

RESEARCH NOTE

MANAGING REFUGEES AND SUPER-DIVERSITY IN MALAYSIA

Kartini Aboo Talib @ Khalid* and Nur Atiqah Tang Abdullah

Institute of Ethnic Studies, Universiti Kebangsaan Malaysia, Selangor,
MALAYSIA

Corresponding author: k_khalid@ukm.edu.my

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ABSTRACT

The phenomenon of super-diversity in Malaysia is inevitable, and one of the causes other than the influx of migrants is refugees. Managing refugees in Malaysia indicates the loopholes in a collection of literature and practices. This article is a research note addressing the contemporary findings on challenges in managing refugees. Also, it discusses the timeline of migration in this country, which occurred in three contexts of before, during and post-colonial periods. Although Malaysia is not a signatory to the Refugee Convention of 1951, it still hosts more than a hundred thousand refugees of various origins. Thus, the challenges demand the state to deliberately manage arising issues on security, logistical accommodation, legal aid, and health provision. Following these new challenges and current demands, the government must move forward with effective and efficient ways of learning the best practices from the developed nations to manage refugees with a paradigm shift of accepting super-diversity and refugees as a reality rather than as issues. Institutional change is necessary to review the "paper citizens" mindset into pragmatic management on new possible markets and talents for human capital and development.

Keywords: refugees, super-diversity, challenges, management, institution

INTRODUCTION

The Malaysian government's response and management towards migration and immigrants have evolved over the decades. Generally, a workable conceptual framework can be used as an analytical tool to understand the flow of changes in the government's response. The timeline of the pre-colonial, colonial, and postcolonial periods exhibits the different fundamental approaches and decisions on migration. It is also a basis for understanding why the Malaysian government retains its immigration approach in confronting the global challenge of migration and refugees. This article outlines the current policy on refugees in Malaysia and the challenges in managing ever-increasing super-diversity in an already diverse society.

TIMELINE AND TERMS

Migration, in a literal definition, means the movement of a person from one locality, region or country to settle in another. Also, the United Nations International Office of Migration (IOM) perceives that migration is an umbrella term, not defined under international law but enough to reflect the common understanding of a person who moves away from his or her place or usual residence, whether local or across an international border, temporarily or permanent for a variety of reasons (International Organization for Migration. n.d.).

However, immigration refers to a process through which an individual becomes a permanent resident or citizen of another country. Kamal (2009, 7–17) argues that theories of immigration outline not only borders and documents that differentiate citizens from immigrants, but also the construction of status, rights and responsibilities.

Meanwhile, naturalisation means a lawful non-citizen becomes a legal citizen of a country after meeting specific requirements established by the state. Also, naturalisation is a legal process by which a legal non-citizen changes his or her nationality. Although a typical process of naturalisation is through marriage, there are a few ways this process can be granted to a person. Based on Article 19 of the Federal Constitution, naturalisation is given to a person aged 21 years old and above if he or she has resided in Malaysia for a certain period, exhibits good behaviour, and has adequate knowledge of the Malay language (UNHCR Refworld n.d.).

The brief diagram of the timeline as shown in Figure 1 indicates the flow of processes and changes in Malaysia, from a natural migration (before the arrival

of colonial rule and formation of the nation-state) to coerced immigration (during the colonial era) to managing the movement of people from one country to another for various reasons (in the postcolonial period) – with the push and pull factors of migration related to seeking a better and safer place to live and opportunity to start a new life (Lee 1966; Abella 2005; Djafar 2012).

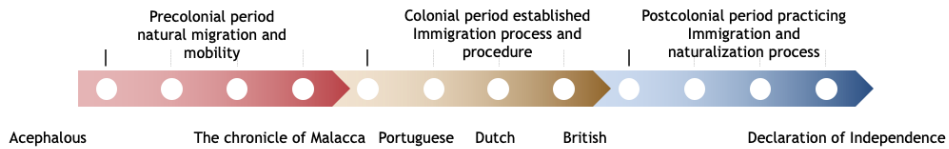


Figure 1: Timeline of approach to migration and immigration in Malaysia.

Source: Diagram designed by author (Kartini).

Before the 18th century, migration in the Malay archipelago was familiar and natural. The Malay peoples were famously known for maritime skills because ports and capitals were built near water – both rivers and seas. People migrated via maritime routes from one place to another, creating and connecting through multiple marriages, expanding familial ties and trade networks before the concept of nation-states was established.

After two colonial periods ruled by the Portuguese (1511–1641) and the Dutch (1641–1824), the British (1825–1957) brought immigrant workers from Southern China and Southern India to Malaya to work for them as a result of robust demand from the industrial revolution in Europe. These migrant workers entered the country and were registered and recorded through a coerced and consciously organised system called immigration. The colony managed these labourers under an indentured contract and Kangany system, which offered wages, allowances, and accommodation with basic amenities (Kartini and Shamsul 2020).

