



COUNTRY OPERATIONS PLAN

Country: Indonesia

Planning Year: 2004

2004 COUNTRY OPERATION PLAN
Executive Committee Summary - Indonesia

(a) Context and Beneficiary Populations

The UNHCR Regional Office in Jakarta (ROJA) is embarking upon a significant re-focus of its objectives and activities, a trend that was already initiated in 2003 and represented a partial departure from its operational approach from 1999 to 2002. Following the violence that accompanied the independence process in East Timor in 1999, more than 250,000 East Timorese refugees sought protection and assistance in Indonesia, mainly in West Timor. From September 2000 onwards, UNHCR, in spite of its mandate, was unable to play its protection role vis-à-vis the East Timorese refugees. The recurrence of security incidents, which culminated in the brutal murder of three UNHCR staff members in Atambua (West Timor) in September 2000, and the imposition by the United Nations of security phase V, led to the closure of the UNHCR offices in West Timor. This lack of direct regular UNHCR access to the East Timorese refugees forced the organization to work with a very limited monitoring capacity. Repatriation movements that had come practically to a standstill in August-September 2000, gradually increased as the conditions in East Timor improved. In September 2001, the Indonesian government officially announced that voluntary repatriation was the preferred durable solution. During the last trimester of 2001 and in 2002, repatriation was actively promoted and pursued, in light of the continuous improvement of the security and human rights conditions in East Timor. By the end of 2002, a total of 224,576 East Timorese refugees had returned to East Timor, with some 28,000 East Timorese remaining in West Timor. Given the climate of reconciliation prevailing in East Timor and the progress made towards a State based on the rule of law and respect for human rights, the High Commissioner for Refugees formally declared cessation of refugee status for East Timorese on 31 December 2002. In the declaration, the High Commissioner highlighted that not only was cessation a rebuttable presumption but also that his Office would keep a "residual" protection mandate vis-à-vis East Timorese in the years to come. In 2004, as was the case in 2003, UNHCR will retain the following protection responsibilities as regards the East Timorese in Indonesia:

1. *Access to effective citizenship:* The Indonesian authorities are committed to offer local integration, including Indonesian citizenship, to the East Timorese who have chosen to stay in Indonesia. It is expected that the vast majority of the 28,000 East Timorese who had not repatriated at the end of 2002 will still remain in Indonesia, as the profile of the remaining population has generally stronger emotional, financial, political or family links with Indonesia than with East Timor. Access to effective citizenship has so far been ad hoc and, in some cases, conditional upon settlement to other locations, including relocation to other Indonesian islands. UNHCR's monitoring role will be crucial, in order to avoid cases of de facto or de jure statelessness. It is also essential that UNHCR obtains guarantees that there will be no discrimination in the access to identity documents and that the latter is not made conditional upon induced relocation to other parts of Indonesia.

Separated Children. As at 31 July 2003, UNHCR and its implementing partners had registered 4,531 East Timorese children who had been separated from their natural parents. Of these children, 2,289 have since been reunited with at least one of their parents and another 1,585 cases were closed for reasons other than reunification (such as reaching the age of 18, death of the child or both parents, a foster family having been identified with the consent of both parents and children, etc.). As at 31 July, the total number of children who were still separated from their parents (open cases) was 657 (271 in West Timor, 108 in Timor-Leste and the rest in other islands of Indonesia). It is difficult to estimate how many cases will still remain open at the end of 2003, but it should be noted that these remaining cases

are the most difficult ones, where the caretakers are often uncooperative and unwilling to facilitate even basic communication (such as exchanges of messages) between the children and their parents.

2. 2004 will be the last year of UNHCR's direct involvement with the separated children programme. 2002 and 2003 have been crucial years in obtaining firm commitment from the part of both the East Timorese and the Indonesian government to pursue solutions for the children. The legal and operational framework has been designed and agreed upon and regional and local focal points have been appointed throughout Indonesia. As already experienced in 2003, the real challenge is to find individualised durable solutions – most of the time, but not necessarily, reunification with the parents – for the separated children. In the case of not uncommon uncooperative caretakers, both individuals and institutions such as orphanages, the Indonesian authorities are requested to take law enforcement measures. Each case is different and the best interest of the child is a concept that receives various and often contradicting interpretations. UNHCR's work on a case by case basis is time and labour consuming, but it is indispensable in order to find concrete and principled solutions. UNHCR is also the only international organisation who has the operational capacity, the mandate and the expertise to work on the reunification of these children with their parents.

