts

Questions and Answers about Refugees, Migrants and Indigenous People

Foreword

Face the Facts was first published in 1997 at a time of heated debate over race issues in Australia. This debate has not cooled. Recent events such as the furore over refugees, anti-Muslim and anti-Arab prejudice and the stalled Aboriginal reconciliation process have fanned the flames of this debate.

Race and racism are still burning issues in Australian society. Today, there is even more need for clear information that addresses prevailing myths about immigrants, refugees and Indigenous people.

Face the Facts draws on information from a wide variety of sources, to correct some common myths. Our aim is to bring all the major issues together and present reliable information in an easy-to-read publication.

This is the third edition of *Face the Facts* - and it remains our most popular publication. To make sure that we continue to provide useful, relevant information, we would value your feedback. Please use the feedback form included with this booklet.

I hope that you find Face the Facts to be a useful resource and that it stimulates your thinking and encourages debates based on facts not prejudice.

Dr Bill Jonas,
Acting Race Discrimination
Commissioner

Contents

Glossary

Face the Facts - Glossary

Aboriginal

Comes from the Latin term *'ab origine'* which means 'from the beginning' and refers to the original inhabitants of a particular place.
In Australia, an Aboriginal person is someone who is of Aboriginal descent, identifies as an Aboriginal person and is accepted as an Aboriginal person by the community in which he or she lives.

Assimilation

The process of absorbing or being absorbed into a group or system so that elements are the same. In Australia during the 20th Century, policies of 'assimilation' sought to make Aboriginal people and migrants the same as 'mainstream' Australian society.

Asylum seeker

A person who requests asylum from persecution and recognition of his or her status as a refugee.

ATSIC

The Aboriginal and Torres Strait Islander Commission (ATSIC) is Australia's national representative Indigenous organisation. ATSIC advises governments on Indigenous issues, advocates for Indigenous people at the local, regional, national and international levels and monitors how other government agencies provide services to their Indigenous clients. ATSIC is directed by a Board of Commissioners who are elected by Indigenous Regional Councils, who are in turn elected by Indigenous people across Australia.

Community Development Employment Projects (CDEP) Scheme

CDEP has been run by ATSIC to enable Aboriginal and Torres Strait Islander communities to provide employment for their people. To take part in CDEP, members of a community choose to give up their social welfare entitlements from Centrelink. CDEP community organisations receive grants to pay wages to participants working on community-managed projects.

Convention on the Rights of the Child 1989 (CROC)

The United Nations Convention which sets out the way all human rights (including civil, political, economic, social and cultural rights) should be protected for children and young people. Australia adopted CROC in 1990.

Convention relating to the Status of Refugees 1951 (Refugees Convention)

The *Convention relating to the Status of Refugees* defines who is a refugee, specifies their rights and the legal obligations of member states towards refugees. A key provision of the Convention is that refugees must not be returned or *'refouled'* to a country where they fear persecution. The 1951 Convention was limited to protecting mainly European refugees in the aftermath of World War II. The 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. Australia adopted the Refugees Convention in 1954 and the Protocol in 1973.

DIMIA

The federal Department of Immigration and Multicultural and Indigenous Affairs.

Excised off-shore places

Parts of Australian territory which have been removed from Australia's migration zone: Ashmore and Cartier Islands, Christmas Island, Cocos (Keeling) Island as well as various other off-shore sea and resource installations. Unauthorised arrivals who land at an excised off-shore place cannot apply for a visa. They are taken to a 'declared country' such as Nauru or Papua New Guinea where they are held while their application for a protection visa is assessed.

Family Stream migrants

A visa category which allows people to migrate to Australia on the basis of their relationship with a sponsor who is a close family member and an Australian resident or citizen. Most Family Stream Migrants are the spouses or fiancés of Australian residents or citizens.

Humanitarian Program

The part of Australia's permanent immigration program under which refugees and other people who need humanitarian assistance can apply to come to or stay in Australia on a permanent or long-term basis.

Immigrant

A person who moves to another country with the intention of settling permanently.

Immigration detention

Under the Migration Act people who are not Australian citizens and who do not hold a valid visa must be detained. While the law applies to people who overstay their visas and to people whose visas have been cancelled, the biggest group in immigration detention are asylum seekers who arrived in Australia without a valid visa.

Indigenous

According to the *Convention concerning Indigenous and Tribal Peoples in Independent Countries* 1989 (ILO 169), Indigenous peoples are:

- Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

- Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Self-identification as indigenous or tribal is a fundamental criterion for determining the groups to which the provisions of this Convention apply. Australia has not adopted ILO 169.

International Covenant on Civil and Political Rights 1966 (ICCPR)

This Covenant translates the civil and political rights outlined in the *Universal Declaration of Human Rights* 1948 into firm obligations undertaken by member states. It covers the rights to equality before the law and to freedom from arbitrary arrest or detention, among others, prohibits torture and slavery and restricts use of the death penalty. Australia adopted the ICCPR in 1980.

Land rights

In a land rights claim, Indigenous Australians seek legal ownership of land from Commonwealth, State or Territory governments. Land rights legislation was adopted in several States and the Northern Territory before native title was recognised by the common law in the Mabo Case.

Mabo Case

A landmark legal case in which Eddie Mabo, together with four other Meriam people from the Murray Islands in the Torres Strait, proved they had native title rights to their land. There were two High Court decisions in this case.

Mabo (No.1) (1988) invalidated Queensland legislation which sought to remove the Murray Islanders' native title without compensation finding that it was inconsistent with the federal *Racial Discrimination Act 1975*.

Mabo (No.2) (1992) rejected the doctrine of 'terra nullius' - that Australia did not belong to anyone at the time of European settlement - and recognised that Indigenous people who have maintained a continuing connection with their country according to their traditions and customs may hold native title rights over that land.

Migration Program

The part of Australia's permanent immigration program under which people can apply to come to or stay in Australia permanently on the basis of their employment skills or their family ties with a sponsor who is a permanent resident or citizen of Australia.

Migration zone

The migration zone is made up of the land area of all the states and territories of Australia and the waters of proclaimed ports within those states and territories. The land area starts at the mean low water mark. The migration zone does not include the territorial sea that is off the coast of the Australian states and territories. The purpose of the migration zone is to define the area of Australia where a non-citizen must hold a visa in order to legally enter and remain in Australia. Anyone who enters the migration zone, including Australian citizens, must present themselves for immigration clearance.

Multicultural

Describes the diversity of cultures and backgrounds that make up modern Australian society.

Multiculturalism

Multiculturalism is a government policy that recognises and celebrates Australia's cultural diversity and seeks to address the challenges and opportunities arising from it. The main principles of multiculturalism are:

- Civic duty: all Australians should support the basic structures and principles of Australian society - our Constitution, democratic institutions and values - which guarantee freedom and equality and enable diversity to flourish.

- Cultural respect: all Australians have the right to express their own culture and beliefs within the law and accept the right of others to do the same.

- Social equity: all Australians are entitled to equality of treatment and opportunity enabling them to contribute to the social, political and economic life of Australia, free from discrimination on the grounds of race, culture, religion, language, location, gender or birthplace.

- Productive diversity: all Australians should benefit from the significant cultural, social and economic dividends that arise from cultural diversity.

Native title

Indigenous peoples' rights to land or waters held according to their traditional laws and customs. First recognised in the common law in the Mabo Case and then in legislation in the *Native Title Act 1993*.

'Pacific Solution' or 'Pacific Strategy'

Australia's policy of transferring unauthorised arrivals who have entered or tried to enter Australian territorial waters to other nations in the region such as Nauru and Papua New Guinea where their claims for refugee protection can be processed. The policy was developed by the Federal Government to prevent unauthorised arrivals from reaching the Australian mainland and applying for protection. It was introduced in September 2001.

Permanent Protection Visa

This visa recognises refugee status and provides permanent asylum in Australia. Entitlements include immediate access to a full range of settlement services, social security benefits, family reunion and the right to leave the country and return. Refugees who apply overseas and refugees who apply while in Australia on another valid visa will be granted a Permanent Protection Visa.

Reconciliation

The movement for Aboriginal Reconciliation aims to foster understanding of the historic relationship between Indigenous and non-Indigenous Australians and develop more harmonious and cooperative relations for the future.

Refugee

The 1951 United Nations *Convention relating to the Status of Refugees* and its 1967 *Protocol* define a refugee as someone who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Self-determination

Article 1 of the *International Covenant on Civil and Political Rights* (ICCPR), repeated identically in the *International Covenant on Economic, Social and Cultural Rights* 1966 (ICESCR), states that self-determination is the right of all peoples to 'freely determine their political status and freely pursue their economic, social and cultural development'.

Skill Stream migrants

A visa category which allows people to migrate to Australia on the basis of their occupation, education, work experience, age and English language ability.

Special Eligibility category

A visa category that allows former residents and certain categories of non-citizens who spent their formative years in Australia to migrate to Australia.

Special measures

A 'special measure' gives a group an extra benefit (additional to those enjoyed by the rest of the community) to help remedy a legacy of discrimination or disadvantage against that particular group. For example, the rent assistance component of Abstudy (not provided with Austudy) is a 'special measure' in recognition of the comparative poverty of Indigenous families and the serious under-representation of Indigenous students in senior school and tertiary education. A 'special measure' is an exception to the general rule prohibiting racial discrimination. It is lawful if its sole purpose is to advance the equal enjoyment of human rights of a racial or ethnic group.

'Stolen children' or 'Stolen generations'

The popular terms describing the Indigenous children forcibly removed from their parents (without parental consent or a court order) by government authorities across Australia, starting as early as the 1870s in some places and continuing into the 1960s in some States, with the aim of assimilating them into non-Aboriginal society.

Terra nullius

A Latin term meaning 'not inhabited'. Australia was colonised by the British in the belief that the colony was being acquired by occupation (or settlement) of a 'terra nullius'. The High Court's Mabo decision in 1992 overturned the 'terra nullius' fiction by recognising that traditional Indigenous property rights survived the British colonisation of Australia.

Temporary Protection Visa

This visa recognises refugee status but only provides temporary asylum in Australia. Entitlements do not include access to settlement services, most social security benefits, sponsorship of family members to Australia or the right to leave Australia and return. Most refugees who arrived in Australia without a valid visa can only apply for a Temporary Protection Visa..

Torres Strait Islander

The *Aboriginal and Torres Strait Islander Commission Act 1989* defines a Torres Strait Islander as 'a descendant of an Indigenous inhabitant of the Torres Strait Islands'. The Torres Strait Islands lie between the tip of Cape York in Queensland and Papua New Guinea.

'Unauthorised arrivals'

The term most commonly used by DIMIA for people who arrive in Australia without a valid visa. Under the Migration Act the correct legal term is 'unlawful non-citizens'. Unlawful non-citizens must be detained until removed from Australia or granted a visa.

Universal Declaration of Human Rights **1948**

Adopted in the aftermath of World War II by the newly-established United Nations General Assembly, the Universal Declaration proclaimed the basic rights and freedoms to which everyone, regardless of nationality, is entitled. These include, among others, the rights to life, liberty, freedom of thought, conscience and religion, to work, to education and freedom from persecution. Unlike conventions and covenants, the Universal Declaration was not originally binding. However, it is now recognised as binding on all UN members.

White Australia policy

A series of laws and policies implemented in Australia from 1901 until the 1970s which aimed to keep people who were not from a white European background out of the country. These laws also restricted the lives of Indigenous people and other people already in Australia who were not considered 'white'.

Questions and Answers About Refugees & Asylum Seekers

1. Who is a refugee?

According to the United Nations *Convention and Protocol relating to the Status of Refugees* (also called the Refugees Convention), a refugee is someone who is outside their own country and cannot return due to a well-founded fear of persecution because of their:

- race
- religion
- nationality
- membership of a particular social group or
- political opinion.[1]

A person becomes a refugee under international law once she or he crosses an international border and is assessed as meeting the definition of a refugee, either by a national government or an international agency such as the United Nations High Commissioner for Refugees (UNHCR) - http://www.unhcr.ch/cgi-bin/texis/vtx/home.

In popular use, the term refugee is often interpreted more broadly than its legal definition to include all people who flee their homes seeking refuge from harm. There are many circumstances which could force someone to flee to safety including war or civil strife, domestic violence, poverty and natural or man-made disasters. However, the Refugee Convention only recognises people as refugees if they are displaced from their home country because of persecution on the basis of their race, religion, nationality, membership of a particular social group or political opinion.

Two important points to note about this definition are:

- a refugee has to be outside their country of nationality or usual residence when making a refugee application
- the fear of persecution has to be well founded - that is, the person fleeing must have experienced the persecution or be likely to experience it if he or she returns.

How do refugees differ from migrants?

Refugees are not in the same situation as migrants, although the two groups are often confused. Migrants choose when to leave their country, where they go and when they return. Refugees flee their country for their own safety and cannot return unless the situation that forced them to leave improves.

How many refugees are there worldwide?

There are about 12 million refugees around the world. Asia hosts almost half the world's refugees (5.8 million), followed by Africa (3.3 million), Europe (2.2 million) and North America (650,000).[2]

Less developed countries are both a major source and a major destination for refugees. Between 1992 and 2001, 86% of the world's refugees came from developing countries and 72% of the global refugee population were hosted in developing countries.[3]
In 2001:

- Afghanistan was by far the largest country of origin of refugees (3.8 million) accounting for almost one-third of the global refugee population. Other major countries of origin were Burundi, Iraq, Sudan, Angola, Somalia, Bosnia-Herzegovina, Congo, Viet Nam and Eritrea.[4]

- The top 10 host countries for refugees were Pakistan, Iran, Germany, Tanzania, the United States, the United Kingdom, the Federal Republic of Yugoslavia, Guinea, Sudan, Congo and China .[5]

2. What is Australia's policy on refugees?

The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) gives visas to refugees and other people who need protection through its Humanitarian Program. This program has two main parts: off-shore resettlement and on-shore protection.

