



Input provided by the United Nations High Commissioner for Refugees

into the

**Office of the High Commissioner for Human Rights’
Compilation Report**

for the Universal Periodic Review of

THE REPUBLIC OF VANUATU

I. Background and Current Conditions

The Government of the Republic of Vanuatu ratified the *1984 Convention on the Rights of the Child* (CRC: 6 August 1993), and has subsequently signed both *CRC Optional Protocols* (16 September 2005); and has acceded to the *1979 Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW: 8 October 1995).

Vanuatu is not a Contracting Party to the *1951 Convention or the 1967 Protocol relating to the Status of Refugees* (collectively the “1951 Refugee Convention”); and is not a signatory to either the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*.

Vanuatu is actively involved in a variety of regional mechanisms, including the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, the Pacific Immigration Directors’ Conference (PIDC), and the Pacific Islands Forum.

Vanuatu receives a small number of asylum-seekers.

II. Achievements and Best Practices

UNHCR appreciates the Government of Vanuatu’s respect for the principle of *non-refoulement* and its willingness to work with UNHCR to ensure that any individuals with protection concerns cases may have access to a determination of their claims for asylum.

III. Challenges and Constraints

UNHCR notes that although the Government of Vanuatu is not a signatory to the 1951 Refugee Convention, it respects the principle of *non-refoulement* as a peremptory norm of customary international law that binds all States, irrespective of their accession or otherwise to the 1951 Refugee Convention and other international human rights instruments. The Office stands ready to provide the Government of Vanuatu with timely technical advice, practical guidance and operational support should any individuals who arrive at the border of the territory of the Republic of Vanuatu have protection needs.

UNHCR notes that Vanuatu hosts a small number of asylum-seekers and/or refugees. The 1951 Refugee Convention recognizes the international scope of the refugee phenomenon and the importance of responsibility sharing in trying to resolve it, and to help promote international solidarity and cooperation.

Notwithstanding the relatively small number of cases, and the competing domestic priorities, accession to the 1951 Refugee Convention and establishing a national legal framework to give effect to the provisions of the Convention would provide clarity with regard to the obligation to provide refugees with international protection and to provide the basis for the Government of Vanuatu to do so.

IV. Recommendations

UNHCR requests the Office of the High Commissioner for Human Rights to recommend that the Government of Vanuatu accede to the *1951 Convention and the 1967 Protocol relating to the Status of Refugees* and introduce a domestic regulatory framework to assist the Government of Vanuatu deal with the small, but significant, number of asylum-seekers and/or refugees who arrive at the border of the territory of the Republic of Vanuatu, with the assistance of UNHCR.

V. Capacity Building and Technical Assistance

UNHCR is ready to provide to the Government of the Republic of Vanuatu technical assistance and ongoing capacity building in refugee protection.

Attached is a UNHCR proposal to strengthen refugee protection in the Pacific region which outlines proposed areas of support/activities for States in the Pacific.

**Protection Policy and Legal Advice Section
Division of International Protection Services
UNHCR
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UNHCR proposal to strengthen refugee protection in the Pacific region¹

Context

States within the enormous geographical region of the Pacific have developed many interstate mechanisms and fora to address the social, political, security and economic issues that they share. One significant area of cooperation has been around issues of security, border control and migration management, of which the PIDC is seen as a positive and practical example.²

Perhaps far less developed, are the common networks and strategies to address the particular issues of forced migration, notably asylum-seekers and refugees in the Pacific region. Only 7 of the 15 states covered by UNHCR in the region have formally acceded to the principal international instrument for refugee protection – the 1951 Convention relating to the Status of Refugees. Apart from the notable exception of Australia and New Zealand, most states in the region have little or no legislative or regulatory framework for refugee protection. Given their size and more pressing priorities most Pacific island states have not developed the capacity, expertise or experience to address refugee issues on their own.

As part of UNHCR's global protection strategy, it is seeking to engage states in the complex issue of the nexus between asylum and migration. In particular it has developed a Ten-Point-Plan (TPP) that it would like to operationalise with states that face this common challenge.

UNHCR's Regional Office in Canberra believes that the TPP may be particularly apposite in the Pacific region for those states wishing to strengthen their national capacity to deal with asylum-seekers and refugees within a broader response to migratory movements.

Whilst the number of refugees moving into and through the Pacific region is likely to remain small, such cases, nonetheless, can present problems to small island states that have limited or no capacity to deal with the particular challenges that such cases present.

Strategy

UNHCR recognises that refugees are often part of a broader movement of people but that their protection needs - and the responsibilities this places on states – demands a

¹ The UNHCR Regional Office, based in Canberra, has regional coverage for Australia, New Zealand, Papua New Guinea, Solomon Islands, Nauru, Fiji, Tonga, Samoa, Cook Islands, the Federated State of Micronesia, Republic of the Marshall Islands, Niue, Tuvalu and Vanuatu, Kiribati. UNHCR also has a country Office in Port Moresby, PNG.

² The PIDC has produced model legislation on asylum and already undertakes some analysis of people smuggling. These initiatives would complement the activities proposed by UNHCR in its strategy.

specialised response. The Office is well-placed in the region to offer states that specialist support and advice.

