



## **Immigration Detention in New Zealand**

**Global Detention Project**

**February 2014**

The Global Detention Project (GDP) is a research initiative that tracks the use of detention in response to global migration. Based at the Graduate Global Migration Centre in Geneva, Switzerland, the GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) encouraging scholarship in this field of immigration studies; and (3) facilitating accountability and transparency in the treatment of detainees.

“Immigration Detention in New Zealand”  
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Introduction..... 3  
Detention Policy..... 5  
Detention Infrastructure ..... 12  
Facts & Figures ..... 16  
List of Detention Sites..... 18  
Map of Detention Sites ..... 19  
Country links..... 20  
Reference List ..... 22

## Introduction

In early 2013, the government of New Zealand came under intense criticism for agreeing to annually resettle 150 asylum seekers from [Australia](#), many of whom will have been confined in offshore detention facilities like those in Nauru and Manus Island. While officials argued that the move was important to assist people in need, others claimed that it had the effect of bolstering Australian claims about “queue-jumping” refugees and came at the expense of other asylum seekers because the 150 people would make up a portion of the 750 claimants the country accepts each year. Said the NZ Race Relations Commissioner, “Anything that can be done to relieve the situation of the people in the offshore Australian detention camps has to be a good thing, but to do it at the cost of other refugees coming here seems a little unfair” (Geelong 2013).

As part of the agreement, Australia is to consider placing irregular maritime arrivals to New Zealand in its offshore detention facilities for processing. New Zealand Prime Minister John Key justified this arguing that the country’s Mangere accommodation centre was not designed for long-term detention and that Australia’s offshore facilities could serve as deterrents. He said: “One of the ideas I had was maybe we can actually use the [Australian] offshore detention centres and that will actually act as a deterrent. We might want to go down that route. ... It’s not something I’m planning to do today but it’s something we could do” (Timaru Herald 2013). This suggestion has been widely condemned by national and international rights actors, including the UN Committee on the Elimination of Racial Discrimination, which urged New Zealand “to refrain from sending asylum seekers to a neighbouring country’s offshore detention facilities until the conditions met international standards” (Human Rights Council 2013).

The agreement came as the NZ government was considering amending its immigration law to allow for the detention of “mass arrivals” of unauthorized migrants coming by boat. The amendment (“[Immigration Amendment Act 2013](#)”), which was eventually adopted in June 2013, has been billed as a measure to combat people smuggling and provides for the detention of non-citizens arriving by boat in groups of more than 30 people. Numerous human rights groups have criticized provisions in the new law, including the possibility of indefinite detention, the “mass arrival warrant” provision that increases the risk of arbitrary detention, the detention of families with minors, the suspension of the asylum process, limitations on judicial review, and the fact that the bill—while appearing to fall short of mandatory detention—does not include an “explicit presumption against detention” (AI June 2013).

Observers have pointed out that an important irony in these recent developments in New Zealand law and policy is the fact that the country has not experienced irregular maritime arrivals. While some officials have highlighted New Zealand’s purported track recording in humanitarian affairs, wrote one journalist, they “tend not to refer to its comparatively paltry refugee resettlement program. Nor do they refer to its response to ‘boat people,’ for the simple reason that New Zealand has never been faced with this kind of arrival” (Neumann 2013).

In some respects, New Zealand immigration policies have compared favourably to those of Australia and other peer countries. With only a small population of asylum seekers and undocumented migrants, the country has traditionally not emphasized detention and the issue of immigration has not been heavily securitized. This is reflected in the fact that the country has not had a dedicated immigration detention centre, instead using its prison system for long-term detention, a practice that has been criticised by rights observers (HRF 2009). Additionally, the country's immigration portfolio is under the Department of Labour (which in 2012 merged with three other government entities to become the Ministry of Business, Innovation, and Employment in 2012), as opposed to that of national security or justice like in many European and North American countries.

Nevertheless, during the past several years, political discourse in the country regarding refugees and migration has grown increasingly heated. In October 2010, for example, Prime Minister John Key argued that although New Zealand would not pay for and run a "regional processing centre" for arriving boat people, having such a facility somewhere in the region "could fit" with the country's policies. Referring to a then-recent arrival by boat of asylum seekers in [Canada](#), Key said, "If they can get to Canada they can get to New Zealand so we are looking at our own legislation and our response to this issue" (Vance 2010).

