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## Malaysia's Policy towards the Rohingya Refugees

### Polisi Malaysia terhadap pelarian Rohingya

Nur Syazwani Muzafarkamal,\* & Ishtiaq Hossain\*\*

#### Abstract

This paper focuses on Malaysia's policy towards the Rohingya refugees in the country. The first part of this paper analyses the reasons for the Rohingyas to choose to come to Malaysia. The next part discusses the Immigration Act 1967 as part and parcel of any adopted policy. Interviews and related documents have been used to guide this research in order to achieve this objective. Finally, the last part explains the perceptions of government agencies, as well as the NGOs towards the arrival of the Rohingya to Malaysia. In addition, the role of the UNHCR in Malaysia is elaborated.

**Keywords:** Rohingya immigrants, Immigration Act 1967, United Nations High Commissioner for Refugees, Non-governmental Organizations.

#### Abstrak

Kajian ini memberi tumpuan kepada polisi Malaysia terhadap pelarian Rohingya di negara tersebut. Ianya terbahagi kepada empat bahagian. Bahagian yang pertama untuk jilid ini mengkaji sebab-sebab pelarian Rohingya memilih untuk datang ke Malaysia. Bahagian seterusnya membincangkan Akta Imigresen 1967 sebagai sebahagian daripada polisi yang telah diambil. Temu bual dan dokumen-dokumen yang berkaitan telah digunakan sebagai rujukan di dalam kajian ini supaya dapat menemui objek-

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tifnya. Akhir sekali, bahagian yang terakhir menerangkan mengenai tanggapan agensi kerajaan dan juga ahli Pertubuhan Bukan Kerajaan terhadap kedatangan pelarian Rohingya ke Malaysia. Sebagai tambahan, peranan Pesuruhjaya Tinggi Bangsa-Bangsa Bersatu untuk Pelarian di Malaysia juga akan dihuraikan.

**Kata Kunci:** Pendatang Rohingya, Akta Imigresen 1967, Pesuruhjaya Tinggi Bangsa-Bangsa Bersatu untuk Pelarian, Pertubuhan Bukan Kerajaan.

### Introduction

According to a UNHCR report, as of end June 2019, there are some 152,220 refugees from Myanmar living in Malaysia. Out of this number, some 95,110 are Rohingyas, 24,250 Chins, 9,750 Myanmar Muslims, 4,000 Rakhines and Arakanese, and other ethnicities from Myanmar ("UNHCR" 2019, para.2). This paper aims to focus on Malaysia's policy towards the Rohingya refugees in the country. It is divided into four parts. The first part of this paper will discuss reasons for the Rohingyas' choice of Malaysia as the destination for seeking refuge. The next part will discuss the Immigration Act 1967 as part and parcel of any adopted policy. Interviews and related documents have been used to guide this research in order to achieve this objective. Finally, the last part will discuss the perception of government agencies, as well as NGOs towards the coming of the Rohingya to Malaysia. In addition, the existence of the UNHCR in Malaysia will be elaborated.

### Why Malaysia?

In this paper the concepts of Responsibility of Protect (R2P) and the Humanitarian Assistance would be used to analyse Malaysia's policies toward the Rohingya refugees. Malaysia has been a popular South-east Asian destination for many refugees since the 1970s (Intan, Sity, & Nor Azizan 2016, p.12). Many Rohingyas arrive in Malaysia by boats and other means, and according to a representative of MyCare, a Malaysian NGO, even walk all the way to Malaysia. The Rohingya refugees made their choice in coming to Malaysia to have a better life in spite of the fact that they will be considered illegal migrants.

For many years, the Rohingyas in Malaysia, specifically those living in Selangor, Pulau Pinang, and Kedah, formed a community. In Selangor, specifically in the Batu Caves area, there is a small settlement where many Rohingya refugees live in poverty. The men in the Rohingya community would work despite their illegal status and would be paid in small amounts; even so, they will do any job they can get so as to have a source of income. For the men in the Rohingya community, the source of

income means being able to survive. The women in the community would try to take good care of their children at home. However, the children are unable to attend schools because of their illegal status in the country. In order to alleviate this problem, there are many Malaysian volunteers who would come to the Rohingya areas to provide assistance such as teaching children basic subjects without charging any fees.

