

Council for International Development Refugee Policy Forum

31 May 2005

Fickling Centre, Auckland

The Council for International Development (CID) refugee policy forum in Auckland followed a similar forum held in Wellington in January 2005. These forums were the starting point for developing a CID policy statement on refugee issues, which will build on the refugee policy that was included in CID's 2002 election manifesto. Although primarily focused on overseas aid and development issues, CID sees it as part of New Zealand's responsibility as a good international citizen and a country that upholds human rights to provide refuge to people fleeing persecution. In addition, the costs of resettling refugees during their first year in New Zealand are counted as part of New Zealand's Official Development Assistance (the overseas aid provided by the government). There are also a number of CID member organisations with an interest in refugee issues, including some formed by refugees themselves. For all of these reasons, CID considers it appropriate to develop a policy on refugee issues.

The purpose of the forum was to allow CID to hear from refugees and people working with refugees about issues of concern in relation to government policy. The forum was facilitated by Sue Elliott, and attended by around 40 people from CID member organisations, refugee service providers, and refugee communities. It covered issues of detention and asylum, resettlement quotas, family reunification, and refugee resettlement.

CID is establishing a reference group to assist with the development of its refugee policy. Once the policy has been approved by the CID membership, and finally by the Board, CID will lobby the government and political parties on refugee issues. Some key points about refugee policy have also been included in the CID manifesto for the 2005 election.

Forum proceedings

Asylum and detention – panel discussion

Elizabeth Walker (Auckland Refugee Council Inc., ARCI) talked about the consequences of treating people who apply for asylum at the border as illegal migrants, and possible solutions.

Asylum seekers have fewer rights than overstayers and even holiday-makers. For instance:

- an overstayer can appeal at many levels to remain in New Zealand;
- an asylum seeker who has arrived on a legitimate visa and who has been granted a temporary permit has the right to appeal to the Removal Review Authority; but

- an asylum seeker who applies at the border has no rights at all to appeal to the Removal Review Authority.

The right to appeal to the Removal Review Authority is of utmost importance as it is the only avenue to lodge a humanitarian appeal.

On application for refugee status at the airport, the New Zealand Immigration Service (NZIS) decides whether a person is detained or not. Even those who are released on certain conditions are in fact being treated as illegal immigrants – they have no work permit, and must make weekly visits to the police station. They are given an allowance and sometimes a place to stay (often at the ARCI hostel). The allowance, while supplying basic needs, does not cover costs for emergency health care and prescriptions. Those waiting for decisions need to work and keep active to prevent themselves becoming depressed and over-anxious. Currently ARCI raises funds to provide projects, outings, classes etc.

If NZIS Border and Investigation decides there is some problem with identity or security then an applicant is imprisoned in the Auckland Central Remand Prison or Mt Eden jail. ARCI has sponsored volunteers to visit detainees and they have seen the conditions under which such asylum seekers are held. Those put in the remand prison exist in artificial light, and unlike the people on remand, some asylum seekers remain there for over a year. Some of those detained in Mt Eden Prison contend with abuse not only from prisoners but even from the guards.

Border and Investigation tells ARCI that the detainees' situation is reviewed every two weeks and people are sometime released when there is nothing that can be held against them, i.e. when identity issues have been clarified etc. Why then, were they put in prison in the first place? Detention without charge cannot be countenanced.

Many asylum seekers who apply at the border come from heart-rending circumstances, and their stories are credible, but they do not meet the criteria of the Refugee Convention guidelines. It can be heartbreaking to see them carted off for deportation.

New Zealand should be considering the approach of the European Union, which is showing the way forward by proposing directives to provide complementary forms of protection, with a separate humanitarian category. Other countries, such as Canada, use a broader definition of the Refugee Convention. Protection could then be given in exceptional circumstances such as:

- human rights violations for non-Convention reasons;
- civil war;
- country in a state of anarchy and chaos;
- fear of torture;
- statelessness;
- conscientious objectors;
- psychological trauma.

There is a party atmosphere at the ARCI hostel after someone has gained refugee status. However, it is often short lived. They then have to go through the paper work

to become residents and bring their families here. There is no free legal advice for this and staff at the hostel often have to fill in the details. Until residence is obtained, they cannot access resources such as state housing, accommodation allowance and tertiary education. It is difficult under such conditions to plan for the arrival of family. The wait for residence is at least six months and sometimes longer.