These pronouncements were followed by a number of high profile cases in which asylum seekers apprehended by Australian officials claimed that their intended destination was New Zealand. In one case from April 2012, a group of 10 Chinese nationals who were members of Falun Gong arrived in Darwin, Australia, claiming that they wanted to proceed to New Zealand because it did not have mandatory detention laws. A month later, in May 2012, then-Immigration Minister Nathan Guy introduced the Immigration Amendment Act 2012, making explicit reference to the Chinese case: "Ten illegal migrants may seem like a small number, but once such an arrival has been achieved, New Zealand could be seen as a more attractive option for like-minded people" (Neumann 2013).

## Detention Policy

**Key norms.** The principal norms relevant to immigration-related detention in New Zealand are contained in the [Bill of Rights Act of 1990](#), the [Immigration Act 2009](#), the [Immigration Amendment Act 2013](#), and the [Corrections Act 2004](#).

[Section 22](#) of the Bill of Rights, on “Liberty of the Person,” provides that “Everyone has the right not to be arbitrarily arrested or detained.”

The Immigration Act 2009 replaced the previous law, Immigration Act 1987. The 2009 law introduced several significant changes, including increased powers for immigration officers to arrest and detain migrants, and extended detention without judicial review. In promoting the law, the Department of Labour (DoL) claimed that it would “provide for a tiered detention and monitoring system that includes a greater ability to use reporting and residence requirements instead of secure detention” (DoL [website](#)).

The Immigration Amendment Act 2013 provides several notable changes to the Immigration Act. Importantly, and in contrast to the DoL’s assessment of the 2009 law, the 2013 law appears to constrain the level of discretion authorities have with respect to detention decisions when dealing with “mass arrivals” (see the section “Grounds for detention, mandatory detention, arbitrary detention” below). The Act, which provides for the possibility of indefinite detention, states that its purpose is “to provide a practicable and administratively workable time period within which arrival processing of the mass arrival group can be completed” and “any threat or risk to security or to the public arising from, or that may arise from, the members of the mass arrival group ... may be properly assessed.”

The Corrections Act 2004 includes provisions regarding the detention of irregular migrants and asylum seekers in New Zealand’s prison system. Section 181 of the Act empowers the Department of Corrections to share information about specific offenders with the Department of Labour (now the Ministry of Business, Innovation, and Employment) when it is for immigration purposes. Cooperation between the two departments is also outlined in Section 302 of the 2009 Immigration Act.

**Grounds for detention, mandatory detention, arbitrary detention.** The Immigration Act 2009 (s. 310) provides that police can detain a foreign national if he/she is: a) denied entry into the country at an airport and awaiting deportation; b) not carrying proper identification documents; c) suspected of constituting a threat or risk to security; or d) has breached residence and reporting requirements. Further, if a foreign national has a false, fraudulent, or expired visa, has had their refugee status cancelled, or is deemed a threat to security, they are liable for deportation and can also be detained (s. 154-163, IA 2009).

In addition to these grounds, the Immigration Amendment Act 2013 introduced new stipulations in the Immigration Act that expand the state’s detention powers. S. 317a of the amended Immigration Act provides that an immigration officer “may” make an application to judicial authorities for a “mass arrival warrant” authorising “the detention ...

of the members of a mass arrival group” of more than 30 people. The Act provides a number of criteria to help officials determine whether such a warrant is required, including whether it is necessary “to effectively manage the mass arrival group”; “to manage any threat or risk to security”; “to uphold the integrity or efficiency of the immigration system”; or “to avoid disrupting the efficient functioning of the District Court.”

The amended Immigration Act also appears to provide some limited discretion to the judge handling the application for a mass arrival warrant. However, if the judge finds that all the conditions stipulated in the application are met, he or she “must” grant the warrant (s. 317b).

Some observers have contended that the amended law provides for mandatory detention, which international authorities like the UN High Commissioner for Refugees have argued is contrary to international law. Thus, for example, [according to the New Zealand Human Rights Commission](#) (HRC), the Immigration Amendment Act 2012 “provides for the mandatory detention of a ‘mass arrival’ and imposes other restrictions on people arriving in New Zealand as part of a ‘mass arrival’” (HRC 2012).

However, a comparison of the provisions in the New Zealand law to mandatory provisions in other national legal systems appears to reveal that the NZ law provides some level of discretion to authorities. For instance, Australia’s Migration Act states that “Parliament considers that it is in the national interest that each non-citizen who is a designated person should be kept in custody until he or she: (a) leaves Australia; or (b) is given an entry permit” (Migration Act 1958, as amended by Migration Act 1992). The law defines precisely who is to be considered a “designated person,” leaving no discretion to authorities.

