

## **Sri Lankan Tamil Refugees: Malaysia February 2015**

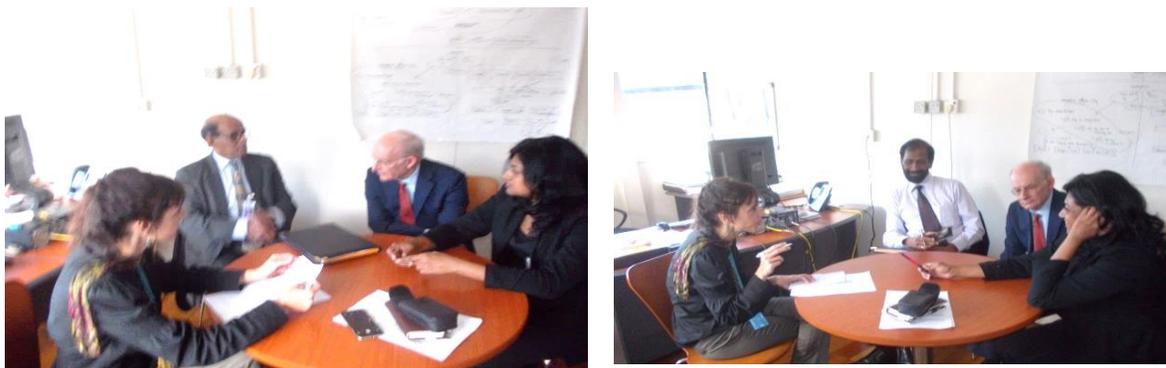
by David Matas

I went to Malaysia the week of February 2 to 7 2015 as part of a delegation of the NGOs TGTE (Transnational Government of Tamil Eelam) and I-TRAN (International Tamil Refugee Advocacy Network). Other delegation members were Kanthan (Arasa Ratnakanthan) from Australia, Sam Ratna from Canada and Maha Ramakrishnan from Malaysia.

### **Meetings**



**Meeting with Parliamentary caucus in Malaysia on Feb 5, 2015**



**Meeting with UNHCR in Malaysia on Feb 5, 2015**



### **Meeting with Prime Minister Office in Malaysia on Feb 6, 2015**

1. On the 4th February, Kanthan and I met with Member of Parliament Lim Lip Eng.
2. On the 5th February, 2015 Sam Ratna, Maha Ramakrishnan, Kanthan and I met in Parliament with the Malaysian Parliamentary Caucus on Human Rights in Sri Lanka. Amongst those present from the caucus were Members of Parliament Kasthuri Patto, Kula Segaran and Sim Tong Him.
3. The same day we also met with Anna Pelosi from the Office of the United Nations High Commissioner for Refugees (UNHCR).

4. On the 6th of February, 2015 we four met in Putrajaya with Daniel Lo, Special Officer (Human Rights) to Senator Paul Low, Minister in the Prime Minister's Department.

## **Numbers**

The Sri Lankan Tamil population in Malaysia can be broken down into seven different components. Some have legal status. Some entered Malaysia illegally or entered legally and overstayed without making refugee claims.

Those who have sought refugee protection

1. are awaiting registration at the Office of the United Nations High Commissioner for Refugees (UNHCR). Registration takes up to two years.
2. have already registered, awaiting refugee status determination.
3. have succeeded in their refugee applications and become refugees.
4. have failed in their refugee applications and are awaiting appeals from their rejections, or
5. have been rejected in their refugee applications and either did not appeal or who failed on appeal.

There are a few Sri Lankan refugees or asylum seekers who are not Tamils. Group 1, those awaiting registration, at the end of 2014 consisted of approximately 4,000 Sri Lankans. Group 2, those awaiting refugee status determination or appeals, as of the end December 2014 consisted of 2,610 Sri Lankans. Group 3, those who have succeeded in their

applications but have yet to resettle, consisted of 1,586 Sri Lankans. 41 persons of Sri Lankan origin were resettled in 2014.

Waiting times between registration and refugee status determination can be up to one year. Between refugee interview and refugee decision, on average, waiting times are three and half months. Waiting times between rejection and an appeal decision are at least one year. The recognition rate for Sri Lankans is about 14%

### **Refugee recognition**

The numbers of those who succeed at either the first level or appeal and those who fail at both the first level and appeal is more stable. In theory, there is a big difference between those who succeed in the claims process and those who fail. In practice, not so much.