Off-shore resettlement

The off-shore resettlement program is for refugees and other 'humanitarian entrants' who apply for a visa from outside Australia. People accepted under this program can settle permanently in Australia and receive comprehensive government assistance to help them settle into the Australian community. There are three main kinds of off-shore resettlement visas:

- **Refugee Visas:** for people outside their home country who satisfy the Refugees Convention definition of 'refugee' and who are in need of resettlement because they cannot return to their own country or stay where they are.
- **Special Humanitarian Visas**: for people outside their home country who are not technically refugees but who have experienced substantial discrimination amounting to a gross violation of human rights and have some connection with Australia (such as a family member).
- **Special Assistance Visas:** for people who do not fit within the other two categories but who are in particularly vulnerable situations and have close family or community links with Australia. This category was ended in 2002.

On-shore protection

People can be recognised as refugees once they are already in Australia by applying for a 'protection visa'. To get a protection visa, asylum seekers must show that they satisfy the Refugees Convention definition of 'refugee' *and* that Australia has an obligation to protect them. Under migration law, Australia is only obliged to protect refugees if:

- their race, religion, nationality, membership of a particular social group or political opinion was the *essential* and *significant* reason for their persecution
- the persecution involved serious harm
- they have no effective protection in another country (eg through citizenship or some other right to enter and remain safe in that other country).

Protection visas are either permanent or temporary depending on how the refugee entered Australia.

- **Permanent Protection Visas** (PPV): for people who arrive in Australia with a valid temporary visa (such as a tourist or student visa) and are found to be refugees Australia is obliged to protect. They must also meet health and character requirements. The PPV entitles them to settle permanently, travel freely in and out of the country and sponsor family members to join them in Australia. It also gives them immediate access to a full range of government assistance to help them settle in Australia.
- **Temporary Protection Visas** (TPV): for people who arrive in Australia without a valid visa and are found to be refugees Australia is obliged to protect. They must also meet health and character requirements. The TPV gives them temporary residence for three years. After three years, depending on when and how they arrived in Australia, some can apply for a PPV while others can only reapply for another TPV. The TPV provides only limited access to government assistance for settlement compared with other refugees. TPV holders cannot automatically sponsor their families to join them in Australia and they need special approval to re-enter Australia if they leave. From its introduction in October 1999 to 7 February 2003, 8,616 people were granted TPVs.[6]

What are Temporary Protection Visas (TPVs)?

For more information about the history of Australia's refugee policies visit:
http://www.aph.gov.au/library/pubs/online/Refugees_contents.htm

Asylum seekers who arrive in Australia without a valid visa who are found to be refugees according to Australia's migration laws get a Temporary Protection Visa (TPV). The Federal Government introduced TPVs in October 1999 in response to growing numbers of 'unauthorised' boat arrivals.[7] The TPV allows for three years temporary residence in Australia. After three years, depending on when and how they entered Australia, some TPV holders can apply for a Permanent Protection Visa (PPV) while others can only reapply for another TPV.

Changes to the law: 27 September 2001

Before 27 September 2001, refugees who were given TPVs in the first instance could apply for a PPV. To get a PPV, they had to prove that Australia still owed them protection and that they had held a TPV for 30 months.[8] Changes to the Migration Act which came into effect on 27 September 2001 have made it *extremely* difficult for refugees who hold TPVs to get permanent protection eventually.

'7 day rule'

TPV holders who apply for permanent protection on or after 27 September 2001 cannot get a PPV if: *since leaving their home country, they lived for 7 days or more in a country where they could have sought and obtained effective protection (either from the government of the country or through an office of the UNHCR located in that country)*. All they can get is another TPV - provided they can prove Australia still owes them protection and they have held a TPV for 30 months. The '7 day rule' can be waived if the Minister for Immigration considers waiver is in the public interest.

New varieties of TPV

Changes to the Migration Act in September 2001 also created two new categories of off-shore TPVs. These are listed alongside the on-shore TPV category in the table on the below.

**Table 2.1: Varieties of Temporary Protection Visa**

	Temporary Protection Visa (On-shore) (Visa Subclass 785)	Secondary Movement Off-shore Entry (Off-shore) (Visa Subclass 447)	Secondary Movement Relocation (Off-shore) (Visa Subclass 451)
Who can apply?	From October 1999, unauthorised arrivals who are found to be refugees.	Asylum seekers who entered Australia at an 'excised off-shore place' (such as Christmas Island, Ashmore Reef or Cocos Islands).	Asylum seekers who have left their country of first asylum and are outside of Australian territory and have not yet entered Australia. Applicants must have lived for less than 7 days in a country where they could have sought and obtained protection.
Term	3 years	3 years	5 years
Conditions of stay	No automatic right of re-entry if they leave Australia. Can make a further application for a PPV. Those who apply for further protection on or after 27 September 2001 subject to '7 day rule' (ie they cannot have lived for more than 7 days in a country where they could have sought and obtained effective protection.) Unless the Minister waives the 7 day requirement, they can only be granted a further 3 year TPV if they are still found to be owed protection by Australia. Required to hold TPV for a continuous period of 30 months (or shorter if specified	No automatic right of re-entry if they leave Australia. Can make a further application for TPV, subject to the 7 day rule. Can never obtain a PPV unless with Ministerial approval.	No automatic right of re-entry if they leave Australia. Can obtain a PPV after 54 months (4.5 years).
Family reunion	No automatic right. At the discretion of the Minister for Immigration.	No automatic right. At the discretion of the Minister for Immigration.	No automatic right. At the discretion of the Minister for Immigration.
Access to services	Limited	Limited	Limited

3. How many refugees come to Australia?

Each year, DIMIA sets a quota for the number of visas it will grant under the Humanitarian Program. This quota includes off-shore and on-shore visas. This quota has remained roughly the same (about 12,000 visas) for the past decade.

In 2001-02, Australia granted a total of 12,349 visas under the Humanitarian Program.

Figure 3.1: Number of visas granted to refugee and humanitarian entrants, 1990-2002
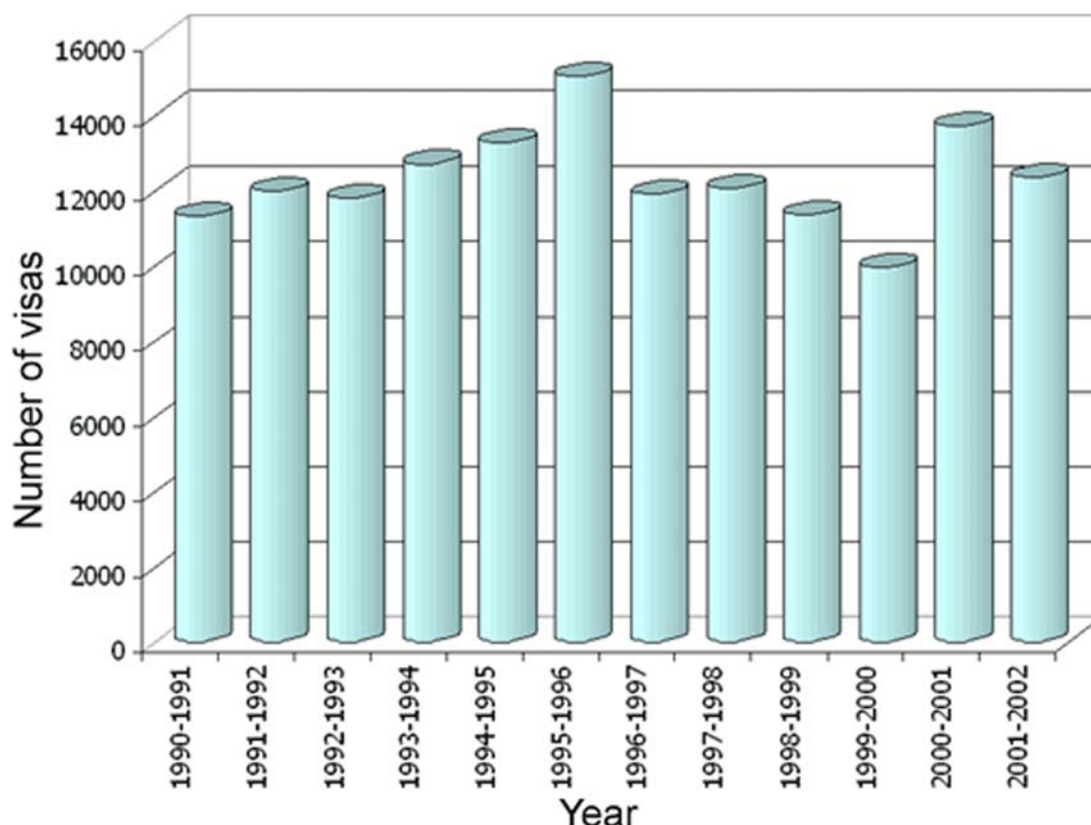
Source: DIMIA, Population Flows: Immigration Aspects, February 2002, Figure 2-20, p 25.

Table 1: Humanitarian Program visa grants, 1999 - 2002

Visa category	1999 - 2000	2000 - 01	2001 - 02
Off-shore resettlement			
Refugee	3,802	3,997	4, 160
Special Humanitarian Program	3,051	3,116	4, 258
Special Assistance Category	679	879	40
Off-shore resettlement			
Permanent Protection Visas	1,584	1,125	748
Temporary Protection Visas	874	4,452	3,137
Other*	-	164	6
Total	**9,960**	**13,733**	**12,349**

Sources: DIMIA, Population Flows: Immigration Aspects, 2000 and 2001, editions & DIMIA, Fact Sheet 60 - Australia's Refugee and Humanitarian Program - http://www.immi.gov.au/facts/60refugee.htm, 13 February 2003 and 9 August 2002.

* Note: 'Other' includes safe haven and on-shore humanitarian visas.

Not everyone granted a visa arrives to settle in Australia. In 2001-02, 8,458 visas were granted through the off-shore resettlement program but only 6,732 people (80%) actually arrived to settle in Australia during that year. They included:

- 3,525 refugees
- 3,003 Special Humanitarian entrants
- 204 Special Assistance entrants.[9]

Where do they come from?

In 2001-02, Australia's refugees and humanitarian entrants came from three main regions:

- 5,988 from the Middle East and South West Asia (including Iraq, Iran and Afghanistan)
- 2,911 from Africa (including Sudan, Ethiopia, Sierra Leone and Somalia)
- 2,812 from Europe (including the Former Yugoslavia and Croatia).[10]

Table 3.2: Birth region of Australia's refugee and humanitarian visa recipients, 2000-2002

Region of birth	2000-01		2001-02	
	% off-shore visas	% on-shore visas	% off-shore visas	% on-shore visas
Europe	43.3	7.0	32.0	2.7
Middle East & South West Asia	27.0	80.5	32.3	83.8
Rest of Asia	4.0	7.6	2.2	9.0
Africa	25.4	2.2	33.1	2.8
Americas	0.3	1.2	0.2	1.2
Stateless/unknown	-	1.5	0.1	0.5
Total	100%	100%	100%	100%

Source: DIMIA, *Fact Sheet 60 - Australia's Refugee and Humanitarian Program,* http://www.immi.gov.au/facts/60refugee.htm 13 February 2003.

4. Who is an asylum seeker?

An asylum seeker is someone who has fled their own country and applies to the government of another country for protection as a refugee. People experiencing persecution have a fundamental human right to seek and enjoy asylum in other countries. This right is recognised in the *Universal Declaration of Human Rights* - http://www.un.org/Overview/rights.html which was adopted by the United Nations in 1948.

How many asylum seekers are there worldwide?

In 2001, there were approximately **923,000** asylum seekers worldwide.[11] Most came from Afghanistan, Iraq, Turkey, Yugoslavia, China, Democratic Republic of Congo, Colombia, Russian Federation, Somalia and Iran. Many asylum seekers make refugee applications in neighbouring countries while some apply in countries further afield. Because mainland Australia shares no land border with any other country and is far from most major conflicts, relatively few asylum seekers come here. For example, in 2001 about 13,000 asylum seekers came to Australia. This compares with about 88,000 in the United Kingdom, 86,000 in the United States and 44,000 in Canada.[12]

Table 4.1: Asylum applications submitted in select industrialised countries, 2001

Country of asylum	Main countries of origin	Total
United Kingdom	Afghanistan/Iraq/Somalia/Sri Lanka/Yugoslavia	88,300
Germany	Iraq/Turkey/Yugoslavia/Afghanistan/Russian Federation	88,290
United States [13]	Mexico/China/Colombia/Haiti/Armenia	86,180
France	Turkey/DR Congo/China/Mali/Algeria	47,290
Canada	Hungary/Pakistan/Sri Lanka/Zimbabwe/China	44,040
Netherlands	Angola/Afghanistan/Sierra Leone/Iran/Guinea	32,580
Austria	Afghanistan/Iraq/Turkey/India/Yugoslavia	30,140
Belgium	Russian Fed./Yugoslavia/Algeria/DR Congo/Iran	24,550
Sweden	Iraq/Yugoslavia/Bosnia-Herzegovina/Russian Fed/Iran	23,520
Switzerland	Yugoslavia/Turkey/Bosnia-Herzegovina/Iraq/FYR Macedonia	20,630
Czech Republic	Ukraine/Moldova/Romania/Viet Nam/India	18,090
Norway	Russian Fed/Croatia/Somalia/Iraq/Ukraine	14,780
Denmark	Afghanistan/Iraq/Bosnia-Herzegovina/Yugoslavia/Somalia	12,400
Australia	Afghanistan/Iraq/China/Indonesia/Fiji	12,370
Ireland	Nigeria/Romania/Moldova/Ukraine/Russian Fed.	10,330

Source: UNHCR, *Refugees by Numbers*, 2002 Edition.
http://www.unhcr.ch/cgi-bin/texis/vtx/home/+cwwBmeLqZw_wwwwMwwwwwwwmFqtFEIfgIhFqoUfIfRZ2ItFqtxw5oq5z
FqtFEIfgIAFqoUfIfRZ2IDzmxwwwwwww1FqtFEIfgI/opendoc.htm

5. What happens to asylum seekers in Australia?

Asylum seekers in Australia are treated differently according to whether they entered Australia as 'authorised' or 'unauthorised' arrivals.

