



Report of the Education and Workforce Committee

Petition of Asia Pacific Refugee Rights Network: Create a Rainbow subcategory in the New Zealand Refugee Quota Programme

August 2023

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Camilla Belich
Chairperson

Petition of Asia Pacific Refugee Rights Network

Recommendation

The Education and Workforce Committee has considered the petition of Asia Pacific Refugee Rights Network—Create a Rainbow subcategory in the New Zealand Refugee Quota Programme—and recommends that the House take note of its report.

Request to create a rainbow subcategory in the Refugee Quota

The petition was presented to the House on 20 June 2023. It requests:

That the House of Representatives investigate the creation of a Rainbow subcategory within the New Zealand Refugee Quota Programme.

Asia Pacific Refugee Rights Network is a network of more than 200 civil society organisations and individuals from 28 countries. It promotes and seeks to protect the rights of refugees, displaced people, and other vulnerable groups. Its petition builds on *A Rainbow Refugee Quota for Aotearoa*, a report written by Murdoch Stephens in his role as a Senior Research Fellow at the University of Auckland's Centre for Asia Pacific Refugee Studies.¹

Rainbow² refugees can face additional discrimination and exclusion because of who they are. They can be persecuted not only by states, but also by the people closest to them. The petitioner told us that people fleeing ethnic or religious conflict can find safety in refugee camps. However, this is often not the case for rainbow refugees. We heard that, further to the initial persecution that caused them to flee their country, rainbow refugees can also face persecution in the country they first escape to.

There are three ways that refugees can find durable safety:

- Refugees can ultimately return to their home country. This can be a viable option for some refugees after a temporary conflict has ended, for example. However, because social beliefs that give rise to persecution are enduring, this is not always an option for rainbow refugees.
- Refugees can integrate into the local population of the country they first escape to. This is not always a viable option for rainbow refugees. Neighbouring countries can share similar views about rainbow communities.
- Refugees can be permanently resettled in a third country. We heard that, of the three options, rainbow refugees prefer resettlement.

In 2021, the United Nations High Commissioner for Refugees (UNHCR) recommended that countries should create humanitarian visa pathways, including pathways for resettlement, to protect rainbow refugees. We heard that this would require paying specific attention to the needs and wishes of rainbow refugees, including resourcing community service providers.

¹ Murdoch Stephens, *A Rainbow Refugee Quota for Aotearoa*, July 2022.

² A shorthand term that is commonly used in place of acronyms such as LGBTIQ+.

The specific mechanism advocated by the petitioner is the creation of a rainbow subcategory within the existing Refugee Quota Programme. The petitioner said this would ensure that providing support to rainbow communities is the responsibility of the Government, rather than existing rainbow and refugee communities in New Zealand.

New Zealand resettles 1,500 refugees a year under the Refugee Quota Programme. In his report, Murdoch Stephens suggests that a rainbow subcategory could comprise 15 people (1 percent of the total quota). The other pathways for refugee resettlement in New Zealand are:

- asylum under the 1951 Refugee Convention (known as convention refugees)
- Community Organisation Refugee Sponsorship (CORS)
- family reunification
- bespoke visas such as those given to evacuees at the end of the Afghanistan War.

The petitioner said that creating a rainbow subcategory would show global leadership. We heard that no other country has created a bespoke rainbow subcategory in their refugee quotas. According to the petitioner, many other non-governmental organisations are “admiring and respecting New Zealand for the very fact that the Parliament of New Zealand has received this petition and today is hearing oral submissions”. If New Zealand had a rainbow subcategory, it could serve as an example of good practice to other countries that could do the same.

We asked about who qualifies as a refugee. The United Nations 1951 Convention on the Status of Refugees defines a refugee as someone who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality, and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

We heard that different entities measure “persecution” differently. Some entities consider persecution to mean a specific threat against an individual. The difficulty that this presents for rainbow refugees is that discrimination against them can be broad. For example, homosexuality is illegal in a number of countries. This broad discrimination may be considered insufficient to prove persecution.

Comments from the Ministry of Business, Innovation and Employment

We received written and oral submissions from the Ministry of Business, Innovation and Employment (MBIE). MBIE told us it supports the intended outcome of resettling rainbow refugees. It highlighted two factors that would need to be considered:

- how a rainbow subcategory would align with the United Nations’ existing categories

- whether a rainbow subcategory would create any unintended consequences, such as:
 - inadvertently putting people at greater risk as their status may be more visible
 - creating incentives for people to pretend to be a rainbow refugee to gain access to priority resettlement.

