



UNHCR

United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

Country Operations Plan 2007

Australia, New Zealand and the South Pacific

Country Operations Plan for 2007

Australia, New Zealand and the South Pacific¹

Part I: OVERVIEW

Protection and socio-economic operational environment

Australia and New Zealand are parties to the *1951 Refugee Convention* and its *1967 Protocol*, members of the Executive Committee, and valuable supporters of UNHCR activities. Both countries make significant contributions to refugee protection, resettlement and fundraising.

UNHCR is not directly involved in RSD or the care of individual asylum-seekers in Australia or New Zealand. UNHCR's primary activities are related to its supervisory role under Article 35 and the promotion of refugee law. The direct beneficiaries of UNHCR's activities are: those failed asylum-seekers whose cases are reviewed by UNHCR; asylum-seekers and refugees (especially TPV holders) for whom UNHCR seeks a more complete protection environment; and UNHCR-referred refugees resettled to Australia and New Zealand. Australia continues to be a major resettlement country, accepting 6,000 refugees which are UNHCR-referred protection cases, out of a total quota of some 13,000 persons according to Government sources. New Zealand accepts 750 UNHCR-referred protection cases per year.

The Australian Government maintains a hard-line policy regarding "secondary movers" (who, if recognized as refugees, are given Temporary Protection Visas [TPVs] which limit family reunion) and arrivals at "excised zones" (who are subject to processing off-shore, for example in Nauru). Likewise, all illegal asylum-seekers are subject to mandatory detention. Nevertheless, there has been a degree of softening of the system in the last two years, leading to improved protection outcomes for some asylum-seekers and refugees. Improvements in 2005 included regulations giving flexibility to the Immigration Minister to release people from detention and grant a wide range of visas; faster processing of renewal of TPVs; legislative changes which allow the Minister to detain asylum-seekers (and others) in "Residential Housing Centres" rather than "Detention Centres"; and a policy that children will only be detained as a measure of last resort. There is also greater oversight of long-term detention cases by an independent Ombudsman. In 2005, 25 of the 27 persons recognized refugees processed off-shore in Nauru under the "Pacific Solution" were taken to Australia. In August 2006, one of the two Iraqi refugees remaining in Nauru was medically evacuated for mental health reasons to Australia – thus leaving one Iraqi refugee in Nauru.

In April 2006, the Australian Government proposed legislation to extend the offshore processing of asylum-seekers to all 'unauthorised boat arrivals' who reach the mainland. Previously, only persons who landed on islands or areas excised from Australia's migration zone were subject to off-shore processing. The proposed Bill was an abrupt departure from the previous trend of improvements, and was, *inter alia*, perceived to be linked to the granting of asylum to 42 refugees from Papua Province. In the face of the prospect of Liberal Party members crossing the Senate floor to vote against the Bill, it was withdrawn by the Prime Minister in August 2006.

¹ UNHCR's Regional Office in Canberra covers Australia, New Zealand, Papua New Guinea (PNG) and twelve states in the South Pacific: the Marshall Islands, the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu. This Country Operations Plan submission outlines UNHCR's planned programmes for 2007 in Australia, New Zealand and the South Pacific. UNHCR programmes in PNG are the subject of a separate Country Operations Plan.

The rejection of an expansion in the off-shore processing of asylum-seekers was the result of the active participation of civil society, media coverage of the human costs, critical reports of procedures by parliamentary and other independent inquiries, and from lobbying and political pressure by coalition MPs who were in turn lobbied by their constituents. The High Commissioner for Refugees himself subsequently described the outcome as one reflecting the “collective conscience” of the Australian people. UNHCR made a submission to the Senate Inquiry, which can be found on the RO Canberra website.² The website has become an important tool in providing an authoritative source of information on the role and policies of UNHCR, and greatly assists in the promotion of adherence to international protection standards.³

New Zealand remains an important partner to UNHCR, with a developed asylum system and an important resettlement programme of 750 refugees per year. As elsewhere, however, increased concerns about security and terrorism have impacted the public discourse on refugees with perceived links to security issues. In this context, UNHCR’s continues to provide authoritative information as an important counterbalance to alarmist commentary.

The attitude of Australia and New Zealand’s civil society towards refugees and asylum-seekers is generally positive. Civil society in these countries is therefore an important partner for UNHCR in promoting the principles of international refugee protection.

Fiji, the Solomon Islands, Samoa and Tuvalu are signatories to the *1951 Refugee Convention*, and in 2005 The Federated States of Micronesia again expressed interest in accession to the *1951 Refugee Convention*. Likewise, in July 2006, the Government of Nauru also expressed interest in becoming a Convention signatory.