As reported in “Fears of boat exodus” (2018, para.14), the Rohingya refugees arriving in Malaysia by boats experienced being violently tossed about in the churning sea on their way to safety. One refugee told the AFP that a fishing trawler would transfer the Rohingya refugees to a bigger Malaysia-bound ship out at sea. At its peak, the transnational smuggling networks passed refugees from boat to boat before docking in Thailand, and then moving them overland to secret campsites in Malaysia. The Rohingyas are in desperate need for leaving Rakhine State, and while trying their luck in setting off for Malaysia, they become prime targets for human trafficking. These Rohingyas were unknowingly offered an empty promise of a fresh start in Malaysia Rohingyas were unknowingly offered an empty promise of a fresh start in Malaysia “Abandoned at sea” (2018, para.2) provided they pay a ransom.

The Rohingyas while trying to escape by boat would usually use a small fishing boat with about 70 people crammed in a tight space. Thus, it is no wonder many died at sea due to flimsy boats, crammed conditions on boats or even bad weather. As a result, the UN refugee agency (UNHCR), is running awareness campaigns in the camps on the dangers of trusting people smugglers and taking flimsy boats into the open ocean. While no one knows exactly how many died in the transit camps or at sea, according to Barron (2017, para.1), the UNHCR found that at least 24 refugees and asylum seekers had died inside detention centres from 2015 to 2017.

### **Malaysia’s Response to the Influx of the Rohingya Refugees**

According to Aizat (2014, p.4), there are several push and pull factors which contribute to the choice of Malaysia as a destination for refugees. Push factors includes situations of conflict in the original countries, civil wars, government suppression, ethnic cleansing, and natural disasters. In the case of the Rohingyas, being a victim of ethnic cleansing by its own government put them in a ‘do or die’ situation. Although fleeing from their country carries a high risk, it outweighs the choice of staying and being tortured by the military.

Pull factors attracting refugees to Malaysia include the political stability, already stable inter-ethnic relations existing in the country, as well as Malaysia's economic prosperity. It should be noted that the Rohingyas have their own community in several areas of Malaysia which includes locations in Penang, Kedah, Batu Caves, and many more. The Rohingyas from Rakhine State have been known to be eager to come to Malaysia after discovering their relatives were surviving in Malaysia despite not receiving proper treatment from the Malaysian government. As mentioned earlier, there is an established Rohingya community in the country, and schools for refugees are free for children. One more pull factor that attracts Rohingya refugees to Malaysia is having to do with Islam being the country's main religion.

However, Malaysia is not able to distinguish between refugees and illegal migrant workers (Adam 2018, p.107). Being a non-signatory country to the 1951 Refugee Convention, Malaysia considers all refugees as illegal migrants. Although the country does not offer a solution to their statelessness, Rohingya refugees in Malaysia are not subjected to violent persecution by the state.

Human trafficking would also be a concern for Malaysia. For example, human trafficking camps, which had been operating for at least six months, were found in May, 2015 in Wang Kelian, Perlis. There, 139 graves and 28 abandoned camps were discovered in the dense jungles along the Thai-Malaysia border (Praveen 2015, para.2). The investigation concluded that some of the Rohingyas who did not manage to pay the ransom to the traffickers were killed before having their bodies buried.

On May 25<sup>th</sup>, 2015, the Federal Police reported that some of the 28 camps discovered under Op Wawasan Khas, launched on May 11, had been operating since 2013 ("The secrets of Wang Kelian exposed" 2017, para.8). It was revealed that some members of the police had known about the camps, but they took bribes to keep them a secret. As long as the some members of the law enforcing agencies work hand-in-hand with these syndicates, eradicating this problem will be an uphill battle.

Malaysia's response to the arrival of Rohingya refugees changed over time. At first, the Malaysian government chose to push away the boats entering Malaysian waters. In 2015, Malaysia's former Deputy Home Minister, Wan Junaidi Tuanku Jaafar, stated that Malaysia would use tough measures, including turning back asylum-seeker boats and deportation, in order to send the "right message" (Beh 2015, para.5). The "right message" referred to Malaysia being unwelcoming to refugees, with the hope that no more boats will arrive due to domestic policies that

did not recognize refugees. If the authorities let many boats enter Malaysia, then it was highly likely that more refugees would be encouraged to reach Malaysia.