In contrast to Australia, but more like New Zealand, is [Malta](#). All persons who are given deportation orders in Malta mandatorily must be detained. However, the law provides discretion with respect to the issuing of deportation orders. Article 14.1 of Malta’s Immigration Act states: “If any person is considered by the Principal Immigration Officer to be liable to removal as a prohibited immigrant under any of the provisions of article 5, the said Officer may issue a removal order against such person who shall have a right to appeal.”

Nevertheless, regardless of whether the new NZ law should be considered a form of mandatory detention, the law’s provision on designating mass arrivals appears to provide for arbitrary detention, which runs contrary to international norms that require individual assessments of each case to determine issues of necessity and proportionality before depriving someone of his or her liberty. As UNHCR states in its [2012 detention guidelines](#), “‘Arbitrariness’ is to be interpreted broadly to include not only unlawfulness, but also elements of inappropriateness, injustice and lack of predictability. To guard against arbitrariness, any detention needs to be necessary in the individual case, reasonable in all the circumstances, and proportionate to a legitimate purpose.”

In [legal advice](#) provided in early 2012 during the debate over the proposed Immigration Amendment Act, the Ministry of Justice argued, “We consider that there is a legitimate

purpose for detention, as detention of multiple individuals under a single warrant for a longer initial period of detention may be justified in the unique circumstances of a mass arrival. These circumstances, coupled with proper safeguards to ensure the detention is necessary and limited to a reasonable period, leads us to conclude that the Bill does not enable arbitrary detention. The Bill, therefore, appears to be consistent with the right to be free from arbitrary detention affirmed in s 22 of the Bill of Rights Act” (Ministry of Justice 2012).

The New Zealand Human Rights Commission countered this argument, stating: “The Commission disagrees with this advice and considers that the detention provisions place a prima facie limit on the right to be free from arbitrary detention which cannot be justified” (HRC 2012a)

**Detaining authorities.** The Immigration Act 2009 introduced changes from the previous immigration law with respect to who can detain people for immigration-related reasons. The Act provides that designated immigration officers have the authority to arrest and detain foreign nationals suspected of being unlawfully in New Zealand. Under the old Immigration Act, the authority to arrest and detain lay solely with members of the police (s. 312, IA 2009; INZ website).

**Length of detention.** New Zealand law provides various possibilities for the length of time a person can remain in immigration detention, including indefinite detention.

For people included in a mass arrival warrant, there appears to be no maximum limit as immigration officers are authorised to seek successive warrants of 28 days for “all or specified members of a mass arrival group” (s. 317e).

For people not covered under a mass arrival warrant, there are various stages of detention (s. 316). During the initial stage of detention, people suspected of violating immigration laws can be held for a period of 96 hours without judicial review (Ngatai 2010). Under the previous immigration law, this initial detention period was limited to 72 hours. While this increase in length was criticized by the New Zealand Human Rights Commission, officials justified the increase as a way to give more time to officials to process people apprehended at the border and limit the number of people transferred to prisons (Ngatai 2010).

Foreign nationals are generally held at police stations during this initial period until a decision is made on their cases. If their identity has not been established, or they cannot be deported within 96 hours, an immigration officer can apply to a District Court Judge for a “warrant of commitment,” which extends detention up to 28 days (s. 316, IA 2009). In these cases the person is transferred from a police station to one of New Zealand’s prisons.

The law does not specify a limit to how many times a “warrant of commitment” can be requested for a person, stating only that an official can apply “for a warrant of commitment (or a further warrant of commitment) authorising a person’s detention for up to 28 days” ([s. 316](#)). Government sources contend that “there is a general six-month



limit on immigration detention except where a foreign national hinders their own departure” (DoL website). [S. 323](#) of the Immigration Act stipulates specific grounds that must be met in order to justify detention beyond six months, including “that the person’s deportation or departure is prevented by some action or inaction of the person” and “that no exceptional circumstances exist that would warrant release.” If a judge is not satisfied that these conditions are met, he/she must order the release of the person.

**Asylum seekers.** New Zealand law provides for the detention of asylum seekers under various circumstances. People who arrive as part of a “mass arrival group” are subject to detention and their determination procedures are suspended as long as they remain under a “mass arrival warrant” (s. 135a).

Asylum seekers arriving at the border who are not part of a “mass arrival group” can initially be held in police custody pending a risk assessment and court hearing. After the hearing, claimants are either detained at a prison if identity or security concerns are raised, conditionally released to an approved address in their community, or held at the Mangere Accommodation Centre.