'Authorised' arrivals enter Australia with a valid visa (such as a tourist or student visa). Asylum seekers who are 'authorised' arrivals can apply for a Permanent Protection Visa (PPV). Until their refugee application is decided, they are granted a 'bridging visa'. This usually allows them to live in the community, work and receive financial help from the government if they cannot meet their most basic needs for food, accommodation and health care. Authorised arrivals who are not found to be refugees according to Australian migration law may be detained until they are removed from the country.

'Unauthorised' arrivals enter Australia without a valid visa. Australia detains 'unauthorised arrivals' while their refugee applications are decided. Those found to be refugees according to Australian migration law and who pass medical and security tests are granted a Temporary Protection Visa (TPV). Unauthorised arrivals who are found not to be refugees under Australian migration law remain in detention until they are removed from the country. Between October 1999 and September 2001 Australia received 12,082 unauthorised arrivals and 9,276 of them made refugee applications.[14]

Who decides refugee applications?

The first step is to apply to DIMIA. If DIMIA rejects the application, the asylum seeker can apply to the Refugee Review Tribunal (RRT). Very few people rejected by the RRT are able to go any higher, either to a court or to the Minister, to have their application reconsidered. For more information visit - http://www.immi.gov.au/facts/61asylum.htm#5

How do 'unauthorised' arrivals reach Australia?

In 2001-02, **3,648** 'unauthorised' arrivals came by boat and 1,193 came by plane. The number of unauthorised boat and air arrivals has varied significantly over the last four years.

Table 5.1: Unauthorised arrivals, 1998-2002

	1998-99	1999-2000	2000-01	2001-02
Number of unauthorised boat arrivals	921	4,175	4,137	3,648*
Number of unauthorised air arrivals	2,091	1,695	1,508	1,193

Sources: DIMIA, Fact Sheet 70 - Border Control - http://www.immi.gov.au/facts/70border.htm, 8 August 2002 and Fact Sheet 74 - Unauthorised Arrivals by Air and Sea - http://www.immi.gov.au/facts/74unauthorised.htm, 15 October 2002.

* Of this 3,648, 1,212 people reached Australia and the remaining 2,436 people arrived at Australia's external territories.

Boat arrivals

In 2001-02, of the **3,648** 'unauthorised' boat arrivals:

- 1,212 arrived on 6 boats on mainland Australia
- 1,834 arrived on 13 boats at an off-shore excised place
- 602 on 4 boats were returned to Indonesia.[15]

In 2001-02, 1,502 boat arrivals sought asylum in Australia. In the same year, DIMIA made a decision on 1,363 applications recognising 1,092 (80%) of them as refugees. 134 applications rejected by DIMIA were considered by the Refugee Review Tribunal (RRT).[16]

Air arrivals

When a non-citizen arrives at an Australian airport without a visa, (or with an expired or cancelled visa), they are questioned about their reasons for travelling to Australia. Most unauthorised air arrivals are removed from Australia as soon as possible if they cannot meet the requirements to clear immigration. If the person claims to be a refugee, their application for a protection visa is assessed before any decision about whether to remove them is made.

In 2001-02, of the 1,193 people refused immigration clearance at an Australian airport, 85 applied for a protection visa (7%). In the same year, DIMIA made decisions on 74 applications, finding that 23 were refugees (31%). Another 8 asked the Refugee Review Tribunal to review DIMIA's decision rejecting their applications.[17]

6. Why are 'unauthorised' arrivals allowed to stay in Australia?

Every country which has adopted the Refugees Convention, including Australia, makes a commitment to protect the rights of refugees. The most essential part of this commitment is never to return a refugee to a country where he or she has reason to fear persecution.

Article 33 of the Refugees Convention is titled 'Prohibition of expulsion or return ("refoulement")' and says:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

This means that Australia must give unauthorised arrivals, as well as authorised arrivals who make refugee applications, the chance to prove whether or not they are refugees before removing them from the country.

7. What is the 'Pacific Solution'?

The 'Pacific Solution' or 'Pacific Strategy' aims to prevent unauthorised boat arrivals from reaching the Australian mainland and making refugee applications. The Australian Government developed this strategy in September 2001 in response to the '*Tampa* crisis'. It involved removing or 'excising' certain parts of Australian territory - Ashmore and Cartier Islands, Christmas Island, Cocos (Keeling) Islands - from Australia's 'migration zone'.[18] This means people landing in 'excised territories' cannot make refugee applications without permission from the Minister for Immigration. Instead, they are transferred to a 'declared country', such as the Pacific island nation of Nauru or Manus Island in Papua New Guinea, while their applications are assessed by the United Nations High Commissioner for Refugees (UNHCR) and the Australian Government.

Amendments to the Migration Act 1958 (Cth) in September 2001:

- 'Excised' certain territories off the Australian mainland (including Christmas Island, Ashmore and Cartier Islands, and the Cocos (Keeling) Islands) from Australia's 'migration zone'. This means that unauthorised arrivals at 'excised off-shore places' cannot apply for a visa unless the Minister for Immigration considers it to be in the public interest. Only people who arrive inside the migration zone have a right to apply for visas.
- Allowed Australian officials to take asylum seekers intercepted en route to Australia to another country for processing. Such people effectively fall outside Australia's refugee protection system and have no right of appeal in Australian tribunals or courts if their refugee claims are rejected.
- Introduced two new Temporary Protection Visas - (Visa Subclass 447) Secondary Movement Off-shore Entry and (Visa Subclass 451) Secondary Movement Relocation.
- Amended the definition of a refugee to require that a Convention reason must be the essential and significant reason for the feared persecution and that the persecution would involve serious harm to the person. For further information visit http://www.minister.immi.gov.au/humanitarian/onshore/fs_61.htm#2.
- Further limited the grounds for judicial review of refugee decisions, prohibited class actions in migration litigation and prevented legal proceedings against the Commonwealth in relation to the entry, status and detention and transfer of an off-shore entry person.
- Introduced mandatory minimum terms of imprisonment for 'people smugglers'.[19]

What was the '*Tampa* crisis'?

In August 2001, the Norwegian cargo ship *MV Tampa* rescued 433 mostly Afghan and Iraqi asylum seekers from their sinking boat in the Indian Ocean. The Australian Government refused permission for the *Tampa* to enter Australian waters and allow its passengers to get off on nearby Christmas Island, an Australian territory. Despite the Government's warning, the *Tampa* did enter Australian waters and the ship was then boarded by Australian Special Air Services (SAS) troops. The passengers were transferred from the *Tampa* to an Australian Navy ship and taken to Nauru. The government of Nauru agreed to house the asylum seekers in return for economic aid from Australia.

The Government's refusal to allow asylum seekers on the *Tampa* to land on Australian territory was later challenged in Australian courts which upheld the right of the Government to act as it did.

To read the Full Federal Court decision visit: http://www.austlii.edu.au/cgi-bin/disp.pl/au/cases/cth/federal%5fct/2001/1329.html?query=title+%28+%22vadarli%22+%29]

Ors; Eric Vadarlis v Minister for Immigration and Multicultural Affairs and Ors ('The Tampa Case')

The Human Rights and Equal Opportunity Commission was granted leave to intervene in these proceedings before the Federal Court, Full Federal Court and High Court (27 November 2001).

The primary issue in these proceedings was the lawfulness of the actions of the Commonwealth Government concerning the 433 asylum seekers who were rescued by the *MV Tampa* from their sinking boat on or about 26 August 2001. The Commonwealth Government sought to prevent the asylum seekers from entering the migration zone in Australia as they did not have valid visas to do so. To this end, the Government:

- did not permit the *MV Tampa* to enter the port on Christmas Island
- did not permit the asylum seekers to leave the ship except to leave Australian territorial waters
- through SAS officers, controlled the movements of the asylum seekers on the ship
- did not permit the asylum seekers to communicate with persons off the ship or persons off the ship to communicate with them.

The Commission's submissions in this case can be found on the Commission's website at: **http://www.humanrights.gov.au/legal/guidelines/tampa.html** and **http://www.humanrights.gov.au/legal/guidelines/tampa2.html**

On 11 September 2001, Justice North in the Federal Court found that the Commonwealth had detained without lawful authority the asylum seekers rescued by *MV Tampa*. He ordered the Commonwealth to release those asylum seekers and bring them to a place on the mainland of Australia.

The Commonwealth appealed against this decision to the Full Court of the Federal Court. On 17 September 2001, by a majority comprising Justices Beaumont and French, that Court determined that the appeals should be allowed and set aside the orders made by Justice North. The majority judges concluded that the Commonwealth was acting within its executive power under section 61 of the *Constitution* in the steps it took to prevent the landing of the rescuees. The majority has also concluded that the rescuees were not detained by the Commonwealth nor did they have their freedom restricted by anything that the Commonwealth did.

Chief Justice Black dissented. He took the view that whilst the power to expel people entering Australia illegally is undoubted, it is a power that derives only from laws made by the Parliament and not from powers otherwise exercisable by the Executive Government. He took the view that since the powers provided in the *Migration Act* were not relied upon, the Commonwealth Government had no power to detain those rescued from the *Tampa*. He considered that on the facts of the case there was a detention by the Commonwealth and that since it was not justified by the powers conferred by the Parliament under the Migration Act it was not justified by law. He was therefore of the opinion that the appeal should be dismissed.

On 27 November 2001, Mr Vadarlis made an application to the High Court seeking special leave to appeal against the majority decision of the Full Federal Court. He also sought to challenge the validity of parts of the *Border Protection (Validation and Enforcement Powers) Act 2001* which was passed after the Full Court decision was delivered (the relevant parts of this Act purported to render all Commonwealth action relating to the *Tampa* lawful).

The High Court refused Mr Vadarlis' application. While the High Court found that the issues in this case raised important constitutional questions, there had been a change in the factual circumstances since the Full Court hearing (as the asylum seekers were no longer on a ship controlled by the Commonwealth but in Nauru). The Court indicated that this rendered the arguments on appeal hypothetical and made it difficult to determine what orders the Court should make if the applicants were successful.

Source: HREOC *Annual Report 2001-2002*, pp 88-89.

8. What is immigration detention?

According to Australia's migration law, 'unlawful non-citizens' must be detained until they prove their claim to be refugees or are removed from the country. An 'unlawful non-citizen' is a person without a valid visa to be in Australia (not including Australian citizens). People become 'unlawful non-citizens' if:

- they enter Australia without a valid visa (ie if they are 'unauthorised arrivals')
- they enter Australia with a valid visa but then stay past the visa's expiry date (ie they 'overstay' their visa) or
- they break the conditions of their visa (for example by working when the visa does not allow it).[20]

The law requiring immigration detention for 'unlawful non-citizens' has been in place since 1992. There are limited exceptions to this rule. The Minister for Immigration can, but does not have to, release people in certain cases, including:

- children
- the spouse of an Australian citizen or permanent resident
- people aged 75 or over
- people with special health needs who cannot be cared for in detention.[21]

How many people are detained?

In 2001-02, a total of 10,897 people were detained at some time during the year.[22] The maximum number of people detained on any one day was 3,667.[23] On 7 July 2003, 1,036 people were being held in immigration detention on the Australian mainland.[24] This does not include off-shore centres on Christmas Island and Cocos (Keeling) Island where unauthorised arrivals can be held until they are transferred to Nauru or Manus Island.

Table 8.1: People held in immigration detention on mainland Australia, 7 July 2003

Detention centre	Adult men	Adult women	Children	Total held	Total centre capacity
Villawood (NSW)	411	103	19	533	700
Maribyrnong (Victoria)	44	8	1	53	80
Perth (WA)	15	2	-	17	64
Port Hedland (WA)	88	9	21	118	748
Woomera IRPC (SA)	-	-	-	-	400
Woomera Housing Project	-	9	9	18	25
Baxter(SA)	226	29	42	297	880
Total	**784**	**160**	**92**	**1,036**	**2,897**

Source: Minister for Immigration and Multicultural and Indigenous Affairs, Border Protection, Immigration Detention Centres. http://www.minister.immi.gov.au/borders/detention/index.htm (data extracted 7 July 2003).

People who arrive without authorisation at an excised off-shore place (such as Christmas Island) may also be detained until they can be moved to one of the off-shore processing places - Nauru or Manus Island.[25]

Table 8.2: People at off-shore processing centres in Nauru and Manus Island, 8 October 2002

	Adult males	Adult females	Minor males	Minor females	Total
Nauru	690	97	98	71	956
Manus	44	20	23	15	102
Total	734	117	121	86	1,058

Source: Data provided by DIMIA to HREOC for *Face the Facts*, 16 October 2002.
As of 9 January 2003, the total population of centres on Nauru and Manus Island was 680

How long are they detained?

Of the 1,618 mainland detainees on 12 April 2002, approximately:

- 25% had been in detention for less than three months
- 38% between 3 and 12 months
- 21% between 12 and 18 months and
- 16% more than 18 months.[26]

So far, the longest period that any adult asylum seeker has spent in detention is 5.5 years.[27]

Where are they detained?