The Najib-led government in Malaysia faced strong criticism from the international community for pursuing the policy of pushing away the refugee boats. As a result of these criticisms, the decision to turn away the boats laden with Rohingyas was reviewed. The government announced that they would allow the boats to enter Malaysian waters before sending the Rohingya refugees to the Immigration department. Even today, many boats carrying Rohingya refugees fleeing Myanmar are treated humanely by the Malaysian government.

In protest over Myanmar's treatment and crackdown of the Rohingya Muslims, Malaysia considered pulling its team out of a major regional soccer tournament co-hosted by Myanmar (Reuters 2016, para.1). This was a sign that Malaysia was opposed to actions of the Myanmar government against the Rohingyas. Malaysia was supposed to provide basic necessities for the refugees to continue their journey before pushing them away. However, as a gesture of humane treatment of Rohingyas, Malaysian officials did not carry out such actions ("Malaysia to Create Pressure" 2017, para.5). This can be considered as an example of the principle of Responsibility to Protect (R2P). This is because of the fact that if Malaysia and other countries let the refugees remain at sea, then they could perish at sea. The fact remained that refugees had the right to live.

It should be noted, however, that refugees do not have easy or comfortable lives in Malaysia. Any refugees in Malaysia are in danger of being arrested and detained due to being categorized as illegal migrants, even if they are welcomed in Malaysia. If the refugees have an UNHCR card, it may help them to be released from detention; however, the function of the UNHCR card is limited. For example, possession of the card does not give refugees the right to work and get an education, nor does it give them a right to healthcare. Some have criticized this policy of the Malaysian government toward the refugees. Their argument was that since Malaysia did everything it could to help Bosnian refugees, then why not do the same for the Rohingya refugees?

Unlike the Indochinese refugees who arrived in Malaysia in 1975, nowadays refugees in Malaysia do not live in camps. Instead, many live relatively invisible lives among the local community. For example, many Rohingyas and refugees belonging to other nationalities live in cramped low-cost flats in the city where they could find odd jobs in restaurants

and factories (Letchamanan, 2013, p.86). There are some NGOs in Malaysia that are willing to assist refugees lighten the burdens they face while living in Malaysia. One such Malaysian NGO is the Malaysia Relief Agency (MRA) which co-operate with the UNHCR in Malaysia in handling children of Rohingya refugees.

The MRA even set up a proper school, complete with volunteer teachers, for Rohingya children aged between 7 to 17 years old. The annual fees for the school was set at RM20 per year, which made basic education in Malaysia possible for the Rohingya children since the right to an education was stripped by the Myanmar government. In an interview with one of the authors of this paper Tan Sri Datuk Seri Syed Hamid bin Syed Jaafar Albar stated: "Although we may feel that our assistance is a small effort that we could do, it gives impactful and meaningful gestures to the Rohingya who had been abandoned by their country for a long time."

Proper medical treatment is a form of humanitarian assistance that can be provided by Malaysian authorities. However, access to health services for the Rohingyas in Malaysia is limited (Caitlin & Tania 2016, p.9). Due to the lack of medical services available to refugees, it becomes the responsibility of Malaysian NGO's such as Mercy Malaysia to provide health assistance. The organization was involved in setting up clinics and conducting basic medical health screening, medical consultations, as well as the distribution of hygiene kits.

As part of Malaysia's effort to show the world its changing perspective on the rights of refugees, a pilot project allowing the Rohingyas to work legally was initiated. This project was confirmed by a representative of Malaysia's Ministry of Foreign Affairs and was launched in March of 2017. The offer was open only to Rohingyas who were UNHCR cardholders and had undergone health and security screenings (Melissa 2017, para.10). Successful applicants were to be placed with selected companies in the plantation and manufacturing sector. The aim of the project was to address the human trafficking issue and prevent exploitation of Rohingyas as forced labour and illegal workers in the country. Although the pilot project was not well received, at least the Malaysian government had done something to uplift the living conditions of the Rohingyas. Malaysia would continue to speak out against oppression of the ethnic Rohingya in Myanmar and called on the world to channel humanitarian aid to Rohingya refugees who sought shelter in Bangladesh ("Malaysia Will Continue" 2017, para.1).