All refugees resettled in New Zealand under the Refugee Quota Programme are referred by the UNHCR based on a set of international principles. These principles take into account different levels of risk faced by refugees, and the need for permanent resettlement as a durable solution. We heard that there are always more refugees who need to be resettled than places available. In assessing refugees, the UNHCR uses the following categories:

- Legal and/or Physical Protection Needs
- Survivors of Torture and/or Violence
- Medical Needs
- Women and Girls at Risk
- Family Reunification
- Children and Adolescents at Risk
- Lack of Foreseeable Alternative Durable Solutions.

In many cases, rainbow refugees meet the threshold for resettlement and are prioritised by the UNHCR. They may be referred under one of the above categories. Alternatively, they may be referred under the general protection category, or as an urgent or emergency case. MBIE told us that, depending on the circumstances, whether a refugee is from a rainbow community may be given weight when determining whether resettlement is the best option.

Every three years, the Government determines the composition of the Refugee Quota Programme. We heard that, while refugee categories are decided by the UNHCR, the Government can determine whether it wants to prioritise any of those categories. It can also make allocations about which regions it wants to receive refugees from.

The most recent review occurred in May 2022, and determined international regional allocations and subcategories for 2022/23, 2023/24, and 2024/25. Previously, refugees from the Middle East and refugees from Africa were each allocated 15 percent of the quota. Under the 2022 review, this increased to 20 percent each. Also, the number of available places allocated for emergency and urgent resettlement increased from 35 to 100 refugees annually. MBIE described New Zealand's quota composition as broad and flexible.

MBIE said the next review, scheduled for 2025, "may provide an opportunity to further explore a rainbow refugee subcategory concept, depending on UNHCR guidance at the time". MBIE said that government agencies will continue to work with the UNHCR to resettle rainbow refugees where they have priority protection needs, and will ensure that the support they receive in New Zealand recognises their specific needs. MBIE said it will continue to explore the priorities for rainbow refugees as part of the continuing work under the Refugee Resettlement Strategy (a whole-of-government approach to achieving better outcomes for refugee resettlement).

We asked about other pathways for refugees to be settled in New Zealand. We heard that the Community Organisation Refugee Sponsorship is in addition to the Refugee Quota Programme. Community organisations can nominate a specific refugee they wish to sponsor, or can ask the UNHCR to refer someone. There is also a process for refugees to bring family members into the country. Refugees with no other family members in the country are given first priority (tier one). Refugees who already have family in the country receive second priority (tier two). We understand that there is a backlog of tier two family reunification applications and asked about work to address this. MBIE said it recognises this as an issue and continues to consider options.

Support for the petition

We received written submissions from Adhikaar Aotearoa, Amnesty International Aotearoa New Zealand, Rainbow Path, and New Zealand Red Cross. We also received a collated submission on behalf of Murdoch Stephens, Jay Marlowe, Refugees as Survivors NZ, Eli Rubashkyn, and Susan Elliott. All of these groups and individuals support the petition.

Our response to the petition

We thank the Asia Pacific Refugee Rights Network for its advocacy. We acknowledge the lived experience of Hafsar Tameesuddin and the research of Murdoch Stephens, both of whom spoke to us on behalf of the network.

We recognise that rainbow refugees face persecution distinct from other refugees. We fully support the intended outcome of resettling rainbow refugees. We are pleased that MBIE has similarly acknowledged that rainbow “refugees are vulnerable to risks that other refugees may not be”, and has stated its support for their resettlement.

The next review of the composition of the Refugee Quota Programme is scheduled for 2025. MBIE said the review “may provide an opportunity to further explore a rainbow refugee subcategory concept, depending on UNHCR guidance at the time”. We would welcome this exploration, and broader consideration of how to better support rainbow refugees. This work should be undertaken in close consultation with refugee and rainbow communities.

We also encourage the Government to continue to work with relevant stakeholders to develop a regular consultation mechanism to work on rainbow refugee resettlement issues.

Appendix

Committee procedure

The petition was presented to the House and referred to the Petitions Committee on 20 June 2023. The Petitions Committee received a written submission from the petitioner.

The petition was then referred to us on 29 June 2023. We met between 4 July and 23 August 2023 to consider it. We received 6 written submissions and 2 oral submissions.

Committee members

Camilla Belich (Chairperson)
Chris Baillie
Jan Logie
Ibrahim Omer
Angela Roberts
Penny Simmonds
Lemauga Lydia Sosene
Erica Stanford

Evidence received

The documents that were received as evidence in relation to this petition are available on the Parliament website. A recording of our hearing is also available online:

- Hearing of evidence with the petitioner and Ministry of Business, Innovation and Employment (2 August 2023).