In theory, recognized refugees in Malaysia can be resettled abroad. However, mostly they are not. Those who fail could be deported or could, on their own initiative, move on. But again, mostly they are not deported and do not move on.

Those who succeed receive cards from the UNHCR indicating that they are refugees. However, these are UN cards, not Government of Malaysia cards. Formally those cards give refugees no status in Malaysia. The cards do not allow the refugees to work; they do not allow their children to go to school; they do not prevent arrest, prosecution and conviction for not having documentation.

Legally, UNHCR refugee cards do not even prevent forcible removal to the country of danger fled (*refoulement*). Typically the Government of Malaysia does not remove those with UNHCR refugee cards. There are however exceptions.

All this is true of the whole refugee and asylum seeking population in Malaysia. The Sri Lankan Tamil population has, in addition, several distinctive features.

The UNHCR typically considers to be at risk on return those Tamil Sri Lankans who had some perceived association with the LTTE, the Tamil Tigers. Other Sri Lankan Tamil claimants are typically denied recognition. Resettlement countries, in contrast, tend to reject for resettlement anyone with any relationship with the LTTE, no matter how distant.

Sri Lankan Tamil refugees are caught then in a Catch 22. The facts necessary to justify their recognition become sufficient to justify their resettlement. So, they are, more than others in Malaysia, a long staying population.

Second, there is a huge indigenous Tamil population in Malaysia, an estimated 1.7 million. There are 523 Tamil language schools, many with insufficient students. The local Tamil infrastructure would make local integration for Sri Lankan Tamil refugees particularly easy if it were allowed. But, it is not.

The presence of so many locals does however have an informal integrating effect. Sri Lankan Tamil refugees are less likely to be arrested as foreign illegals, because they do not look foreign. It is easier for them to find jobs than other refugees, albeit on the black market without work permits, because there are so many local Tamil employers. This albeit informal integration leads the UNHCR and resettlement countries to consider this population less vulnerable than other refugee populations and again makes resettlement less likely.

Third, the difficulties and dangers the Sri Lankan Tamil population face back home are particularly long standing, dating from July 1983, the start of the civil war. There are periodic shifts in the situation, leading to claims that all problems are solved. However, these shifts, one after the other, turn out to be chimeras and the persecution continues.

The latest shift, the election of the Sirisena government in January 2015, has led to a new round of proclamations that the refugees can return. Anyone who has followed this history over the decades and the makeup of the Sirisena government has to be sceptical.

Voluntary repatriation for refugees is always an option. The arrival of the Sirisena government has not led to a massive shift in numbers of refugees willing to exercise that option. There is every indication that the fact of the Tamil refugee diaspora will continue.

## **UNHCR**

There are two obvious defects in the UNHCR refugee determination process in Malaysia right now, the absence of lawyers and the absence of reasons for decisions. The two are to a certain extent related. The absence of reasons for decision at the first level makes it difficult to impossible for lawyers to assist on appeal.

The UNHCR resettlement process has its own problems. It sends out resettlement letters which are misleading.

### **a) Reasons**

The UNHCR publication "Procedural Standards for Refugee Status Determination under UNHCR's Mandate",<sup>1</sup> published in September 2005, provides:

#### "6.2 Notifying Applicants of Negative RSD Decisions

- Wherever possible, Applicants whose claims are rejected should be informed in writing of the reasons for the rejection. Notification should permit rejected Applicants to make an informed decision about whether an appeal is appropriate and to focus appeal submissions on relevant facts and issues."

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<sup>1</sup> <http://www.refworld.org/pdfid/42d66dd84.pdf>

The publication states that UNHCR Offices should a standard form letters and select appropriate boxes. The publication then states "Additional comments may be included in the appropriate spaces" in the form letter "where this would permit the applicant to better understand how the reasons for rejection relate to the specific facts of the applicant's claim."