### *Immigration Act 1959/63*

In addition to not signing the 1951 Treaty, Malaysia simply does not have the laws in place to recognise and provide for refugees. The lack of national or enforceable international frameworks to deal with refugees in the Southeast Asian region continues to cause problems as national governments are unable or unwilling, to step in to support, register, or acknowledge refugees in their countries. The existing laws in Malaysia prevent refugees from being able to move and live freely in Malaysia.

Since the refugees are not recognized as such by the government, they technically do not possess any rights under Malaysian law. The Malaysian Immigration Act does not differentiate between refugees and illegal immigrants, and so refugees would always live in fear of being arrested by the authorities (Aizat 2016, p.5). A large number of Rohingya children are born in this country, but since Malaysia does not practice the principle of *jus soli*, citizenship is not granted to these children. Refugees who have been detained in immigration detention centres are at risk of indefinite confinement.

Despite the restrictive policies on refugees, Malaysia – through keeping a somewhat blind eye toward refugees already living in the country, as well as through the actions of individuals and institutions – has provided refuge to thousands of Rohingya asylum-seekers (Rashvinjeet 2017, para.12). The Centre for Human Rights Research & Advocacy (CENTHRA) stressed that the Immigration Act is perfect in its own way and that its primary purpose is to protect sovereignty. There needs to be a better mechanism to deal with the Rohingyas, and this could be done by rewriting the law to differentiate between refugees and illegal migrants. The primary reason refugees come to Malaysia would be to seek refuge from the dangers in their own countries, and it is undeniable that some illegal migrants come to Malaysia due to economic reasons. The Malaysian government can use this special rule to exempt refugees, like the Rohingyas, from being unfairly arrested and detained.

In addition, allowing refugees to seek legal employment would provide them with a means of supporting themselves and providing for their family. They will be less dependent on the state for protection and social welfare, and less likely to be exploited by organised crime or human traffickers. Through incorporating refugees into the national workforce, they can potentially become a benefit to the national economy, which was the reasoning behind the launching of the previously mentioned pilot project.

However, there are issues that are still problematic. For example, the bribery of officials. There have been warnings against bribing Immigration officers because the Malaysian government would take stern action against people trying to corrupt Immigration personnel. However, as seen from the case involving the mass graves discovered in Wang Kelian, officials had indeed been bribed. One step that could be taken to prevent such incidents of bribery would be giving strict punishments to those involved.

There have been many arguments, leading to many answers, on whether or not Malaysia should ratify the 1951 Refugee Convention. There are some in support of signing the treaty who bring up the condition of the Rohingya refugees in Malaysia, as well as the urgent need to rectify the convention and the 1967 protocol. The primary reason behind support for these treaties lay in the fact that the treaty obligations would allow refugees to live in Malaysia comfortably on humanitarian grounds.

There are those who believe that the 1951 Refugee Convention should not be ratified since there is another issue that should be taken into consideration. Ratification could lead to an exodus of refugees from their home countries due to socio-economic problems, and they would be leaving for Malaysia. As Malaysia is embroiled in a financial crisis, the burden of accepting more refugees may worsen the situation. If the treaty was signed, it would open the floodgates for anyone to seek refuge in Malaysia.

The Malaysian government should understand the urgent need to regularise the rights of refugees through executive orders and minor amendments to regulations. By doing so, it may facilitate the registration process of refugees in Malaysia. As it stands, there are many practical steps that could be taken without signing the convention. It should be noted that Malaysia not having signed the convention does not mean that the country has no responsibilities over the issue.

While refugees are not allowed to work legally, many of them work informally. Refugees may distance themselves from the medical care due to fears of being arrested, some may delay seeking medical care until it is extremely serious, and others do not seek medical care at all. As refugees are subjected to unsubsidised foreigner rates, which they could not afford. As a result, they are often barred from accessing vital medical diagnoses and treatments. Thus, it is commendable that the Health Ministry would be extending the 50% discount of 'foreigner rate' for medical care to all holders of UNHCR documentation. This is an important and

promising step in improving access to healthcare for refugees and asylum seekers.

The Malaysian Immigration Act 1959/63 [Act 155] is the key legal document in setting up the control of entering and exiting the country, and to ensure its national security. The Ministry of Home Affairs (MOHA) firmly believe that the act is not restrictive in nature, however, there are some steps that could be taken to improve the situation of the refugees in Malaysia.