Whilst UNHCR believes that formal accession to the 1951 Refugee Convention provides states with the best framework within which national laws and regulations can, over time, be developed, it also recognises that this is not the first step that Pacific Island states need take to develop effective, balanced and credible national systems for refugee protection.

In the Pacific region, it is clear that refugee protection cannot be divorced from states' efforts to manage migration, particularly at their borders, in a more structured way. UNHCR is convinced that a balanced migration system should be able to protect a state's sovereign borders, obtain considerable benefits from migration and, importantly, ensure that people who have been forcibly displaced from their own countries by persecution and serious human rights abuses are able to find safety and protection in accordance with recognised international standards. Put briefly, the two concerns of border control and refugee protection are not mutually exclusive. Rather, they can be mutually reinforcing and complementary.

UNHCR recognises that each Pacific island state has its own geo-political, economic and resource constraints and that it is neither desirable nor realistic to develop a 'one size fits all' model for asylum and refugee protection.

Whilst some Pacific states have already acceded to the 1951 Refugee Convention and are working towards strengthening their national capacity to deal with refugees with a minimum of support from UNHCR, other states have neither the resources nor the need to develop elaborate refugee protection systems.

For this reason, UNHCR has developed a capacity-building strategy that offers individual states advice and support at a level that matches the realities in each state. Over the next 3 years, UNHCR is prepared to support 'tailor-made' protection frameworks and practical advice and procedures that reflect the specific needs, demands and practical realities of each participating state.

The strategy will take into account the following factors:

- The number and complexity of asylum-seekers claims likely to be received by the individual Pacific island state;
- The existence and capacities of other national and international partners (e.g. PIDC, IOM, national institutions, NGOs, UN Country Team etc.)
- The resources (staffing and financial) available to each state to develop laws, regulations and their ability to achieve self-sufficiency over time. For example, in the early stages, UNHCR would play a more 'hands-on' support role while, over time, this could be reduced to an advisory and support role as each state

strengthens its competence and self-sufficiency on asylum and refugee protection issues.

Proposed Areas of Support/Activities

1. Scoping and regular analysis of patterns and trends of asylum-seekers and refugees moving through the region, including movements of individuals or groups likely to be in need of international protection. This analysis could also contribute to other studies carried out by the PIDC (e.g. annual report on people-smuggling) to provide a deeper understanding of the causes and profiles of people movement in the region;
2. Cooperating/liaising and building partnerships with other regional bodies such as PIDC, IOM and agencies of the United Nations that may be concerned with the unauthorised movement of people into and through the PI region;
3. Providing regular advice, guidance and support to individual PI governments on policy and operational dimensions of international refugee protection. UNHCR would help states to develop and manage their immigration/borders effectively but in ways that are fully compatible with applicable international law standards and available resources: (*stakeholders*: senior government officials in relevant departments/ministries of immigration, justice, foreign affairs, police and law enforcement and human rights bodies as required);
4. Providing practical advice and training to relevant officials on how to integrate 'good practices' and standards of asylum/refugee protection into relevant immigration laws, regulations and operational guidelines (*stakeholders*: middle management officials in relevant ministries/departments; partners include IOM);
5. Providing technical advice and support to those states considering ratification of relevant international instruments such as the 1951 Refugee Convention and the two Conventions on Statelessness and, where appropriate, human rights instruments (CAT, ICCPR) (*stakeholders*: legislative officials, judicial bodies, Foreign Affairs, OHCHR) ;
6. Induction training, mentoring and supervision to new immigration and border-control officials, police and detention/prison officials and judiciary on basic principles and good practices for refugee protection and migration management;
7. Establish a practical network between UNHCR and interested PI states whereby designated government officials (focal points) would be able to contact UNHCR (through its Regional Office in Canberra and Country Office in Port Moresby) in

a '24/7 hotline' to obtain technical advice, practical guidance and operational support as to how to manage individual cases that have indicated protection needs in the PI's sovereign territory.

Note : This aspect of the project envisages a '*triage*' approach for individual asylum cases whereby designated PI officials can seek 'real-time' advice, technical support and appropriate assistance from UNHCR (even in urgent cases).

This would allow PI states and UNHCR to identify persons in need of international protection and prioritise the steps required to secure their interim protection, assessment and case management. Such steps could include:

- Interviewing and assessing their need for international protection in a fair, efficient and timely fashion;
- Ensuring vulnerable asylum-seekers and refugees receive appropriate care and support while solutions are explored and implemented (reception, housing, shelter, regularisation of legal status on interim basis);
- Assessing and finding appropriate solutions for refugees (and, where appropriate, exploring other options for non-refugees with the assistance of other agencies, such as IOM under its Assisted Voluntary Return (AVR) programmes, where appropriate.

UNHCR Regional Office
Canberra
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Elements of the Ten-Point-Plan which will guide UNHCR's strategy and activities in the Pacific

1. *Collaboration among key partners*
2. *Data Collection and analysis*
3. *Protection-sensitive entry management (in-country, borders and at sea)*
4. *Reception arrangements*
5. *Mechanisms for profiling and referral*
6. *Differentiated processes and procedures*
7. *Solutions for refugees*
8. *Addressing secondary movement*
9. *Return arrangements and alternative migration options for non-refugees*
10. *Information strategy in countries of origin, transit and arrival*

APPENDIX I: Map of South Pacific Islands