Figure 8.1: Location of Australia's immigration detention centres

* Off-shore processing facilities in the Republic of Nauru and on Manus Island were set up with the cooperation of the Governments of Nauru and Papua New Guinea and are administered by the International Organization for Migration (IOM).

Note: Curtin was closed in September 2002. Woomera was closed in April 2003.

Where do people in detention come from?

The five main nationalities of detainees in 2001-02 were Iranian, Afghan, Chinese, Indonesian and Sri Lankan. In 2000-01 the five main nationalities were Afghan, Iraqi, Iranian, Palestinian and Chinese.[28]

Children in detention

Laws about immigration detention apply equally to adults and children (under 18 years). The number of children in detention has fluctuated between 58 in July 1999 and 842 in September 2001.[29] As of 7 July 2003, there were **92** children in mainland immigration detention centres.[30] Children made up 23.4% of all detainees in August 2001 compared with 14.2% in March 2002.[31]

Detaining children raises serious human rights concerns.

The UN *Convention on the Rights of the Child* says in article 37:

> *States Parties shall ensure that:*
>
> *(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;*
>
> *(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily.* ***The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;***
>
> ***(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.*** *In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*
>
> *(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as* ***the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority****, and to a prompt decision on any such action* [emphasis added].

In 2002-03 the Human Rights and Equal Opportunity Commission conducted a National Inquiry into Children in Immigration Detention to investigate these concerns.

For more information on the National Inquiry into Children in Immigration Detention visit: http://www.humanrights.gov.au/human_rights/children_detention/index.html.

What does detention cost?

The cost of detaining 7,993 people in 2000-01 was $104 million. The average cost per detainee in 2000-01 was $134 per day.[32] A further $96 million was spent setting up and running the off-shore processing centres in the Pacific.[33] In the 2002 Federal Budget, an additional $200 million was allocated for off-shore processing of refugee claims and $188 million for the construction of new off-shore processing and detention facilities.[34]

The prolonged detention of asylum seekers may lead to serious psychological harm. The detention environment may be particularly harmful to children and may have a significant impact on a child's prospects for healthy development.[35]

Detention also impacts on Australia's standing in the international community. Australia is the only Western country that has a system of mandatory detention of 'unauthorised' asylum seekers that also severely limits the capacity of detainees to obtain proper judicial review of their detention.[36]

9. How does Australia help refugees settle?

Providing early settlement and social support to refugees and humanitarian entrants who arrive in Australia is crucial to helping them rebuild their lives in Australia.[37]

For information about the kinds of assistance available to refugees and humanitarian entrants visit: http://www.immi.gov.au/facts/66ihss.htm#2

Not all refugees have access to the same support and benefits to help them settle in Australia.

- Off-shore Humanitarian Program entrants and on-shore Permanent Protection Visa holders *can* access special support services designed specifically for refugees as well as many general services and benefits provided to migrants and Australian residents. [38]
- Refugees granted Temporary Protection Visas *cannot* access the same range of services provided to other refugees and humanitarian entrants.

Table 9.1: Benefits and services for Permanent and Temporary Protection Visa holders

	Permanent Protection Visa (PPV)	Temporary Protection Visa (TPV)
Social security	Immediate access to the full range of social security benefits.	Ineligible for New Start, Youth Allowance, Sickness Allowance, Parenting Payment, Austudy and a range of other benefits. May access Special Benefit, which is means tested and reviewed every 13 weeks. Formal activity testing has been proposed. Eligible for Family Tax Benefit, Child Care Benefit, Maternity Allowance, Maternity Immunisation Allowance and Double Orphan Pension. Can access Medicare.
Education	Same access to education as any other permanent resident.	Access to school education subject to state policy. Effective preclusion from tertiary education due to imposition of full fees. As temporary residents, TPV holders are not eligible for HECS. *Note:* TPV holders 18 or over who are engaged in full time education (including vocational courses) cannot receive Special Benefit.
Settlement support	Access to full range of DIMIA settlement support services including the Integrated Humanitarian Settlement Strategy (IHSS). Receive 13 weeks initial accommodation and bond assistance. Eligible for rent assistance.	Not eligible for most DIMIA funded services such as Migrant Resource Centres and ethno-specific community welfare agencies. Can use Early Health Assessment and Intervention Programs. Limited access (12 sessions) to torture and trauma counselling. Eligible for rent assistance. No initial accommodation offered or bond assistance.
Family reunion	Able to apply to bring members of immediate family (spouse and children) to Australia.	Not eligible for family reunion (including reunion with spouse and children) except at the discretion of the Minister for Immigration.
Work rights	Permission to work and receive employment assistance.	Permission to work but ability to find employment influenced by temporary nature of visa and poor English skills. No access to Job Network assistance. Can access Job Matching.
Language training	Access to 510 hours of English language training through the Adult Migrant English Program (AMEP) or the Advanced English for Migrants Program (AEMP). Eligible for Translating and Interpreting Service (TIS).	Not eligible for the federally funded English language programs AMEP and AEMP. Not eligible for TIS. TPV minors are eligible for English as a Second Language New Arrivals Program in schools.
Travel	Will be able to leave the country and return without jeopardising their visa.	No automatic right of return

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Notes

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7. Note: between 1991 and 1994, all persons found to be refugees in Australia were granted temporary stay for four years, rather than permanent resident status as was the case before 1991. The individual could then apply for further temporary stay or permanent residence, subject to establishing an ongoing need for protection and the availability of places in the migration program.

8. One of the pre-requisites for a Permanent Protection Visa is that the TPV holder must have held their TPV for a period of 30 months (or shorter if specified by the Minister). A TPV holder applying for a further protection visa can be refused it before the 30 month period expires.

9. DIMIA, *Immigration Update 2001-02*, Table 1.1, September 2002.

10. DIMIA, *Fact Sheet 60 - Australia's Refugee and Humanitarian Program*, 9 August 2002.

11. UNHCR, *Statistical Yearbook 2001: Refugees, Asylum-seekers and Other Persons of Concern - Trends in Displacement, Protection and Solutions*, October 2002.

12. UNHCR, *Refugees by Numbers*, 2002 Edition, 8 August 2002.
http://www.unhcr.ch/cgi-bin/texis/vtx/home/+cwwBmeLqZw_wwwwMwwwwwwwmFqtFElfgIh
FqoUfIlfRZ2ltFqtxw5oq5zFqtFElfgIAFqoUfIlfRZ2IDzmxwwwwwww1FqtFElfgI/opendoc.htm

13. Estimated by the UNHCR on the basis of an average 1.4 asylum applicants per application.

14. Information supplied by DIMIA, 12 November 2002.

15. Senate Legal and Constitutional Committee, Wednesday 29 May 2002. Note: this figure is for the 2001-02 financial year to 29 May 2002 only; therefore the total figure is incomplete for 2001-02.

16. Information supplied by DIMIA, 12 November 2002.

17. Information supplied by DIMIA, 12 November 2002.

18. 'Excised off-shore places' also include Australian sea installations and Australian resource installations.

19. DIMIA, *Fact Sheet 71 - New Measures to Strengthen Border Control*, 8 August 2002.

20. Section 189, *Migration Act 1958* (Cth). Note: while the immigration detention policy and legislation applies equally to people who overstay their visas and those whose visas have been cancelled, most detainees have been unauthorised arrivals, mostly asylum seekers.

21. *Migration Regulations 1994* (Cth), Regulation 2.20.

22. DIMIA, *Annual Report 2001-02*, Part Two - Performance Outcomes: 1.3.5 Detention.
http://www.immi.gov.au/annual_report/annrep02/report36.htm

23. Ibid.

24. Minister for Immigration and Multicultural and Indigenous Affairs, *Border Protection: Immigration Detention Centres* (data extracted 19 May 2003). http://www.minister.immi.gov.au/borders/detention/index.htm

25. Immigration officers can detain an unauthorised arrival at an excised off-shore place until they can be moved to an off-shore processing place.

26. DIMIA Submission to the HREOC National Inquiry into Children in Immigration Detention, Attachment 3, 'Statistics on People in Immigration Detention', April 2002.

27. Question on Notice, 'Immigration: Asylum Seekers' (Question No. 139), *Hansard,* House of Representatives, 19 August 2002.

28. DIMIA, *Fact Sheet 82 - Immigration Detention,* 16 January 2003.

29. Evidence of Ms P Godwin, DIMIA, at Human Rights and Equal Opportunity Commission, National Inquiry into Children in Immigration Detention, Public Hearing, 2 December 2002.
http://www.humanrights.gov.au/human_rights/children_detention/transcript/sydney_21202.html

30. Minister for Immigration and Multicultural and Indigenous Affairs, *Border Protection: Immigration Detention Centres* (data extracted 23 May 2003). http://www.minister.immi.gov.au/borders/detention/index.htm

31. DIMIA submission to the HREOC National Inquiry into Children in Immigration Detention, Attachment 3, 'Statistics on People in Immigration Detention', April 2002.

32. Question on Notice, 'Immigration: Unauthorised Arrivals', (Question No. 526), Hansard, House of Representatives, 19 August 2002.

33. Oxfam Community Aid Abroad, *Adrift in the Pacific: The Implications of Australia's Pacific Refugee Solution,* February 2002, p 5. http://www.caa.org.au/campaigns/refugees/pacificsolution

34. Hon. Philip Ruddock MP, Minister for Immigration and Multicultural and Indigenous Affairs, 'Off-shore Processing Developments and Related Savings', MPS 33/2002.
http://www.minister.immi.gov.au/media_releases/media02/r02033.htm

35. Human Rights and Equal Opportunity Commission, *Background Paper on Mental Health and Development*, National Inquiry into Children in Immigration Detention, 11 June 2002.
http://www.humanrights.gov.au/human_rights/children_detention/background/mental_health.html

36. Justice P N Bhagwati, *Human Rights and Immigration Detention in Australia*, Report of the Regional Advisor for Asia and the Pacific of the United Nations High Commissioner for Human Rights, Mission to Australia, 24 May - 2 June 2002.
http://www.unhchr.ch/huricane/huricane.nsf/view01/BC4C8230F96684C8C1256C070032F5F1?opendocument

37. United Nations High Commissioner for Refugees, Chapter 2.3, 'Promoting Integration through Early Settlement and Social Support' in *Refugee Resettlement: An International Handbook to Guide Reception and Integration*, 30 September 2002.
http://www.unhcr.ch/cgi-bin/texis/vtx/home/+UwwBmet8hT8wwwwnwwwwwwwhFqA72ZR0gRfZNtFqrpGdBnqBAFqA 72ZR0gRfZNcFqloMpdGBwDqnadha5nBBcnMnDBa51ppdGBaDzmxwwwwwww1FqmRbZ/opendoc.pdf

38. Unlike new migrants who must generally wait two years before they can access certain benefits, off-shore Humanitarian Program entrants and on-shore Permanent Protection Visa holders can receive social security payments through Centrelink, health benefits through Medicare and a range of other government assistance programs.

Questions and Answers About Migrants and Multiculturalism

1. How many people migrate to Australia?

In 2001-02, **88,900** new settlers arrived in Australia.[1] This figure included 36,036 (40.5%) skilled migrants, 23,344 (26.3%) family migrants, 21,458 (24.1%) New Zealanders (who freely enter Australia to live and work under the Trans-Tasman Travel Agreement), 6,732 (7.6%) refugees and humanitarian entrants and 1,330 others including former citizens returning to Australia.

The number of settler arrivals changes each year according to the number of visas issued by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Table 1.1 shows these changes.

Table 1.1: Settler arrivals, 1990 - 2002

Year	Permanent settler arrivals
1990-91	121,688
1991-92	107,391
1992-93	76,330
1993-94	69,768
1994-95	87,428
1995-96	99,139
1996-97	85,752
1997-98	77,327
1998-99	84,143
1999-00	92,272
2000-01	80,610
2001-02	88,900

Source: DIMIA *Fact Sheet 2 - Key Facts in Immigration*, 13 November 2002.

Post-war migration

Since 1945, over 6 million people have come to Australia as new settlers. Australia received more than 900,000 migrants during the 1990s, compared with:

- 1.1 million in the 1980s
- 960,000 in the 1970s
- 1.3 million in the 1960s
- 1.6 million between October 1945 and 30 June 1960.[2]

Figure 1.1 shows that current levels of migration are relatively low compared with migrant intakes in the 1950s and 1960s.

Figure 1.1: Settler arrivals in Australia, 1948-2001
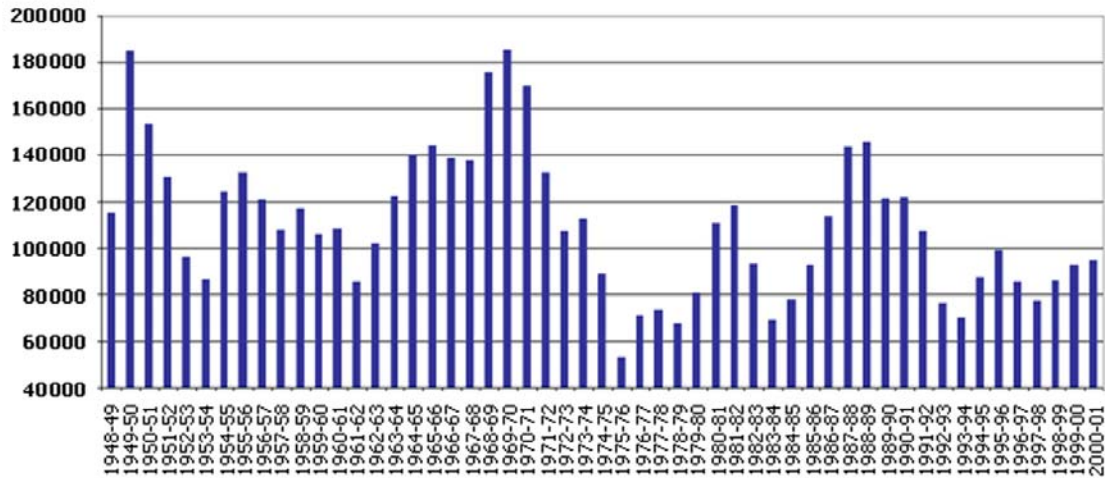
Source: Statistical tables on settler arrivals (Historical Data), DIMIA.[3]

2. Where do migrants come from?

Until the 1970s, the 'White Australia' policy restricted immigration from non-European countries. Today's immigration policies are not racially discriminatory. Anyone can apply for a visa to migrate to Australia regardless of their ethnic origin, race, religion or gender.