ARCI solutions:

- **New definition:** A new definition could be drafted which could include these different types of complementary protection. This would prevent the many levels of appeals now taking place.
- **Research into favourable Removal Review decisions on refugee claimants:** Research should be undertaken in relation to Removal Review decisions favourable to refugee claimants as a way of demonstrating to the government the types of legitimate claims which will be excluded if it continues to treat refugees as illegal immigrants.
- **History of Section 47:** Research should be undertaken in relation to the history of Section 47 of the Immigration Act to ascertain whether one of its purposes was to consider claims based on humanitarian considerations which fall outside the Refugee Convention.
- **Residence on approval:** Residence should become part of the refugee acceptance process in line with those arriving under the refugee quota.

Deborah Manning (solicitor with McLeod & Associates) presented a discussion paper on issues relating to New Zealand government policy and practice in relation to asylum seekers. This paper is available on the CID website. She emphasised the importance of basing policy in this area on a human rights approach.

Deborah also referred to the government's announcement of a review of the Immigration Act. It is good that two years have been set aside for the review, and it will be important to work effectively with officials and the legislative process during those two years. The climate in New Zealand has been becoming increasingly negative towards refugees, especially since the 11 September 2001 terrorist attacks in the US. Deborah is very concerned about the security review process, and has clients whose refugee applications have been on hold for a year or more due to security reviews. The use of classified information in such reviews, which is part of the terms of reference for the Immigration Act review, is also of concern. Classified information should have no place in the refugee status determination process.

Another concern is the threat to the Refugee Status Appeals Authority, which is seen internationally as a leading authority. The government says the refugee status process takes too long, but part of the problem is the lack of adequate funding for tribunals. It is dangerous to put timeframes into legislation. It is important to link with international coalitions of refugee NGOs to encourage the New Zealand government to take a human rights-based approach.

Margaret Taylor (Amnesty International) said that Amnesty's concern about refugee issues in New Zealand is based on its concern for human rights internationally. Amnesty is concerned about the possibility of people being deported from New Zealand to countries where they will suffer human rights abuses. Amnesty also

believes that asylum seekers in New Zealand are very likely to have been human rights defenders in their home countries – they should be seen as human rights heroes.

Compared to many countries, New Zealand has a good reputation on treatment of asylum seekers. However, its record is still not as good as it should be, especially as New Zealand promotes itself as aspiring to a world-leading human rights environment. Amnesty has two key concerns:

1. **Interdiction.** Interdiction is where asylum seekers are detected at the border and prevented from entering New Zealand to claim asylum. This has become common practice. Such asylum seekers are often held in poor conditions, and only when an organisation like Amnesty is alerted to the situation does the Office of the United Nations High Commissioner for Refugees (UNHCR) intervene. There is a lack of transparency with the offshore offices that implement the interdiction policy. Transparent reporting of figures of interdiction by New Zealand authorities is needed. There is also a responsibility to ensure that those asylum seekers who are returned home are returned to safety – New Zealand should keep track of people who are returned. Government policies are forcing people into the hands of people-smugglers, leading to tragic incidents like the sinking of the SIEV X in October 2001, with the loss of 353 lives.
2. **Detention.** Detention of asylum seekers should be a last resort only. Amnesty would like to see figures on the race and religion of detained asylum seekers. Amnesty is not opposed to detention in all instances, but it does oppose it if detainees cannot come before a court and get an explanation for their detention. The detention review process is really just a process for keeping people in detention. Amnesty expects governments to be able to justify any detention of refugees, and to show that such detention is in accordance with international standards. Amnesty also opposes the detention of asylum seekers in prison, where such human rights abuses as detainees being beaten up, and denied access to lawyers and information, are more likely to occur.

The number of asylum seekers in the first quarter of 2005 was 71% lower than in the first quarter of 2003 – a drop from 264 people to 77 people. International conditions, such as the reduced number of asylum seekers from Afghanistan, have contributed to this, but interdiction practices have made an equal contribution to this decline in numbers. Asylum seekers and refugees are the human face of conflict. Amnesty insists that there must be no return of asylum seekers to countries where they have no security.

Due to the decline in numbers of asylum seekers, New Zealand has some breathing space in which it can try to implement best practice in relation to treatment of asylum seekers. Sweden provides a good model – in Sweden asylum seekers are not detained; have access to financial assistance, medical care, education and integration programmes; and have a Migration Board case officer assigned to them.