### *The IMM13 Card*

The IMM13 card, or H7 as it was once known, was a document issued by the immigration department to any person, other than a prohibited immigrant, who wished to enter Malaysia. It is important to note that refugees are defined as prohibited immigrants who do not possess valid travel documents or passports. Due to Malaysia's longstanding policy on not being a signatory to the 1951 Convention Relating to the Status of Refugees and 1967 Protocol Relating to the Status of Refugees, the National Security Council Directive No. 23 under National Security Council (NSC) is the only formal document that serves as a guideline in managing refugees in Malaysia (Home Affairs, 2018).

Although the Philippines and Cambodia are signatory countries to the 1951 Refugee Convention, Malaysia and Thailand are the chosen places seeking refuge. Lego (2012, p.81) mentioned that the Malaysian government has offered IMM13 permits to Rohingya refugees who have been arriving in Malaysia as early as the 1980s, and in larger numbers starting in 1992. As cited by Khairi (2016, p.483), these have been done purely for humanitarian purposes for a limited period of time since the uniqueness of this card offers better coverage in which refugees are allowed to stay in Malaysia, temporarily receive rights to work, and to get an education.

The IMM13 card had a number of pros and cons. The IMM13 cards are considered as being similar to visas that permit the holder to reside and work legally in Malaysia and, crucially, allow children to go to state schools. In some instances though, there fake IMM 13 cards were created. In other instances, some officers took advantage of refugees' desperation by overcharging them when they applied for the card. As a result, the registration process for the IMM13 card was stopped in all states except for Sabah.

Based on the current situation involving the Rohingya, re-introducing the IMM13 card would be a good idea. As the number of the

refugees are increasing day by day, having this card will provide a win-win situation for both side. On one hand, the Malaysian government will know the exact number of refugees staying in Malaysia by imposing basic conditions so that all Rohingya will have a chance to register. In return, the refugees would be able to be legally employed, thus reducing the burden placed on the Malaysian government.

There is still room for Malaysia to improve on the actions that need to be taken for the betterment of the Rohingya. There were some weaknesses in term of providing better safe card and protection for refugees in Malaysia. A regularization programme to register all refugees in Malaysia and grant them temporary rights to live and work in the country is unachievable for the time being. Through this programme, the authorities will have a chance to know the refugee community in Malaysia.

#### **UNHCR in Malaysia**

It should be noted that the UNHCR has been allowed by the government to operate in Malaysia to deal with the refugees. The UNHCR began its Malaysian operations in 1975 when Vietnamese refugees started arriving by boat to Malaysia and other countries in the region. The UN body registered 62,000 Rohingya refugees in Malaysia, but the organization estimates there could be another 30,000 to 40,000 who are here illegally and do not have official refugee status. On a side note, obtaining official refugee status is a lengthy process that can only happen in the Malaysian capital, Kuala Lumpur (Rashvinjeet 2018, para.8.).

In addition, the Home Affairs Minister could consider exercising the power granted under Section 55 of the Immigration Act 1959/63 to exempt refugees, asylum seekers and stateless persons as a "class of persons" from prosecution and detention. The government could also formally recognise the mandate and technical expertise of the UNHCR to assess, identify, and process refugees and asylum seekers according to internationally recognised standards. The authorities could consider recognising the UNHCR card as a legally valid document of identification for refugees and asylum seekers. In addition, more should be done to ensure all Rohingya and other refugees are registered with the UNHCR and provided with UNHCR cards; something that is not the case as of this moment. These steps, if enforced properly, would immediately allow refugees to come out of the shadows and enjoy a greater degree of freedom, security, and wellbeing (Rashvinjeet 2018, para.3).

Interestingly, the current government *Pakatan Harapan* government has started the ball rolling by making three promises to refugees in

Malaysia in its *Buku Harapan*. It has promised to provide UNHCR cards for the refugees, to give a legal right to work, and give them labour rights on par with those enjoyed by locals, and to ratify 1951 International Convention on Refugees so that they are given proper assistance. To date, the government is still working on that.

Under the 1959/63 Immigration Act, the Employment Act of 1955 and Employment (Restriction) Act of 1968, refugees are prohibited from working in Malaysia. Instead, many resort to work illegally in “3D jobs” and fall victim to criminal exploitation. Malaysia currently relies on a high percentage of foreign workers who are employed in low-skill urban jobs. This reliance can be reduced by employing refugees, and by doing so, refugees would be able to seek legal employment which would give them a means of supporting themselves and providing for their families.

