
RI BULLETIN

A POWERFUL VOICE FOR HUMANITARIAN ACTION

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Malaysia: Acehese Refugees Face a Triple Threat

Refugees in Malaysia from Indonesia's Aceh province are facing a triple threat: their families and lands have been devastated by the tsunami; their communities in Aceh continue to be in the crossfire as conflict persists in the province; and they are subject to arrest and deportation as illegal migrants in Malaysia. On March 1 the Malaysian government launched Operation Tegas, a campaign to crack down on illegal migrants. Since then more than 4,000 people have been arrested and dozens have already been sentenced to jail or whipping. As the Malaysian government does not differentiate between refugees and undocumented economic migrants, Acehese with asylum claims have been rounded up in this crackdown and are in danger of being sent back to Indonesia.

The Acehese have been coming to Malaysia to escape being caught in the crossfire between the Indonesian military and the rebel Free Aceh Movement or Gerakan Aceh Merdeka (GAM). Since 2003, when the Indonesian government imposed martial law and started a military campaign in Aceh, large numbers of men have fled to Malaysia. According to the asylum seekers interviewed by Refugees International in Malaysia, the military does not differentiate between rebels and civilians. It suspects most Acehese men of collaborating with the rebels and they can be picked up at any time by the army. Once arrested, the Acehese report being tortured by methods such as having their ears slit, fingers smashed, nails pulled out, and plywood placed on the body and then stepped upon in efforts to make them reveal information about the rebels' strongholds and activities.

For Acehese asylum seekers the protection situation in Malaysia has been poor. The country has not ratified the 1951 Convention Relating to the Status of Refugees and labels all undocumented persons as illegal immigrants making them subject to harsh immigration laws. The immigration authorities have widespread powers to arrest, detain and eventually deport undocumented people. In some cases, refugees have even been picked up by immigration while just outside the UNHCR compound in Kuala Lumpur.

The Acehese taken into custody by police told RI that sometimes they were let go after they paid a bribe, but once they are in the hands of immigration authorities it is virtually impossible to be released. Immigration places people in detention centers, described by local NGOs as overcrowded with unsanitary facilities, until they are deported or manage to get third country resettlement. The Acehese are most at risk during deportations. Unlike asylum seekers from other countries, who are released at Malaysia's border with Thailand, the Acehese are put on ferries, along with other Indonesians, and taken to Indonesia. The deportees' names are shared in advance with Indonesian authorities who receive them at the other end and order them to get in separate lines based on their place of origin. The Acehese have a great fear of deportation, as some have gone missing through the process, never making it back to their villages. There are also accounts of Acehese being rearrested upon deportation, beaten and interrogated about GAM, and released only after a bribe is paid.

Malaysian law enforcement agents have given varying degrees of recognition to protection documents given by UNHCR to Acehese asylum seekers. While these documents are generally respected by the police, there are still cases of Acehese with UNHCR papers being arrested, charged in court, or sent to detention centers to await deportation. UNHCR is usually able to negotiate for them not to be forcefully deported, but they must endure long detention periods as they await resettlement.

At the outset of Operation Tegas, UNHCR was successful in working out an informal agreement with Malaysian officials so that refugees with papers from UNHCR would not be arrested in the crackdown. However, divisions regarding this amnesty soon surfaced between different government officials and some immigration officials continue detaining people with UNHCR documents. Sufriadi, a 16-year-old minor whose father was shot in cold blood in front of him during an Indonesian military operation in Aceh, is among those arrested. He was taken into custody on March 17 by an immigration official, his UNHCR documents were disregarded, and he was charged under the Immigration Act for being an illegal. He is being held in Kajang prison, awaiting his hearing, which is not due until the end of May.

Besides protection problems, their illegal status in Malaysia restricts Acehese from accessing social services. Medical care is vital because according to UNHCR, Acehese men from the ages of 18 to 35 have the most injuries and signs of torture; they arrive with broken bones, scars, x-rays showing bullets lodged in their skulls and emotional trauma. But because many of the Acehese in Malaysia work as construction laborers, porters, and palm oil plantation laborers, they are unable to earn enough to pay for much-needed medical care. As few international NGOs are present in Malaysia, little humanitarian assistance reaches the Acehese.

The Acehese interviewed by RI emphasized that Malaysia is the best country of refuge for them, given the similarities in culture and language, until the situation improves in Aceh. They were perplexed, however, as to why the Malaysian government, which has provided so much support to the people of Aceh following the December 2004 tsunami, would keep its doors closed to Acehese seeking refuge within Malaysia. The asylum seekers stressed that Malaysia and the international community must take into account the triple threats they are experiencing.

Refugees International, therefore, recommends that:

The Government of Malaysia:

- Respect the principle of *non-refoulement* and ensure that any Acehese picked up in the crackdown on illegal migrants are not deported to Indonesia.
- Protect Acehese and other asylum seekers registered with UNHCR during crackdowns by invoking section 55 of the Immigration Act of Malaysia.
- Consider granting the Acehese temporary stay permits along the lines of the permits granted in 2004 to the Rohingya refugee population from Burma.

International aid community:

- Divert some of the funding received for the Acehese people, following the tsunami, to the Acehese refugee community in Malaysia, and to the UNHCR operation in Malaysia, especially as the humanitarian access window to Aceh becomes smaller.

UNHCR:

- Continue to refer for third country resettlement those Acehese needing long term medical and psychological care which they are unable to obtain at present due to the Malaysian government's policies.

Advocates Kavita Shukla and Larry Thompson assessed the situation for Acehese refugees in Malaysia in March.