The publication then states in bold "As a best practice," the completed form letter

"should include sufficient details to permit the applicant to know the following:

- Evidence submitted by the applicant that was considered to be insufficient or was not accepted by the decision maker, and a summary explanation of why the evidence was rejected;
- The reason why the accepted facts do not make the applicant eligible for refugee status."

Rejected claimants in Malaysia are sometimes told verbally reasons for refusal at counselling interviews. However, not being lawyers themselves and not having lawyers present, they are ill equipped to understand what they are being told. Moreover, even this informal manner of communicating reasons is sometimes omitted.

Notes to file indicate at least in summary form what the reasons for refusal are. However, the UNHCR considers these notes to be internal only; they will not be communicated either to the claimant or his or her counsel.

Canadian visa office notes to file of applications for permanent residence based on membership in the Convention refugee abroad class or the humanitarian protected persons abroad designated class are available to applicants with a Privacy Act request and to their legal representatives in Canada with a consent and an Access to Information Act request. The Supreme Court of Canada considers these notes to form part of the reasons for decision along with the refusal letter.<sup>2</sup>

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<sup>2</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817

The justification the UNHCR in Malaysia gives for failure to follow its own procedures about reasons is resource constraints. Yet, not providing written reasons creates its own resource wastage. Claimants engage in appeals which written reasons may have convinced them would be pointless. As well, more or less every appeal, without written reasons, is likely to be misdirected, wasting time and effort for both the claimant and those who decide the appeals.

The UNHCR<sup>3</sup> indicates that it has embarked on a recalibration exercise in part "in order to enhance the protection status of Persons of Concern in the country". The result of that exercise should be the provision of reasons for decision.

**Recommendation:** The UNHCR in Malaysia should provide written reasons for its refugee status determination which are not limited to form letters with boxes checked off and refer to the facts specific to each case. In the absence of formal reasons, the UNHCR should make accessible to claimants its notes to file explaining the decision.

## **b) Legal representatives**

The UNHCR Global Consultations on International protection of May 2001 on Asylum Processes<sup>4</sup> provided

"At all stages of the procedure, including at the admissibility stage, asylum-seekers should ... have access to legal counsel."<sup>5</sup>

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<sup>3</sup> UNHCR Factsheet Malaysia September 2014

<sup>4</sup> Document number ec/gc/01/12

<sup>5</sup> Paragraph 50(g).

The UNHCR publication "Procedural Standards for Refugee Status Determination under UNHCR's Mandate",<sup>6</sup> published in September 2005, provides:

"• Applicants may be accompanied by a legal representative during the RSD interview."<sup>7</sup>  
The applicant is expected to provide written consent.

The publication further explains

"• The legal representative will have the opportunity to make brief submissions at the end of the RSD interview.

• The legal representative should ... limit interventions during the RSD interview to those relating to breaches of procedural fairness that could not be adequately addressed or remedied if they were raised in closing submissions."

In Malaysia, there is nothing actively barring or discouraging legal representatives from participating in interviews. The legal profession nonetheless has been left with the impression that they are not welcome. This, of course, makes refugee determinations more difficult and bewildering for the claimants.

Legal representatives with proper written authorizations could just show up at refugee status determination interviews. What would be preferable is that the UNHCR hold a briefing session for lawyers and other potentially interested non-lawyer representatives explaining procedures. There was such a briefing, we were told, a few years back.

**Recommendation:** The UNHCR in Malaysia should hold a briefing session for lawyers and other potentially interested non-lawyer representative on the refugee status determination procedure and the manner in which legal representatives can usefully assist claimants going

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<sup>6</sup> <http://www.refworld.org/pdfid/42d66dd84.pdf>

<sup>7</sup> Paragraph 4.3.3 "Participation by Legal Representatives"

through this procedure.

### **c) Resettlement**

The UNHCR sends out a form letter to recognized Sri Lankan refugees which states:

"After careful review and consideration of your case, UNHCR regrets to inform you that you do not currently qualify for resettlement submission for the following reason(s):

(x) Your circumstances do not fulfil the resettlement criteria of UNHCR or resettlement countries.

In view of the above, you may wish to consider voluntary return to Sri Lanka. We remain ready to counsel you on the voluntary repatriation procedures, and you may contact us at [MLSLURST@unhcr.org](mailto:MLSLURST@unhcr.org)

Please note that this does not in any way affect your refugee status. The Office will continue to assist you as needed or appropriate."

