

MALAYSIA



| Working environment |

o The context

Malaysia presents a complex protection environment for UNHCR as a result of the large number of urban refugees, smaller groups of stateless people, and Filipino Muslims in Sabah for whom the Malaysian Government has assumed responsibility. The urban refugees in particular are unlikely to find a durable solution in Malaysia.

Though communication between UNHCR and the Government of Malaysia has improved steadily, Malaysia is not party to the 1951 Refugee Convention or its 1967 Protocol and

does not have an asylum system in place to regulate the status and rights of refugees. This absence of a legal framework leaves refugees vulnerable to abuse of their human rights.

Malaysian law makes no distinction between refugees and undocumented migrants. There are some 4 million migrants in the country, approximately 2 million of whom are undocumented and considered illegal. Refugees are vulnerable to arrest for immigration offences, and may be subject to detention, prosecution and punishment, including whipping and deportation. National NGOs have limited capacity to support asylum-seekers and refugees, while international NGOs face significant difficulties in operating in the country.

Planning figures for Malaysia

TYPE OF POPULATION	ORIGIN	JAN 2013		DEC 2013	
		TOTAL IN COUNTRY	OF WHOM ASSISTED BY UNHCR	TOTAL IN COUNTRY	OF WHOM ASSISTED BY UNHCR
Refugees	Myanmar	82,820	82,820	95,380	95,380
	Various	5,290	5,290	6,080	6,080
Persons in refugee-like situations	Myanmar	30	30	30	30
	Various	880	880	890	890
Asylum-seekers	Various	10,890	10,890	12,540	12,540
Stateless people	Stateless	40,000	40,000	40,000	40,000
Others of Concern	Philippines	80,000	80,000	80,000	80,000
Total		219,910	219,910	234,920	234,920



UNHCR / M. KHO

Afghan teenage refugees perform at a transportation hub in Kuala Lumpur during World Refugee Day celebrations.

During 2011 and 2012, there were fewer arrests of documented asylum-seekers and refugees as a result of greater recognition of UNHCR documentation on the part of the authorities. However, there have been large-scale arrests of asylum-seekers who have not yet been registered.

Over the last two years, UNHCR has carried out multi-faceted advocacy emphasizing a series of steps the Government could take to improve the protection environment for refugees and stateless persons in Malaysia. Given the

continuing reluctance of the Government to sign the Refugee Convention at this stage, UNHCR has advocated for the establishment of a legal and administrative framework for the management of asylum and assistance to refugees, and the use of its existing migration management system as a vehicle for providing refugees with the right to work and reliable access to services. In doing so, UNHCR has continued to encourage the Government to become a signatory to the Refugee Convention and its Protocol.

Main objectives and targets for 2013

Fair protection processes and documentation

- Access to RSD procedures, and their quality, is improved.
 - ☞ All RSD procedures are consistent with international standards.
 - ☞ Some 90 per cent of people of concern have access to status-determination procedures.
 - ☞ Asylum-seekers are notified of the result of their application within 70 days of the first interview, and within 110 days of the submission of an appeal.

Basic needs and essential services

- The health status of the population of concern is improved.
 - ☞ Some 39 per cent of people of concern have access to primary health care.

- The population of concern has optimal access to education.
 - ☞ Approximately 10 per cent of the population of concern aged 14-17 is enrolled in secondary school.
 - ☞ Some 62 per cent of the population of concern aged 6-11 attends primary school.

Community empowerment and self-reliance

- Self-reliance and livelihoods are improved.
 - ☞ Some 10 per cent of people of concern run their own businesses or are self-employed for more than 12 months.
- Community mobilization is strengthened and expanded.
 - ☞ Some 50 per cent of people of concern are represented in leadership management structures.

UNHCR's presence in 2013

□ Number of offices	1
□ Total staff	140
International	12
National	44
JPOs	3
Others	81

○ The needs

The lack of legal protection in Malaysia means that urban refugees face grave protection risks on a daily basis. Without legal status in the country, refugees face the risk of *refoulement*, or of arbitrary detention, and they lack legal safeguards in the event they are victims of crimes. Without the right to work and reliable livelihood opportunities, they face substantial difficulties in accessing affordable health care and social services, resulting in a largely non-existent social safety net for women and children at risk. As they are not allowed to attend government schools, refugee children do not have access to basic education. The fear of arrest and lack of legal status also severely constrain the ability of refugee communities to help themselves.