In 2003, Fiji enacted its *Immigration Act*, absent expected provisions for refugee status determination.⁴ In September 2006 passed the additional provisions, and the Regional Office remains in discussion regarding the development of regulations and procedures to fully implement the new law. None of the other Pacific Convention signatory states have yet implemented domestic legislation that incorporates refugee law or procedures for the determination of refugee status.

In general, the South Pacific states have somewhat rudimentary immigration systems and UNHCR has little data on secondary movements or persons of concern in the region. The South Pacific governments operate with limited resources and priority is given to meeting the needs of their nationals. Asylum-seekers and refugees in the South Pacific must often rely on their own resources or benevolence of locals and often churchy organizations to meet their material needs. In this context, the asylum-migration nexus, the imperative to create and widen asylum space, and to protect the rights of refugees and asylum-seekers, is one of the pillars underlying RO Canberra’s engagement in the South Pacific. With greater and greater connection of the South Pacific to the major states in Asia, and indeed with the rest of the world⁵, there is a pressing need to encourage and facilitate the adoption of national legislation and procedures to safeguard the rights of refugees.

² <http://www.unhcr.org.au>

³ The traffic on the RO Canberra website has nearly doubled. For example, in June 2005 unique visitors were 4,505. In June 2006 unique visitors were 7,845. “Hits” per visitor and data downloads have also increased significantly.

⁴ See the Government of Fiji’s Immigration Department website at <http://www.immigration.gov.fj/contactus.htm>

⁵ For example, during early 2006, the Pacific States had asylum claimants from Algeria, Bangladesh, Myanmar, Somalia and Sudan.

There are a few human rights NGOs operating in Fiji and the Solomon Islands. However, they are generally small and lack the resources and experience with refugee issues.

The populations of most South Pacific states are of a single ethnic origin, either Melanesian (Fiji, the Solomon Islands, and Vanuatu), Micronesian (Nauru, Kiribati) or Polynesian (Samoa, Tonga, the Cook Islands). Tribal allegiance plays a strong role in all of the states. Christian churches have a significant influence. Refugees and asylum-seekers, despite (or possibly because) they are so few, are generally not given much heed – but at the same time, cultural homogeneity and a general sense of vulnerability due to their size, makes it difficult to impress upon Pacific States the broad humanitarian goals of refugee protection. Community and key stakeholders often misunderstand and fear of refugee issues. Misperceptions and fears about refugees may have also been exacerbated by the Australian Government’s “Pacific Strategy” (previously known as the “Pacific Solution”) which has fostered the perception that Pacific Island states are a dumping ground for refugees that Australia does not want.

Operational goals and potential for durable solutions

Derived from the Agenda for Protection, UNHCR’s Global Strategic Objectives, and BAP’s Regional Strategy (BRS), the following are the overall strategic goals of UNHCR’s 2007 programme in Australia, New Zealand, and the South Pacific.

Preserve and strengthen asylum space through effective implementation of the 1951 Convention, its 1967 Protocol, and related international and regional standards. (GSO 1, GSO 2, BRS Pillar 1)

UNHCR will work to preserve and improve access to asylum in throughout the region according to each situation. In Australia and New Zealand, RO Canberra will continue to monitor application of the *Refugee Convention* by selectively reviewing individual cases, providing advice on interpretation of the Convention along with country of origin information as warranted, and engagement with government counterparts on key issues. In the South Pacific, UNHCR will continue to encourage accession to the *Refugee Convention* by the eight states yet to sign up, and to promote the enactment of legislation and satisfactory national practice in Fiji, Samoa, the Solomon Islands and Tuvalu. One priority will be to establish effective relationships and networks with governmental officers and agencies in order to obtain better data on numbers of asylum-seekers and of secondary movement to or among Pacific Island states. These efforts will be supported by external relations and public information programmes; through briefings of parliamentarians and journalists; engagement with NGOs, asylum lawyers; and through the promotion and publication of UNHCR positions, discussion papers and international best practices.

Improve protection against *refoulement* and physical security. (GSO 1, GSO 2, BRS Pillar 1)

UNHCR will continue to advocate for the creation of an institutionalized protocol with the Australian Department of Immigration and Multicultural Affairs (DIMA), and other immigration authorities, for involvement in advance screening of planned deportations, in order to prevent possible instances of *refoulement*. RO Canberra will also conduct detention and airport monitoring missions in Australia and New Zealand, sharing findings on gaps and potential areas of improvements with the authorities. In the South Pacific, RO Canberra will monitor and advocate for appropriate reception standards to be adopted.