Asylum seekers appear to be only rarely detained in prisons. According to the Department of Corrections, between 2004-2010, only about 50 asylum seekers were transferred to “penal custody,” and on only 14.1 percent of asylum seekers continued to be detained after their initial court hearing (Reeve 2010; Poole 2010a). It generally takes three to five months for a decision to be made by a refugee and protection officer on an asylum claim (INZ 2010a). According to DoL statistics, those apprehended upon arrival and then transferred to penal detention spend on average anywhere between 6-12 weeks in custody (Robinson 2010).

Foreign nationals already detained in a prison under section 310 of the 2009 Immigration Act can claim asylum, but should do so within two days of being taken into custody (INZ 2009). In these cases, refugee and protection officers have access to the prison to interview asylum seekers and are encouraged to make a decision as quickly as possible, ideally within 20 weeks. Claimants, however, remain detained in prison until a decision is made, at which point they are released if granted refugee status (INZ 2009). Between July 2004 and April 2010, 4.4 percent of refugee claims were from those already detained (Reeve 2010).

According to statistics provided by the Department of Corrections, the number of asylum seekers taken into custody on arrival to the country decreased significantly between 2004 and 2010. During FY 2004-2005, the “total detained” (including asylum seekers housed in an “open non-secure facility” as well as those detained in “penal custody”) numbered 76. By fiscal year 2009-2010, this number had decreased to 23 (Reeve 2010).

NGOs appear to be given access to visit asylum seekers confined in prisons, and detained asylum seekers have full access to legal representation and other support (Poole 2010b). Nevertheless, concerns have been raised access about limits in the

ability of NGOs to have sufficient access to detainees to assist in them in their asylum applications (RCNZ 2009).

**Minors.** With the adoption of the Immigration Amendment Act 2012, the Immigration Act formally provided for the detention of minors who are accompanied by a parent or guardian as part of a “mass arrival group” (s. 317c5). Previously, the Immigration Act did not provide explicitly for the detention of minors. However, nor was there “an explicit presumption against detention of children, and reference to [United Nations Convention on the Rights of the Child] obligations” (Ngatai 2010).

Minors must have a responsible adult to represent their interests (either a parent or a responsible adult nominated by immigration authorities) (s. 375, IA 2009), be able to express views on detention, and have these views considered at any of their proceedings (s. 377, IA 2009; Ngatai 2010).

**Alternatives to detention.** At the discretion of an immigration officer, foreign nationals liable for arrest can be offered an alternative to detention when not part of a “mass arrival group.” Under s. 315 of the Immigration Act, alternatives include residing at a specified place, reporting to a specified place at certain times, and/or having a guarantor ensure compliance with residence and reporting requirements. Immigration officers, however, also have the discretion to end any agreement with respect to alternatives, while foreign nationals can be arrested and detained if they violate any of the residence and reporting requirements.

For asylum seekers there is a sliding scale of options: detention in prison, confinement at the Mangere Accommodation Centre, or conditional or unrestricted release. Conditional release is offered at the discretion of an immigration officer (Field 2006) and asylum seekers must attend any interviews with immigration authorities during the refugee determination process (s. 315(1), IA 2009).

Asylum seekers granted conditional release have the option of staying with members of their family or community, or at a hostel. Since 2006 the Auckland Refugee Council has run one such hostel, which hosts those awaiting a decision on their claims, as well as a small number whose claims have been denied but where the principle of non-refoulement applies. The majority of residents come from the Democratic Republic of Congo, Somalia, and Afghanistan, and they stay between six and 12 months. In general there is a one-year limit at the hostel unless Immigration New Zealand (INZ) denies someone a work permit due to “identity issues.” In June 2009 there were 12 residents at the hostel: 6 men, 3 women and 3 children. Three of these had been there for more than 2 years (ARCI 2009).

**Deportation.** With adoption of the Immigration Act 2009, the New Zealand deportation process “was simplified to better balance efficiency with fairness,” according to the Immigration department. Among the changes highlighted by the government: “The terms ‘removal’ and ‘revocation’ are no longer used. Instead, the single term ‘deportation’ is used. People who are deported, and aged 18 or over, may be prohibited from re-entering New Zealand for two years, five years or permanently, depending on the reason

for deportation” (Immigration New Zealand website, “Immigration Act 2009: Deportation”).