A second significant change concerns individual asylum seekers approaching ROJA. While in 2000 and 2001, most of the cases were individuals intercepted while en route to Australia, the bulk of the cases in 2002 and beginning of 2003 were non-intercepted cases. There has also been a shift in nationalities. The intercepted caseload was mainly (more than 90 %) composed of Iraqis and Afghans. The new caseload is more diverse, with several nationalities being represented, such as Vietnamese, Sri Lankans, Somalis, Ivorians, Congolese, in addition to people from the Middle East. Furthermore, there has been a dramatic decrease in terms of numbers in 2002 (120 persons) as compared to 2001 (2,429 persons). As of 31 August 2003, there were only 158 refugee cases or 382 refugees remaining in Indonesia. In addition there were 77 asylum cases or 101 asylum seekers, 43 of whom originated from Vietnam. A manageable increase of asylum claims in 2004 over 2002 and 2003 is projected for the following reasons:

1. At present, the country in the region with the highest number of asylum seekers is Malaysia. The increase was so sudden and dramatic that it exhausted the response capacity of the UNHCR office in Kuala Lumpur. The present backlog is more than 4,000 cases and newly arrived asylum seekers have to wait several months before being interviewed, with the additional risk of being detained. A number of such cases, weary and afraid to wait, crossed the border between Malaysia and Indonesia and approached ROJA. The reduced backlog in ROJA, a shorter waiting period, and a good resettlement processing (433 persons departed in 2002) may be the reasons.

2. Lately, the Indonesian police have started rounding-up illegal aliens. Many of them are relatively long stayers in the country and have never approached UNHCR. Some of them, suspected of various criminal offences, are now detained and, consequently, have applied for asylum.

3. At the time of writing, it was premature to definitely conclude that the war in Iraq could lead to refugee secondary movement, with Indonesia being one of the countries of final or transit destination. However, the recent history of migration in the region make it possible that secondary movement to Indonesia could take place.

In light of the above, ROJA's planning figure for 2004 is some 550 asylum seekers. Given the fact that Indonesia is not yet a party to the refugee instruments and has no eligibility mechanisms in place, refugee status determination (RSD) will continue to be UNHCR's

responsibility. Though UNHCR will continue to advocate for local integration, the latter remains a distant aim. In 2004, refugees recognised by UNHCR will continue to be submitted for resettlement to third countries.

One of the main challenges for ROJA in 2004 will be in the field of promotion of refugee law, as there are, at the same time, several possible avenues and a number of objective and subjective constraints. Among the major obstacles, are:

1. a mixed perception among key ministries, such as Foreign Affairs and Justice and Human Rights, as regards accession to the refugee instruments or the adoption of a proper national refugee legislation;
2. priority given to accession to other human rights instruments, in particular both Covenants;
3. the general elections (legislative and presidential) in 2004, with priority given to domestic issues and campaigning to get political support from different constituencies;
4. the unresolved problem of internal displacement and internal conflicts.
5. a long tradition of tolerance in the field of immigration / asylum. The adoption at the end of 2002 by the General Directorate of Immigration of a Directive incorporating the most important refugee law principles, was in many respects a major breakthrough, but it was, at the same time, a way of crystallising the ad hoc approach and of avoiding a comprehensive legal framework. By acknowledging UNHCR's crucial Refugee Status Determination (RSD) role and by tolerating the presence of refugees in Indonesia pending their resettlement to third countries, the Indonesian authorities uphold refugee principles through a complete "delegation of responsibilities" to UNHCR. Such an approach gives almost no direct responsibility to the national authorities and emphasis is put on building the capacity of UNHCR rather than building the capacity of the host country.

Against such a background, other elements can be considered as the basis for a constructive dialogue with the authorities:

1. The right to seek and enjoy asylum is enshrined in both the Indonesian Constitution (Article 28G) and the Human Rights Act of 23 September 1999;
2. The Human Rights Commission, with which UNHCR has an excellent working relationship, has the mandate to offer an effective remedy to any person in the territory of the Republic of Indonesia whose human rights have been violated. UNHCR is exploring the possibility of bringing selected cases of refugees and asylum seekers to the attention of the Human Rights Commission where an intervention could bring positive results. One of the most difficult issues is that asylum seekers and refugees, including those who are married to Indonesian women, are neither considered as persons before the law, nor have rights in Indonesia. A positive ruling by the Human Rights Commission could encourage the authorities to consider adopting a proper refugee and asylum legal framework;
3. During the first months of 2003, UNHCR has had some promising discussions with the Indonesian parliament. It is confirmed that accession to the refugee instruments is priority 9 in the list of international instruments concerning "social welfare" to be examined by the parliament (most likely in 2004 or early 2005). UNHCR's main promotional activities will therefore target the parliament directly. The Handbook for parliamentarians co-published by IPU and UNHCR is being translated into Indonesian and the Indonesian version will be launched during the second semester of 2003 and will be the main promotional tool, along with a tailor-made "Questions and Answers on Accession" prepared by UNHCR. Training of key parliamentarians has already started. In May or June 2003, a working group composed of UNHCR protection staff and Members of the Parliament (MPs) will be established, with the aim

of making a technical review article by article of the refugee instruments and exploring the possibility of adopting a domestic refugee legislation.