Thousands of migrant workers were placed at tin and gold mines and rubber plantations owned by the British. As their population grew, the colony improved the facilities and built schools for their children. The Southern Indian labourers were placed on the plantations within barbed-wire compounds with accommodations, facilities, and amenities and enjoyed having vernacular schools (Shepherd 2007). As the arrival of immigrants continued and the struggle for independence intensified, 100,000 immigrants became citizens during one night on the day of independence in 1957 (Senu 1971). As a result, it transformed the demographic landscape of Malaya into a plural society with three major ethnic communities, namely Malays, Chinese, and Indians, making up the population.

Later in the postcolonial period, managing migrant workers became bureaucratic and institutionalised through the immigration and naturalisation process inherited and emulated from the British. This requirement adhered to the Immigration Act of 1959, amended in 1963, and the Employment Act of 1955, which imposed specific provisions according to salary, type, and specification of jobs (Kartini et al. 2012). Migrant workers are administered differently according to their visa status ranging from contract for service to seasonal hiring based on contemporary demand for labourers. Becoming a citizen is conditional through the naturalisation process.

From migration to immigration, a categorisation emerges – legal migrant, illegal migrant, immigrant, irregular migrant, refugees, and asylum seeker. An authoritative term is innovatively created to define and label “paper-citizens,” affecting their existentialism – rights to embrace life and entitlement to qualify (Kamal 2009). The government of Malaysia refers to the glossary and terms stated in the International Organization for Migration and UNESCO when categorising various migrants. Nevertheless, the definition of refugees is people who have fled war, violence, conflict, or persecution and have crossed an international border to find safety in another country (UNHCR n.d.a).

This specific definition of refugees differs from the International Organization for Migration’s definition of migrant, which refers to “an individual who has resided in a foreign country for more than one year irrespective of causes, voluntary or involuntary and the means, regular or irregular, used to migrate” (IOM n.d.).

Malaysia is not a signatory to the Refugee Convention of 1951. Thus, the state’s prudent decisions and actions concerning refugees invite debates. The government deals with matters concerning refugees using stringent rules and regulations stipulated in the immigration and naturalisation process. Therefore, refugees in Malaysia experience hurdles in adapting to their new surroundings and can feel unwelcome and insecure.

THEMES ON REFUGEES

Studies on refugees outside Malaysia have highlighted issues such as poor treatment (Al-Natour, Al-Ostaz and Morris 2019), abuse and physical violence (Freedman 2016), security, and safety (Krause et al. 2015). The literature on refugees in Malaysia refers to several themes, including employment security and well-being (Norazira and Zhooriyati 2014), human trafficking (Intan Suria et al. 2016; Nasnurul 2022) and oppression and bribery (Atika Shafinaz et al. 2021). Moreover, slavery and labour exploitation have led to mass murder in Wang

Kelian and Padang Besar in the state of Perlis, bordering Thailand (Farrah Naz and Aliza 2017).

Despite the critics, in Malaysia's history, the acceptance of refugees can be traced back from 1978 to 1990, when the government provided temporary shelter allowing the boat-people of Vietnam who escaped from war to stay in Pulau Bidong, Terengganu and later relocated them to Sungai Besi in Kuala Lumpur. Reasons for the relocation were marine life threats resulting from foul sewers and pollution, conflicts between locals and refugees regarding overfishing, and security issues. Based on the news reports, 252,390 Vietnamese arrived, and 4,535 infants were born in Malaysia (Alzahrin and Mohd Safaruddin 2015).

Following this precedent, Malaysia continues to house refugees from various countries and for various reasons, including war and natural disasters, and to provide political asylum. The current numbers of refugees according to country of origin are displayed in Table 1.

Table 1: Refugees and asylum-seekers in Malaysia by country of origin

Country of origin	Refugees and asylum-seekers
Myanmar	156,110
Pakistan	6,750
Yemen	3,750
Syria	3,230
Somali	2,860
Sri Lanka	1,640
Iraq	1,200
Palestine	780
Others	4,800
Total	181,120

Source: UNHCR (n.d.b) and Nasnurul (2022, 125).

Although Malaysia is not a signatory to the Refugee Convention of 1951, the country continues to host some 181,120 refugees and asylum-seekers at the end of March 2022. Refugees from Myanmar made up 85%, including some 103,000 state less Rohingyas. The remaining refugees are from 50 other countries, including Pakistan, Yemen, Syria and Somalia. About 67% of refugees and asylum-seekers are men, while 33% are women. Additionally, there are 45,650 children under the age of 18 years old. They live in cities and towns across the peninsular, with sizeable populations in Klang Valley, Johor and Penang. These three urban centres are well-known for their density, urbanisation, modernity and job opportunities.

The significant number of children under the age of 18 years old demands Malaysia to be vigilant in ensuring that the “No Child Left Behind” requirement for education is carried out efficiently. Through the Ministry of Home Affairs, the federal government supports non-governmental organisations (NGOs) like Malaysia for Syria (MFS) to conduct schools for refugee children at facilities close to the refugee centre. The Jasmine Ash-Sham School (Syrian Refugee School) is an example of a school that guarantees refugee children education following the International General Certificate of Secondary Education (IGCSE) syllabuses. Most refugees view Malaysia as a transit country or temporary placement before settling in developed nations because they perceive Malaysia is still a third world country. Thus, the IGCSE syllabus is in demand for refugee children.