Promote and Expand the search for Durable Solutions (GSO 3, BRS Pillar 2)

UNHCR will work closely with national authorities to maximize the use of existing regional resettlement programmes, both as a strategic protection tool and as a burden-sharing mechanism. UNHCR will continue to incorporate its latest policies and priorities into resettlement submissions to ensure that the Australian and New Zealand resettlement programmes address the needs of Women-at-Risk, and refugees with gender-related protection needs.

Obtaining family reunification rights for TPV holders in Australia will continue to be a priority objective for RO Canberra. UNHCR will also continue to lobby the Australian Government to address the effective exclusion of refugees with HIV/AIDS from resettlement due to difficulties experienced in surmounting the requirement that the admission of such persons will not place a disproportionate financial burden on the community. It may be noted that New Zealand, for 2006-2007, has agreed to accept up to 75 medical/disabled cases, including the new category which was introduced on 4 April 2005 for up to 20 places for HIV/AIDS cases.

RO Canberra's PI activities will continue to acknowledge the positive funding support that Australia and New Zealand provide, and the benefits that their resettlement programmes have on vulnerable refugees around the world, including the positive contribution made to both countries by refugees.

Promote tolerance and create a positive understanding of refugees. (GSO 5, BRS Pillar 4)

Public awareness and a positive understanding of refugee issues is critical to the preservation of access to and the quality of asylum in Australia and New Zealand, as well as to the maintenance and enhancement of generous resettlement programmes. It is also critical to support the adoption of international and regional standards among Pacific states which have yet to introduce laws, regulations and procedures for the reception and processing of asylum-seekers. RO Canberra will therefore strive to create understanding among the broader population about the reasons refugees cannot return to their homes, and to provide appropriate comment to parliamentarians and other organizations. UNHCR will continue to lead the programme of activities for World Refugee Day, and to run public information programmes, such as the high school writing competition, which acts as a catalyst for dialogue between refugees and the broader community. It is planned to identify and write stories of local and regional interest for UNHCR publications, and promote them in the media. Ongoing media and parliamentary liaison will enhance informed public debate and the promotion of international protection principles.

Raise UNHCR visibility, branding and image. (GSO 5, BRS Pillar 4)

UNHCR's public standing, as well as its ability to increase fundraising opportunities, is closely tied to its visibility and branding. RO Canberra will strive to boost the profile and visibility of UNHCR, particularly through its World Refugee Day programme, by producing high quality materials and publications, maintaining and developing its website (ensuring that it is an authoritative source of reliable, new and interesting information) and through working with the national association, "Australia for UNHCR", to promote UNHCR in the private sector and raise awareness of UNHCR's global humanitarian programmes.

Expand UNHCR's donor base and increase contributions to UNHCR's programmes. (GSO 5, BRS Pillar 4)

RO Canberra will support a two-pronged strategy to boost UNHCR's donor base – this will involve both the private sector and donor governments. In line with UNHCR's new Private Sector Fund Raising strategy (PSFR), RO Canberra will increase its support of the national association's fundraising activities and provision of information on UNHCR's work to private donors. We will also explore opportunities to raise funds from businesses and individuals in New Zealand. RO Canberra will continue to identify and secure pockets of local funding, or in-kind support, from donor governments for UNHCR's work in PNG and the South Pacific, and to provide support to the UNHCR's Donor Relations Unit at HQs through liaison and engagement with AusAID and NZAID, including the identification of additional funding opportunities.

Part II: COMPREHENSIVE NEEDS AND PARTNERSHIP

1. Outcomes of joint planning and management of identified gaps

The United Nations Information Centre (UNIC) relocated from Sydney to Canberra in July 2006. Otherwise, UNHCR is the only United Nations entity present in either Australia or New Zealand. RO Canberra works closely with UNIC on UN personnel matters and any issues requiring broader UN involvement. The UNICEF National Committee, and UNHCR's national association, "Australia for UNHCR", are both located in Sydney.

Australia and New Zealand have an extensive network of NGOs and legal practitioners specializing in refugee issues. NGOs and lawyers involved in individual cases are invited to participate in roundtable meetings organized by UNHCR to discuss current issues and to seek complementary approaches in addressing protection issues.

The UN has a significant presence in Fiji to serve the South Pacific region. With the UNDP Resident Representative serving as UN Resident Coordinator, OHCHR, UNFPA, UNICEF, UNIFEM, ILO, UNAIDS, UNOCHA and WHO each maintain offices and personnel in Suva. The UNCT in Fiji has recently begun the CCA/UNDAF process and developed a draft "UN Pacific Framework for Action 2008-2012". UNHCR participated in and promoted the inclusion of refugee issues on the Framework document.