The letter does not state what the resettlement criteria are for the UNHCR or for resettlement countries. It does not state the manner in which the refugee has failed to meet resettlement criteria. The letter states that the refugee does not "currently" qualify, leaving open the possibility that the refugee might qualify tomorrow if not today.

A blanket suggestion of voluntary repatriation for refugees is inappropriate. Refugees are recognized as refugees because they have a well founded fear of persecution on return to their country fled. Asking a refugee to consider repatriation is asking the refugee to consider voluntarily submitting to persecution. Making such a blanket suggestion, without anything particular to relating to the facts of the individual case, is insensitive to the nature of refugee recognition.

Moreover, the suggestion that refugees do not meet resettlement criteria is misleading both for the UNHCR and for resettlement countries. One UNHCR resettlement criterion is "Lack of Foreseeable Alternative Durable Solutions".<sup>8</sup> That description fits the Sri Lankan Tamil population in Malaysia exactly.

That, of course, should not be so. Much of this report makes recommendations so that local integration in Malaysia for Sri Lankan Tamil refugees would be possible. The UNHCR is making active efforts, as much as it is within its powers to do so, to help make local integration for refugees in Malaysia possible. However, to suggest that local integration is happening now or will happen in the foreseeable future is wishful thinking.

Refugees can be resettled, for instance, in Canada if they are sponsored. A particular refugee may not now have a sponsor. However, the refugee could in theory, through contacts in Canada, arrange for one. It is unhelpful to suggest that sponsorship is unavailable. More helpful would be suggestions about what steps could be taken to attempt to arrange sponsorship.

There were, according to the Internal Displacement Monitoring Centre, up to 90,000 internally displaced persons (IDPs) in Sri Lanka as of May 2014. Repatriating refugees in this context runs the risk of just adding to the IDP problem. The UNHCR should not encourage voluntary repatriation to Sri Lanka until the situation of the internally displaced is resolved.

Why are these letters being sent out? They do not communicate decisions. They provide no

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<sup>8</sup> UNHCR Resettlement Handbook, Revised edition July 2011 section 6.8

information about individual cases.

They look to be expressions of exasperation by the overworked. The letters seem to be telling the refugees: "Do not bother us with constant resettlement queries. You are wasting your time and ours by asking about resettlement. Leave us alone."

The overworked at the UNHCR should take out their frustrations on their bosses, not helpless refugees. These letters serve no useful purpose. They tell the refugees nothing of substance. They cause unnecessary anguish to refugees. They should cease to be sent out.

**Recommendation:** Refugees should not be sent letters that they do not currently meet resettlement criteria.

## **Documentation**

The Government of Malaysia has given a commitment not to prosecute in court for being in Malaysia illegally without documents those individuals registered with the UNHCR<sup>9</sup>. The Attorney General in 2005 issued written directions stating that the Government would refrain from prosecuting holders of UNHCR documentation<sup>10</sup>.

However, there is no similar direction from the police or from the Immigration authorities. The commitment of the Attorney General does not prevent refugees and UNHCR registered asylum seekers from being arrested and prosecuted for not having Government of Malaysia issued identity documents and in fact they often are.

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<sup>9</sup> UN Human Rights Council, Eleventh session, Agenda item 6, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, Malaysia. UN Document A/HRC/11/30, 5 October 2009, Paragraph 12.

<sup>10</sup> FIDH and Suaram "Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination" March 2008 page 9

Simple provision by the individual of UNHCR documents does not forestall prosecution, conviction and sentencing. The immigration authorities and police typically expect the UNHCR to verify the documentation the individual provides.

This verification effort, given the number of detainees and the resources of the UNHCR, puts a substantial burden on the UNHCR and imposes significant delays before the verification can occur. Verification typically takes up to three months, during which the individual may be convicted, sentenced and punished. The sentence can include not only imprisonment or fines, but also whipping or caning.

In theory, there is a simple solution to the identification problems recognized refugees face in Malaysia, issuance of Government of Malaysia identity cards. It is obviously roundabout for the UNHCR to issue cards which the Government will recognize only after verification, pending which the refugees may be detained, convicted, sentenced, fined and caned. This procedure involves unnecessary expense for both the UNHCR and the Government of Malaysia as well as cruelty inflicted on the refugees.