In 2001-02, the major source countries for migrants were New Zealand (15,663), the United Kingdom (8,749), China (6,708), South Africa (5,714), India (5,091), Indonesia (4,221), Philippines (2,837), the Federal Republic of Yugoslavia (2,082), Sri Lanka (2,011) and Malaysia (1,939).[4]

Figure 2.1 shows that while New Zealand and the United Kingdom contributed most migrants over the last decade, a large proportion (40.3%) have come from a wide variety of 'other' source countries resulting in a great diversity of small and emerging ethnic communities in Australia.

Figure 2.1: Top 10 Birthplaces of new settlers, 1990-2000
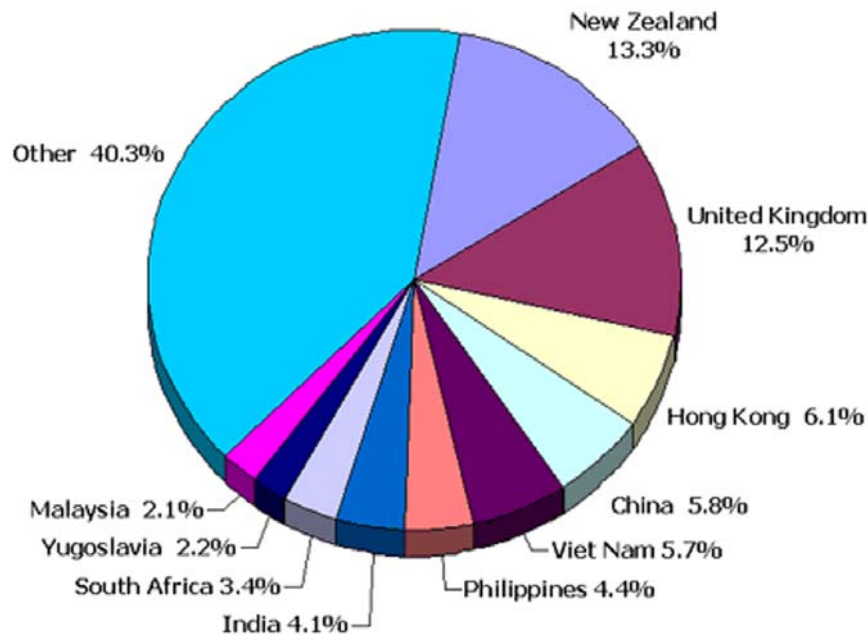
Source: DIMIA, *Immigration - Federation to Century's End, 1901-2000*, Table 5, October 2001.

How many migrants come from the Middle East?

While migrants come from an increasingly broad range of countries and regions, relatively few come to Australia from the Middle East. In 2001-02, migrants born in the Middle East made up only 5.1% of all settler arrivals.[5]

3. Who can migrate?

New Zealanders can enter, live and work in Australia under the terms of the Trans-Tasman Travel Agreement and do not need a visa. All other migrants must apply for a visa to come to Australia. To get a visa, migrants must pass health and character checks and meet certain entrance criteria depending on the category they fit into. They are selected by the Department of Immigration and Multicultural and Indigenous affairs (DIMIA) under the following broad categories:

- **Skill Stream** migrants are chosen according to their occupation, age, education, work experience and English language ability. While some skilled migrants are sponsored by an employer or relative in Australia, the majority are skilled migrants who must pass a points test and satisfy minimum requirements of skill, age and English language ability. Skill Stream visas granted rose from 29% of all migrant visas in 1995-6 to 57% in 2001-02. In 2001-02, **36,036** Skill Stream migrants arrived in Australia.[6]

- **Family Stream** migrants are chosen according to their relationship with a sponsor who must be a close family member and an Australian resident or citizen. The majority of Family Stream migrants (88% in 2001-02) are the spouses or fiancés of Australian citizens or permanent residents. Many visa classes in the Family Stream are strictly limited.[7] Family Stream visas granted fell from 69% af all migrant visas in 1995-9 to 41% in 2001-02. In 2001-02, **23,344** Family Stream migrants arrived in Australia.[8]

- **Humanitarian Program** entrants are chosen because they are refugees or people in need of humanitarian assistance. In 2001-02, 6,732 people granted visas overseas under the Humanitarian Program arrived in Australia.[9]

4. Where do migrants settle in Australia?

Figure 4.1: Settler arrivals by state/territory of intended residence, 2001-02
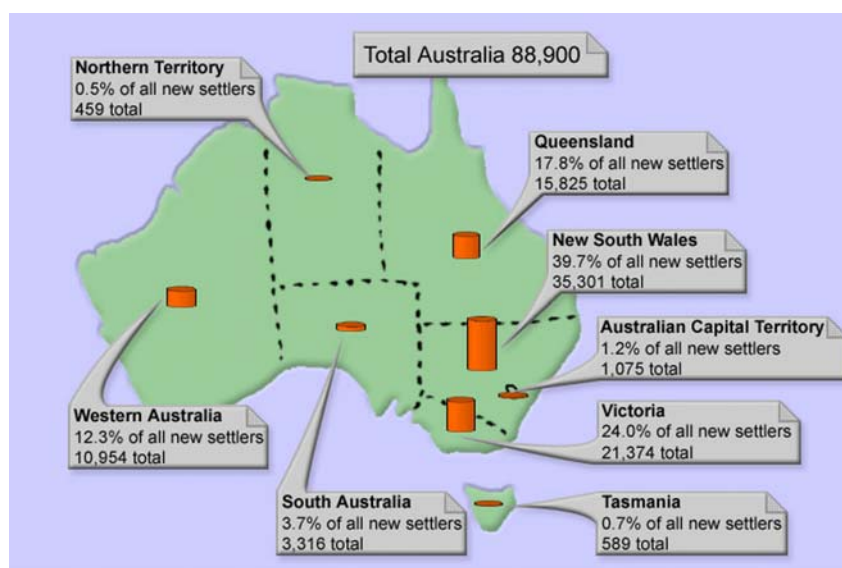
Source: DIMIA, *Immigration Update 2001-02*, September 2002.[10]

Note: Figures do not total 88,900 exactly due to some migrants not stating their place of intended settlement.

Table 4.1: Settler arrivals to Australian capital cities, 1 January - 31 December 2002

City	No. of settlers
Sydney	17,064
Melbourne	11,821
Perth	5,144
Brisbane	3,570
Adelaide	1,996
Canberra	599
Darwin	212
Hobart	205

Source: DIMIA Settlement Database, 12 February 2003.

Do migrants form 'ghettoes'?

The term 'ghetto' originated from the medieval European practice of segregating Jews in particular areas within or outside cities. In contemporary Australia, this term is sometimes used to describe an area of a city with higher concentrations of a particular ethnic group.[11] Census statistics show that ethnic enclaves are rare in Australia: most areas have a settlement history characterised by successive layering of different migrant groups who arrive in different time periods.

Table 4.2: Main overseas-born groups by select statistical local areas, 2001

Statistical local area	Main overseas countries of birth as % of total population*		
New South Wales			
Inner Sydney	United Kingdom (5.8%)	New Zealand (2.8%)	USA (1.3%)
Auburn	China (8.1%)	Viet Nam (6.1%)	Turkey (4.5%)
Fairfield	Viet Nam (13.8%)	Italy (2.9%)	China (2.3%)
Canterbury	China (6.4%)	Lebanon (5.8%)	Greece (4.8%)
Burwood	China (7.8%)	Korea (5.0%)	Italy (4.6%)
Strathfield	Korea (6.3%)	China (5.9%)	Sri Lanka (5.5%)
Ashfield	China (7.7%)	Italy (5.9%)	United Kingdom (3.1%)
South Sydney	United Kingdom (5.9%)	New Zealand (4.4%)	China (1.6%)
Rockdale	China (4.7%)	Macedonia (4.0%)	Greece (3.8%)
Marrickville	Viet Nam (4.2%)	Greece (4.0%)	United Kingdom (4.0%)
Liverpool	Fiji (2.9%)	Viet Nam (2.7%)	United Kingdom (2.5%)
Parramatta	China (4.3%)	Lebanon (4.2%)	United Kingdom (3.1%)
Holroyd	Lebanon (4.5%)	United Kingdom (2.6%)	China (2.3%)
Bankstown	Lebanon (6.5%)	Viet Nam (5.9%)	China (2.3%)
Leichhardt	United Kingdom (7.6%)	New Zealand (3.7%)	Italy (2.2%)
Wollongong	United Kingdom (6.6%)	Macedonia (2.1%)	Italy (2.0%)
Victoria			
Inner Melbourne	Indonesia (6.8%)	United Kingdom (5.0%)	Malaysia (4.3)
Brimbank - Sunshine	Viet Nam (12%)	Malta (5.1%)	Italy (2.6%)
Greater Dandenong	United Kingdom (4%)	Sri Lanka (3.9%)	Viet Nam (2.6%)
Maribyrnong	Viet Nam (11.4%)	United Kingdom (2.7%)	Italy (2.4%)
Brimbank - Keilor	Viet Nam (4.9%)	Malta (3.7%)	Macedonia (2.9%)
Hume - Broadmeadows	Turkey (6.8%)	Italy (3.1%)	Lebanon (2.6)
Whittlesea (South)	Italy (6.3)	Macedonia (6.0%)	Greece (4.2%)
Altona	United Kingdom (4.9%)	Italy 3.0%)	Malta (2.9%)
Geelong	United Kingdom (4.7%)	Italy (2.0%)	Netherlands (0.8%)

Statistical local area	Main overseas countries of birth as % of total population*		
Western Australia			
Fremantle (Inner)	United Kingdom (11.4%)	New Zealand (2.1%)	USA (1.3%)
Stirling (Central)	United Kingdom (7.2%)	Italy (4.2%)	Viet Nam (2.5%)
Bayswater	United Kingdom (9.3%)	Italy (3.2%)	Viet Nam (2.5%)
Fremantle (Remainder)	United Kingdom (10.6%)	Italy (5.2%)	New Zealand (2.4%)
Rockingham	United Kingdom (19.8%)	New Zealand (2.7%)	South Africa (0.7%)
Melville	United Kingdom (10.2%)	Malaysia (3.0%)	Indonesia (2.2%)
Cockburn	United Kingdom (9.8%)	Italy (2.7%)	New Zealand (2.0%)
Kwinana	United Kingdom (17.2%)	New Zealand (2.7%)	Netherlands (0.7%)
Kalgoorlie-Boulder	New Zealand (5.3%)	United Kingdom (4.5%)	South Africa (0.5%)
Bunbury	United Kingdom (7.7%)	New Zealand (1.7%)	Italy (1.3%)
South Australia			
Coober Pedy	United Kingdom (4.7%)	Greece (4.0%)	Former Republic Yugoslavia (2.8%)
Adelaide (SD)	United Kingdom (9.4%)	Italy (2.2%)	Greece (1.0%)
Whyalla	United Kingdom (14.7%)	Germany (1.0%)	Netherlands (0.7%)
Alexandrina - Coastal	United Kingdom (12.8%)	Germany (1.0%)	Netherlands (0.9%)
Adelaide Hills (North)	United Kingdom (12.5%)	Germany (0.7%)	New Zealand (0.6%)
Barossa	United Kingdom (12.8%)	Germany (1.0%)	New Zealand (0.8%)
Victor Harbor	United Kingdom (12.6%)	Germany (0.9%)	Netherlands (0.6%)
Mallalla	United Kingdom (9.7%)	Italy (1.3%)	New Zealand (0.9%)
Port Lincoln	United Kingdom (3.7%)	Germany (0.7%)	New Zealand (0.6%)
Queensland			
Cairns City	United Kingdom (6.0%)	New Zealand (3.7%)	Germany (0.8%)
Brisbane SD	United Kingdom (5.8%)	New Zealand (4.0%)	Viet Nam (0.7%)
Mareeba	Italy (4.6%)	United Kingdom (3.6%)	New Zealand (1.8%)
Tasmania			
Kingsborough	United Kingdom (10.2%)	New Zealand (1.3%)	Germany (0.8%)
Greater Hobart	United Kingdom (5.8%)	New Zealand (1.1%)	Malaysia (0.8%)
Georgetown	United Kingdom (6.9%)	New Zealand (0.9%)	Netherlands (0.7%)
Northern Territory			
Darwin City	United Kingdom (6.4%)	New Zealand (1.8%)	Ireland (0.6%)
Wagaman	Greece (6.2%)	Philippines (4.1%)	United Kingdom (2.8%)
Brinkin	United Kingdom (4.9%)	New Zealand (2.0%)	Greece (1.6%)
Stuart Creek	United Kingdom (5.2%)	New Zealand (3.0%)	Greece (1.7%)
Nakara	United Kingdom (4.6%)	Greece (3.1%)	New Zealand (2.2%)
Larrakeyah	United Kingdom (6.2%)	New Zealand (2.4%)	Philippines (0.9%)
ACT			
Canberra City	United Kingdom (7.1%)	New Zealand (1.8%)	South Africa (0.8%)
Acton	Singapore (5.3%)	Malaysia (3.5%)	United Kingdom (2.2%)
Reid	United Kingdom (7.5%)	New Zealand (2.0%)	China (1.4%)
Braddon	United Kingdom (5.9%)	New Zealand (1.6%)	Viet Nam (1.5%)
Turner	United Kingdom (4.5%)	China (1.6%)	New Zealand (1.4%)

Source: Australian Bureau of Statistics, *2001 Basic Community Profiles and Snapshots* (by Statistical Local Areas).

