



# **COUNTRY OPERATIONS PLAN**

**Country: Malaysia**

**Planning Year: 2004**

## Malaysia

### Executive Committee Summary

#### (a) Context -Beneficiary Populations and Themes

Malaysia is not party to 1951 Refugee Convention or its 1967 Protocol. There are no state institutions responsible for protection, assistance or solutions for asylum seekers and refugees. Due to the absence of legislation and procedures, asylum seekers and refugees, a majority of whom do not have valid travel documents, are subject to arrest, detention and deportation. In August and September 2003, several hundred asylum seekers were arrested in front of the UNHCR office in Kuala Lumpur. It has been reported that many of those arrested, particularly ethnic Acehnese and Rohingyas, possessed UNHCR protection letters. Despite high level interventions by UNHCR, those arrested either remain in detention or have been deported to Indonesia or Thailand.

Since mid-2002, UNHCR Malaysia has witnessed a dramatic surge in asylum claims. During the year the office registered 2,306 new cases, compared with 826 cases in 2001, nearly a threefold increase. As of the end of July 2003, almost 7,800 cases, or 8,600 persons, approached UNHCR. In the same period, 275 persons were recognised as refugees, the majority being Indonesian from the province of Aceh.

The growth in the number of asylum seekers is a consequence of restrictive immigration measures taken by the Malaysian Government in 2002 and the on-going conflict in the Indonesian province of Aceh. Increased restrictions placed on illegal migrants has made refugee status more attractive to persons who previously would not have approached UNHCR. The break-down in the peace-agreement between the Indonesian Government and separatists in Aceh in late 2002, resulted in a significant increase in the number of asylum seekers coming to Malaysia. In the three months from June to September 2003, 3000 Acehnese registered with UNHCR. In addition, 3,500 others, primarily from Myanmar also registered with the Office. UNHCR staff in Kuala Lumpur has been reinforced with the deployment of staff from the Regional Office in Jakarta as well as other staff on short term assignments. In 2004, given the likelihood of continuing protection needs, the current temporary staffing situation be regularised.

In light of an increasingly restrictive protection environment in Malaysia, UNHCR's principal aim is to prevent deportations and obtain the release of several hundred asylum seekers who were recently arrested, strengthening the quality of protection, building upon relations with Government authorities and the civil society and expanding protection coverage. Individual refugee status determination (RSD) will continue to undergo a major transformation with the reinforcement of a specialised unit dedicated to this process. In addition, new systems and procedures will continue to be introduced to ensure that the needs of vulnerable groups are identified and addressed.

To accommodate the growing number of asylum seekers UNHCR will need to maintain an RSD processing capacity of at least 250 persons per month over the next two years. It is expected that new RSD procedures will result in an average refugee recognition of 700 persons per year. Although not a large number by UNHCR standards, there are no formal procedures or laws

governing refugees in Malaysia, requiring protection interventions, mobilising community services, providing assistance to the most vulnerable, and securing resettlement opportunities.

An on-going registration exercise started in August 2002 identified approximately 15,000 Rohingyas from Myanmar. The Rohingyas, whose citizenship is unclarified, regularly approach UNHCR Kuala Lumpur seeking protection and a solution to their plight. Rejected cases are not dissuaded and, in many instances the concerned persons become more determined to secure some kind of status that will ensure their protection.

While Rohingyas are not considered to be refugees under UNHCR's direct mandate, the office in Malaysia will continue to cover essential activities relating to durable solutions for them. UNHCR efforts include issuing "Rohingya registration letters" as a means of assisting the Malaysian authorities and NGOs in their efforts to provide lasting solutions for this increasingly desperate group. Following the substantial surge in applications for asylum from Indonesians originating from the province of Aceh, UNHCR also began issuing "protection" letters to this group.

To assist the increasing number of asylum seekers in need of protection, additional sources of funding will continue to be sought. These include the UN Human Security Fund Project, which UNHCR will pursue in collaboration with the UN Country Team in Malaysia. There will also be a much greater need to co-ordinate with other UNHCR offices in the region, such as Indonesia, Bangladesh, Myanmar and Thailand, in advancing solutions for ethnic Acehnese, Chin, and Rohingyas.

UNHCR Malaysia will also continue efforts to secure permanent resident status for 58,000 Muslim refugees from southern Mindanao who have lived in Malaysia for several decades but remain marginalised. For this group, UNHCR will continue to advocate a more permanent solution beyond the unique refugee status they have been granted by the Government.

In working toward integration of the Filipinos, UNHCR actively organises various training and planning activities with Government authorities in Sabah. Training and contingency planning are designed to (a) strengthen working relations in a manner that gives UNHCR a role in the State, (b) promote a better understanding of refugee status and the need to protect, and (c) increase preparedness in a region with significant potential for new influxes.

In 2004, coverage of protection activities in Malaysia will be expanded through the creation of a national protection network. The network will include authorities located throughout Malaysia who UNHCR can draw upon in making protection interventions, seeking referrals, monitoring developments and having UNHCR's mandate status throughout the country, acknowledged.

The network will be comprised of the police, staff of the Immigration Service, and NGO personnel who participate in UNHCR seminars, workshops and meetings. Through the network, UNHCR will intervene on behalf of those needing protection and upgrade the national capacity for providing protection pending the introduction of formal refugee procedures.

Protection outreach and other awareness and promotion efforts will enhance the Governments's understanding and perception of UNHCR of refugee issues. These activities are expected to improve the climate for protection and lay a foundation for government and private sector fund-raising.