In light of the particular features of the Sri Lankan Tamil population set out earlier, this report recommends at the very least that the Government of Malaysia engage in a pilot project Government identification card system for this population. If the pilot project shows the viability of the system, it can be expanded generally and permanently.

**Recommendation:** The Government of Malaysia should issue identity cards to UNHCR recognized refugees. As a pilot project, the Government could begin this issuance with Sri Lankan Tamil refugees.

## **Detention**

There are thirteen detention centres located around the country with a capacity of 6,000 places. Malaysia law allows detention for up to fourteen days for foreigners before they are brought before a magistrate. The UNHCR is aware of three Sri Lankans in detention.

Those arrested can include persons awaiting registration appointments, those registered but not yet interviewed by the UNHCR for refugee status and those rejected at the first level but awaiting appeal, as well as those recognized as refugees. All of these populations are categories of legitimate international concern.

Appointment card holders, those awaiting registration, once arrested, are not released. They may be subject to detention, prosecution, whipping, and deportation. Sometimes they can avoid that result by paying bribes. Corruption should never be justifiable. Yet, a crackdown on corruption which leaves the situation of refugees and asylum seekers untouched would increase overall misery.

UNHCR staff carries out basic registration interviews in detention for potential persons of concern. Refugee status determination is not normally conducted in detention, because the UNHCR is usually able to arrange for the release of persons of concern and conduct refugee status determinations after release. If that is not possible, then refugee status determination may be conducted in detention.

The Malaysian Government releases those who are registered with UNHCR after a UNHCR verification and request to release. Those registered but not yet interviewed for refugee status determination are released if the UNHCR requests. Those who have UN refugee cards, indicating that the UN has recognized them as refugees, and are arrested eventually

get out and are not removed.

Arrested adult male Sri Lankans who were refused by the UNHCR on initial determination and have appealed remain in detention pending disposition of appeals. The UNHCR has asked for release of such individuals but has been largely unsuccessful.

Those seeking release from immigration detention mostly do so without legal assistance. Those accused of immigration offences are allowed counsel, but appearance of counsel on short notice in remote locations is difficult. As well, accused are not always advised of their right to counsel or given an opportunity to contact counsel.

The UNHCR helps some detainees. The Outreach and Protection Intervention Unit of the UNHCR provides legal assistance with retainer counsel to persons of concern.

There needs to be anticipatory preparation. Those in Malaysia without status, while they are free, even those who are recognized refugees, need to set in place their defenses. After they are detained, it becomes too late. Every refugee or asylum seeker should provide a written authorization to a lawyer, with all relevant identity information, so that, should the refugee or asylum seeker be detained, the detainee could contact a lawyer right away who could represent the detainee.

There needs as well, on the side of the legal profession, to be the development of a local roster of lawyers who are willing and able to help release refugees from detention. I-TRAN could potentially help develop such a roster.

**Recommendation:** There should be developed a roster of lawyers who are willing and able to help release refugees from detention. Every refugee should provide an authorization to one of these lawyers, in case the refugee is detained.

## **Education**

Sri Lankan Tamil refugees in Malaysia are not allowed to study at the public Tamil schools. Instead they go to refugee schools, partially funded by the UNHCR and partially funded by the refugees themselves. The UNHCR is aware of approximately 250 Sri Lankan children of school-going age. This figure does not include children of those waiting to be registered with the UNHCR as well as children of those rejected in refugee status determination after appeal who remain in Malaysia.

The refugee schools do not have the facilities or the standards of the public schools, partly because the refugee schools are pitched to a lowest common denominator from several countries. Teachers are not as qualified. Books and other teaching materials are in scarce supply; they normally have to be purchased independently by refugees who do not have the funds.

Students at refugee schools can sit for external O (ordinary) level and A (advanced) level exams. However, the level of preparation is such that few can pass these exams in their entirety.

Moreover, for a few refugee students who do qualify, through the O and A level exams, for post secondary education, there is nothing they can do with that accomplishment. Local Malaysian post secondary institutions, like the local public schools, will not admit these students since they do not have government issued identity cards. Foreign countries will admit students only if they have passports. The Government of Sri Lanka will not issue passports abroad. A passport applicant has to return to Sri Lanka for a passport, an unrealistic option for a refugee.