*Excluding overseas visitors

5. What are the impacts of migration?

Economy

Migrants contribute to the economic development of Australia in many ways including by filling skill shortages, investing in the Australian economy and fostering international trade through knowledge of overseas markets, business networks, cultural practices and languages other than English.

Research on the economic impacts of migration indicates that:

- Migration raises average incomes and increases the scale of the economy generating wealth and employment for all Australians.[12]
- Federal and State governments enjoy benefits from extra migrants because of the tax revenue they generate. Skilled migrants are most beneficial to the Federal Budget because they earn more money, pay more taxes and make less use of government services.[13]
- Managed effectively, a multi-lingual multicultural workforce can increase productivity and help businesses gain a competitive advantage.[14]

Explore the 'Migration - Benefiting Australia' conference proceedings for more information about the economic benefits of migration at:
http://www.immi.gov.au/research/publications/conference02/index.htm

Employment

Research shows that immigration does not cause higher unemployment: migrants *make* jobs by increasing demand for goods and services. Research also shows that the ability of migrants to participate in the workforce increases the longer they live in Australia.

- In January 2003, the unemployment rate for all people born overseas was 7.2% compared with 6.6% for those born in Australia.[15]
- While the unemployment rate of new migrants is higher than the Australian average immediately after their arrival, their unemployment rate falls dramatically over time. Long-established migrants (22 years residence or more) have lower rates of unemployment than the Australian-born (4.6% compared with 5.8%).[16]
- Recent research suggests that the success with which new migrants find jobs is also related to their proficiency in English, age, skill level and qualifications and migration category.[17]
- More than half (55%) of all migrants arrive in Australia with a post-school qualification. However, less than half (48%) of all migrants who arrive with a skilled or basic vocational qualification have their qualification recognised in Australia. Migrants from southeast Asia are especially disadvantaged: less than one-third (30%) of migrants with post-school qualifications obtained in the southeast Asian region have their qualification recognised in Australia.[18]

Welfare system

- Migrants must wait two years before they can access most social security payments including unemployment assistance, sickness benefits or student allowances. This waiting period does not apply to refugees and other humanitarian entrants on Permanent Protection Visas.
- Sponsors of some family migrants must lodge a bond ensuring repayment to the government if the migrant claims social security benefits within two years of arrival. This bond is between $1,500 and $3,500 per person.[19]
- Most new migrants are not eligible for age or disability pensions until 10 years after their arrival in Australia.
- In an effort to reduce health and welfare costs associated with aged migrants, parent migration was dramatically reduced from 8,890 in 1995-96 to a strict cap of 500 in 2001-02.[20] In 2003, a new parent visa category was introduced for applicants who are able to pay $15,000 or $25,000 for a visa (in addition to a $10,000 bond).

Population

Since Federation, natural increase (the number of births minus the number of deaths) has generally contributed more to Australia's annual population growth than migration. However, with declining fertility and an ageing population, this is likely to change over the next few decades. Immigration will become a more important influence on population growth or decline.

In recent years, there has been much debate about the need for a population policy and the role of migration in such a policy. Australia's population is an ageing one. This demographic shift has important long-term implications for Australia's future economic growth and overall living standards. Research suggests that migration can help counter the negative effects of an ageing population.[21]

Read *The Impact of Immigration on the Ageing of Australia's Population* at:
http://www.immi.gov.au/population/ageing.htm

Read the proceedings of the *Policy Implications of the Ageing of Australia's Population Conference*, Melbourne, 1999 at: http://www.pc.gov.au/research/confproc/ageing/

Read the papers from the *Australian Population Summit*, Melbourne, 2002 at:
http://www.tobehonest.co.uk/popsummit/links_allspeeches.php?speechtype=summit

Environment

Concern has grown in recent years about the impacts of population growth on the natural environment. Critics of current levels of migration argue that Australia does not have the 'carrying capacity' for a larger population.[22] Others argue that Australia's environmental problems would not disappear with a smaller population because environmental damage is caused by other factors such as wasteful consumption patterns and poor management of natural resources.[23]

Read *Future Dilemmas: Options to 2050 for Australia's population, technology, resources and environment*, CSIRO, 2002 at: http://www.cse.csiro.au/research/Program5/futuredilemmas/

Read *Population Futures*, Australian Academy of Technological Sciences and Engineering, 2000.
http://www.atse.org.au/publications/reports/population1.htm

Crime

Current research shows no evidence of a causal connection between crime and ethnicity: some overseas-born groups have lower crime rates and some have higher crime rates than the Australian-born population.[24] This does not mean that crime is linked to ethnicity. Factors such as unemployment, education, socio-economic disadvantage and lack of access to services have more bearing than ethnicity on crime rates.[25]

- In 2002, people born in Australia were imprisoned at a rate of 156 per 100,000 while those born overseas were imprisoned at a rate of 146 per 100,000.[26]
- In 2002, 72% of all prisoners were Australian-born. Persons born in the UK or Ireland were the next largest birthplace group (3%), followed or New Zealand (2.5%) and Viet Nam (2.4%).[27]

6. How diverse are Australians?

Many years of migration from a range of countries has made Australia culturally diverse.

Overseas-born

- About one-fifth of Australia's population was born overseas. The number of people born overseas in the 2001 Census was 4,105,444.
- Australia has the highest proportion of overseas-born persons in the western world (21.9%) - higher than Canada (18.4%) and much higher than the United States (11.4%).
- Of the overseas-born population, most came from the United Kingdom (25%), New Zealand (9%) and Italy (5%)
- Western Australia has the highest proportion of residents born overseas (27.0%). New South Wales and Victoria have equal proportions of overseas-born people (23.4%) followed by the ACT (21.6%) and South Australia (20.3%), Queensland (17.2%), NT (14.5%) and Tasmania (10.0%).

For information about Australians born in the Middle East and North Africa visit:
http://www.humanrights.gov.au/racial_discrimination/isma/fact_arab.html

Ancestry

- In the 2001 Census, the three most common ancestries that people identified with were Australian (35.9%), English (33.9%) and Irish (10.2%).
- Other common ancestries included Italian (4.3%), German (4.0%), Chinese (3.0%), Scottish (2.9%), Greek (2.0%), Dutch (1.4%), Lebanese (0.9%) and Vietnamese (0.8%).

Language

- In 2001, 21% of Australians spoke a language other than or in addition to English in their homes. In 1996 this proportion was 19%.
- Italian (with 353,605 speakers) was the most popular language other than English spoken at home followed by Greek (263,717), Cantonese (225,307), Arabic (209,372) and Vietnamese (174,236).

Religion

- Christians make up 68% of the population. Two major Christian denominations (Anglicans and Catholics) account for almost half (46.7%) of the population. Buddhists account for 1.9% of the population and Muslims for 1.5%. 15% of Australians said they had no religion.[28]

For information about Australian Muslims visit:
http://www.humanrights.gov.au/racial_discrimination/isma/fact_muslim.html.

7. What is multiculturalism?

Australia is made up of people from diverse cultures and backgrounds. Multiculturalism celebrates this diversity and recognises the challenges and opportunities that come with it. The main principles of Australia's policy of multiculturalism are:

- **Responsibilities of all** - all Australians have a civic duty to support those basic structures and principles of Australian society which guarantee us our freedom and equality and enable diversity in our society to flourish.
- **Respect for each person** - subject to the law, all Australians have the right to express their own culture and beliefs and have a reciprocal obligation to respect the right of others to do the same.
- **Fairness for each person** - all Australians are entitled to equality of treatment and opportunity. Social equity allows us all to contribute to the social, political and economic life of Australia, free from discrimination, including on the grounds of race, culture, religion, language, location, gender or place of birth.

- **Benefits for all** - all Australians benefit from productive diversity, that is, the significant cultural, social and economic dividends arising from the diversity of our population. Diversity works for all Australians.

Australian citizenship

Taking up Australian citizenship is one way migrants show their willingness to participate fully in Australia's democratic institutions and carry out their 'civic duty'.

According to the 2001 Census, approximately 3,150,000 Australian citizens were born overseas. Table 7.1 shows the citizenship take-up rate for specific birthplace groups. The overall citizenship take-up rate for all overseas-born Australians eligible to become citizens is 74%.[29]

Table 7.1: Citizenship rates for overseas-born people resident in Australia for two years or more, 2001

Country of birth	Citizenship rate
Greece	97%
Viet Nam	95%
Philippines	90%
China	80%
Italy	80%
Netherlands	77%
Germany	66%
United Kingdom	38%
New Zealand	74%
Total overseas-born	**92,272**

Source: Australian Bureau of Statistics, *Year Book Australia 2003*, Table 5.48.

Did you know?

- There were no Australian citizens until passage of the *Nationality and Citizenship Act 1948* in 1949. Prior to that, Australians were 'British subjects'. All British subjects who were in Australia on 26 January 1944 automatically became Australian citizens. Everyone else, including British subjects who came later, had to apply for Australian citizenship.
- Between 1949 and 1973, the rules about who could apply to become an Australian citizen varied according to the race and ethnic origin of the person.
  - British migrants could apply for Australian citizenship after one year's residence in Australia. They could also enter Australia without a visa and were eligible to vote in Australian elections, access public housing and get the same welfare benefits as Australian citizens.
  - Non-British European migrants could apply for Australian citizenship if they had lived in Australia for five years and had an 'adequate knowledge of the rights, responsibilities and privileges of Australian citizenship'.
  - Between 1949 and 1956, Australian residents who were neither British nor European could not apply for Australian citizenship at all. In 1956, this rule changed to allow non-Europeans who had lived in Australia for 15 years or more to apply for Australian citizenship.
- In 1973, distinctions between European and non-European migrants were removed from Australian citizenship law altogether.
- British subjects who were on the Australian electoral roll before January 1984 can still vote in Australian elections and serve on juries even though they are not Australian citizens.[30]

Further Reading

Question 1: How many people migrate to Australia?

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http://www.immi.gov.au/statistics/publications/immigration_update/immigration_update_main.htm

Question 2: Where do migrants come from?

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http://www.immi.gov.au/statistics/publications/popflows2001/popflows2001.htm

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> · Estimates of the population are made for a selected group of countries only.
> · The denominator of the overseas-born imprisonment rate has been derived by subtracting the estimated Australian born adult population from the total adult population.
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Questions and Answers About Aboriginal and Torres Strait Islander People

1. Who are Aboriginal and Torres Strait Islander people?

Aboriginal and Torres Strait Islander people are descended from the original inhabitants of Australia. Old definitions based on skin colour or percentages of 'Aboriginal blood' have been replaced by modern definitions which stress ancestry and identification as key to Aboriginal identity.

Today, the Federal Government defines an Aboriginal person as someone who:
- is of Aboriginal descent;
- identifies as an Aboriginal person; and
- is accepted as an Aboriginal person by the community in which he or she lives.

The term 'Indigenous' is also used to refer to Aboriginal and Torres Strait Islander people.

2. How many Aboriginal and Torres Strait Islander people are there?

410,003 people identified as 'Indigenous' in the 2001 Census.

- 366,429 of these were Aboriginal.
- 26,046 were Torres Strait Islanders.
- 17,528 identified themselves as both Aboriginal and Torres Strait Islander.

In 2001, Indigenous people made up 2.2% of the total population of Australia. The number of people identifying as Indigenous has quadrupled since 1971.

3. Where do Aboriginal and Torres Strait Islander people live? How old are they?

Age

As a whole, the Indigenous population is much younger than the non-Indigenous population. For example, nearly 60% of the Indigenous population in Australia are aged under 25 compared with 34% of the non-Indigenous population.

