



COUNTRY OPERATIONS PLAN

OVERVIEW

Country: Malaysia

Planning Year: 2006

Part I: OVERVIEW

(1) Protection and socio-economic operational environment

At the end of 2004, UNHCR recorded the following categories of persons of concern to UNHCR: some 9,815 Rohingya Muslims from Northern Rakhine State of Myanmar; 15,466 persons from the Indonesian Province of Aceh; 8,391 other persons of concern from Myanmar; and 1,479 other nationalities. In terms of the demographic composition of the various caseloads, it is predominantly male and aged between 18 and 40. As compared to 2003, a steady increase in female applicants was noted. Within the Rohingya community there are some 2,439 children and 43 elderly women. In addition, there is an old caseload of some 61,314 Filipino Muslims in Sabah.

In a nutshell, the UNHCR operation in Malaysia, including its possible evolution, can be characterized as follows:

- Malaysia is neither a party to the international refugee instruments nor has the country enacted any national legislation for refugees. At this stage, the authorities are not involved in the identification, reception, registration and documentation of asylum-seekers and refugees. As such, the vast majority of people of concern are considered illegal migrants and in principle subject to arrest, detention, prosecution, whipping and deportation. As a result of their illegal status, they are not able to access legal work and often exploited in the informal labour market. Children do not have access to education. There are some indications that this situation may change in a positive direction in 2005, especially if the Government grants refugees access to employment and education. UNHCR will nevertheless remain the main actor of refugee protection and assistance in 2006, while working towards widening the involvement of the Government, as well as increasing the participation from different elements of the Malaysian civil society (in particular local NGOs).
- At the end of 2004, UNHCR in Malaysia recorded 35,152 registered cases as compared to 16,629 cases in the previous year (this represents an increase of 111.39%). On average, the Office receives well in excess of 1,500 new applications each month. On the basis of a new, integrated registration and eligibility system, 19,536 decisions were taken in 2004, with 18,039 persons being granted mandate refugee status either through individualized RSD (8.3%) or group-based temporary protection approaches (91.7%). Between January and August 2005 alone, UNHCR in Malaysia managed to take a total of 12,093 decisions in spite of redirecting many of our resources towards responding to the crackdown on illegal migrants, which began at the beginning of the year. By year-end of 2006, it is estimated that the total population of concern to UNHCR will amount to some 130,000 people (which includes some 60,000 Filipinos in Sabah). In terms of immediate protection and assistance activities, UNHCR will be more directly involved with some 70,000 people of concern. This constitutes the second highest refugee population in South East Asia after Thailand.
- As of 31 December 2004, the Office recorded a Refugee Status Determination (RSD) backlog of 10,322 cases. Efficient status determination in 2004 led to RSD decisions keeping up with the numbers of newly registered cases. As such, in spite of the enhanced registration capacity, the overall increase in the RSD backlog was

successfully cut back to only 1,127 cases. During 2004 the gradual implementation of expedited RSD processes led to a reduction of the waiting period for RSD from 18 months at the beginning of the year, to 10 months at year's end. In 2006, it is estimated that the Office will not increase its backlog and waiting period but the backlog of some 10,000 pending asylum applications will remain. This represents one of the highest pending RSD caseloads to be processed under UNHCR mandate procedures in UNHCR operations world-wide.

- At year-end 2004, the Office recorded some 198 SGBV (Sexual and Gender Based Violence) cases, which represents one of the highest numbers reported in the South East Asian region, with 4% being male survivors. In addition, a small proportion of refugees live with HIV/AIDS. In the Office's assessment, there will be a continued need to address these issues in 2005 and 2006.
- The second half of 2004 has witnessed a number of important steps forward in the international protection of persons of concern, more Government engagement in refugee protection, increased public awareness and visibility of refugee issues, and significant positive changes to the staffing, functioning and structure of the Kuala Lumpur Office. Not least because of increased humanitarian commitment and understanding on the part of the Government, it is hoped that further progress can be made and consolidated in the protection of persons of concern to UNHCR in 2005 and 2006, especially in the area of refugees' access to education and employment.