UNHCR will also undertake public information activities to enhance the ability and commitments of the Government of Indonesia (GoRI) to meet their international obligations and through public awareness campaigns create a positive attitude towards asylum seekers and refugees.

Given its experience gained over the years in dealing with intercepted cases and secondary movers, UNHCR will be able to make a substantial contribution to the debate over the question of preserving the integrity of asylum in the context of secondary movements, mixed flows of people and the legitimate interest of States in the region to manage migration and combat smuggling and trafficking. The Office will ensure follow-up to the Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and related Trans-national Crime (Bali I and II process).

Being a regional office with oversight functions or direct implementation in 6 countries, UNHCR Regional Office in Jakarta (ROJA) will provide guidance and support to three offices: Dili, Kuala Lumpur and Manila, and will cover Singapore and Brunei Darussalam. This regional support function will need to be strengthened, in light of the planned downsizing of the offices in Dili (the current four international posts will be reduced to two in 2004), and Manila (the only international post will be cut in 2004) and the dramatic increase of asylum claims in Malaysia. Support in the fields of programme, administration, and staff safety and security has been identified as crucial. ROJA will provide guidance and support to all offices in the region as far as protection and refugee law is concerned.

UNHCR expertise in management of emergencies involving population displacements and refugee influxes is highly respected in the sub-region. In the last three years, UNHCR has enjoyed a strong relationship with countries in the Sub-region and contingency planning and emergency management training have been so successful that one of UNHCR offices has received a presidential award. In 2004, UNHCR will advance its principles, practices, and inputs in the Committee on Disaster Management of the Association of South East Asia Nations (ASEAN), one of the main structures in the Region, in the context of the human security aspect of the United Nations Millennium Development Goals. Internally, ROJA will facilitate and support country offices contingency planning into a regional plan and to link this up with the e-Centre as well as with the Emergency and Security Section at Headquarters.

ROJA has committed itself to implementing the five key commitments for women that will advance the rights of refugee women, mainstream gender equality, and help prevent and ensure adequate responses to sexual and gender-based violence. Whilst these five commitments do not constitute an exhaustive list of priorities for refugee women, they nevertheless form critical building blocks for eliminating the vulnerability of refugees to SGBV. As part of the long-term strategy, a regional focal point for SGBV issues has been identified. In the meantime a "regional checklist on SGBV" was formulated by ROJA's focal point, including concrete actions to be taken by each office in the region.

As stated by the High Commissioner in the Strategic Plan for 2002 – 2004, "The prevention of HIV/AIDS is an essential component of the overall protection of refugees and displaced people", and this is also reinforced in the Millennium Development Goals (MDGs). Therefore, ROJA in collaboration with UNAIDS is in the process of identifying an experienced consultant

who will prepare a detailed proposal including UNHCR's policy for "prevention of HIV/AIDS among refugees in Indonesia" and a pilot project to develop specific prevention education modules for Afghan and Iraqi populations and options for treatment.

ROJA will continue to co-ordinate its activities with other UN Agencies and its involvement in the development of the UN Development Assistance Framework (UNDAF). In particular, UNHCR will continue to work closely with the Resident / Humanitarian Co-ordinator, UNDP, OCHA, UNICEF, WHO, WFP, UNAIDS and IOM and encourage their operational activities to respond to all vulnerable populations in Indonesia, including refugees. Within the UN system, UNHCR's lead role to respond to refugee situations is recognised with OCHA's support for co-ordination and within the UN Resident and Humanitarian Co-ordinator's overall role in Indonesia. Within the Asia and Pacific, UNHCR will continue its close collaboration with the Asia Pacific Consultations (APC). Close co-operation with international NGOs will continue, and efforts will continue to develop contacts with national NGOs.

Local institution capacity building (governments and NGOs) may eventually allow UNHCR to evolve to a more regional strategic approach in South East Asia. In 2004 ROJA will reinforce its efforts to strengthen local implementing partners and ensure its mandate is "institutionalised" within government legislation and actions. Largely due to the lack of Accession by most regional governments (with the exception of the Philippines and Timor Leste) local partners need yet to be identified, trained and strengthened in view of the imminent downsizing of the offices in the Philippines and Timor Leste.

