

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review:**

*2nd Cycle, 24th Session*

**THE REPUBLIC OF PALAU**

**I. BACKGROUND INFORMATION**

The Republic of Palau (“Palau”) is not a State party to the *1951 Convention relating to the Status of Refugees* or to its *1967 Protocol* (hereinafter referred to as the *1951 Convention*). Palau is also not a State party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). Palau has no national asylum legislation.

Historically, Palau has received few asylum-seekers and refugees. To UNHCR’s knowledge, a very small number of asylum-seekers (less than five), arrived in Palau and sought international protection in 2014. However, these asylum-seekers were not formally authorized to remain in Palau for the duration of the time that it would take for UNHCR to assess their claims for protection, notwithstanding representations by UNHCR. The asylum-seekers were not expelled, but departed Palau following counselling by UNHCR and consideration of their options, including return to countries of first asylum.

As of April 2015, Palau hosted a very small number of refugees (less than five) whom UNHCR is assisting to find a durable solution.

**II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS**

UNHCR welcomes Palau’s participation in the Pacific Immigration Directors’ Conference (PIDC). UNHCR is of the view that Palau’s increased involvement at the regional and international levels will contribute to the development of national and collective responses to

regional issues, which may incorporate and harmonize regional efforts to safeguard national and border security, manage migration, and ensure international standards of refugee protection.

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Issue 1: Admission and reception of individuals with protection concerns

Palau has hosted a small number of refugees and asylum-seekers, despite not being a party to the *1951 Convention*. In this regard, UNHCR acknowledges the hospitality that has been, and is currently being extended, by the Government of Palau.

However, in 2014, a very small number of asylum-seekers arrived in Palau and sought international protection. However, they were not formally authorized to remain for the duration of the time that it would take for UNHCR to assess their claims for protection. This was despite representations made by UNHCR requesting the Government to authorize the asylum-seekers to remain. The protection concerns of these asylum-seekers came to UNHCR's attention after UNHCR was contacted directly by them. It is possible that there are other asylum-seekers of whom UNHCR is not aware and who were in a similar situation and sought protection, but were not brought to the attention of UNHCR.

Accession and the establishment of a national legal framework on refugee protection would provide a clearer basis for the Government of Palau to provide refugees with international protection, and would establish a mechanism to enable appropriate engagement of relevant international organizations including UNHCR. Accession would also allow Palau to implement the recommendations it received during the 1st cycle UPR from Moldova and the United States to accede to the *1951 Convention*. Palau stated at the time that would “take note of these recommendations as it is working to develop awareness and determine the capacity and resources of the Republic to fulfill its obligations under this instrument.”<sup>1</sup> Palau also received a recommendation from the United States to “Establish a more formal system to provide protection for refugees and asylum-seekers.” Palau accepted this recommendation and stated that it would “take appropriate measures to enact appropriate legislation in line with international standards.”<sup>2</sup>

#### **Recommendation:**

UNHCR recommends that the Government of Palau:

- Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*.

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<sup>1</sup> See “Addendum to the Report of the Working Group on the Universal Periodic Review – Palau,” 28 July 2011, paras. 62.25 (Moldova) and 62.26 (United States of America), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/153/54/PDF/G1115354.pdf?OpenElement>.

<sup>2</sup> See “Addendum to the Report of the Working Group on the Universal Periodic Review – Palau,” 28 July 2011, para. 62.42 (United States of America), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/153/54/PDF/G1115354.pdf?OpenElement>.

## **Issue 2: Capacity building and technical assistance**

UNHCR acknowledges the Government of Palau's interest in training and capacity building related to issues of forced displacement, involving different governmental and inter-governmental actors. UNHCR stands ready to support capacity-building activities and to provide further technical advice to Palau on international protection and its relevant international obligations.

### **Recommendation:**

UNHCR recommends that the Government of Palau:

- Liaise with UNHCR to develop a programme of awareness raising for Government officials to identify persons with international protection concerns and to provide appropriate reception conditions for such individuals.

