



A Shady Tree

Hope *for*
Vulnerable
Refugees *in*
Malaysia
& Thailand



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Acknowledgments

The delegation could not have accomplished its mission were it not for the significant support and assistance of many dedicated and talented people. Special thanks go to Rosemary Chong and Paul Dass, S.J., of A Call to Serve, Alice Nah of the National Human Rights Society, and Simon Sang and his staff and volunteers at the Chin Refugee Committee for making so many of the arrangements to visit refugees and officials in Malaysia.

In Thailand the delegation benefitted from the expert assistance of so many that not all can be mentioned in the limited space. A special thanks goes to Catholic Relief Services—especially Aranyaporn (Meow) Techajaroenwong and Mark Pierce—as well as the Catholic Office for Emergency Relief and Refugees, Jesuit Refugee Services, and the International Rescue Committee. The wonderful staff of these organizations collaborated to arrange meetings with officials and refugees, as well as made ground transportation arrangements to multiple border camps.

Representatives of the International Catholic Migration Commission (ICMC) accompanied the delegation in Malaysia and Thailand. In Malaysia Charles Davey, ICMC's regional director based in Jakarta, joined the delegation. Ken Patterson, ICMC's operations director based in Geneva, accompanied the delegation in Thailand. The delegation is grateful to ICMC and its staff for the helpful perspectives and contributions to make this mission a success.

The delegation was extremely impressed and inspired by the professionalism and commitment exhibited by all involved in service to the refugees in Malaysia and Thailand. The delegation also appreciates the opportunities afforded by the U.S. Departments of State and Homeland Security and UNHCR staff in Washington, D.C., to discuss the mission and follow up recommendations.

Organizations/Persons Visited

(Including Pre- and Post-Mission Visits in Washington)

A Call to Serve—Kuala Lumpur, Malaysia
Bureau of Population, Refugees, and Migration, U.S. Department of State—Washington, D.C.
Catholic Relief Services—Bangkok, Thailand
Catholic Office for Emergency Relief and Refugees—Thailand
Chin Refugee Committee—Kuala Lumpur
Citizenship and Immigration Services, U.S. Department of Homeland Security—Washington, D.C.
International Rescue Committee—Bangkok and Mae Hong Son, Thailand
Jesuit Refugee Services—United States and Thailand
Tenaganita—Kuala Lumpur
Thailand Burma Border Consortium—Bangkok
Thailand National Security Council—Bangkok
U.N. High Commissioner for Refugees—United States, Malaysia and Thailand
U.S. Embassy—Bangkok

A UNHCR worker fingerprints a refugee in the Mae Hong Son camp in Northeast Thailand as part of the refugee registration process.



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Hope for Vulnerable Refugees in Malaysia & Thailand

“Rather than quenching our thirst with a glass of water, please provide us the shade of a tree, for it is longer lasting.”