Figure 3.1: Proportion of Indigenous and non-Indigenous population in specific age groups, 2001
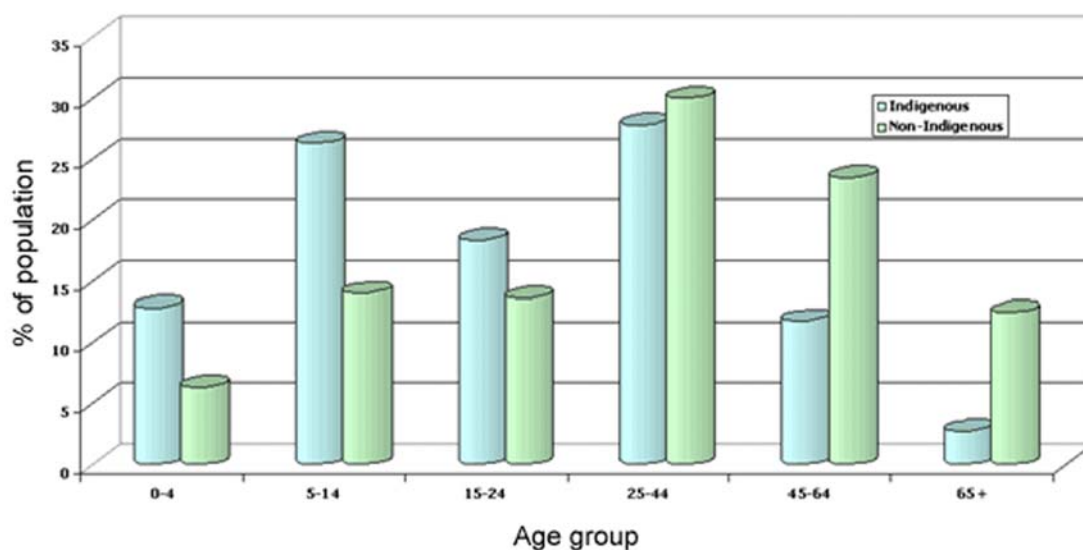
Source: Australian Bureau of Statistics, *2001 Census : Indigenous Profile*: Australia (Catalogue No. 2002.0) Canberra, 2002

Place of residence

Table 3.1: State or territory of residence of Indigenous Australians, 2001

State/territory	Indigenous population	% of national total Indigenous population*	Total population	Indigenous people as % of state/territory population
New South Wales	119,865	29.2%	6,311,168	1.9%
Queensland	112,772	27.5%	3,585,639	3.1%
Western Australia	58,496	14.3%	1,832,008	3.2%
Northern Territory	50,785	12.4%	202,729	25.1%
Victoria	25,078	6.1%	4,612,097	0.5%
South Australia	23,425	5.7%	1,458,912	1.6%
Tasmania	15,773	3.8%	454,841	3.5%
ACT	3,576	0.9%	309,184	1.2%
Other territories	233	0.1%	2,671	8.7%
Australia	**410,003**	**100%**	**18,769,249**	**2.2%**

Source: Australian Bureau of Statistics, 2001 Census : Basic Community Profile and Snapshot, Australia and all States and Territories, Canberra, 2002.

* Excluding overseas visitors.

4. Are Aboriginal and Torres Strait Islander people disadvantaged?

There are clear disparities between Indigenous and non-Indigenous Australians across all indicators of quality of life. Indigenous Australians experience the lowest standards of health, education, employment and housing, and are over-represented in the criminal justice system.

Health

- **Life expectancy 2001:** Indigenous males - 56 years
  all Australian males - 77 years
  Indigenous females - 63 years
  all Australian females - 82 years.

- **Death rate 2001**: The death rate among the Indigenous population was more than twice the death rate for the total Australian population. The death rate for Indigenous people aged 35-44 was over four times for Australians as a whole.

- **Infant mortality 2001**: The infant mortality rate for Indigenous Australians (10.6 deaths per 1,000 live births) was twice the infant mortality rate for all Australians (5.3).

- **Causes of death 2001**: While heart disease and cancer remain the leading causes of death for both Indigenous and non-Indigenous Australians, Indigenous people are more likely than other Australians to die from accidents, assault and intentional self-harm (17% of Indigenous deaths compared with 3% of total deaths), and are more likely to die from diseases of the respiratory system and endocrine, nutritional and metabolic systems, such as diabetes.

- **Hospitalisation 1998-99**: Indigenous people were almost twice as likely to be hospitalised for most diseases and conditions as non-Indigenous people. The most common reason for hospitalisation of Indigenous patients was for kidney dialysis related to diabetes.[1]

- **General health 2001**: Indigenous people were nearly twice as likely to report their health as 'fair or poor' (34%) compared to non-Indigenous people (18%). Based on self-reported height and weight, Indigenous people aged 15 years and over were more likely to be overweight or obese (61%) compared with non-Indigenous people (48%). Indigenous people were more likely to report asthma as a long-term health condition (17%) than the non-Indigenous population (12%). Indigenous people were more than three times more likely to report some form of diabetes than non-Indigenous Australians.[2]

Education

- **Educational achievement 2001**: 17% of Indigenous people over 15 reported their highest level of education as Year 12 or equivalent compared with 39% of non-Indigenous people.
- **School retention 2001**: 36% of Indigenous students continued to Year 12 compared with 73% of all students.[3] 46% of Indigenous people aged 15-19 were attending an educational institution compared with 73% of non-Indigenous people the same age.[4]
- **Higher education 2001**: 1.8% of Indigenous people were enrolled in a university or other tertiary institution compared with 4.0% of non-Indigenous people.[5]

Employment & income

- **Labour force participation February 2001**: 59.0% of Indigenous people aged 15 and over were in the labour force compared with 63.9% of the total population in the same age group.[6]
- **Unemployment February 2001**: The unemployment rate was 23.0% for Indigenous adults compared with 7.4% for non-Indigenous adults. This rate has improved since 1994 (when Indigenous unemployment was 27.8%) but has deteriorated since 2000 when Indigenous unemployment was 17.6%.[7]
- **Impact of CDEP 1996**: CDEP is the Indigenous work-for-the-dole scheme. Indigenous unemployment rates rise significantly if participants in the Community Development Employment Projects Scheme (CDEP) are counted as unemployed. In 1996, 14.9% of all Indigenous employment was through CDEP.[8]
- **Income 2001**: The average weekly income for Indigenous people aged 15 and over ($231) was only 60% of that for non-Indigenous people in the same age group ($387).[9]

Housing

- **Home ownership 2002**: 32% of Indigenous people own or are buying their own homes compared with 71% of non-Indigenous Australians.[10]
- **Temporary dwellings 1999**: An estimated 13% of Indigenous people living in remote communities live in temporary dwellings, including tin sheds, caravans and 'humpies'.[11]
- **Overcrowding 1996**: 17.8% of Indigenous households were overcrowded by accepted Australian standards, compared with 3.8% of other Australian households.[12]
- **Sewerage service 2001**: A survey of 1,216 Indigenous communities with a population of 50 or more found that 48% had reported sewerage system overflows or leakages in the 12 months prior to the survey.[13]

Criminal justice system

- **Adult imprisonment 2002**: Nationally, the imprisonment rate for Indigenous adults in December 2002 was 16 times that for non-Indigenous adults.[14] This ratio was higher in Western Australia and South Australia with Indigenous rates of imprisonment 20 and 18 times the non-Indigenous rates.[15] The proportion of prisoners who were Indigenous rose from 14% in 1992 to 20% in 2002.[16]
- **Juvenile detention 2001**: Indigenous youth aged 10 to 17 were in juvenile detention at a rate 17 times higher than non-Indigenous juveniles.[17]

- **Deaths in custody**: Indigenous people are now less likely to die in police custody than 20 years ago but more likely to die in prison custody. From 1980-1989, 67 Indigenous people died in police custody and 39 in prison custody. From 1990-1999, 21 Indigenous people died in police custody and 93 in prison custody.[18]

Women's disadvantage

- **Women's imprisonment 2002**: In the three months of April, May and June 2002, Indigenous women were 20 times more likely to be in prison than non-Indigenous women. This level of over-representation was higher than for Indigenous men who were 15 times more likely to be in prison than non-Indigenous men.[19] The number of Indigenous women in prison increased from 104 on 30 June 1991 to 370 on 30 June 2001.[20]
- **Domestic violence**: Accurate statistics about the incidence of violence against women in Indigenous communities are scarce. However, research suggests that Indigenous women and children are more than 45 times more likely to be victims of domestic violence and more than 8 times more likely to be victims of homicide.[21]

5. Do Aboriginal and Torres Strait Islander people get special treatment from the government?

Specific government programs have been introduced for Aboriginal and Torres Strait Islander people because they are the most economically and socially disadvantaged group in Australia. Special programs are necessary to help overcome disadvantage. Examples of programs specifically designed to meet Indigenous needs include:

- Community Development Employment Projects Scheme (CDEP) - Indigenous work-for-the-dole.
- Aboriginal Medical Services and Aboriginal Legal Services - provide cost-free medical and legal services.
- The Indigenous Employment Programme - provides flexible financial assistance to help create employment and training opportunities for Indigenous people in the private sector.
- The Indigenous Education Strategic Initiatives Programme (IESIP) - provides supplementary funding to pre-schools, schools and vocational education and training providers to help improve educational outcomes for Indigenous students.

These programs supplement those available to the mainstream population. They are necessary because Indigenous people do not to use mainstream services at the same rate as non-Indigenous people and because the level of Indigenous disadvantage is much more severe.

Education

Public expenditure on education for Indigenous people is 18% higher per capita than for non-Indigenous people aged 3-24 years. Factors include location (delivering education in rural and remote locations is more expensive) and lower than average incomes for Indigenous people which leads to a greater average need for assistance to students.[22]

Health

Health care funding (including privately and publicly funded health care) is 22% higher for Indigenous people than for non-Indigenous people. This reflects differences in income level, health status and place of residence. While Indigenous people are more likely to use State-funded health services (hospitals and community health services), spending on the major Commonwealth-funded health programs (such as Medicare and the Pharmaceutical Benefits Scheme) is much lower for Indigenous than non-Indigenous people.[23]

Housing

In 2002-03, the Government will spend approximately $350 million on Indigenous-specific housing and related infrastructure programs. In addition to Indigenous-specific housing programs, an estimated 22% of Indigenous households are tenants in mainstream public housing.[24]

6. What is ATSIC? What does it do?

ATSIC is the Aboriginal and Torres Strait Islander Commission. It is made up of a national Board and Regional Councils elected by Indigenous people every three years. ATSIC was established in 1990 and is the main government body responsible for:

- developing programs for Indigenous people
- monitoring how government agencies provide services to Indigenous people
- advising national, regional and local governments on Indigenous issues.

What is ATSIS?

Until 2003, ATSIC was also responsible for administering Aboriginal and Torres Strait Islander programs and making individual funding decisions. From 1 July 2003, this function was transferred to an Executive Agency, the Aboriginal and Torres Strait Islander Services (ATSIS).

What is the total budget?

ATSIC's budget in 2003-04 is $199.698 million. The ATSIS budget for 2003-04 is $1,149.275 million. The total Commonwealth expenditure on Aboriginal and Torres Strait Islander programs ($2.7 billion) for 2003-04.

7. What is the history of government policies on Aboriginal and Torres Strait Islander people?

Terra nullius

From 1788, Australia was treated as a colony of settlement, not of conquest. Aboriginal land was taken over by British colonists on the premise that the land belonged to no-one ('*terra nullius*'). Australia's colonisation resulted in a drastic decline in the Aboriginal population. Estimates of how many Indigenous people lived in Australia at the time of European settlement vary from 300,000 to 1 million. Estimates of the number of Indigenous people who died in frontier conflict also vary widely.[25] While the exact number of Indigenous deaths is unknown, many Indigenous men, women and children died of introduced diseases to which they had no resistance such as smallpox, influenza and measles. Many also died in random killings, punitive expeditions and organised massacres.

Protection policies

Indigenous survivors of frontier conflict were moved onto reserves or missions. From the end of the nineteenth century, various State and Territory laws were put in place to control relations between Aboriginal people and other Australians. Under these laws, protectors, protection boards and native affairs departments segregated and controlled a large part of the Aboriginal population. It has been estimated that the Aboriginal population during the 1920s had fallen to only about 60,000 from perhaps 300,000 or even one million people in 1788.[26]

Assimilation policies

In 1937, the Commonwealth Government held a national conference on Aboriginal affairs which agreed that Aboriginal people 'not of full blood' should be absorbed or 'assimilated' into the wider population. The aim of assimilation was to make the 'Aboriginal problem' gradually disappear so that Aboriginal people would lose their identity in the wider community.

Protection and assimilation policies which impacted harshly on Indigenous people included separate education for Aboriginal children, town curfews, alcohol bans, no social security, lower wages, State guardianship of all Aboriginal children and laws that segregated Indigenous people into separate living areas, mainly on special reserves outside towns or in remote areas.

Another major feature of the assimilation policy was stepping up the forcible removal of Indigenous children from their families and their placement in white institutions or foster homes.

'Stolen children' or 'stolen generations'

The history of the stolen children varies depending on time and place. Table 7.1 shows where and when Indigenous children could lawfully be taken away without their parents' consent and without a court order. Non-Indigenous children could also be removed without their parents' consent, but only by a court finding that the child was uncontrollable, neglected or abused.

Table 7.1: State and Territory laws authorising forcible removal of Indigenous children

Where	When	Why
NSW & ACT	1915 - 1940	If the Protection Board believed it was in the interest of the moral or physical welfare of the child
Northern Territory	1911 - 1964	Being 'aboriginal or half-caste' if the Chief Protector believed it was necessary or desirable.
Queensland	1897 - 1965	For 'aboriginal' children, and 'half-cast' children living with Aboriginal parent(s), if the Minister ordered it. These laws did not apply to Torres Strait Islanders.
South Australia	1923 - 1962	Legitimate children (that is, children whose parents were lawfully married) could only be removed if they were over 14 or had an education certificate. Illegitimate children could be removed at any time if the Chief Protector and State Children's believed they were neglected.
Victoria	1871 - 1957	If the Governor of the State was satisfied the child was neglected or left unprotected. From 1899, for the better care, custody, and education ofthe child.
Western Australia	1909 - 1954	Police, protectors and justices of the peace could remove any 'half-caste' child to a mission. Extended to all 'natives' under 21 in 1936.

Source: Appendices 1-7, *Bringing them home*, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, HREOC, 1997.

Where were the children placed?

Indigenous children were removed to the care of non-Indigenous people with the aim of assimilating them into non-Aboriginal society. In Queensland, this often meant separating the children into dormitories on the reserves. In New South Wales and Western Australia, many children were trained in Aboriginal-only institutions to become domestic servants or farm labourers. Other children were transferred to orphanages and children's homes where Aboriginal and non-Aboriginal children were brought up together. In other cases, and especially after the 1940s, Aboriginal children were fostered or adopted into non-Aboriginal families.