## **Issue 3: Accession to the *Statelessness Conventions***

During its 1st cycle UPR, Palau received recommendations from Moldova and Slovakia to accede to the two *Statelessness Conventions*. Palau's response to this recommendation was to state that it "would take note of these recommendations as it is working to develop awareness and determine the capacity and resources of the Republic to fulfill its obligations under this instrument."<sup>3</sup> However, to date, Palau is still not a party to the two *Statelessness Conventions*.

Stateless persons who satisfy the refugee definition contained in Article 1A(2) of the *1951 Convention* are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the entitlement to rights of non-refugee stateless persons in need of international protection. In many countries, stateless persons and the children of stateless persons are often subject to discrimination. The *1954 Convention relating to the Status of Stateless Persons* is an important instrument to ensure non-discrimination in the enjoyment of human rights by stateless persons, including stateless children. The *1954 Convention* establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion, freedom of association, access to courts, freedom of movement, identity documentation and internationally recognized travel documents.

Furthermore, we wish to note that States are responsible for conferring nationality and ensuring the right of every child to acquire a nationality. Discharging this responsibility requires the establishment of safeguards against statelessness in nationality law. The *1961 Convention* establishes a range of standards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children who would otherwise be stateless and have ties with them through either birth on the territory or descent.

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<sup>3</sup> See "Addendum to the Report of the Working Group on the Universal Periodic Review – Palau," 28 July 2011, paras. 62.25 (Moldova) and 62.27 (Slovakia), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/153/54/PDF/G1115354.pdf?OpenElement>.

Thus, accession to the *Statelessness Conventions* would establish a framework to prevent and reduce statelessness, in order to avoid the detrimental effects that this can have on individuals and society, and to ensure minimum standards of treatment for stateless persons, providing such persons with stability and security, and ensuring that their basic rights and needs are met.

**Recommendation:**

UNHCR recommends that the Government of Palau:

- Accede to the *1954 Convention relating to the Status of Stateless* and to the *1961 Convention on the Reduction of Statelessness*.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
June 2015**

## Annex A

### UNHCR's Strategy to strengthen refugee protection in the Pacific region<sup>4</sup>

#### **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 Pacific Immigration Directors Conference (PIDC) is seen as a positive and practical example.<sup>5</sup>

Perhaps 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 8 of the 16 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, New Zealand and Fiji, 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, UNHCR seeks to engage states in the complex issue of the nexus between asylum and migration. In particular UNHCR has developed a *Ten Point Plan (TPP)* that it is operationalizing with states that face this common challenge.

UNHCR's Regional Office in Canberra believes that the *TPP* is 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.

#### **Framework for Protection**

UNHCR recognizes 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 specialized response. The Regional Office in Canberra 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

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<sup>4</sup> The UNHCR Regional Office, based in Canberra, has regional coverage for Australia, New Zealand, Papua New Guinea, Fiji, Solomon Islands, Vanuatu, Tonga, Samoa, Cook Islands, Niue, Tuvalu, the Federated States of Micronesia, Republic of the Marshall Islands, Nauru, Kiribati, and Palau. UNHCR also has a Country Office in Port Moresby, Papua New Guinea.

<sup>5</sup> 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.

developed, it also recognizes 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. UNHCR advocates that a balanced migration system is 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 recognized 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 recognizes 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.

### **Capacity Building Approach**

For this reason, UNHCR has developed a capacity-building approach that offers individual states advice and support at a level that matches the realities in each state. 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 takes 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); and
- the resources (staffing and financial) available to each state to develop laws, regulations and their ability to achieve self-sufficiency over time. 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.