Part 6 of the Immigration Act (sections 153-182) contain detailed provisions regarding deportation, including who is liable to deportation. Foreign nationals subject to deportation include those residing in New Zealand unlawfully because visa expired, was granted in error, or obtained using fraudulent means. Additional grounds include “criminal offending”; “matters relating to character”; “breaching conditions of a resident visa”; “cancellation of refugee and/or protection status where the person is not a New Zealand citizen”; and “being a risk or threat to security” (Immigration New Zealand website, “Immigration Act 2009: Deportation”).

**Privatisation.** In 2009, the Parliament passed the Corrections (Contract Management of Prisons) Amendment Act, which allows private companies to manage prisons and detention centres in New Zealand. According to the Department of Corrections, “Contract management of prisons is where private sector organisations competitively tender for contracts to manage the operation of a prison. The prison is operated by an external party, under the terms of a contract with Government, where Corrections remains ultimately responsible to the public and Government. The Government’s objective is to use private sector innovation and international experience to improve quality, efficiency and cost-effectiveness across the corrections system” (DoC, “Contract Management of Prisons Project”).

In 2010, the private security firm Serco was awarded a contract to operate the Mt. Eden’s Prison and the Auckland Central Remand Prison, both of which have been used to hold non-citizens in administrative detention. Serco has been harshly criticized for its operations at prisons in detention centres in Australia and the United Kingdom (Vance 2010).

According to a news report, “Serco New Zealand, the local unit of the UK’s Serco Group, reaped a modest profit in the first full year of its \$300 million, 10-year contract to run Mt Eden/Auckland Central Remand Prison for the Department of Corrections. Profit was \$368,623 in calendar 2012, from about \$1 million in 2011, when it took over full management of the facility mid way through the year” (Underhill 2013).

Serco “is also part of the Fletcher Building-led group that last year won the contract to design, build and operate Auckland’s new 960-bed Wiri prison in south Auckland, which is due to open in 2015. ... The Wiri prison was the first of the government’s so-called public-private partnerships, or PPPs, where the private sector is allowed to invest in what has traditionally been a public sector role of providing health, education and other facilities” (Underhill 2013).

In 2013, the government announced that as part of its plans to rehab the Mangere refugee accommodation centre, it was hiring a private contractor to construct new facilities, which the government would lease back over time (National Party 2013).



## Detention Infrastructure

Similar to other countries—like [Ireland](#)—which have relatively small populations of undocumented non-citizens and receive few asylum seekers, New Zealand lacks a dedicated system of migrant detention centres. Instead, it uses police stations and prisons to hold detainees, as well as a semi-secure accommodation centre for asylum seekers.

New Zealand does not make available detailed statistics about where immigration detainees are held or how many people are detained. In response to a request from the Global Detention Project (GDP), an official at the Department of Labour wrote, “The Department does not hold information regarding which prisons hold asylum seekers or which particular corrections facility irregular migrants or asylum seekers were held at” (Robinson 2010).

The Department of Corrections (DoC) statistics on people held in the prison system also do not make readily available data on people confined for immigration-related reasons. According to quarterly prison statistics published in September 2013, less than one percent of the 7,900 people in the prison system on 30 September 2013 were held for “administrative” purposes (DoC 2013). Previously, in 2010, the Department of Corrections responded to a GDP information request by providing a statistics on the total number of asylum seekers transferred to prisons after being detained at the border, which totalled just over 50 during the period 2004-2010 (Reeve 2010).

**New detention centre?** The Global Detention Project has received contradictory information regarding possible plans to build a new dedicated immigration detention centre in order to limit the use of prisons for such purposes. According to a 2010 communication from the Refugee Council of New Zealand (RCNZ), “The Government has plans, which RCNZ fully supports, to build a small secure facility at Mangere Centre and stop any and all detention in any correctional facility” (Poole 2010).

However, when queried about this, an official at the Department of Labour claimed that there were “no plans at present to build” such a facility (Robinson 2010).

In mid-2013, the government announced that it would spend several million dollars to rehab the Mangere facility to provide space to “accommodate” people who arrive as part of “mass arrival groups” (Fairfax NZ News 2013). As of early 2014, the GDP had no additional information about the status of this project, although it is slated for completion by the end of 2014.

Commenting on the building project in mid-2013, New Zealand Immigration Minister Michael Woodhouse said that asylum seekers housed in the new facility would be low security risks, and that prisons would continue to be used for those considered high risk. “There are no plans to build a separate detention centre where there are people for whom security is an issue and it is required that they be detained ... It is almost certainly to be prisons” (Fairfax NZ News 2013).