It is good that two years have been allowed for the review of the Immigration Act, and it will be important to engage with the process to make sure that we get it right

first time. There is concern that New Zealand might look to Australia and Canada as models for new immigration legislation, as the legislation in both these countries has been criticised from a human rights standpoint. Amnesty will be working, along with other non-government organisations, to ensure that the review is guided by the highest adherence to human rights standards.

Discussion after the panel presentations

Deborah Manning said that national security issues should not be part of the Immigration Act, but should be covered by criminal justice legislation instead.

Deborah said that there was a real danger in looking to overseas legislation as a model for New Zealand – we need to look to our international partners for critiques of legislation in other countries.

Margaret Taylor said the Australian government had been putting pressure on New Zealand to change immigration law. The Australian government sees New Zealand as a ‘back door’ into Australia.

Deborah Manning discussed a recent spate of interviews by the Security Intelligence Service with up to 40 members of the Muslim community in relation to the Ahmed Zaoui case. People with pending citizenship applications were told that the interviews were in connection with those applications, but essentially people were asked to inform on their communities. They were interviewed in their homes, and were not given the opportunity to talk to lawyers or use translators. People are generally happy to cooperate because they feel grateful to New Zealand, but the way in which the security service goes about things criminalises and marginalises people.

Small group discussion on asylum issues

Questions for discussion:

- How can New Zealand improve its handling of asylum claims and its treatment of asylum seekers?
- How can asylum issues and resettlement issues be better integrated?

Group 1

- Improve the watchdogs, i.e. more paid people
- Better training of interpreters
- Improved training of NZIS staff
- Education re source countries
- More understanding/education re human rights
- Higher involvement of philanthropists in other countries
- Human Rights Commission’s role should be expanded. Are demonstrating a greater commitment.
- Lobbying from NGOs should be more energetic
- Improved mental health services and reporting
- No status therefore no services

- There is legal aid but it is being restricted
- Better support & training for lawyers to reduce high level of burnout
- Increased public understanding of the process
- Written information but often unaware of any entitlements
- Need a key advocate which is often the lawyer
- Should have a social worker or specialist team
- Little transparency
- Reduced role of UNHCR in NZ now
- Legal community & NGOs need to work more closely together, i.e. have a group to report to
- Enlightened media support would help
- Increased role of ethnic communities
- Government departments should be more aware, i.e. prison officers
- Come here looking for peace & security but are treated badly
- Host community attitudes need to improve
- Asylum seekers remain individuals – need leadership
- Written information re entitlements not very effective
- Establish a realistic timeframe
- With refugee status, need information and support to access entitlements
- Paid workers should help as needs are enormous
- Enlist more trained volunteers, c.f. RMS programme
- Migrant Resource Centres should play a role
- WINZ has considerable contact with this group and should be more involved
- Asylum seeker support should be seen as the duty & responsibility of government servants
- Research into success of integration needed – recommendations need to be actioned
- TV coverage needed
- Review of re-establishment grant amount
- Scattered nature of accommodation complicates service provision/access
- Distribution of newsletters containing essential information
- Ethnic Affairs Office is establishing refugee forum which could help
- Should be more aware of rights & responsibilities
- Early childhood education helps support mothers – many barriers

Group 2

- Time between refugee status & residency – currently 9 months – needs to be much less. Those within quota come in as residents. Residency should be automatic for convention refugees
- Convention refugees should receive same benefits & services as quota refugees
- Every refugee applicant should receive a work permit entitling that person to work or receive an emergency benefit.
- All adult family members should be entitled to a work permit.
- Improved co-ordination amongst government organisations – plus up to date training for frontline staff

- A 'one-stop shop' for asylum seekers & refugees for information & processing of entitlements – provided by government
- NGOs set up at entry points (airport/seaport) to monitor implementation of the processes.
- The presence of an immigration officer at all times (24/7) to avoid detention by police – over the weekend & after hours.
- An end to detention
- Consideration be given to the Swedish model – housing/case worker
- Complementary protection

Group 3

- Interpreting services need to be reviewed: monitoring, qualifications, cultural sensitivity.
- Provision of fact sheet on arrival, in various languages: procedures, contacts, consequences, etc.
- Asylum seekers are treated as illegal immigrants – this needs to be stopped – they should not be detained in prison.
- Mental health: support given to quota refugees should be extended to asylum seekers
- Education of host communities: media, institutions etc. – identify who. Human Rights Commission – what are they doing?
- Policy change: should be preventative/proactive rather than reactive. E.g., provide procedures to prevent abuses that lead to mental health issues, rather than treat when mental health issues emerge.
- Where is accountability? – need a complaint system for mistreatment
- Asylum seekers should have same access rights to services as quota refugees.