For example, Malaysia once provided education opportunities to Bosnian refugees. Some of them took on leadership positions after returning to Bosnia. As seen from the experience of the Bosnian refugees, this is a good solution that should be pondered upon. Refugees would be less dependent on the state for protection and social welfare, and they would be less likely to be exploited by organised crime or human traffickers. The main goal is not to steal jobs away from Malaysian citizens, but to allow refugees to become self-sufficient, productive, and no longer stateless (Melissa 2018, para.10).

The report also mentioned that there had been an increase in initiatives by the government since the Universal Periodic Review (UPR) in 2013 that addressed refugee issues (Asia Pacific Refugee Rights Network 2018, para.3). Among the initiatives outlined were the establishment of a refugee registration-tracking project known as the Tracking Refugee Information System (TRIS), pilot programmes permitting Rohingya UNHCR cardholders to work in plantation and manufacturing sectors, and the inclusion of asylum seekers and refugees as a marginalised group in Malaysia’s 2016 National Human Rights Action Plan.

It is difficult to precisely ascertain why the Malaysian government allows the UNHCR to operate in Malaysia and implement its activities related to refugees and asylum seekers. Efforts to interview the UNHCR in Malaysia were declined while attempts to speak with representatives from the Malaysian government could not be possible due to time and other constraints. What could be ascertained is that, in the public discourse, the Malaysian government allows the presence of the UNCHR on the basis of ‘humanitarian reasons.’ Malaysia has allowed

the UNHCR to register the Rohingyas as refugees, but not to protect them (Meghna 2017, p.648).

Although the UNHCR works with Malaysia's Ministry of Foreign Affairs, Ministry of Home Affairs, and Immigration Department on refugee issues, the lack of a specific government agency or body that assumes responsibility for coordinating with UNHCR and other stakeholders on refugee issues has constrained efforts to increase protection space in Malaysia.

In Malaysia, Rohingya refugees suffer from a sense of helplessness and lack of control over their future. The UNHCR is a dominant authority in their lives, similar to a government body, but one they struggled to lobby or engage with.

The UNHCR's activities in Malaysia include:

1. Registration: Registering the refugees
2. Refugee Status Determination: To determine whether a person seeking international protection is considered a refugee under international, regional or national law.
3. Protection: Legal representation in court for offences under the Immigration Act
4. Assistance: Healthcare, education, financial support for vulnerable individuals, shelter, counselling and other welfare needs.

Given Malaysia's domestic legal framework related to non-discrimination and equality, it is perhaps unsurprising that the Rohingyas and other refugees and asylum-seeking groups face pervasive and systematic discrimination and inequality in the country. Additionally, while national laws such as the Child Act of 2001 apply to all children in principle, however, these have not been extended to non-citizen children.

### **The Perception of Government Agencies and NGOs toward the Arrival of Rohingyas in Malaysia**

The Rohingyas fleeing their country as a result of ethnic cleansing by Myanmar's military, should not be viewed as a burden in determining the kind of assistance a state could provide. Malaysia condemns all arbitrary, summary, and extrajudicial killings, domestic and sexual violence as well as destruction of private properties of the Rohingya people in Rakhine State. The Ministry of Home Affairs (MOHA) has had the view that Malaysia has assisted and will continue to collaboratively assist in addressing the Rohingya crisis within its capacity. However, modalities consisting of financial, technical and material resources in migrant

hosting states such as Malaysia are imperative for burden and responsibility sharing purposes.

It has been mentioned before that Malaysia does not have any specific legal framework on refugees and asylum-seekers, and so they are not recognized under Malaysian domestic law. When crossing international borders, migrants are to be kept out of harm. In the Malaysian government's perspective, those entering Malaysia are obliged to enter and depart from the country through prescribed and approved routes, authorized landing places, authorized airports or authorized points of entry.

In addition, no person shall, unless compelled by accident or other reasonable cause, enter or leave Malaysia except at an authorized landing place, airport or point of entry under the Immigration Act 1959/63 [Act 155]. However, individuals who contravene or fail to comply with the provisions of Malaysia's Immigration Act 1959/63 [Act 155] and Passports Act 1966 [Act 150] will be guilty of an offence against the regulations, and shall be liable on conviction to a term of imprisonment or to a fine determined by the Government of Malaysia.