**Police stations.** Under the Immigration Act 2009, any police station in New Zealand can be used to detain a person without a warrant of commitment for up to 96 hours (s. 331b, IA 2009; Blakemore 2010), including both undocumented migrants and asylum seekers whose identity is uncertain. Under the previous immigration act detention could only last up to 72 hours. Individuals reportedly are generally detained at police stations for less than 48 hours (HRF 2009).

The appropriateness of using these facilities for immigration purposes has been criticized by human rights groups. For instance, the Papakura police station in Auckland has been criticised for not providing separate facilities for migrants and asylum seekers, as well as overcrowding and poor hygiene. Detainees also claimed being denied access to their belongings and being forced to sleep in cells without a mattress. Additional concerns have been raised over the fact that police officers have not been trained in dealing with asylum seekers (HRF 2009). Moreover, in its May 2009 report, the UN Committee against Torture criticised the insufficient training in human rights provided to immigration officials (CAT 2009).

**Prisons.** As of 2014, New Zealand appeared to have 18 prisons in operation (DoC website). According to information gathered by the Global Detention Project, only a handful of prisons appear to be used regularly for the purposes of immigration-related detention. These include the Auckland Central Remand Prison, Mt. Eden Prison, Waikeria Prison, and Arohata Prison for women (Blakemore 2010; Poole 2010a; HRF 2009).

Generally, detainees are held in the remand sections of the prisons, although in most cases they appear not to be segregated from criminal detainees (Reeve 2010). The Auckland Central Remand Prison (ACRP), part of Mt. Eden Prison, is the only facility with a separate unit for individuals detained on immigration matters and who have submitted an asylum claim (Blakemore 2010). In a 2004 report, the Auckland Refugee Council (ARCI) highlighted that due to a lack of space at ACRP, detainees were moved to Mt. Eden where “bullying and intimidation from criminal inmates was not uncommon” (ARCI 2004).

While there is no separate protocol for women, those detained are held in one of New Zealand’s three women’s prisons, located in Auckland, Wellington, and Christchurch (Reeve 2010). Currently, young males under the age of 17, as well as 18 and 19 year olds deemed vulnerable, can be held at youth units maintained by the Department of Corrections. Those under 17 can also be held at a youth justice facility operated by Child, Youth and Family (Reeve 2010).

Similar to the criticism levelled at police stations, human rights groups have argued that prisons are inappropriate places of detention, especially for asylum seekers (CAT 2009; HRF 2009). There have been reports of assaults at ACRP and of inadequate interpreting services (HRF 2009), while cases of detained minors in prisons been heavily criticized (RCNZ 2009).

**Mangere Accommodation Centre.** Located in a former army barracks, the Mangere Accommodation Centre (MAC)—also known as the Mangere Refugee Resettlement Centre—is the sole facility in New Zealand dedicated entirely to housing refugees and asylum seekers. As of 2013, the 70-year-old facility had a capacity of 160. Government plans to rehab the building will reportedly increase Mangere’s capacity to 192 beds and provide a surge capacity of 300 in the case of a mass arrival by sea (Fairfax NZ News 2013).

The centre’s population is predominantly made up of incoming UN Quota Refugees being resettled in the country (of which New Zealand accepts 750 annually), as well as asylum seekers whose identity is uncertain and who do not pose either a risk of absconding or to national security (Poole 2010b; INZ 2010c). Both are housed together, which has reportedly caused resentment and tension between the two groups, and has led to criticism of differences in treatment, including a lack of parity in accessing housing and employment support services (RCNZ 2009; Dunstan 2004). On average, asylum seekers spend six weeks at the centre. While at the MAC, the Immigration Act officially classifies them as “detainees” (Field 2006).

The Global Detention Project codes the centre as being semi-secure, while New Zealand authorities characterize the facility as “open detention” (DoL website, “Regulatory impact statement—immigration act: monitoring and detention”). The structure itself reportedly resembles a hostel, as there are no security guards or walls (Poole 2010a), and while electronic gates are in place, in practice they are mainly used to keep non-residents out (For a detailed look at the centre’s infrastructure, see [Thammavongsa 2009](#)). There are, however, limitations on asylum seekers’ movements, and the centre’s management has the right to refuse permission to leave during the day (Field 2006).

