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ChangeMakers Refugee Forum

ChangeMakers is a rights-based, research, advocacy, and community development organisation that was set up and is governed by people from refugee backgrounds. The organisation represents over 14 refugee-background communities in Wellington. ChangeMakers is a non government organisation and a registered charity.

Our vision is:

New Zealanders from refugee-backgrounds participating fully in New Zealand life

There are four human rights areas that are of concern to the refugee background communities that we represent. These are

1. The Immigration Amendment (Mass Arrivals) Bill
2. Access to disability support services by refugee-background communities
3. Issues relating to the National Refugee Resettlement Strategy
4. Access to tertiary institutions and the completion tertiary education qualifications

1. The Immigration Amendment (Mass Arrivals) Bill

The recent approval (June 2013) of the Immigration Amendment (Mass Arrivals) Bill into legalisation is in direct conflict with Aotearoa New Zealand's Bill of Rights, the Refugee Convention (1951) and Protocol (1967), the Universal Declaration of Human Rights (1948), and the International Covenant on Civil and Political Rights (1966).

The Immigration (Mass Arrivals) Amendment Act 2013 established a definition of 'mass arrival group'¹ and imposes upon this group mandatory detention, a restriction on judicial review and a limitation on family reunification rights, among other human rights breaches.²

¹Each of whom must fall within one or more of the following classes of persons (as listed in s 115(1)(a)-(f) of the Immigration Act). See Immigration Amendment Bill 2012 (16-3), cl. 5.

²Immigration Amendment Bill 2012 (16-1), cl 12.

The right to claim asylum is a fundamental right. Article 14 of the Universal Declaration of Human Rights states that:

'Everyone has the right to seek and to enjoy in other countries asylum from persecution.'

International human rights law and standards are very clear: detention of people seeking asylum should only be used as a last resort and detention should be avoided entirely for vulnerable groups.

The revised legislation is discriminatory for a number of reasons. Firstly, those who arrive in a group of more than ten are treated differently on arrival than others seeking asylum who arrive in a smaller group or as individuals. Secondly, it removes the requirement for the Immigration and Protection Tribunal to provide an oral hearing (Clause 9). Thirdly, proposed policy changes accompanying the Bill would result in the temporary recognition of refugee status and limit the opportunity of successful asylum seekers to sponsor their family to New Zealand. Both individually and in their totality, the effect of these changes is to create a second class of people who are genuine refugees. Restricting the right of successful asylum seekers to be reunited with their family is discriminatory, punitive, and likely to have a significant negative impact on the ability of these people to resettle. Further, the delay of three years in granting permanent residence for people who are genuine refugees simply because of their mode of arrival and the number of people who accompanied them is inherently inequitable and discriminatory.

As a party to the 1951 Refugee Convention, Aotearoa New Zealand must ensure that people who meet the United Nations definition of a refugee are granted asylum and not impose penalties on an asylum seeker (Article 31). Mandatory detention, removing the right to an oral hearing, and the proposed policy changes penalise people who have a right to seek asylum.

Recommendation to the New Zealand government:

- **Repeal, the Immigration (Mass Arrivals) legislation**

2. Accessing disability support services by refugee-background communities

Disability services can be profoundly difficult to navigate, particularly for people from refugee backgrounds who may have a complex array of health, disability, and resettlement needs. As António Guterres, United Nations High Commissioner for Refugees states:

*Too often invisible, too often forgotten and too often overlooked, refugees with disabilities are among the most isolated, socially excluded and marginalised of all displaced populations.*³

Recent research on people from refugee backgrounds living with disabilities⁴ found:

- Ad hoc provision of disability services to people from refugee backgrounds.
- A lack of interagency coordination and service provision across refugee, health, and disability agencies.
- A lack of information provided to people from refugee backgrounds by refugee agencies, primary healthcare providers, and other mainstream service providers about disability services and entitlements.
- The reliance on family in the absence of disability service provision and a lack of support for people who are caring for family members with disability needs.
- The issue of protracted isolation and limited independence as a direct result of lack of disability support among research participants.