Durable solutions remain challenging for the refugee population, as conditions in their countries of origin remain difficult. Positive changes in Myanmar and Sri Lanka are welcome developments, and progress there will be closely monitored. While UNHCR has a comparatively large resettlement programme in Malaysia, the number of refugees in the country means that those being resettled represent a comparatively small portion of the overall population.

As the Government does not assume responsibility for asylum management, UNHCR remains challenged by the large number of people present in the country who look to UNHCR for registration, refugee status determination (RSD) and documentation, as well as support in the event they are arrested. The Office is also challenged by the need to monitor detention facilities and work to secure the release of refugees, while supporting health, education and community-based self-reliance programmes and promoting durable solutions.

Given the large migrant population in Malaysia, and the country's ongoing need for foreign workers, there may be opportunities to improve conditions for refugees, bringing them to a level similar to that of legal migrants.

| Strategy and activities |

Given the absence of a legislative and administrative framework to protect refugees, and the non-involvement of the

Government in receiving and processing people of concern, UNHCR will continue to register asylum-seekers, undertake RSD and issue identity documents. Registration will continue for the remaining unregistered asylum-seekers in the country as well as new arrivals. UNHCR will continue to intervene to prevent the arrest, detention and *refoulement* of people of concern, as well as to secure their release where necessary.

UNHCR will continue to urge the Government to enact a legal framework for the protection of people of concern, and to put in place an administrative framework to ensure the implementation of refugee law, while also advocating for refugees to have the right to work and access to services. It will maintain its longer-term aim of having the Government accede to the Refugee Convention and its Protocol.

The working relationship between UNHCR and the Malaysian Government has improved, with constructive engagement in a variety of areas, including recognition of UNHCR documentation and access to refugees in immigration detention. However, many other areas, including education, health care and employment, still require further attention.

UNHCR will continue to promote durable solutions for all refugee populations in Malaysia. Given the lack of prospects for local integration, resettlement and voluntary return are the most viable options for most refugees.

To diversify resettlement to a range of resettlement countries, including newly emerging ones, UNHCR will promote fair and balanced resettlement opportunities for refugees from Myanmar and other countries.

UNHCR will continue to support refugee communities, while also working with its partners to provide assistance in the areas of basic needs and access to essential services, with a particular focus on health, education, community development and self-reliance.

Furthermore, UNHCR will advocate for the Government of Malaysia to allow Filipino Muslims in Sabah and other stateless populations to remain in the country. It will mobilize civil-society groups to gain a better understanding of their situation, and identify any potential for change. As sufficient funding becomes available, UNHCR will increase its activities in Sabah.

○ Constraints

The Government has not taken any decision on the issuance of work permits to refugees. UNHCR will continue to urge the Government to allow refugees to work, as the lack of this right has an enormous impact on this population.

Partner capacity in Malaysia remains limited, especially in the absence of international NGOs. UNHCR's local partners are committed to assisting refugees and asylum-seekers, but their programmes are small, and their capacity to expand remains restricted. At present, the partners working on refugee welfare and assistance in Malaysia are unable to mobilize the additional resources needed for the task.

Organization and implementation

○ Coordination

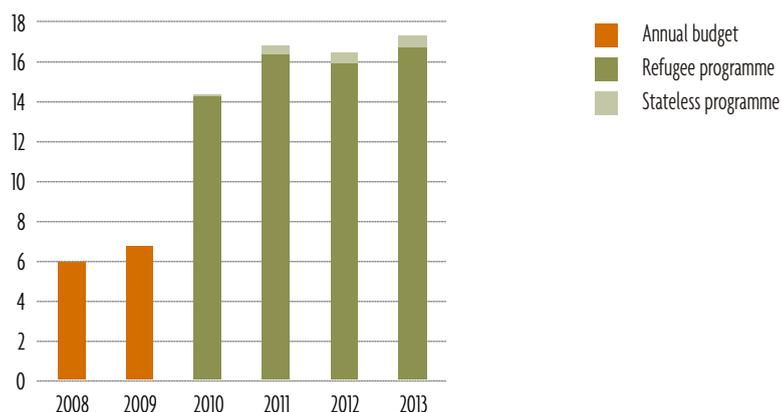
UNHCR Malaysia's operational strategy will require strong cooperation with partners. Contributions from civil society and NGOs, the Malaysian Government and the refugee communities themselves will be central to the shared effort. At the operational level, given the large numbers of urban refugees and asylum-seekers, refugee communities are crucial partners in a sustained effort to address the wide array of protection and assistance needs.