How many children were removed?

In its 1997 report *Bringing them home*, the Human Rights and Equal Opportunity Commission estimated that between one-third and one-tenth of all Aboriginal children growing up during the years in which forcible removal laws operated were removed. The full scale of removals is still not known because many records have been lost.

Citizenship

In May 1967, a Constitutional referendum to enable the Commonwealth Government to make laws on Aboriginal affairs and to include Indigenous people in the national census passed with a 'Yes' vote of almost 91%. Before 1967, Aboriginal affairs were a State responsibility and the Commonwealth Government was only in charge of Aboriginal people in the Northern Territory. After 1967 the Commonwealth Government shared power over Aboriginal affairs with the States and began to make policies and fund programs nationally.

Equal pay

Having repeatedly rejected Aboriginal claims to equal pay for equal work during the 1930s and 1940s, the Commonwealth Conciliation and Arbitration Commission finally granted Aboriginal stockmen award wages in 1966.

Self-determination policy

The federal Labor Government led by Gough Whitlam adopted the policy of 'self-determination' for Indigenous communities in 1972. This policy was described as 'Aboriginal communities deciding the pace and nature of their future development as significant components within a diverse Australia'. It recognised that Aboriginal people had a right to be involved in decision making about their own lives.

Land rights

In 1976, the federal Government passed land rights law for Aboriginal people in the Northern Territory. All states have followed except Western Australia.

Self-management policy

The federal Coalition Government led by Malcolm Fraser, which came to power in late 1975, adopted the policy of 'self-management' which focused on Indigenous communities managing the government projects and funding locally but with little say in what projects would be created. The Hawke and Keating Labor Governments from 1983-1996 used both self-determination and self-management as key principles in their Indigenous affairs policies and Keating began the reconciliation movement in 1991.

Native title

In the *Mabo Case* of 1992, the High Court of Australia rejected the long-standing doctrine of *terra nullius* and found that Aboriginal and Torres Strait Islander people who have maintained a continuing connection with their land, according to their traditions and customs, may hold native title.

Practical reconciliation

Since 1996, the focus of the federal Coalition Government led by John Howard has been on 'practical measures' to overcome disadvantage and improve the lives of Indigenous people in areas like health, education, employment and housing.

8. What is the right to self-determination?

Self-determination is the right of all peoples to 'freely determine their political status and freely pursue their economic, social and cultural development' (article 1 of the *International Covenant on Civil and Political Rights*). Self-determination is a collective right (belonging to a 'people' as a group) rather than an individual right. The claim by Indigenous peoples to the right of self-determination raises two questions: (1) Do Indigenous groups satisfy the definition of 'peoples'? (2) Does self-determination give Indigenous peoples the right to break away from an existing nation?

Most Indigenous people in Australia want self-determination *within* the existing nation. This would require recognition by the government of their distinct cultures and forms of social organisation, governance and decision-making. It would mean transferring responsibility and power for decision-making to Indigenous communities so they can make decisions that affect them.

9. What is Aboriginal reconciliation?

The movement for Aboriginal reconciliation aims to promote understanding of the history of contact between Indigenous and non-Indigenous people and develop better relations for the future.[27] The Council for Aboriginal Reconciliation was established by legislation in 1991 with 25 Indigenous and non-Indigenous members appointed by the Government. Its main task was to promote reconciliation between Aboriginal and Torres Strait Islander peoples and the wider Australian community.

The Council was given a 10 year lifespan which ended in December 2000. The Council's final report, *Reconciliation: Australia's Challenge*, recommended comprehensive action to address the 'unfinished business' of reconciliation. This included calls for a formal agreement or treaty as well as the establishment of a foundation to continue the Council's work. This foundation, Reconciliation Australia, was established in December 2000.

10. What is native title?

'Native title' is the name given by Australian law to Indigenous peoples' traditional rights to their lands and waters. Those rights can range from a relationship similar to full ownership through to the right to go onto the land for ceremonies or to hunt, fish or gather foods and bush medicines. To have their native title rights recognised, the Indigenous group has to prove they still have their connection with their country according to their traditional laws.

Australian law gives all other land titles priority over native title. However, in some cases the two titles can co-exist - for example, Indigenous people might be able to visit their country freely even though it is on a cattle station.

Native title cannot be recognised on land which is fully owned by someone else. It can only be recognised in areas like:

- vacant land owned by the government (this is called 'Crown land')
- some national parks and forests
- some pastoral leases (where the pastoralist rents a cattle or sheep station from the government without owning the land)
- Aboriginal reserves
- beaches, seas, lakes and rivers that are not privately owned.

How many native title applications have been successful?

By the end of June 2002, 601 native title applications had been submitted. The Federal Court or the High Court had decided 45 native title applications by 5 May 2003. The traditional owners were wholly or partly successful in 31 cases (69%).

Table 10.1: Native title decisions by outcome and state/territory to 30 April 2003

State/territory	Native title exists in some or all of the area	Native title does not exist	Total decisions
New South Wales	1	9	10
Northern Territory	* 4	0	4
Queensland	18	2	20
South Australia	0	1	1
Victoria	0	1	1
Western Australia	8	1	9
Total	**31**	**14**	**45**

* Includes areas of Commonwealth waters.

Source: National Native Title Tribunal, 'Native title determinations by State or Territory', 31 March 2003: http://www.nntt.gov.au/ntdetermination/bystate_index.html; updated to 5 May 2003 at: http://www.nntt.gov.au/publications/data/files/Determinations.jpg

Table 10.2: Area involved in native title determinations by state/territory to 30 April 2003

State/territory	Native title exists in some or all of the area (sq km)	Native title does not exist (sq km)	Total (sq km)
New South Wales	0.1	2.8	2.9
Northern Territory	* 10, 168.5	0	10, 168.5
Queensland	8, 366.2	248.2	8, 614.4
South Australia	0	** 1, 865.1	1, 865.1
Victoria	0	1, 863.4	1, 863.4
Western Australia	338, 739,.3	3, 981.3	228, 255.4
Total	**357,274.1**	**3,981.3**	**361,255.4**

* Includes areas of Commonwealth waters.

** Decision under appeal.

To access a map of native title determinations as at 31 March 2003. visit:
http://www.nntt.gov.au/publications/data/files/Determinations.jpg

Is native title the same as land rights?

Land rights are not the same thing as native title. Land rights are given by the government whereas native title existed before white occupation. A land rights grant may cover traditional land, an Aboriginal reserve, an Aboriginal mission or cemetery, Crown land or a national park. Native title only covers land on which the traditional relationship is unbroken.

The first Australian legislation to recognise land rights and allow Aboriginal land claims was the federal government's 1976 Aboriginal land rights legislation for the Northern Territory. Since then, land rights legislation has been passed in every State except Western Australia. When land rights are granted the land is owned by the community and not by individuals. Usually it cannot be sold.

Table 10.3: Australian land rights laws

State/territory	Act and year	Major effects
Victoria	*Aboriginal Lands Act 1970*	Transferred ownership of the two surviving Aboriginal reserves - Lake Tyers (1,700 hectares) and Framlingham (1,248 hectares) - to community-based land trusts. Since 1970 other small blocks have also been transferred to Aboriginal control including the 55 acre Lake Condah mission.
Northern Territory (a federal law)	*Aboriginal Land Rights (Northern Territory) Act 1976*	Former Aboriginal reserves (about 20% of the land in the NT) were returned to Aboriginal land trusts for the benefit of the traditional owners. Some national parks, including Uluru and Kakadu, were also returned on condition that the owners would share their management with the National Parks and Wildlife Service. Traditional owners could claim other Crown land but had to do it before 1997. Claims are heard by Aboriginal Land Commissioners who make recommendations to the federal government. Four Aboriginal Land Councils assist with claims and with land management. Land acquired under this legislation cannot be sold. Nearly half of the NT is now owned by Aboriginal people who constitute 29% of the NT population.
South Australia	*Pitjantjatjara Land Rights Act 1981*	Returned over 103,000 square kilometres in north-west South Australia to the traditional owners. The land cannot be sold. About 2,500 Pitjantjatjara, Yankunytjatjara and Ngaanyatjarra people live on the land.
New South Wales	*Aboriginal Land Rights Act 1983*	Transferred Aboriginal reserves to Local Aboriginal Land Councils (there are 119 of these) and enabled them to make claims for Crown land. It is not necessary to prove a traditional relationship; an historical relationship may be sufficient. Land acquired by claim cannot be sold. By 7 August 2001, 6,598 claims had been made but only 1,957 (29.6%) had been granted (totalling 75,952 hectares - less than 1% of the State). The Act also established a fund for land purchases, 13 Regional Land Councils and the NSW Aboriginal Land Council.
South Australia	*Maralinga Tjarutja Land Rights Act 1984*	Returned 76,000 square kilometres of the Maralinga lands in central western South Australia to the traditional owners. 120 square kilometres contaminated by British atomic testing in the 1950s were excluded from the original land grant. These blocks were finally returned once they were made safe in March 2000. The land cannot be sold.
Jervis Bay, a Commonwealth defence territory	*Aboriginal Land Grant (Jervis Bay Territory) Act 1986*	Transferred the former Aboriginal reserve to the Wreck Bay Aboriginal Community Council. The Jervis Bay National Park and Botanic Gardens were transferred in 1995 so that some 90% of the territory's 7,400 hectares are now Aboriginal-owned.
Queensland	*Aboriginal Land Act 1991; Torres Strait Islander Land Act 1991*	Transferred ownership of existing reserves and land already run by Aboriginal or Torres Strait Islander shire councils - for example, Aurukun and Mornington Islands - to their communities. Traditional owners could also claim specified Crown land and claims would be decided by a Land Tribunal.
Tasmania	*Aboriginal Land Act 1995*	Established an elected Aboriginal Land Council and transferred ownership of 12 areas of particular significance to Tasmanian Aboriginal people to the Council's ownership. The amount of land concerned is 0.06% of the State.

Source: H McRae, G Nettheim and L Beacroft, *Indigenous Legal Issues: Commentary and Materials*, Law Book Company, Sydney, second edition, 1997, pages 171-199.

Land for Aboriginal communities or enterprises may also be purchased with money from the Aboriginal and Torres Strait Islander Land Fund created in 1995. Until 2004 the Commonwealth will give annual allocations to establish the fund amounting to $1,016 million in 1994 dollar values. About two-thirds of the annual allocations are invested to build the capital base of the fund, with the remainder available for land purchases and management. Table 10.4 shows the total land purchases in each State and Territory.

Table 10.4: Indigenous Land Corporation purchases by state and territory, 1995-2002

State/territory	Number of properties	Total area (hectares)
NSW	40	182,687.3
NT	10	571,867.2
Queensland	30	1,229,855.2
South Australia	25	834,529.4
Tasmania	4	19,930.1
Victoria	24	3,798.5
WA	3,798.5	2,278,428.3
Total	**160**	**5,121,096.0**

Source: Indigenous Land Corporation, 'Indigenous Land Corporation Property Acquisition' (data extracted 8 May 2003): http://www.ilc.gov.au/

Native title landmarks

1992: First recognition of native title - the *Mabo Case*

In the *Mabo Case* of 1992, the High Court of Australia recognised the native title rights of the Meriam people of the Torres Strait. This decision rejected the doctrine of *terra nullius*. It recognised for the first time that Aboriginal and Torres Strait Islander people who have maintained a continuing connection with their country, according to their traditions and customs, may hold native title.

To read the *Mabo Case (No. 2* visit: http://www.austlii.edu.au/au/cases/cth/high_ct/175clr1.html

1993: *The Native Title Act*

In 1993 the *Native Title Act* was passed to recognise and protect surviving native title rights throughout Australia and set up a process for settling claims and conflicts about native title. The Act:

- established the National Native Title Tribunal
- allowed Indigenous groups claiming native title to negotiate about developments on the land *before* proving their claim
- set out the priorities between native title and other land titles.

ⁱFor more information about the *Native Title Act* visit: http://www.nntt.gov.au.

1996: The question of pastoral leases - the *Wik* Case
In the 1996 *Wik Case*, the High Court held that pastoral leases do not necessarily cancel out native title and that it could co-exist with the rights of some pastoralists.

To read the *Wik Case* visit: http://www.austlii.edu.au/au/cases/cth/high_ct/unrep299.html.

1998: The *Wik* amendments to the *Native Title Act*

In 1998, after the *Wik Case*, the government amended the *Native Title Act* to wind back the rights of native title holders and claimants. The amendments:

- weakened the 'right to negotiate' by native title claimants
- confirmed and validated the extinguishment of native title on a range of leases and other land tenures
- limited native title holders' right of access to pastoral leases
- made it more difficult to register native title applications
- introduced 'Indigenous land use agreements' as an alternative to formal determination procedures.

Further Reading

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Keith Windschuttle, *The Fabrication of Aboriginal History*, (Volume One: Van Dieman's Land 1803-1847), Macleay Press, Paddington NSW, 2002.

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Roadmap for Reconciliation, Council for Aboriginal Reconciliation, 2000. http://www.austlii.edu.au/au/other/IndigLRes/car/2000/10/

Reconciliation Australia. http://www.austlii.edu.au/au/other/IndigLRes/car/

Reports of the Aboriginal and Torres Strait Islander Social Justice Commissioner:
On social justice. http://www.humanrights.gov.au/social_justice/social_justice/index.html
On native title. http://www.humanrights.gov.au/social_justice/native_title/index.html

Report of the Royal Commission into Aboriginal Deaths in Custody:
National Report (Volumes I-V), Commonwealth of Australia, 1991.
http://www.austlii.edu.au/au/other/IndigLRes/rciadic/index.html

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