Discussion following report back from small groups

The following points were made in discussion after the report back from the small groups:

- Issues of family reunification for asylum seekers are different to those for quota refugees – asylum seekers need their families even more than quota refugees do.
- Asylum seekers need specialist mental health services, whether they are in detention or in the community.
- Asylum seekers are the least likely people to be terrorists, given the level of investigation that is undertaken into their lives.
- Refugees are a minority within New Zealand society, but there are also minority groups within refugee communities – how can we support these minorities?

Quota and resettlement issues – panel discussion

Jenni Broom (RMS Refugee Resettlement) said that desire for family reunion always exceeds New Zealand's ability to respond, so the issue is how to identify those in greatest need. At present, those quota refugees who are here on their own, without any

relatives in New Zealand, get priority for family reunion. The result has been that for the past three years (since the current system came into operation) the entire refugee family quota has been taken up by people in this priority category. A genuine humanitarian response is needed. New Zealand should adopt the UNHCR definition of family, which is wider than the nuclear family. There has also been a problem with most family reunion cases coming to Auckland, rather than other cities.

Ethnic support is recognised as a key to successful resettlement outcomes. This means that when a new refugee community is introduced to New Zealand, the government must take steps to ensure that it reaches a viable size. In recent years the government has been building up the small African refugee communities.

When refugees with high settlement needs (e.g. high levels of illiteracy, elderly people, teenagers with little formal education, or large families) are brought into New Zealand, adequate resources must be provided to meet their special needs. There needs to be an awareness of the sociological and resource implications of bringing in particular settlement groups (such as the large number of single men brought in a few years ago).

Resettlement must be based on recognising the skills and capabilities of refugees, not on a deficit model. There needs to be access to ongoing pathways for refugees in areas like education and employment. Each family will have its own pathway and its own needs. Capacity building of refugee communities is needed to help develop refugee community leaders.

The attitude of receiving communities is key to successful resettlement. Non-government organisations have a role in this, and need to have media strategies.

Creative responses are required to the housing needs of refugees. It is not good enough for Housing New Zealand to just provide housing wherever it becomes available, rather than providing it close to other refugee community members, and Housing NZ recognises this.

Dr Nyunt Naing Thein (Refugees as Survivors centre Auckland) explained that he came to New Zealand as a quota refugee more than four years ago, after working with refugees and internally displaced people in Thailand and Burma. He now works as a social worker and counsellor at RAS.

Refugees have significant mental health and emotional needs which require specialist mental health treatment. Research on refugees in New Zealand suggests that 12.5% suffer from post-traumatic stress disorder, 39% suffer anxiety, and 29% suffer depression. There is no proper strategy or policy in place for refugee mental health needs, and there should be greater collaboration between government agencies. Refugees are sometimes reluctant to go to medical services, because medical personnel were involved in torture in their home countries.

Dr Nagalingam Rasalingam (Refugee Council of New Zealand) said that there had been huge improvements in relation to refugee health. In the past, all quota refugees were medically screened in New Zealand, but now they are screened overseas by the International Organisation for Migration. If found to have a disease such as

tuberculosis, refugees are treated before coming to New Zealand. Recently, HIV testing of refugees has been introduced. This is not because HIV/AIDS is a threat to public health in New Zealand, but because it is a condition that is expensive to treat. There is a need to communicate these changes properly to refugee communities. Medical screening of asylum seekers takes place at Greenlane Hospital. They are also tested for HIV.

Lobbying by non-government organisations and others has led to changes. Government departments have started to work together more, and so have NGOs. Extra funding is now available for refugee health through Primary Health Organisations. District Health Boards have had to report on what they are doing for refugees and recent migrants.

Man Hau Liev (Khmer Buddhist Association) said that when he first arrived in New Zealand as a refugee in 1980, the government did not have much policy on refugees. A lot of things have changed for the better for refugees since then.

Before arrival, a lot of what refugees learn about New Zealand is from their relatives, and they may develop high expectations about life in New Zealand. It is questionable how much information refugees can absorb during their six-week orientation programme when they first arrive in New Zealand. The refugee education system in New Zealand is the best in the world, but there are still gaps. The government has put a lot of money into programmes for refugees, but there is little standardisation of these programmes. Educating refugees is only half the story – there is also a need to educate the host community.