—An elderly refugee, Tham Hin camp, Thailand



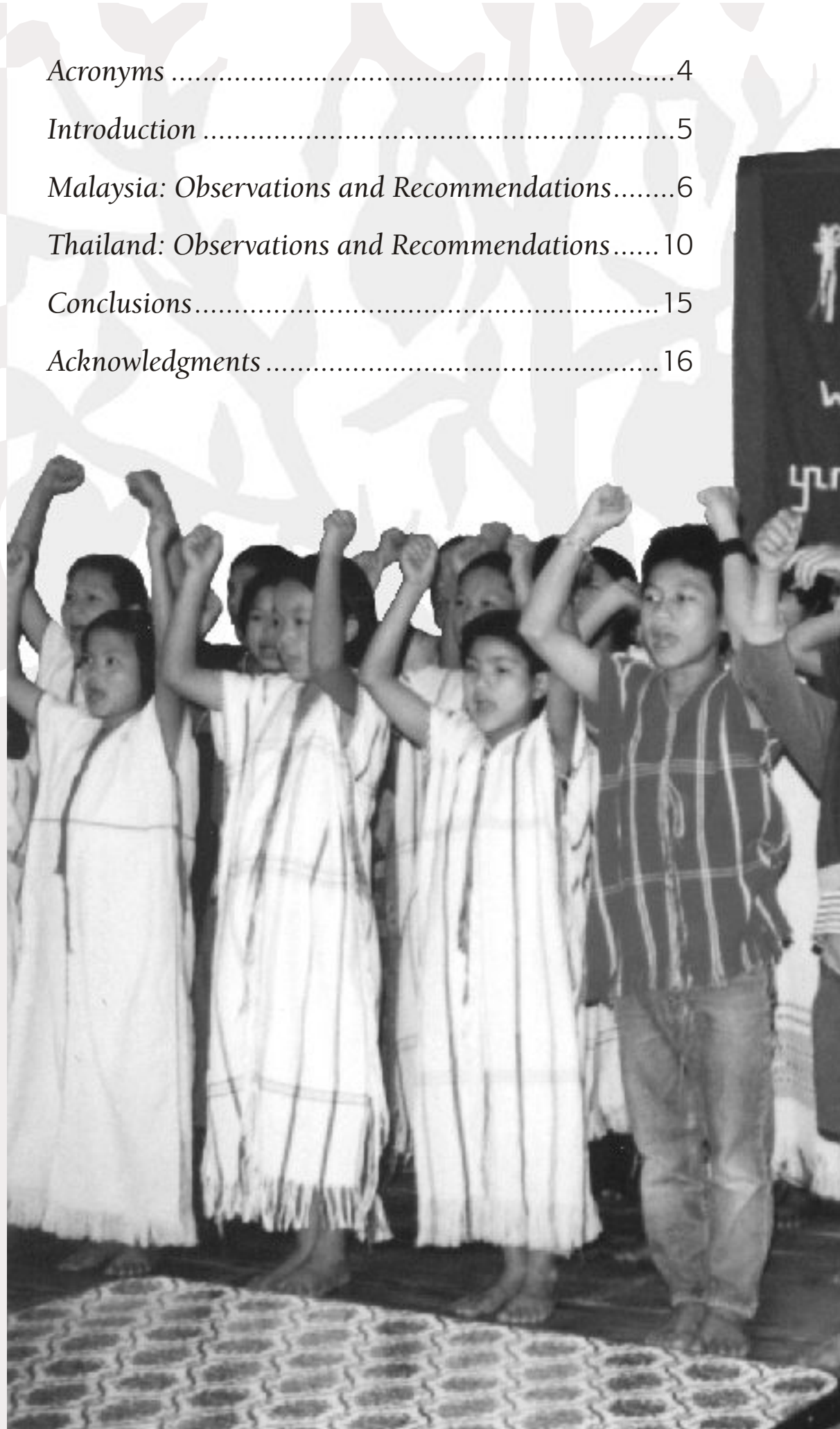
USCCB



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Even though there is little or no hope of returning to Burma, and no prospects of remaining in their countries of asylum, very few Burmese refugees are offered an opportunity to resettle in a third country. Unaccompanied refugee minors, in particular, need the option of this durable solution.



The general conclusion reached by the delegation is that resettlement is now the preferred solution for a large number of refugees in Malaysia and Thailand, particularly those who are considered especially vulnerable. It is also apparent that more efforts on behalf of URM's are necessary to provide more appropriate child welfare-based protection and better access to durable solutions, including resettlement when an assessment indicates.

The situation for refugees in Malaysia is quite urgent at this time, and the delegation strongly recommends that the U.S. State Department and the UNHCR, in partnership with NGOs, aggressively respond to the protection needs of the refugees there. This is a clear instance in which resettlement is a necessary tool of protection.

Children the world over possess a sense of curiosity. Unlike most children, however, this young Burmese refugee and tens of thousands like her must struggle for survival and are losing hope for a better tomorrow.

Conclusion



Observation 5

There is a growing disconnect between the strategy of temporary safe haven and the prolonged stay of refugees in the border camps.

The delegation noted a decided shift in the focus of refugees' concerns compared to prior visits. Many refugees are now actively discussing alternative durable solutions to continued temporary safe haven while awaiting the time for safe and voluntary repatriation. Two factors have contributed to this shift: changing circumstances within Burma and the inadequacy of the camps to meet the refugees' longer-term needs.