(b) Selected Programme Goals and Objectives

Name of Beneficiary Population/Theme One: East Timorese caseload.	
Main Goal(s): (1) Former East Timorese Refugees in Indonesia have access to effective citizenship. (2) Durable solutions found for East Timorese separated refugee children respect the best interest of the child principle.	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> Former East Timorese refugees who remain in Indonesia are provided with appropriate legal counselling about the registration process they must follow under Indonesian law to have access to effective Indonesian Citizenship. 	<ul style="list-style-type: none"> Former East Timorese refugees who opt to locally settle are well informed of their right to Indonesian citizenship and exercise this right. Eventually, they are documented as Indonesian citizens.
<ul style="list-style-type: none"> Durable solutions to East Timorese separated refugee children will be found through support to the Indonesian Government (GoRI), and the East Timorese Government (GoDRET) . 	<ul style="list-style-type: none"> Re-establishment of communication between caretakers and parents as well as between children and parents and facilitation of family reunification, if appropriate; cases monitored on a case-by-case basis.

Name of Beneficiary Population/Theme Two: Individual Cases in Indonesia and Singapore.
Main Goal(s): (1) Urban refugees in Indonesia and Singapore benefit from a fair and efficient RSD, assistance and facilitation of durable solutions. (2) The quality of the asylum regime in Indonesia is enhanced.

Principal Objectives	Related Outputs
<ul style="list-style-type: none"> All asylum seekers (a/s) have access to territory and to a fair & efficient RSD procedure 	<ul style="list-style-type: none"> Implementing partners are fully operational and effective. Asylum seekers are immediately referred to UNHCR, registered with BMS and a RSD interview is scheduled with UNHCR. A fair and efficient RSD procedure is in place at RO Jakarta.
<ul style="list-style-type: none"> Basic needs of a/s (intercepted and non-intercepted caseload) are met pending decision on their legal status. 	<ul style="list-style-type: none"> Intercepted asylum seekers receive in kind assistance from IOM (accommodation, food, and health services). Non-intercepted asylum seekers in emergency situations will have their immediate material needs met by UNHCR. All a/s benefit from counselling services.
<ul style="list-style-type: none"> Recognised refugees have an acceptable standard of living (including access to health care, accommodation and education) while awaiting a durable solution. Support will be provided to refugees in the search for durable solutions. 	<ul style="list-style-type: none"> Monthly Subsistence allowance (MSA) regularly paid, health referral system is effective and education costs covered. Refugees are timely resettled, or voluntarily repatriated. Local integration for refugee spouses married to Indonesians and their children.

Name of Beneficiary Population/Theme Three: Promotion of Refugee Law	
Main Goal(s): <i>Indonesia takes steps towards adopting a proper legal framework as regards refugees and asylum seekers.</i>	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> Promotion of UNHCR's mandate and the 1951 Convention/ 1967 Protocol. Enactment of national refugee legislation. 	<ul style="list-style-type: none"> Improved awareness and understanding on refugee law, UNHCR and its mandate among the Executive, Legislative and National Human Rights Commission as well as the public at large, including in particular academia, professional organisations, NGOs, media and influential members of civil society. Establishment of a working group among government officials and parliamentarians to discuss accession to the 1951 Convention and drafting of national legislation.
<ul style="list-style-type: none"> The public has a positive attitude towards refugees. 	<ul style="list-style-type: none"> Media publications on refugee issues are positive and provide accurate information. No tension between local population and UNHCR persons of concern is reported.

Name of Beneficiary Population/Theme Four: Regional Support

Main Goal(s): (1) Emergency preparedness institutionalised in the region and individual countries. (2) Offices in the Region under RO Jakarta receive support on Protection, Programme, Administration and Staff Safety and Security related matters. (3) Effective follow-up provided to the Bali process and the APC.

Principal Objectives	Related Outputs
<ul style="list-style-type: none"> • Emergency preparedness and contingency planning capacities of partners and counterparts in the Region under the responsibility of RO Jakarta are strengthened. • Regional Partnership for emergency preparedness institutionalised. 	<ul style="list-style-type: none"> • Contingency plans in “hot-spots” in the sub-region updated by locally trained facilitators. • Contingency planning groups take part in validation meetings facilitated by UNHCR. • Regional and Country specific contingency plans prepared.
<ul style="list-style-type: none"> • Country Offices in Timor Leste, Malaysia, and the Philippines receive technical support in areas of Protection, Programme, Administration, and Staff Safety and Security to make their work more efficient. 	<ul style="list-style-type: none"> • Technical support missions in the areas of Protection, Programme, Administration and Staff Safety, and Security is provided to the LO Offices. • Guidance and support is provided by e-mail and telephone.
<ul style="list-style-type: none"> • Close follow up is given to the Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and related Trans-national Crime and its possible absorption in existing or ad hoc mechanisms. 	<ul style="list-style-type: none"> • UNHCR's views, policy and concerns are taken into consideration thus preserving the integrity of asylum in the context of secondary movements, mixed flows of people and the legitimate interest of States in the region to manage migration and combat smuggling and trafficking.