Financial information

The 2013 budget reflects the comprehensive needs of the populations of concern in Malaysia, while taking into account implementation capacity. UNHCR's requirements in Malaysia will amount to USD 17.4 million in 2013.

UNHCR's budget in Malaysia 2008 – 2013

Millions (USD)



Consequences of a funding shortfall

- A shortfall in funding would result in extended waits for registration for many asylum-seekers and delays in their status determination, meaning that many refugees would have to wait more than two years to be recognized as refugees and receive UNHCR identity cards. As a result, refugees would be at heightened risk of arrest and *refoulement*.
- Similarly, without sufficient resources, they would not receive sufficient support, and refugee communities would not be empowered to help themselves effectively. Fewer children would be able to attend community learning centres and fewer vulnerable individuals would have access to secondary medical treatment.
- Livelihood support, rather than reaching thousands of individuals, would only benefit a few hundred.
- Opportunities to promote and secure durable solutions would not be pursued, with the result that tens of thousands of refugees in Malaysia would continue to struggle to survive on their own, with very limited prospects for solutions to their situation.
- Most importantly, UNHCR's advocacy efforts to improve the protection environment would remain substantially constrained so that only a limited number of Government officials would be reached, and there would only be modest efforts to sensitize the people of Malaysia to the needs of refugees in order to build support within civil society to improve refugee policies.

PARTNERS

Implementing partners

NGOs

Future Global Network
Harvest Centre *Berhad*
Kumpulan ACTS (A Call to Serve) SdnBhd
Partnership in Enterprise
Taiwan Buddhist *Tzu-Chi* Foundation

Others

UNOPS
UNV/UNDP

Operational partners

NGOs

Agape Home
AMRUT
AOHD
Bless Community Service
Convalescence Home
Divine Life Society
Federation of Malaysian Sri Lankan Organisations
Federation of Reproductive Health Associations Malaysia
Good Shepherd
Grace Destiny
Health Equity Initiative
Kiwanis Damansara
Malaysian Social Research Institute
Mercy Malaysia
Migrant Ministries of Klang
Mobilisation Network
Muslim Aid Malaysia
Muslim Relief Agency
Nur Salam
PJ Caring Home
Positive Living Community Home
Psychiatric Homecare Services
Rumah Ozanam
Salvation Army
Shelter
Soroptomist International Johor Baru
Taiwan Buddhist *Tzu-Chi* Foundation
Tenaganita
Ti-Ratana
Women's Aid Organisation

Others

UNFPA
UNICEF
WHO

2013 UNHCR's budget in Malaysia (USD)

BUDGET BREAKDOWN	REFUGEE PROGRAMME PILLAR 1	STATELESS PROGRAMME PILLAR 2	TOTAL
Favourable protection environment			
International and regional instruments	0	79,203	79,203
Law and policy	150,726	86,203	236,929
Access to legal assistance and remedies	196,241	0	196,241
Access to territory and <i>non-refoulement</i>	293,146	0	293,146
Public attitude towards persons of concern	346,700	0	346,700
Subtotal	986,813	165,407	1,152,220
Fair protection processes and documentation			
Registration and profiling	1,092,500	0	1,092,500
Refugee status determination	1,265,773	0	1,265,773
Civil registration and civil status documentation	338,511	0	338,511
Subtotal	2,696,784	0	2,696,784
Security from violence and exploitation			
Prevention and response to SGBV	741,619	0	741,619
Freedom of movement and reduction of detention risks	491,006	0	491,006
Protection of children	289,541	0	289,541
Subtotal	1,522,165	0	1,522,165
Basic needs and essential services			
Health	1,535,341	0	1,535,341
Reproductive health and HIV services	1,205,759	0	1,205,759
Services for people with specific needs	701,788	0	701,788
Education	2,563,341	0	2,563,341
Subtotal	6,006,229	0	6,006,229
Community empowerment and self-reliance			
Community mobilization	1,746,360	0	1,746,360
Self-reliance and livelihoods	2,076,823	0	2,076,823
Subtotal	3,823,183	0	3,823,183
Durable solutions			
Voluntary return	150,726	0	150,726
Integration	331,586	0	331,586
Resettlement	557,664	0	557,664
Reduction of statelessness	0	397,955	397,955
Subtotal	1,039,976	397,955	1,437,931
Leadership, coordination and partnerships			
Coordination and partnerships	737,910	0	737,910
Subtotal	737,910	0	737,910
Total	16,813,060	563,362	17,376,422
2012 Revised budget (as of 30 June 2012)	16,051,888	510,384	16,562,272