Camp leaders continually noted the lack of opportunities for higher education. Camp schools are run by international NGOs with refugee teachers who complete a two-year course of training. Many of the teachers are recent graduates of the camp schools. Schooling is provided for kindergarten through 10th grade. As a result, older youth and young adults have no further educational opportunities.

Many of the children expressed a desire for higher education and meaningful employment. And the delegation observed some younger children, too, who appear to have lost a sense of hope for their future. The refugees' concern for their children's future is likely to continue to deepen as each year more and more youth complete the education available.

Recommendations

- The Thai government should provide access to education and training programs for children who complete the 10th grade.
- The psychosocial well-being of refugee children should be taken into consideration when developing durable solution strategies and when making referrals at the individual case level.

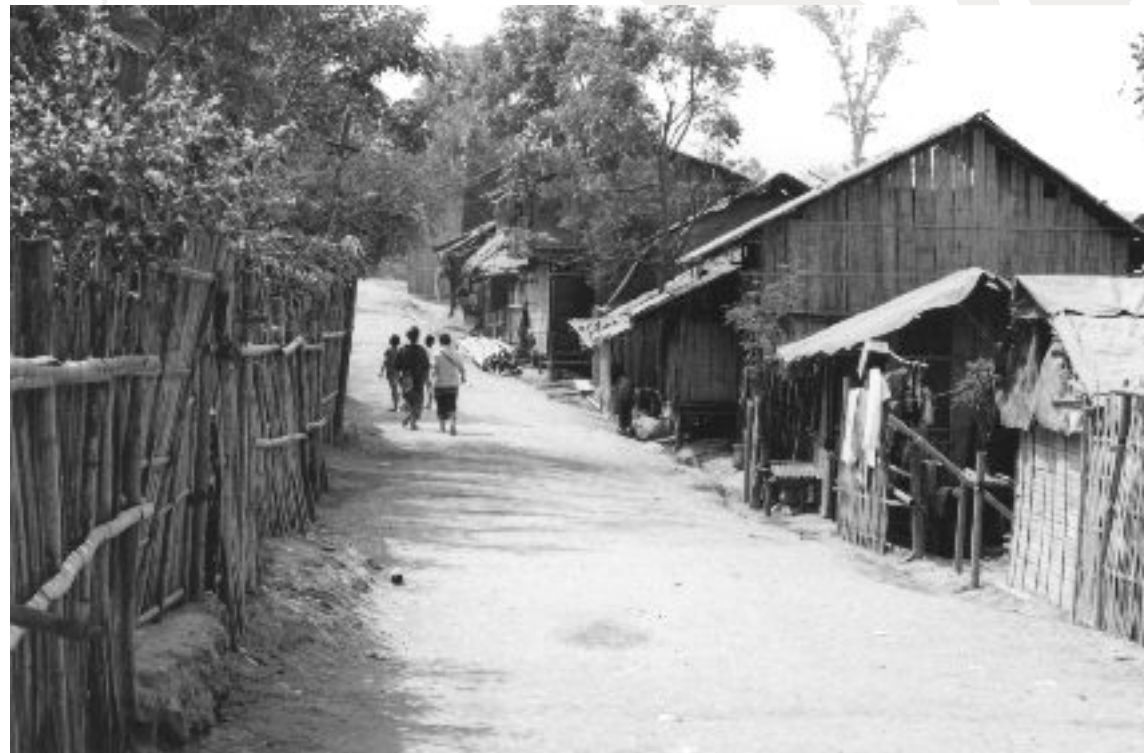


LIRS and USCCB believe that URM^s without prospects of reuniting with their parents or guardians should be considered for resettlement. The United States has comprehensive foster care programs designed to meet the unique needs of URM^s.



BID	Best Interest Determination
COERR	Catholic Office for Emergency Relief and Refugees
EVI	Extremely Vulnerable Individual
LIRS	Lutheran Immigration and Refugee Service
MRS/USCCB	Migration and Refugee Services of the U.S. Conference of Catholic Bishops
NGO	Nongovernmental Organization
PRM	U.S. Bureau of Population, Refugees and Migration
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
URM	Unaccompanied Refugee Minor

For the purpose of this report, URM's are understood to be refugee minors who are not currently living with their parents or those who were their primary care givers prior to their refugee situation. In Malaysia there is no accurate count of the number of URM's. In Thailand it is estimated that over 8,000 refugee minors are living in the border camps, in a variety of arrangements including in boarding houses, with blood relatives, with nonrelative foster families or on their own.