According to the Refugee Council of New Zealand, “some categories of asylum seekers have restricted access to leaving the premises and others must sign in and out with restricted hours of freedom of movement.” While it is effectively based on an honour system, if an asylum seeker violates these restrictions they can be detained at a prison (Poole 2010a). This is in contrast to Quota Refugees, who have no restrictions on leaving the centre during the day or staying away overnight (RCNZ 2009; Field 2006). It is very rare, however, that an asylum seeker is transferred from the MAC to a prison; there were only four such occurrences between July 2007 and June 2010 (Robinson 2010).

Immigration New Zealand (INZ) manages the centre, with the help of NGOs such as Refugee Services New Zealand and Refugees as Survivors (INZ 2010c; Thammavongsa 2009; Field 2006). It is designed to detain both adult and minor asylum seekers, and has a separate one-block section used specifically for women and children. Children are only detained with adults if they are with family members and it is in their best interests (Ngatai 2010). Generally speaking, the MAC is described as being in very good condition (Field 2006).

The number of asylum seekers at the MAC has declined significantly over the past five years. Only 15 were held at the centre in FY 2009-10, compared to 34 in FY 2006-07 and 62 in FY 2004-05 (Reeve 2010). Both local NGOs and UNHCR have expressed concern that the declining numbers are due to the growing interdiction of asylum seekers at transit airports, preventing genuine refugees from reaching New Zealand and filing asylum claims (RCNZ 2010; AI 2009).



## Facts & Figures

The total number of asylum seekers apprehended upon arrival and then held in some form of custody steadily declined between 2004 and 2010. During 2004-2005, 62 asylum seekers were “initially detained at open non-secure facility” while 14 were “initially detained in penal custody.” In 2005-2006, the numbers were 58 and 12, respectively; 2006-2007, 34 and 4; 2007-2008, 18 and 8; 2008-2009, 16 and 6; and 2009-2010, 15 and 8 (Reeve 2010).

According to Department of Labour statistics, eight asylum seekers were detained at the border in FY 2009-10, originating from Nigeria, Sri Lanka, South Africa, Algeria, Iran, Pakistan and Iraq. While the GDP was unable to obtain figures for irregular migrants in detention, according to the Department of Labour asylum seekers detained in prisons were held for an average of 6.25 weeks in FY 2009-10, compared to 11.8 weeks in FY 2008-09 and 6.9 weeks in FY 2007-08 (Robinson 2010).

During 2011, New Zealand reportedly deported 664 people, including 149 women and 515 men, with most deportees coming from Samoa (New Zealand Herald 2012). According to [statistics published](#) by New Zealand Refugee Law, the number of executed removal orders has steadily declined over the last several years, with 970 in 2005-2006, 838 in 2007-2008, 740 in 2008-2009, and 688 in 2009-2010 (RefNZ website “[Statistics](#)”).

In FY 2007-08, a total of 1,197 people were refused entry into New Zealand. This represented a slight decrease over both 2006-07 (1,328) and 2005-06 (1,455). During this three-year span, the top three countries of origin of those refused entry were Malaysia, Brazil, and South Africa (RefNZ website “[Statistics](#)”).

Estimates about the number of undocumented people in New Zealand can be developed based on statistics about “overstayers” in the country. There were an estimated 15,769 overstayers in New Zealand in April 2009 and 15,760 in April 2010, according to [statistics published](#) by New Zealand Refugee Law. According to the 2010 statistics, the majority of overstayers came from Samoa (3,945), Tonga (2,995) and China (1,678) (RefNZ website “[Statistics](#)”).

By 2013, the numbers of overstayers had continued to fall, a point highlighted by the Immigration Minister [in testimony to Parliament](#) (17 October 2013). He stated: “The most recent figure we have is from 2012 and estimates that 14,044 ... unlawful overstayers were in New Zealand. This is the lowest number this century and is more than 20 percent less than in 2007.” Explaining the numbers, the minister said that “the Government has incentivised voluntary departures by banning anyone deported from New Zealand from coming back until they have repaid the taxpayer for the cost of their deportation. Even then, it is unlikely that they would be let back in. Those and other changes have contributed to many more overstayers choosing to leave voluntarily rather than being forcefully deported.”

Despite its comparatively low numbers of asylum seekers and undocumented migrants, New Zealand has one of the world’s largest percentages of immigrants. According to the

OECD, “New Zealand is in 5th place in the OECD in terms of the share of immigrants in its population” ([OECD website, “New Zealand”](#)). As of 2011, according to OECD statistics, New Zealand’s foreign-born population reached was more than 1,040,700, representing nearly 24 percent of the country’s total population.