Discussion after the panel presentations

Dr Rasalingam was asked who had been involved in lobbying public health organisations. He replied that lobbying had been done by a group of doctors involved in refugee and recent migrant health. Availability, accessibility and affordability are the keys to improving refugee health.

A question was asked about RMS's involvement in the selection process for the refugee quota. Jenni Broom replied that RMS has the same level of involvement as refugee communities themselves. NZIS invites suggestions on the refugee quota each year, and RMS always makes a submission, but only in general terms – it does not favour particular ethnic groups.

The question of DNA testing for family reunification was raised. Jenni Broom said that when DNA testing was suggested by NZIS a few years ago, NGOs said that it must not be used to prejudice people's cases, but that refugees could choose to accept it in order to speed up to their cases.

Man Hau Liev was asked about education at the Mangere centre. He said that over the past ten years the Mangere education programme has combined English language classes and education about life in New Zealand. There was a need to think about what are the most important topics to cover – for example, is it more important to teach people about their human rights, or about basic practical matters? Some kind of service is also needed to coordinate education after people leave Mangere.

Small group discussion on quota and resettlement issues

Questions for discussion:

- Should New Zealand increase its refugee resettlement quota of 750 per year? If so, what should be the quota?
- How can New Zealand better manage refugee family reunification?
- How can New Zealand improve resettlement outcomes for refugees in the first year of resettlement in the areas of...? [education and employment; health; community development; social wellbeing]

Group 1

- Institute a 'buddy system' like that in the Netherlands – refugees 'buddied' with a New Zealand family
- Needs assessment
- Maintain the systems implemented for the Tampa refugees – intensive and longstanding support
- More specialised training for buddy families
- More flexible & extended education period = 3 years
- Same for health & mental health support = 3 years
- Employer education re refugees and NZ work experience
- Education for host community to interact with refugees, with funding for this
- Cross-cultural education at all levels = contribute to social well being
- Retain quota of 750, but with family reunification counted outside this quota
- Wider definition of family
- Scholarships

Group 2

- Increase quota by 300 to cover places set aside for family reunification + 300 ballot = 1350 total
- Where does figure of 750 come from? How was that number established? – based on resources available? How to argue for increasing the quota? C.f. other countries' proportions over time?
- Need more resources for 750 + 300 (immediate) + 300 (extended) – equal entitlement & eligibility for all categories
- Still need 300 tagged for family reunification.
- 300 ballot: review 'needs basis'
- Remove limit on HIV+ places
- Extension of RMS case management model to one year, with clear entitlement & end period
- No limit to time frame for starting English courses.
- What are our expectations for resettlement outcomes?
- Stop pushing enrolment in courses just for the sake of it – develop appropriate courses with clear outcomes (incentive)
- Re-evaluate system of NZQA accreditation of prior learning
- Ongoing issue of information dissemination

Group 3

- Any increase in quota should be in humanitarian category
- Widen definition of family to UNHCR's definition
- NZ per capita 4th best country re quota level
- Family reunion – focus on nuclear family very narrow?
- Increase quota to 1000
- Quality of refugee resettlement services most important
- All settlement services need to 'sing the same song', i.e. the ongoing nature of needs
- On-arrival programme needs to be spiralled in the long-term
- Fostering, establishing/consolidating refugee communities
- Refugee communities' networking/combining efforts may be more effective. New theme – 'common voice'
- Where is it best to settle? Warm, receiving community
- Should be more specialist social workers supporting resettlement as it is a very complex process. This is beyond the capabilities of volunteers.
- Should be an effort to co-ordinate services, e.g. align education programmes in three delivery locations in Auckland.

Discussion following report back from small groups

The following points were made in discussion after the report back from the small groups:

- One suggestion about how to decide which groups of refugees New Zealand should take is to give priority to refugees from this region – e.g. Aceh.
- Volunteer support (e.g. RMS and ESOL) must go together with professional support – also maybe look at specialised mentoring in particular areas.
- Home tutoring should include other subjects as well as English.
- Previous attempts to settle refugees in small communities have not worked well – it has taken a long time to develop the networks and resources that now exist in the main settlement areas. This must be taken into account when thinking about settling refugees in new areas, along with the wishes of the refugees themselves and their need for community support.