Refugee camps like the one in Mae Hong Son, Thailand, were established more than a decade ago in the mountainous regions near the border with Burma.

Observation 3

Among UNHCR and NGO staff, there is considerable confusion and misperceptions about the U.S. resettlement program.

The delegation regularly encountered misunderstandings of the U.S. resettlement program. Some UNHCR and NGO staff thought that the United States applies certain criteria based on the refugees' prospects for successful resettlement, e.g., language capacity and educational background. In the context of URM's many labored under the misunderstanding that resettlement entailed adoptions, and few UNHCR and NGO staff that the delegation encountered understood the U.S. system of specialized foster care programs for URM's. Likewise, there was a general lack of awareness of resettlement among the refugees. In a number of the camps visited, refugee leaders requested information about third country resettlement, including criteria for selection and procedures. Some refugees appear to believe that a familial tie to the United States is required to be considered for resettlement, leaving the delegation concerned that this misconception and the general lack of information about resettlement could lead to claims of family relationships that do not exist.

Recommendation

- The U.S. government should provide ongoing orientation to UNHCR and NGOs about the U.S. resettlement program and its criteria and applications.

Observation 4

Some 3,000 asylum seekers currently held in an urban detention center were to be relocated to camps after March 31.

The delegation learned that the Thai government had announced plans to move the asylum seekers held at the Bangkok Refugee Center to one of the border camps, likely the Tham Hin camp, beginning some time after March 31. There was considerable concern about this among the NGO community, largely because the camps are so crowded and the living conditions there are so poor. This concern was compounded by the fact that some of the refugees in the Bangkok facility had been diagnosed with tuberculosis.

Recommendations

- The Thai government should allow further resettlement processing to occur directly from the Bangkok Refugee Center, rather than relocating these refugees to the camps.
- The U.S. government should expedite resettlement consideration and processing for the refugee applicants in the Bangkok Refugee Center, once they have been medically cleared, and engage a Joint Voluntary Agency representative to accomplish this task.

Recommendations

- Child welfare experts should be employed in each of the camps (or in cluster areas) to
 - provide ongoing in-service training for COERR's EVI staff,
 - assist in the development and implementation of protocols and procedures for serving URMs, including conducting more comprehensive and ongoing BIDs, and
 - help establish oversight mechanisms to ensure appropriate child welfare conditions in the camps.
- UNHCR should ensure that no URMs are living in the camps without proper adult guardianship.
- While formal tracing is currently not possible within Burma, active tracing efforts should be carried out within Thailand, including among the camps and in the major urban refugee populations.
- For URMs whose BIDs indicate such, resettlement should be expeditiously pursued.
- Adoptions of refugee children should be discouraged, opting instead to make available specialized foster care in the United States for those URMs whose best interest determinations indicate this to be the best solution.

Between February 9 and 20, 2005, a delegation from Lutheran Immigration and Refugee Service (LIRS) and Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB) visited Malaysia and Thailand. The trip aimed to look at the situation of the refugees in each country, most of whom are Burmese, with a particular focus on the unaccompanied refugee minors (URMs) among them. This mission followed two earlier delegations' visits to the region during which the plight of the URMs was observed, concerns were raised, and recommendations were made for a more focused review. The delegation set out on this mission with the following objectives:

- To advocate for durable solutions for URMs, including resettlement when it is in the child's best interest
- To gather information and make recommendations to help the U.S. Bureau of Population, Refugees and Migration (PRM) meet its 2005 goal of developing "targeted strategies to improve the protection of unaccompanied minors"
- To persuade key U.S. and UNHCR officials that resettlement is the best durable solution for some URMs
- To investigate the protracted situation of other refugees in the region and make appropriate recommendations

The situation for the refugees in each country is very different. In Malaysia, there are no refugee camps, no legal status for the refugees and no comprehensive system for delivering refugee assistance. The refugees in Malaysia live as best they can as illegal migrants, often in quite insecure and desperate circumstances. In Thailand, there are long-standing, well-established refugee camps along the Burmese border. In these camps the refugees have protection, food, shelter, health care and access to education. However, significant economic activity is prohibited, and the refugees have no legal right to integrate into Thailand or otherwise build a future there.