If the refugees had government issued identity cards, the access of Sri Lanka Tamils to the Tamil schools and post secondary institutions would be determined by the Education Ministry. The absence of identity cards forestalls the involvement of that Ministry.

Identity cards then are more than just a means of avoiding arbitrary detention. They become a precondition for access to public education.

The responsibility for determining whether identity cards can be issued to refugees devolves on the National Security Council. They are reluctant to meet with outsiders. That is the experience, we have been told, of others. It was also our experience. We sought a meeting with them. They asked for an agenda of items we wanted to discuss. We provided the list of items, including access to identity cards and access to education, but never heard back from them.

Because we did not meet with the National Security Council, we do not know what concerns they might have about issuing identity cards to refugees. What others told us was that the National Security Council was concerned that the issuance of identity cards to refugees would constitute a pull factor, inducing refugees to come to Malaysia who might not otherwise come and increasing the illegal immigrant population of Malaysia.

Insofar as this is indeed the position of the National Security Council, it is misplaced. Refugees flee their home countries to avoid persecution. Making them miserable in the country of arrival does nothing to alleviate that persecution. It just adds to their overall woe. Refugees are pushed, not pulled. That push exists even in the absence of pull factors, a fact to which the presence of the existing refugee population attests.

**Recommendation:** The Government of Malaysia should take whatever steps are necessary to allow Sri Lankan Tamil refugee children to access the Tamil public school

system.

### **Work permits**

Sri Lankan Tamil refugees work in Malaysia, but work illegally. There are enough local Tamil employers to give the refugees work, should they want to work. However, their illegality means that they can be underpaid, poorly treated and abused by employers without legal recourse. Moreover, they can be harassed by the police for bribes or arbitrarily detained. The notion that allowing refugees to work legally would be a pull factor is a justification for cruelty. Being inhumane is unjustifiable under any circumstances.

Malaysia had a temporary regularization of status program for illegal workers called the 6p's program. The 6p's refer to the six stages of the program - registration, legalization, amnesty, supervision, enforcement and deportation; the Malay word for each begins with the letter "p". Not every illegal worker who registered under the program was going to be legalized. Rather legalization depended on determinations whether there was a need for the work of the registered illegal worker and the suitability of the worker to do the work. Those not legalized were to be deported.

According to the answers given to the frequently asked questions put out to explain the program, UNHCR registered refugees were supposed to register under the program. Yet, deporting refugees on the basis that there is no demand for their work or that they are not suitable for the work offered flies in the face of the obligation to protect refugees and the reality of the refugee experience.

The Government of Malaysia indicated at one point that there would be some variation in the program which would be appropriate for refugees. However that never happened.

The program created confusion and uncertainty for refugees, as well as additional risk. Refugees and asylum seekers were damned if they did and damned if they didn't. If they did not register under the program, they were violating its rules, which required registration. If they did register under the program, they had, at least *prima facie*, subjected themselves to the risk of deportation for reasons unrelated to the risk they faced on return.

The 6p program is now over. It is no longer possible to register under it. There was a lot of dissatisfaction with the program when in operation. Registration came at a substantial cost to the applicants. Some of the registration was contracted out to private businesses who were making money of the registration process. The registration often did not lead to anything. In many situations, it was registration in a vacuum.

Reviving the program and making it applicable to refugees, or having a new program like the old which is refugee specific, would expose refugees to the malfunctions which the 6p program manifested. So it is not really a model for regularization of the work situation of refugees.

As well, the 6p program required applicants to have passports. This is not a viable prerequisite for Sri Lankan refugees since Sri Lanka requires passport applicants to return to Sri Lanka. The Government of Malaysia should accept UNHCR refugee acceptance as sufficient for the purpose of legalisation.

There should be no need for an actual employment offer or a determination that the refugee is suitable for the work offered. The Government of Malaysia should, if it adopts the recommendation that it would issue Malaysia identity cards to recognized refugees, or to recognized Sri Lankan Tamil refugees as a pilot project, indicate that these identity cards are sufficient to allow the holders to work legally in Malaysia.