RO Canberra works closely with IOM's Regional office in Canberra on the Bali Process, APC and South Pacific migration issues. IOM is also present in Manus Island, PNG and Nauru in their capacity as managers of the Australian offshore processing centres.

The human rights based NGO community in Fiji presents opportunities for UNHCR to create partnerships to strengthen Fiji's national protection capacities.

Comprehensive needs and contributions

The Agenda for Protection (principally AFP Goals 1, 2 and 3) and UNHCR's Urban Standards and Indicators (as per 2005 SIR) were the primary tools used to assess the gaps in the sub-region's protection regimes and the gaps in state capacities to provide effective protection to persons of concern.

In Australia and New Zealand, RO Canberra has prioritized those activities directly related to UNHCR's mandate or activities which only UNHCR has the expertise to implement (monitoring government policies and legislation affecting asylum-seekers and refugees, resettlement, public

awareness building and fund-raising). RO Canberra will continue to identify other independent actors such as the Human Rights and Equal Opportunity Commission and the Refugee Council of Australia, that might be relied upon to work together with UNHCR and eventually take over responsibility for some current UNHCR activities, such as detention centre monitoring and individual casework.

In support of the current reporting and planning cycle, RO Canberra produced a “protection gaps” paper by assessing the legislative and protection situation in each state against the Agenda for Protection and UNHCR’s protection standards and indicators. Only 4 of the 12 South Pacific states covered are signatories to the *1951 Refugee Convention*. Only Fiji has enacted domestic implementing legislation, but it still lacks regulations establishing procedures for RSD. Food, shelter and health care have also been identified as needs of beneficiaries in the South Pacific. RO Canberra will continue to seek comprehensive information on the number and situation of persons of concern in each South Pacific state. The priority activities planned by RO Canberra will address the most significant gaps (no Convention accession, no domestic implementing legislation, limited RSD capacity, no protection against *refoulement*) that exist in the protection regimes. Due to resource constraints and the need to ensure effective implementation, RO Canberra will give special focus on three states each year, while promoting accession to the *Refugee Convention* and development of refugee law in other states through regional mechanisms such as the APC, the South Pacific Forum Secretariat, and the Pacific Immigration Directors Conference.

a) Contributions by the host government, refugee and/or local communities

The Governments of Australia and New Zealand devote significant resources towards meeting the needs of asylum-seekers and refugees. The GoA and GoNZ provide asylum-seekers within their borders with their basic humanitarian needs (food, shelter and physical security).

In Australia, TPV holders are eligible to receive:

Special Benefits (stringently means-tested and is reviewed every 13 weeks); Rent Assistance, Family Tax Benefits, Child Care Benefits, the Double Orphan Pension, Maternity Allowances and Maternity Immunisation Allowances; Medicare benefits; referral to the Early Health Assessment and Intervention Program; Torture and trauma counseling; and Commonwealth-funded “English as a Second Language” classes.

Permanent Protection Visa (PPV) holders are more generous.

Resettled refugees and entrants under the Special Humanitarian Programmes receive more extensive settlement support.

The GoNZ also provides benefits to refugees that enable them to meet their own basic needs. The New Zealand Immigration Service funds a number of refugee support organizations which help resettling refugees by providing:

English language tuition; information on buying and renting homes; tax and business information; and general information about living in New Zealand.

The GoNZ also has an Immigration Settlement Strategy which seeks to assist refugees to:

Obtain employment appropriate to their qualifications and skills; be confident using English in a New Zealand setting; access appropriate information and responsive services that are available to the wider community (for example housing, education, and services for children); form supportive social networks and establish a sustainable community identity; and feel safe expressing their ethnic identity and amongst the wider host community.

South Pacific governments operate with limited resources, and the assistance and welfare needs of their nationals generally take precedence.

b) Financial contributions of partners

Given the significant contributions of the GoA, GoNZ, NGOs and community groups, RO Canberra considers that the needs of asylum-seekers and refugees in Australia and New Zealand are primarily in the legal/protection sector, and in particular the need for all asylum-seekers to have non-discriminatory access to fair and effective asylum procedures. Given UNHCR's mandate, and its working relationships and regular dialogue with the Governments of Australia and New Zealand, RO Canberra is in a unique position to promote solutions to the protection needs of asylum-seekers and refugees. Consequently, UNHCR funds will be primarily used to implement protection activities as proposed in this COP.

Contributions of operational partners (which include NGOs, community groups and legal practitioners) take the form of legal advice and representation given to asylum-seekers and refugees. These partners also make contributions towards UNHCR activities, for example by self-funding their participation in the national legal meetings.

In the South Pacific countries, UNHCR's mandate and technical expertise give us not only responsibility but also the opportunity of addressing deficiencies in their protection regimes.