Perhaps the delegation's mission is best captured in a comment by an elderly refugee in the Tham Hin camp in Thailand. He noted that a number of international delegations had visited his camp over the seven years that he and his family had been there, but that there had been no changes in the living conditions of the refugees in this camp. And then he said, "Rather than quenching our thirst with a glass of water, please provide us the shade of a tree, for it is longer lasting."

The delegation came away from this encounter and from the interaction with other refugees visited deeply committed to aggressively promoting durable solutions for the refugees who have lost so much and who have languished for so long in very difficult conditions.

In the report that follows the delegation briefly describes its relevant observations, and proposes recommendations for addressing the needs observed.

Members of the LIRS and USCCB delegation, from left: Mark Franken, Executive Director, MRS/USCCB; Anastasia Brown, Director, Refugee Programs MRS/USCCB; Bishop John Wester, Consultant to the USCCB Committee on Migration; Edith Lohr, President/CEO, Lutheran Social Services of New England, and Board Member, LIRS; Susan Krehbiel, Director for Children's Services, LIRS; and Ralston Deffenbaugh, President, LIRS



Observation 1

Refugees are in urgent need of protection and durable solutions.

Several forces combine to make the protection situation of refugees in Malaysia a matter of considerable urgency. As expected, on March 1 the Malaysian government began an aggressive crackdown on undocumented persons in the country, resulting in refugees who were seeking UNHCR status being apprehended and forcefully deported. This situation is exacerbated by the delays inherent in registering with the UNHCR for refugee documents. During the delegation's visit, numerous refugees, especially among the Chin Burmese, indicated having been in Malaysia for five years or more without securing an appointment with UNHCR to obtain refugee documentation and status determination. At least one nongovernmental organization (NGO) estimates that there are more than 10,000 Chin Burmese refugees in Malaysia, yet the UNHCR had only registered some 3,000 at the time of the delegation's visit.

In Malaysia the delegation visited with three groups of refugees: Chin Burmese, who are primarily Baptist and Roman Catholic; Rohingya Burmese, primarily Muslim; and Indonesians from Aceh Province, also primarily Muslim. Each group survives as best it can without any legal status or formal permission to work. The children are not allowed to enroll in school. The Acehnese have the advantage of speaking a form of the Malay language; they and the Rohingyas share the Islamic faith with most Malaysians.

The Chin Burmese, including those living in urban areas as well as those living in the jungles, face harassment, threats and abuse at the hands of local police, preying bandits and unscrupulous employers. Of all the refugees the delegation met, the Chin were most at risk, with no prospects of remaining in Malaysia and a deep fear of returning to the persecution they faced in Burma. Chin refugees visited in the jungle areas on the outskirts of Kuala Lumpur, many of whom have been in the country for as long as 10 years, expressed concern over the lack of a UNHCR presence in their settlements.

At the time of the delegation's visit there were several hundred persons of concern to the UNHCR who were confined to detention centers by Malaysian authorities. These are people who were apprehended and detained for lack of immigration documentation. The Malaysian government's policy is to expel these persons from the country. Once UNHCR becomes aware of such detainees, interventions are attempted in order to conduct expeditious refugee status determinations. UNHCR's objective for those in detention who are determined to be refugees is to obtain resettlement opportunities in a third country. However, according to UNHCR, resettlement countries have been slow to respond, resulting in prolonged detention and continued threat of forcible deportation of refugees.

UNHCR had adopted a three-pronged protection strategy: integration for the Rohingya, temporary protection for the Acehnese, and resettlement for the Chin. In general, the delegation's observations would indicate that this strategy was responsive to the need, at least prior to the crackdown effective March 1. But some refugees from the Acehnese and Rohingya groups indicated that they, too, desired resettlement for various reasons. However, UNHCR would consider resettlement for Acehnese or Rohingya refugees only if they had been put into detention by the Malaysian government.