**Recommendation:** UNHCR recognized refugees should be allowed to work legally in Malaysia.

## **Health**

The UNHCR has developed, along with a private insurance company, TUNE, a private health insurance policy for refugees. Cost is 120 Malaysian dollars a year. The initial claims experience has been problematic. Reimbursement for expenses incurred within the ambit of the policy has been slow and difficult, requiring repeated follow up requests.

The policy is undersubscribed. Fewer refugees have taken up the policy than expected. Since insurance is the pooling of risk, the smaller the pool, the less effective the insurance.

The policy as well has limitations, not covering every health expenditure. It is not a complete answer to the exclusion of refugees from the Malaysian health system.

Here too the provision of Malaysian identity cards would make a difference. The Government of Malaysia, if it issues Malaysia identity cards to recognized refugees, or to recognized Sri Lankan Tamil refugees as a pilot project, should indicate that these identity cards are sufficient to allow the holders to receive health benefits in Malaysia equivalent to those of Malaysian citizens.

**Recommendation:** UNHCR recognized refugees should receive full health benefits in Malaysia.

## **Advocacy**

The Minister responsible for the National Security Council is the Prime Minister. Since, ultimately, remedying the plight of Sri Lankan Tamil refugees in Malaysia will be a political decision, arriving at that decision means engaging the Malaysian political process.

Two avenues into the political process are the Parliamentary Caucus on Human Rights in Sri Lanka, which is sympathetic to the situation of Sri Lankan Tamils in Malaysia, and the Malaysian Indian Council (MIC). The MIC forms part of the Government coalition and represents, as its name suggests, the interests of the Indian community in Malaysia, which is predominantly Tamil. Education for Indians is more than just a priority for the MIC. Helping Indians obtain a good quality education has been the MIC's main thrust.<sup>11</sup>

The Parliamentary Caucus could host a parliamentary briefing on the situation of Sri Lankan Tamil refugees in Malaysia. The Malaysian Indian Council, as part of the government, can take proposals to address their situation directly to the cabinet.

As well, an international parliamentary caucus on Sri Lankan Tamil refugees should be formed. Such a caucus would address more than Malaysian issue. Nonetheless, Malaysia should be front and centre in the list of concerns and priorities of such a caucus.

**Recommendation:** An international parliamentary caucus on Sri Lankan Tamil refugees should be formed. That caucus once formed, the Parliamentary Caucus on Human Rights in Sri Lanka and the Malaysian Indian Council should all focus on remedying the plight of Sri

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<sup>11</sup> "Education a key MIC thrust" The Star Online, Wednesday August 2, 2006

Lankan Tamil refugees in Malaysia.

## **Recommendations**

1. The UNHCR in Malaysia should provide written reasons for its refugee status determination which are not limited to form letters with boxes checked off and refer to the facts specific to each case.
2. In the absence of formal reasons, the UNHCR should make accessible to claimants its notes to file explaining the decision.
3. The UNHCR in Malaysia hold a briefing session for lawyers and other potentially interested non-lawyer representative on the refugee status determination procedure and the manner in which legal representatives can usefully assist claimants going through this procedure.
4. Refugees should not be sent letters that they do not currently meet resettlement criteria.
5. The Government of Malaysia should issue identity cards to UNHCR recognized refugees.
6. As a pilot project, the Government could begin the issuance of Malaysian identity cards to refugees with Sri Lankan Tamil refugees.
7. There should be developed a roster of lawyers who are willing and able to help release refugees from detention.
8. Every refugee should provide an authorization to one of these lawyers, in case the

refugee is detained.

9. The Government of Malaysia should take whatever steps are necessary to allow Sri Lankan Tamil refugee children to access the Tamil public school system.

10. UNHCR recognized refugees should be allowed to work legally in Malaysia.

11. UNHCR recognized refugees should receive full health benefits in Malaysia.

12. An international parliamentary caucus on Sri Lankan Tamil refugees should be formed.

13. The international parliamentary caucus once formed, the Parliamentary Caucus on Human Rights in Sri Lanka and the Malaysian Indian Council should all focus on remedying the plight of Sri Lankan Tamil refugees in Malaysia.

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