Recommendations to the New Zealand government:

- The inclusion of refugee-background communities as a target population in health policies and in strategic and operational plans relating to the provision of disability services by government funded District Health Boards and healthcare providers.
- The Government ensures that people from refugee backgrounds living with disabilities can realise their rights to full participation in Aotearoa New Zealand.

National Refugee Resettlement Strategy

We welcome the New Zealand Government's National Refugee Resettlement Strategy to be implemented from July 2013. The implementation of the Strategy will provide, for the first time, insight into the extent to which quota refugees are achieving agreed self sufficiency, health, participation, education, and housing outcomes. However, we have the following concerns:

1. At this stage the Strategy and the delivery of support services attached to it does not apply to asylum seekers or Refugee Family Support Category arrivals. Under the 1951 Refugee Convention, asylum seekers should be accorded the same treatment as accorded to aliens generally in the same circumstances. Under the Universal Declaration of Human Rights 1948, Article 25 states that everyone has the right to an adequate standard of living. Without

³ Women's Commission for refugee women and children (2008). *Disabilities among refugees and conflict-affected populations*. Retrieved 10/10/12 from

http://www.womensrefugeecommission.org/docs/disab_full_report.pdf

⁴ ChangeMakers Refugee Forum (2012) *If we have to go on our own, so be it'. The challenges faced accessing disability support services by Wellington's refugee-background communities.* Retrieved 14/06/13 from:

http://www.crf.org.nz/research_programme

access to the support services available to quota refugees, it is likely that such rights are not being realised by asylum seekers and Refugee Family Support Category arrivals.

2. The narrowness of the indicator used to measure the extent to which the housing outcome of the National Refugee Resettlement Strategy is being achieved. We are concerned that the indicator only measures whether there has been a reduction in the housing subsidy spent on quota refugees, with no measures relating to the other components of the housing outcome such as refugees living in healthy and affordable housing.

Recommendations to the New Zealand government:

- That the National Refugee Resettlement Strategy be expanded to include Convention refugees and Refugee Family Support arrivals.
- That the indicator used to measure the housing outcome of the National Refugee Resettlement Strategy is widened to ensure that refugees are realising their right to a 'standard of living adequate for the health and well-being of himself and his family' (Article 25, UDHR).

Access to tertiary education for refugee background students

There is a growing body of research that suggests students from refugee-backgrounds are not accessing or completing tertiary study.ⁱ These findings indicate a failure on behalf of the New Zealand government to uphold our national and international obligations to ensure all groups have equal access to tertiary education.

New Zealand has ratified international conventions that include the right to education. The International Covenant on Economic, Social and Cultural Rights requires that States provide access to higher education on non-discriminatory terms and measures to ensure full participation in education. Further, the Refugee Convention 1951 specifies that we must accord treatment to refugees 'as favourable as possible ... as regards access to studies ... the remission of fees and charges and the award of scholarship' (Article 22).

The issue of refugee-background students not accessing or completing tertiary study could be addressed through revised government education policy that includes refugee-background students as an equity group. Equity recognition has resulted in significant improvements in the achievement of tertiary Pasifika students and we expect similar gains to be made for refugee-background students given equity recognition.

Recommendation to the New Zealand government:

- That the government recognise refugee-background students as an equity group in tertiary education policy.

ⁱ Altinkaya, J. (2003). *Refugees Learning English*. Briefing Paper to the Interdepartmental Committee on Refugees - Access to English Language Support (ESOL). Retrieved 24 February 2011 from http://www.tesolanz.org.nz/Site/Publications/Reports/Refugees_2003.aspx

Joe, A., Wilson, N., Kindon, S., & Postgraduate Students in GEOG 404 2011 (forthcoming). *Assessing the impact of the withdrawal of Refugee Study Grants on refugee background students at tertiary institutions in Aotearoa New Zealand*. Report for Teachers of English to Speakers of Other Languages Aotearoa New Zealand (TESOLANZ). Wellington: Victoria University of Wellington.