In a recent report to Congress the Bureau of Population, Refugees and Migration indicated that one of its goals for 2005 was to develop "targeted strategies to improve the protection of unaccompanied minors." The Burmese URM in Malaysia and Thailand urgently need protection and durable solutions.

Observation 2

The thousands of unaccompanied refugee minors in the various border camps remain vulnerable, yet one durable solution, resettlement, is not being considered for them.

There is no formal structure within any of the camps' committees that addresses the situation of URMs. The level of involvement of various subcommittees and women's organizations regarding the care and supervision of refugee children varies from camp to camp.

UNHCR has contracted with The Catholic Office for Emergency Relief and Refugees (COERR), a Thai NGO, to provide protective services to URMs in the camps. COERR employs refugees in the camps to monitor the circumstances of the URMs and to report on their condition. The delegation observed unevenness among the various camps in the way this activity was conducted.

There has been a growth in the number of "boarding houses" in the camps where unaccompanied and separated minors are sometimes housed. Although these boarding houses are sometimes referred to as orphanages, there were conflicting statements about the familial circumstances of these children. For example, current reporting on a parent "in Burma" may mean that the parent was in Burma at the time of the URM's departure, even if the URM is no longer in contact with that parent. The UNHCR has engaged Save the Children Denmark to assess the situation of the boarding houses in an attempt to understand the nature of these facilities and the needs of the children in them. In the meantime UNHCR does not consider URMs for resettlement except in unique circumstances.

The delegation observed in some camps that some URMs were housed together in a group, but without adult guardianship. Though COERR's Extremely Vulnerable Individuals (EVI) staff visit these group homes periodically, the delegation remains concerned for the welfare of these children having to negotiate for themselves in that environment.

The delegation also observed group homes or boarding houses in some camps where the adult caregivers were clearly providing a loving environment to which the children were responding positively. Likewise, most camps also had URMs living in informal foster families. COERR EVI staff reported that they visited these homes about once a month, but it was not customary to talk with the child separately to assess the level of care and support.

In recognition of the need to enhance its services to URMs, COERR, with funding provided by UNICEF, recently engaged the services of a consultant to develop uniform assessment instruments and procedures for engaging the URMs under its care. The delegation was impressed with this initiative, and believes it will lead to enhanced protection, more consistent services and better oversight of the URMs.

The delegation also learned that best interest determinations (BIDs) were not being conducted for all URMs. It appears that BIDs are routinely conducted for urban URMs, but for URMs in camps, BIDs are only conducted in exceptional circumstances such as when a resettlement country makes a request. And the BIDs that are being conducted are limited in scope, not taking into consideration prospects for durable solutions, but rather focused on the immediate circumstances of the child. Likewise, there was no evidence that COERR or other NGOs were attempting to trace the children's family members. Intercamp tracing of family members only occurs at the request of the refugee.

Since the Tsunami disaster and the media attention to the plight of the children who lost parents, there has been an outpouring of sympathy and calls for international adoptions. Though the Burmese refugee children in Thailand were not the victims of this natural disaster, there have been increasing calls for adoptions of the URMs. The implications of such efforts were of considerable concern. Because the refugee experience by nature includes much chaos, separation and uncertainty, it is rarely possible to confirm whether a child is truly an orphan.

Observation 1

Refugees are in urgent need of protection and durable solutions.

The Thai government's strategy for the refugee situation along the border with Burma now includes resettlement, particularly for the most vulnerable among the refugees.

In a meeting with a representative of the Thai National Security Council the delegation learned of the government's current strategy for addressing the refugee situation:

- improving the conditions within the camps,
- enforcing requirement for refugees to remain in the camps,
- encouraging third country resettlement, especially for youth and children, and
- promoting changes in Burma, i.e., addressing the root causes.

The previous policy only considered resettlement for urban refugees, so this shift to include resettlement from camps needs to be pursued by resettlement countries. UNHCR staff in Thailand indicated that the U.S. government had not yet made clear its intentions regarding resettlement of Burmese.

Recommendations

- The U.S. government should express its strong interest in resettling refugees from the camps, and move expeditiously to set up the necessary infrastructure to accomplish this.
- A joint voluntary agency operation should be established immediately to help the U.S. government interface with the UNHCR and Thai authorities in the identification and processing of resettlement candidates.



