



COUNTRY OPERATIONS PLAN

OVERVIEW

Country: India

Planning Year: 2006

2006 COUNTRY OPERATIONS PLAN FOR INDIA

Part I: OVERVIEW

1. Protection and socio-economic operational environment

At the end of 2004, there were 11,071 mandate refugees in India and an estimated 160,000 refugees from Tibet, Sri Lanka and Bangladesh (Chakmas) who are dealt with directly by the government of India (GOI). Protection of and assistance to these refugees is based on political and administrative decisions made by the GOI as India is not a signatory to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol and does not have a formal national refugee protection regime in place. The Office has no operational role except facilitating and verifying voluntariness of return for Sri Lankan refugees. UNHCR undertakes mandate RSD for other groups, and maintains keen interest in protection and durable solutions of all refugee groups in India. The Office's operations in India will therefore continue under the auspices of UNDP in the absence of a Country Agreement, making the task of refugee protection more challenging. Nevertheless the fact that India remains an active member of the Executive Committee leaves scope for positive engagement.

UNHCR India continued to provide protection and assistance to mandate refugees directly and through its national implementing partners in the absence of any other alternative. Lack of access to border areas and to information of developments there, remains a serious constraint. The Office relies on its networking with human rights NGOs to address that gap. Asylum applicants seeking refugee status determination and protection have no alternative except to approach UNHCR in New Delhi or its field office in Chennai. Efforts will continue to overcome the challenges emanating from the lack of a formal refugee protection regime which results in the application of foreigner control legislations to asylum seekers and refugees.

The challenges faced by mandate refugees due to the absence of a national law and non-recognition of UNHCR shall be further addressed in 2005-2006 through multi-pronged approaches including direct engagement of the Bureau and the High Commissioners' Office with the Government through the Indian mission in Geneva. UNHCR efforts will continue with the Ministries of Home and External Affairs. Strategy for Government engagement will include dialogue on their participation in refugee status determination or appropriate alternatives, which may result in legal stay for all recognised refugees besides improved conditions of asylum and engagement of Government in the search for durable solutions for all refugee groups.

The office has recently developed a proposal recommending a Convention Plus approach for the Afghan caseload and this may be seen as a step towards the eventual goal of enabling the Government participation with UNHCR on refugee protection and the search for durable solutions in India. It is expected that the Government will continue to extend residence permits to the large majority of the mandate refugee population, in particular the residual Afghan and Myanmarese beneficiaries. Afghans recognised by UNHCR since late 2001 and refugees of other nationalities have remained without GOI permits and *demarches* will continue to legalise their stay in India.

Due to insecure conditions for political and ethnic minorities in some of the neighbouring countries, it is anticipated that the flight of asylum seekers from these countries to India may increase. This will require careful consideration of protection approaches to be applied as individual determination may not always be the most appropriate response. Local complexities in some border states continue to be of concern as it directly affects the protection of asylum seekers and refugees. Regional approaches and networking with partners in South Asia on the need for a legal framework and the search for solutions for the Bhutanese refugees in Nepal and Sri Lankan refugees in India, will continue.

Durable Solutions support by way of naturalisation for the bulk of refugees recognized by UNHCR which includes Hindus and Sikhs will continue with active collaboration with the refugee community. Efforts to engage the Government in the Convention Plus context will be made simultaneously to allow for a faster and comprehensive durable solution for all Afghan refugees in India. Resettlement of refugees without residential permits will continue as will resettlement for all mandate refugees with protection problems and vulnerabilities. Voluntary repatriation to Afghanistan will also be supported and Government involvement will be explored.

Absence of a refugee protection regime has resulted in UNHCR strategies over the years to encourage dialogue on need for a national refugee law. Efforts to include GOI concerns of security and migration, while pushing for a national refugee protection regime will be made.

OCM will continue with promotional outreach in collaboration with Indian consultants and institutions as well with the International Committee of the Red Cross in different fields. These include border security police sensitisation programmes, academic trainings and workshops, NGO support groups and enhanced efforts to engage the legal and judicial fraternity in support of UNHCR's objectives. A study on Statelessness in Asia and Africa has been launched in collaboration with Asian African Legal Consultative Organization (AALCO) and a report is expected in 2006.

UNHCR assisted voluntary repatriation of Sri Lankan Tamils is expected to continue while return modalities will be discussed with the Indian and the Sri Lankan governments. It is expected that up to 15,000 refugees (camp/non-camp, of all categories) will return in 2006 of which some 5,000 are expected to be assisted by UNHCR India through commercial flights. The timing of large-scale return will depend on further progress in the peace process in Sri Lanka and the availability of passenger boat/ferry transport which is currently lacking between India and Sri Lanka.

UNHCR has formally included representatives of five implementing partners in Delhi into the working group on gender and age mainstreaming in a further effort to institutionalise the practice into all spheres of activities

2. Operational goals and potential for durable solutions

Emanating from UNHCR's global and regional strategic objectives, the following are the strategic goals of 2006 India Country Programme:

- Improve protection environment in India and concrete protection/ assistance response for asylum-seekers and refugees while ensuring gender and age mainstreaming in all of OCM's activities.
- Obtain acceptance by Government of India of the need to adopt legal framework/ mechanism to deal with asylum-seekers and refugees.
- Pursue durable solutions for Afghan mandate refugees through naturalization, resettlement and voluntary repatriation, if possible by applying a Convention Plus approach.
- Ensure timely voluntariness of return of Sri Lankan Tamil refugees through continued UNHCR involvement in facilitation of voluntary repatriation.
- Foster partnership and complementarities between UNHCR, GOI and NGOs as the essential platform for attaining the operational objectives of 2006.
- Pursue self-reliance activities and remain sensitive to welfare needs and vulnerabilities such as sexual and gender based violence.