The results of the interviews carried out as part for research for this article, mostly signal a developing point of view that the Rohingyas in Malaysia is a burden for the State. Nonetheless, according to Tan Sri Dr. Syed Hamid bin Tan Sri Syed Jaafar Albar, the former Foreign Minister of Malaysia, the Rohingyas are well accepted in Malaysia. However, for the long run, there are ongoing questions on how long the Rohingyas will stay in Malaysia since they are not meant to stay here forever. Similar to the Vietnamese and Bosnian refugees in Malaysia, they would be sent back to their country at the right time, or to a third country for resettlement.

In the meantime, MRA continues to champion the fate of Rohingyas in Malaysia by opening a special school called the Rohingya Community School (RCS) located in Kg Cheras Baru, Cheras, for Rohingya children. In this school, the Rohingya children are given both science and religious education so that they have the foundations for a knowledgeable generation, a sense of identity, as well as noble morals. In the case of MAPIM, they have been providing basic necessity such as foods and drinks, while MyCare has been focusing on the psychological front. They have set up Women Training Centres to support emotional and mental well-being of the women traumatized as result of the crisis. They also provide training for youths to ensure they are kept busy with beneficial things.

Although Malaysia is not a rich country, the government helped the Rohingyas who come to Malaysia to seek humanitarian assistance. Citizenship documentation could be part of the solution to the crisis. Refugee children born in Malaysia should be issued birth certificates to show that they were born on Malaysian soil. Older refugees, or those newly arrived in Malaysia should have proper documentation such as the UNHCR refugee identification card; which is essential to live and work in Malaysia. Contrary to popular belief, there are laws in the Malaysian federal constitution that safeguard against statelessness, such as the automatic provision of Malaysian citizenship if a person resides in Malaysia for at least one year (Monash University Malaysia 2018, p.3). Thus, in theory, this law could grant citizenship to Rohingya and children with one Malaysian parent. However, this legislation is yet to be enforced on a practical basis.

Malaysia drafted the International Comprehensive Plan of Action (CPA) for Indochinese Refugees in Kuala Lumpur in March 1989, and it was subsequently adopted at the international conference in Geneva in June of the same year (Nadarajan 2018, p.5). The establishment of the CPA not only stemmed the flow of boat people from Vietnam, Cambodia, and Laos but also provided a framework for refugee status identification for asylum seekers from these countries and their voluntary repatriation and resettlement to third countries (Nadarajan 2018, p.5). Perhaps Malaysia may apply the same action towards the Rohingyas.

### Conclusion

Malaysia has received a number of groups of refugees since its independence in 1957. To name a few: the Muslim-Thai refugees, the Vietnamese refugees, and the Bosnian refugees. The policy that Malaysia pursued to deal with those refugees have varied based on the situation those refugees faced. Yet, Malaysia did its best to give the best treatment as it could. For instance, the Bosnian refugees got the opportunity to get a proper education in Malaysia. Meanwhile, the Vietnamese refugees, popularly known as the 'Boat People' were located temporarily in specific area in Malaysia known as *Pulau Bidong*. The influx of the Rohingya refugees in recent years to Malaysia is undoubtedly alarming. Whether Malaysia likes it or not, it has to handle the problem. It is important to understand Malaysia's policy towards the Rohingyas. The history of protection for refugees in Malaysia shows that religion as a shared bond is a major factor to qualify for protection in Malaysia. Refugees should have the basic rights of security, employment, health, and education. The Roh-



ingyas are, by all legal standards, nationals as well as an indigenous ethnic group of the Union of Myanmar. By accepting them to work in Malaysia, it is not about to steal jobs away from Malaysian citizens, but to allow refugees to become self-sufficient, productive and providing solutions to their statelessness. Sending refugees away is easier said than done. Pretending that they don't exist is akin to putting ones head in the sand. It is imperative for policymakers to seriously look at how to best manage them. By all the facts mentioned, it is part and parcel of efforts that may be done by Malaysia to protect the Rohingyas in a responsible manner. If Malaysia remains silent on this issue, who else will initiate the steps to protect the Rohingyas?

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