The Tham Hin refugee camp near the Thai-Burma border has 9,000 inhabitants, most of whom have been in the camp over seven years. They eke out a living in one of the most congested refugee camps in the world.

Recommendations

- UNHCR should expedite the registration of all refugees in Malaysia, using such approaches as group registration, mobile registration mechanisms, greater use of NGOs to augment its capacity, and prioritization of particularly vulnerable refugees. Registration of the Rohingya, which had been suspended after the Government's announcement of integration possibilities, should be resumed.
- UNHCR protection officers should regularly visit refugee settlements throughout the country, offering protection and assistance to those in need, as well as determining and pursuing durable solutions, especially in the form of resettlement for those most vulnerable or without alternatives.
- Individuals who indicate an interest in resettlement should be given consideration regardless of their membership in a group that has been designated for a different protection response.
- The U.S. and other resettlement countries should immediately expand their resettlement programs for the Chin Burmese in Malaysia and expeditiously process those determined eligible. Group designations can be applied in determining refugee claims and joint voluntary agency operations should be established to assist in case identification and processing for resettlement.
- The U.S. and other resettlement countries should establish a rapid response capability for handling referrals from the UNHCR of detainees and other vulnerable refugees in urgent need of resettlement. In the short term, this may require the use of a "targeted response team" or other such rapid response mechanism.



Observation 2

Unaccompanied refugee minors face particularly urgent protection needs and challenges.

While UNHCR's Community Services staff conduct best interests assessments for those URM's who apply for refugee status, the delegation encountered a number of URM's among the Chin Burmese living in the jungle who had not been seen by UNHCR. These youths, mostly teenage boys, had been left to fend for themselves, and were attempting to eke out a living through day labor in the building construction industry. Because of their age and lack of adult caregivers, these young refugees live in fear.

In meetings with Rohingya and Acehnese leaders it was clear that they also were aware of URM's. This seemed to be primarily because the children had become orphans while living in Malaysia. The leaders were unable to provide any additional information on circumstances or care arrangements for such children.

Recommendations

- UNHCR should mount aggressive and comprehensive outreach efforts, employing child welfare experts, to identify URM's and respond to their immediate protection needs.
- UNHCR should ensure that best interest determinations are conducted on all URM's on a regular basis, with emphases on durable solutions, including resettlement.
- UNHCR should engage NGOs with child welfare expertise and experience in refugee services to augment its capacity to conduct best interest determinations and other child welfare services.



Thousands of ethnic Chin refugees from Burma attempt to survive in makeshift encampments in the jungles of Malaysia without the protection of UNHCR. Many have been there for more than five years.

Observation 3

The number and needs of the refugees in Malaysia surpass the capacity of the NGOs currently involved in assisting refugees.

The delegation met with several NGOs in Kuala Lumpur that are providing services to and advocating for refugees. We also observed some of their programs and services for refugees. These efforts and the commitment of the NGOs involved, though limited due to resources, were impressive. In many instances, the NGO presence is the critical link to basic necessities such as medical care, food and clothing. It was clear, however, that the capability of the NGOs to meet the needs of the refugees, especially in such areas as protection, child welfare services and human rights advocacy was more limited than the situation requires. While some of the NGOs are affiliated with international organizations, and some receive international support, the delegation could find no evidence of an international NGO presence to support and augment these local NGOs' efforts.

Recommendation

- An international NGO should establish a presence in Malaysia to support and encourage current NGO efforts and to enhance the capacity of the NGO community in such areas as advocacy, service to vulnerable populations, especially URM's, protection, and assistance to UNHCR in a range of areas.

Observation 4

Most refugee children have no access to education.

Among the three major refugee groups visited by the delegation, lack of educational opportunities for their children was a common concern. The Rohingya refugees are the only group to have established their own school, which serves approximately 60 children. As of this year, the school is receiving some financial support from UNHCR.

Recommendations

- As a signatory to the Convention on the Rights of the Child, the Malaysian government should provide to all children registered by UNHCR as persons of concern access to education consistent with the educational rights of its own citizens.
- UNHCR should ensure meaningful access to education programs for all children of concern, including the expansion of specialized education programs as necessary to meet this goal.