In terms of overall strategy, UNHCR will continue to promote group-based, temporary local solutions in respect of the Rohingya Muslim population from Myanmar and the population from the Indonesian Province of Aceh. For all other persons who are found to be in need of international protection and who have no close links to Malaysia, UNHCR will work on resettlement solutions in third countries. Pending the identification of a resettlement solution, UNHCR will need to consolidate its agreement in principle with the authorities that documentation issued by the Office would be recognized by the Malaysian authorities. Registration, including by means of mobile teams throughout the entire country, documentation and RSD activities will therefore continue full-fledged in 2006. The Office will need to continue its outreach and detention monitoring activities, as well as its legal assistance activities, with a view to preventing deportations and finding solutions to asylum-seekers and refugees in detention. Moreover, public awareness campaigns, as well as training and other promotional activities will continue to form part of the Office's strategy in 2006.

It is hoped that in the course of 2005 the Malaysian Government, following its September 2004 announcement, will implement its decision to grant temporary stay permits to the 10,000 Rohingya refugees in Malaysia. This will not only formalize any existing employment status but also help them have unhindered access to education and health care.

In 2005 the Office also hopes to ensure full implementation of the decision of the Ministry of Health to grant access of all persons of concern to health care at local rates, as well as to achieve full access of refugee children to education. In addition, it is hoped that other groups, in particular people of concern from the Indonesian Province of Aceh, may be granted access to legal employment in Malaysia in the course of 2005. Were such major breakthroughs to materialize, they will initially require substantial contributions from UNHCR to the Government, particularly in the education area in cooperation with

UNICEF, but also in the employment sector, for instance, by funding vocational training projects. In addition, UNHCR would focus the disbursement of direct financial assistance on vulnerable cases. More generally, vulnerable cases will continue to rely on UNHCR and its partners to provide basic necessities, such as financial assistance for shelter, food, transport, basic health care, education/ training for children, psychosocial/counseling services, as well as assistance for critical medical treatment, both short-term and possibly perpetual care, such as antiretroviral therapy. If regularization of the employment status for refugees cannot be resolved in 2005, it will remain a major concern in 2006. UNHCR will therefore need to continue promoting a dialogue on positive migration policies with immediate benefits for the existing refugee population.

As regards the 61,314 Filipino Muslims in Sabah, the Office will continue to monitor their situation and work out with the Government a more permanent solution in 2006. Resolving potential cases of statelessness will be a particular emphasis in relation to this caseload but also more generally, should this turn out to be an issue.

(2) Operational goals and potential for durable solutions

In line with the UNHCR's Global strategic objectives, the following are the overall strategic goals of the 2006 Malaysia refugee programme:

- Ensure, through Government engagement, temporary local solutions for the Rohingya and Acehnese populations at the very least by means of recognition of UNHCR documentation, improved standards of treatment and increased self-reliance; and in the case of the Filipinos in Sabah, ensure their continued stay and explore permanent residence possibilities for them. (Global Strategic Objectives 1, 2 and 3; Bureau objectives 1, 2 and 7)
- For all other groups of concern identify and work towards realizing appropriate durable solutions, primarily but not exclusively through resettlement of some 2,000 cases during the year. Resettlement will in this case not only be used as a protection tool and a durable solution but also strategically to negotiate temporary local solutions for the aforementioned populations. (Global Strategic Objectives 1 and 3; Bureau objectives 1, 2 and 7)
- Address, in close cooperation with the Malaysian authorities and non-governmental partners, the protection problems persons of concern are confronted with in Malaysia, particularly as regards detention/deportation, SGBV, access to education, employment and health care, registration and documentation, as well as potential statelessness. (Global Strategic Objective 1; Bureau objectives 1 and 4)
- Tackle the asylum/migration nexus by determining and documenting refugee status under UNHCR's mandate in sound, efficient and streamlined RSD procedures and with gradual involvement of the authorities and, at the policy level, by promoting responsible migration management of benefit to refugee populations through roundtables, studies, engagement with the academic/research community, etc. (Global Strategic Objectives 1, 8 and 9; Bureau objective 1)
- Provide, through close and coordinated partnership arrangements with local NGOs, the legal community and UNICEF, assistance services for vulnerable persons of concern to UNHCR in the areas of legal intervention, shelter, health care, education,

employment, vocational training and community services, focusing particularly on the policy priorities relating to women, children, unaccompanied minors, refugees with special needs, HIV/AIDS, as well as provide support to the refugee communities as required, taking into account a gender and age mainstreaming perspective. (Global Strategic Objective 6; Bureau objectives 6 and 7)

- Create a positive understanding for refugees and UNHCR activities both worldwide and in Malaysia through public awareness campaigns, promotional and training activities, including with a view to increasing the level and diversity of funding, especially from the private sector. (Global Strategic Objective 1; Bureau objective 8)