Although not a part of the proposed network, UNHCR will seek to establish formal with the National Human Rights Commission of Malaysia and the Malaysian judiciary. Such links will ensure that the status accorded to refugees by UNHCR is given greater recognition by national authorities, helping to ensure the non-refoulement of mandate refugees. In the longer term, collaboration with these bodies will help to advance efforts aimed at formalising the status of refugees and asylum seekers in Malaysia.

In conjunction with efforts to strengthen protection, a number of initiatives will be pursued to identify and develop new sources of assistance that can help meet the needs of the growing number of refugees in Malaysia. UNHCR has already begun to reinforce its capacity to assess and monitor the needs of a variety of vulnerable groups, including refugee women and children, and persons who are arrested or detained. These efforts will ensure the provision of community services and financial assistance for food, shelter, urgent medical attention, transport, and the most basic education and legal assistance needs for 700 persons living in the urban area around Kuala Lumpur.

The identification of national groups willing to assist and support UNHCR efforts will facilitate linkages with national NGOs and other members of Malaysian civil society. Strengthened NGO ties will provide a source of help to the most vulnerable refugees. NGOs are also expected to help mitigate the compelling humanitarian hardship faced by Acehnese from Indonesia, and the Rohingyas from Myanmar and the overall protection environment.

In the next two years, efforts to find solutions for refugees and persons of concern will need to be expanded. With 200 to 300 refugees expected to be resettled per year, this option will be actively pursued. At the same time, UNHCR will also continue to seek the voluntary return of persons who can avail themselves of this option. Efforts will be made to identify Rohingyas from Myanmar who may wish to return home. Although local settlement is not yet an option for the Rohingya, for many it is the most likely solution. UNHCR Malaysia will continue efforts to secure work permits that lead to residence status for persons of concern to UNHCR.

**(b) Selected Programme Goals and objectives**

<b>Name of Beneficiary population: Urban Refugees (including Acehnese from Indonesia)</b>	
<b>Main Goal(s):</b> All asylum seekers and refugees in Malaysia will be accorded protection and treatment that is in conformity with international standards. Asylum seekers will have access to fair asylum procedures, and over time to durable solutions.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ The quality of protection to be raised through improved refugee status determination</li> <li>▪ The Refugee status granted by UNHCR will be increasingly recognised by Government authorities</li> <li>▪ All refugees will be assisted while searching for durable solutions.</li> <li>▪ Malaysian authorities to accept UNHCR protection documentation and refrain from arresting and detaining persons of concern.</li> </ul>	<ul style="list-style-type: none"> <li>▪ RSD standards will be harmonised with those sought throughout the sub-region.</li> <li>▪ The number of arrests and detentions will be reduced.</li> <li>▪ Asylum seekers arrested will be released from detention.</li> <li>▪ Detention cases, emergency cases and long staying refugee cases will have timely access to durable solutions.</li> <li>▪ A national protection network involving the national authorities will be established for the benefit of refugees and others of concern to UNHCR.</li> </ul>

<b>Name of Beneficiary population: Muslims from Myanmar (Rohingyas)</b>	
<b>Main Goal(s):</b> Human rights problems faced by the population will be reduced through temporary practical measures pending durable solutions.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ The legal status of refugees will be regularised and they will have access to minimum social and economic welfare services pending durable solutions.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The number of arrests and deportations on Thai Malaysia border will be reduced.</li> <li>▪ Birth certificates will be issued to Rohingyas born in Malaysia.</li> <li>▪ Rohingya children will have access to schooling.</li> </ul>

<b>Name of Beneficiary population: Filipino refugees in Sabah</b>	
<b>Main Goal(s):</b> In order to contribute to the process of integration, UNHCR will help promote a favourable political climate that will contribute to an increased number of refugees being granted permanent resident status and thereby become participating members of society.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ The immigration status of the population will be further regularised through obtaining permanent resident status.</li> </ul>	<ul style="list-style-type: none"> <li>▪ More refugees will obtain permanent resident status.</li> <li>▪ More refugees will have freedom of movement out of the State of Sabah.</li> </ul>

<b>Name of Theme: Public Information and Awareness</b>	
<b>Main Goal(s):</b> Awareness and understanding of the plight of the world's refugees and their needs will be developed in Malaysia along with the recognition that the country can contribute to assistance and solutions.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ National awareness of the need for refugee protection issues will be raised.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Improved Government-UNHCR relations.</li> <li>▪ Malaysian civil society will increase its support to UNHCR.</li> </ul>

<b>Name of Theme: Promotion and accession activities</b>	
<b>Main Goal(s):</b> Protection networks will be created among national authorities as a foundation for introducing national legislation and an administrative framework for refugee protection. Civil society to play an active role in providing protection and assistance to refugees.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ National NGOs and lawyers will be encouraged to work for the protection of refugees.</li> <li>▪ The refugee status granted by UNHCR will be increasingly recognised by Government authorities.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Positive elements introduced in government procedures to deal with refugees and asylum seekers.</li> <li>▪ Substantial number of senior Malaysian officials become familiar with the principles of international refugee protection through seminars, and training workshops.</li> <li>▪ NGOs/Lawyers network will be established for refugee protection.</li> </ul>

<b>Name of Theme: Contingency Planning and Emergency Preparedness and Response</b>	
<b>Main Goal(s):</b> Adequate and timely response mechanism will be put in place in Malaysia for population displacement in need of international protection.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>▪ The Government's preparedness for potential refugee influxes will be enhanced.</li> <li>▪ UNHCR protection mandate will be incorporated in the Government's contingency plans.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Improved co-operation between UNHCR and the Government will improve refugee reception, ensure broader protection coverage and influence immigration policy</li> <li>▪ Contingency plans will be developed between UNHCR and the government.</li> </ul>