Largely owing to its geographic location, asylum claims in New Zealand are significantly lower in comparison to Australia, which saw 6,170 claims in 2009 (UNHCR 2010). In fiscal year (FY) 2009-10, New Zealand’s Refugee Status Branch decided on 335 asylum applications, a slight increase over the previous three years (INZ 2010a; RefNZ website). Of these, 91 (27 percent) were approved, while 244 (73 percent) were declined. The top five countries of origin among asylum seekers in 2009 were Fiji, Sri Lanka, Iraq, Iran, and India (UNHCR 2010).

As of the end of 2012, New Zealand had 276 pending asylum cases and had 1,517 certified refugees (UNHCR 2013a). The country received only 320 asylum applications in 2012, compared to 15,790 in Australia (UNHCR 2013b).

Since 2007, the approval rate for refugee claimants to New Zealand has remained between 25 and 30 percent. According to statistics from Immigration New Zealand, it generally takes 3-5 months for a refugee claim to be processed and for a decision to be made (INZ 2010a). In FY 2009-10, the Refugee Status Appeals Authority heard 186 cases from people whose refugee status claims were declined. Of these 52 were granted and 111 were dismissed (RSAA 2010).

## List of Detention Sites

Name	Status (Year)	Location	GDP Facility Type	Security	Detention Time-frame	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Arohata Prison	In use (2010)	Tawa, Wellington	Prison	Secure	Long-term	Ministry of Justice/ Department of Corrections	Department of Corrections	154 (Total prison capacity) (2010)		Adult females (2010)
Auckland Central Remand Prison	In use (2010)	Mt Eden, Auckland	Prison	Secure	Long-term	Ministry of Justice/ Department of Corrections	Serco / Department of Corrections	432 (Total prison capacity) (2010)		Adult males. Segregation of criminal and administrative detainees (2010)
Mangere Accommodation Centre	In use (2014)	Mangere, South Auckland	Reception Centre	Semi-secure	Long-term	Ministry of Business, Innovation, and Employment	Immigration New Zealand; Non-governmental organisations		15 (FY 2009-2010)	Adult males, adult females, minors. Segregation of men and women (2010)
Mt Eden Prison	In use (2010)	Mt Eden, Auckland	Prison	Secure	Long-term	Ministry of Justice/ Department of Corrections	Serco / Department of Corrections	521 (Total prison capacity) (2010)		Adult males (2010)
Waikeria Prison	In use (2010)	State Highway 3, 16 km south of Te Awamutu	Prison	Secure	Long-term	Ministry of Justice/ Department of Corrections	Department of Corrections	1031 (Total prison capacity) (2010)		Adult males, adult females (2010)

## Map of Detention Sites



### Country View

1. Arohata Prison
2. Auckland Central Remand Prison
3. Mangere Accommodation Centre
4. Mt. Eden Prison
5. Waikeria Prison

## **Country links**

### **Government Agencies**

Child, Youth and Family

<http://www.cyf.govt.nz>

Department of Corrections

<http://www.corrections.govt.nz>

Department of Labour

<http://www.dol.govt.nz>

Immigration New Zealand

<http://www.immigration.govt.nz>

Refugee Health – Auckland Regional Public Health Service

<http://www.refugeehealth.govt.nz/>

Immigration and Protection Tribunal

<http://www.justice.govt.nz/tribunals/immigration-protection-tribunal>

Statistics New Zealand

<http://www.stats.govt.nz>

### **International Organisations**

UN High Commissioner for Refugees – New Zealand Country Information

<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e488b36>

### **NGOs and Research Institutions**

Amnesty International

<http://www.amnesty.org.nz/>

Auckland Refugee Council Inc.

<http://www.aucklandrefugeecouncil.org/>

Human Rights Foundation of New Zealand

<http://www.humanrights.co.nz/>

Human Rights Watch

<http://www.hrw.org/en/asia/new-zealand>

New Zealand Human Rights Commission

<http://www.hrc.co.nz>

New Zealand Red Cross

<http://www.redcross.org.nz>

Refugee Council of New Zealand

<http://www.rc.org.nz/>

Refugee Services Aotearoa New Zealand

<http://www.refugeeservices.org.nz/>

Refugees as Survivors New Zealand

<http://www.rasnz.co.nz>

## **Media**

New Zealand Herald

<http://www.nzherald.co.nz>

Otago Daily Times

<http://www.odt.co.nz>

The Dominion Post

<http://www.dompost.co.nz>

The Press

<http://www.thepress.co.nz>

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