### **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. Cooperates/liaises and builds partnerships with other regional bodies such as PIDC, International Organization for Migration (IOM) and agencies of the United Nations that may be concerned with the unauthorized movement of people into and through the PI region;
3. Provides regular advice, guidance and support to individual Pacific Island governments on policy and operational dimensions of international refugee protection. UNHCR assists states to develop and manage their immigration/borders effectively 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. Provides 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 (*Convention Against Torture (CAT)*, *International Covenant on Civil and Political Rights (ICCPR)*) (*stakeholders*: legislative officials, judicial bodies, Foreign Affairs, OHCHR) ;
6. Provides 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. Establishes 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 involves a ‘*triage*’ approach for individual asylum cases whereby designated Pacific Island officials can seek ‘real-time’ advice, technical support and appropriate assistance from UNHCR (even in urgent cases). This allows Pacific Island states and UNHCR to identify persons in need of international protection and prioritize the steps required to secure their interim protection, assessment and case management. Such steps 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, regularization 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  
November 2011**



## **Excerpts of Recommendations from the 1st cycle Universal Periodic Review**

### **PALAU**

We would like to bring to your attention the following excerpts from the 1st cycle Universal Periodic Review of Palau relating to issues of interest and persons of concern to UNHCR.

#### **I. Universal Periodic Review**

Below is a list of recommendations of relevance to UNHCR made to Palau during the 1<sup>st</sup> cycle of the Universal Periodic Review. These are divided into three sections: recommendations accepted by Palau; recommendations rejected by Palau; and recommendations which were under the consideration of Palau. Palau's views and responses to recommendations are elaborated upon (and sometimes amended) in the Addendum. Information contained in the Addendum, which is of relevance to UNHCR, can be found here in italics.

#### **Report of the Working Group on the Universal Periodic Review, Eighteenth session (11 July 2011) [A/HRC/18/5](#)**

#### **61. The following recommendations enjoy the support of Palau, which considers that they are already implemented or in the process of implementation:**

61.14. Take measures to ensure the full implementation of the principles and provisions of the Convention on the Rights of the Child. Intensify efforts to establish an Ombudsman for Children to deal with complaints of violations of the rights of the child, particularly those related to child exploitation and sexual violence (Spain);

61.15. Pursue its efforts in facing the challenges identified in its national report, with special attention to combating human trafficking and discrimination and improving the situation of migrant workers as they represent an important section in the country (Algeria);

61.23. Adopt legislative and public policy measures aimed at eliminating discrimination against children in situation of vulnerability, including children of immigrant families (Argentina);

61.36. Continue making efforts to investigate, prosecute and punish offenders of human trafficking (United States of America);

61.37 Take measures to protect victims of trafficking by providing shelters and facilitate the process in order for victims to witness against traffickers in court (Norway);

61.38. Reinforce the efforts to prevent and combat trafficking in human beings for sexual exploitation with particular focus on children (Slovakia);

61.39. Adopt legislation aimed at protecting children from economic and sexual exploitation (Thailand);

61.53. Adopt additional measures to prevent the mistreatment of foreign nationals, combat discrimination against them, follow through on pursuing and prosecuting crimes against them and enforce regulation more effectively to protect foreign workers, particularly with regard to conditions of work and respect for occupational and safety standards (Canada);

**62. The following recommendations will be examined by Palau, which will provide responses in due time, but no later than the eighteenth session of the Human Rights Council in September 2011. The response of Palau to these recommendations will be included in the outcome report adopted by the Human Rights Council at that session:**

62.25. Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness (Republic of Moldova);

62.26. Become a party to the 1951 Refugee Convention and 1967 Refugee Protocol (United States of America);

62.27. Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia);

*State Reply from the Addendum on recommendations 62.25, 62.26 and 62.27 re: Ratification of Convention relating to the Status of Refugees and Stateless Person –*

*Palau's Position: It is the position of Palau to take note of these recommendations as it is working to develop awareness and determine the capacity and resources of the Republic to fulfill its obligations under this instrument.*

62.29. Revise the status of children born of foreign parents in accordance with relevant international standards (Hungary);

*State Reply from the Addendum on recommendation 62.29 re: the Status of Children Born of Foreign Parents – Palau's Position: It is the position of Palau to take note of this recommendation. In line with Palau's Constitution, the legislative body may address the status of children born of foreign parents.*

62.42. Establish a more formal system to provide protection for refugees and asylum-seekers (United States of America).

*State Reply from the Addendum re: recommendations 62.42 on Refugees and Asylum Seekers – Palau's Position: It is the position of Palau to accept these*

*recommendations. Palau will take appropriate measures to enact appropriate legislation in line with international standards.*