



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

NEW ZEALAND

I. Background and Current Conditions

The Government of New Zealand acceded to the *1951 Convention relating to the Status of Refugees* (30 June 1960) and its *1967 Protocol* (6 August 1973) (hereafter, collectively referred to as “1951 Refugee Convention”). Furthermore, the Government of New Zealand acceded to the *1961 Convention on the Reduction of Statelessness* on 20 September 200; however, New Zealand is not party to the *1954 Convention relating to the Status of Stateless Persons*.

II. Achievements and Best Practices

New Zealand maintains a positive refugee protection climate and implementation of existing refugee policies, legislation and jurisprudence are liberal and progressive.

The Government of New Zealand takes full responsibility for assisting refugees and asylum-seekers within its territory and contributes to international responsibility sharing by accepting 750 refugees and related family cases for resettlement annually.

III. Challenges and Constraints

New Zealand is a positive model for international refugee protection in the region and globally, but UNHCR nevertheless considers it important for the Government of New Zealand to have strategies in place to ensure the sustainability of the positive refugee protection environment in New Zealand. In this regard, it is important to ensure that resettled refugees receive adequate support to settle and the positive contributions

made by refugees are highlighted. This will in turn contribute to underpin New Zealand's refugee resettlement as well as to maintain public support for refugees, asylum-seekers and the broader system of asylum in New Zealand.

Despite the period of financial instability, UNHCR urges the Government of New Zealand to maintain its current level of support and services for refugees and asylum-seekers in New Zealand.

In an effort to maintain a positive understanding of refugees and other migrants and to combat xenophobia and racism, UNHCR believes it to be important for the Government of New Zealand to take steps to ensure such issues are built into education curricula.

UNHCR further believes supervisory bodies such as the Human Rights Commission should be fully empowered to investigate and report on breaches of human rights, including the right to seek and to enjoy asylum enshrined in Article 14 of the 1948 Universal Declaration of Human Rights, as well as on allegations of racism and other forms of discrimination.

UNHCR supports the objective of draft legislation introduced to Parliament in August 2007 (Immigration Bill 2007), but not yet passed, which is to streamline and rationalize legislation and procedures insofar as they relate to asylum-seekers, refugees and others of concern to UNHCR.

UNHCR particularly welcomes efforts made to codify New Zealand's obligations under various human rights instruments, including the *1966 International Covenant on Civil and Political Rights* and the *1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, to ensure compliance with certain aspects of New Zealand's human rights-related international obligations, notably the principle of non-refoulement, in a more transparent way.

UNHCR nevertheless considers some aspects of the draft immigration legislation could be improved with regard to:

- certain aspects of the refugee and protected status determination process, including notably with regard to the introduction of a 'safe third country' concept, which in its current form allows an official to decline to accept a claim for consideration on the basis that the person lodged, or could have lodged, a claim for recognition as a refugee or protection in another country; UNHCR nevertheless welcomes the incorporation of some safeguards with regard to the concept, including a right of appeal, in the most recent draft;
- the collection and use of classified information, which should not be based on broad or vague criteria, such as New Zealand's 'international reputation', but which should rather be limited to exceptional circumstances where disclosure would pose a threat to national security or would have serious consequences to civil society in New Zealand;

- the need to ensure that any introduction of biometric information should be accompanied by adequate and explicit safeguards that respect privacy;
- the need to include appropriate safeguards to ensure international standards of reception and treatment are maintained for asylum-seekers, including the non-punishment of successful refugee and protected claimants for illegal entry, in accordance with Article 31 of the 1951 Refugee Convention, and to ensure that claimants for refugee and ‘protected person’ status are not detained in correctional facilities; any alternative detention facilities should comply with international standards as set out in the UNHCR ‘*Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*’, Executive Committee Conclusions and the ‘*UN Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment*’ (Adopted by General Assembly resolution 43/173 of 9 December 1988) amongst others; and
- the need expressly to preserve important elements of the 1951 Refugee Convention in regard to the expulsion and exclusion of claimants to refugee status.

UNHCR’s most recent written submission on the legislation may be found at www.unhcr.org.au.

UNHCR acknowledges the Government of New Zealand’s efforts to enhance the protection of stateless persons and contribute to the prevention of statelessness by acceding to the *1961 Convention on the Reduction of Statelessness* and notes that the Citizenship Act 1977 provides that the Minister for Internal Affairs may grant citizenship to any person who would otherwise be stateless.

Accession to the *1954 Convention relating to the Status of Stateless Persons* would set the framework for the standard of treatment of stateless persons and provide such persons with stability and security, and ensure certain basic rights and needs are met.

IV. Recommendations

UNHCR suggests to the Office of the High Commissioner for Human Rights that its Compilation Report:

- Welcomes New Zealand’s intention to codify New Zealand’s international obligations under the *1966 International Covenant on Civil and Political Rights* and the *1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and to provide complementary protection to persons who do not satisfy the definition of a refugee contained in the 1951 Refugee Convention but who nevertheless cannot return to their own countries because of the non-refoulement principle.

- Encourages the Government of New Zealand to take into account UNHCR's recommendations with regard to the draft immigration legislation and take the necessary steps to finalize the legislative process and enact this important piece of legislation.
- Emphasizes the importance of highlighting the positive contribution made by refugees to New Zealand and providing adequate settlement services to resettled refugees to ensure the sustainability of resettlement and maintain public support for refugees and asylum-seekers.
- Asks the Government of New Zealand to consider acceding to the *1954 Convention relating to the Status of Stateless Persons* as the legal basis for ensuring the rights of stateless persons are respected.
- Encourages the Government of New Zealand to take steps to ensure human rights issues are built into education curricula to maintain a positive understanding of issues confronting refugees and other migrants.
- Requests the Government of New Zealand to ensure supervisory bodies such as the Human Rights Commission are fully empowered to investigate and report on breaches of human rights, including the right to seek and to enjoy asylum enshrined in Article 14 of the Universal Declaration of Human Rights, as well as allegations of racism and other forms of discrimination.

V. Capacity Building and Technical Assistance

- | — UNHCR is ready to provide to the Government of New Zealand technical assistance and advice in implementation of new legislation relating to persons of concern to the Office, including refugees, asylum-seekers, stateless persons and persons who are otherwise in need of international protection.

**Protection Policy and Legal Advice Section
Division of International Protection Services
UNHCR
November 2008**