In the absence of an asylum system regulating the status and rights of refugees, UNHCR conducts all activities related to the registration, documentation, and status determination of refugees. UNHCR cooperates with the Malaysian government in managing refugee protection, such as preventing arrest and detention and strengthening self-reliance, including access to legal support. UNHCR works closely with partners, including civil society, the private sector, and refugees, to provide humanitarian support for refugees through education and healthcare. However, there were isolated critics of the systemic policy gaps against government aid towards refugees during the early days of the pandemic (Daniel and Puteri Nor 2020; Sukumaran 2020). Later, the government’s decision to give refugees and asylum seekers vaccines to counter COVID-19 was praised. Hence, other humanitarian aid provided food and shelter to assist refugees and asylum-seekers who lived in impoverished conditions, especially homeless Rohingyas.

In Malaysia, several community organisations bear the name Rohingya and focus on assisting these refugees. For instance, the Rohingya Information Centre in Taman Bukit Teratai, Johor, was established to connect other related charity organisations, including Rohingyas Solidarity Democratic Movement, the Ethnic Rohingya Human Rights Organisation, and Community Rohingya-Islam Pro-Democracy Organisation (Azlinariah 2014).

The NGOs and community-based organisations are actively providing aid and assistance to other refugees through the Malaysia Social Research Institute and help refugees from Afghanistan, Somalia, and Syria through education funding from the UNHCR in education. Sympathy towards refugees encouraged more NGOs to come forward to improve the well-being of refugees. There are nine active NGO networks which focus on assisting refugees, including Humanitarian Care Malaysia (MyCare), Syria Care Malaysia, Malaysia Humanitarian Aids and Relief (MAHAR), Angkatan Belia Islam Malaysia (ABIM), and the Imam

Response and Relief Team (MARET). These NGOs assisted Syrian refugees through a foundation called Dana Kemanusiaan Pendatang Syria or Humanitarian Fund for Syrian Refugees (Ayoade, Zulkanain and Abdul Majid 2016).

NGOs' assistance mostly leans towards immediate and short-term services for refugees, and they focus on providing services such as health screening and encouraging sustainability. Long-term assistance is rare, but if available, it is usually funded by a particular ethnic group of refugees. For instance, Rohingya organisations have networks that have helped more than 15,000 Rohingyas all over the states in Malaysia to find job vacancies, temporary shelters, and supplies for basic needs and human rights protection (Azlinariah 2014). NGOs and the government also established a symbiotic relationship in extending and reaching out to needy refugees with funding support, facilities, and expert advice.

CURRENT CHALLENGES

Based on data gathered through the narrative interviews with a substantial number of refugees from Somalia, Myanmar, Syria, and Pakistan and participant observation in 32 refugees shelters, homes, and centres in Selangor, Penang, Kedah, Perlis and the Federal Territory of Kuala Lumpur (Atika Shafinaz et al. 2022; 2021; Norazira and Zhooriyati 2014), the current needs of refugees in Malaysia were identified and are outlined as follows:

Security Guarantee

Most refugees have UNHCR identification cards and enjoy the freedom of mobility in Malaysia. However, the identification card is powerless when dealing with blackmail or extortion between or among refugees of different origins and corrupt local authorities. Refugees are afraid to report any misconduct they experienced to local police because of their refugees' status and because they may not be able to provide official documentation. Some refugees shared stories of illicit bribes while reporting their misfortune to local authorities (Norazira and Zhooriyati 2014).

Temporary Shelter

Shelters and accommodation are basic needs for refugees, especially new arrivals without legal documentation. Refugees are at high risk of becoming homeless in Malaysia. Some refugees have been forced to live under the radar and become hired beggars by ruthless individuals operating illicit "charity" organisations. Due

to such vulnerability, female refugees, especially girl-children, are at risk of being traded as prostitutes or becoming involved in human trafficking. Here, Tenaganita, a local NGO, has played an active role in providing shelters for women, girls and victims of domestic abuse.

Legal Advocacy and Aid

Most refugees are informed that their UNHCR card is not a work permit; thus, the identification card limits their ability to find jobs to support their lives and families. Many are willing to risk and work illegally. However, when raided by local authorities, most of them will be detained for more than three months despite having UNHCR cards. The authorities may withhold the demand for a legal officer to represent their case. NGOs with pro-bono services are encouraged to help refugees detained due to illegal work.

Mental Health Provision

Mental health services are limited for refugees. Meanwhile, cases of suicide, attempted suicide, and depression are gradually growing among refugees. The ordeals that refugees have experienced impact their mental health and emotions. These traumas are horrendous, including violent conflict, detention, sexual abuse, losing homes and loved ones, and seeking shelter in a foreign land (Akinyemi, Owoaje and Cadmus 2016). A Syrian teenager aged 19 committed suicide by jumping from the 10th floor of an apartment in Kajang in 2019; she was traumatised from the war in her homeland, which proved unbearable for her young soul. A detailed investigation, including a psychological report, indicated that the suicidal young person continued to experience the after-effects of war and bloodshed and the sound of bombs exploding in Syria – and decided to end her own life (Atika Shafinaz, Kartini and Nidzam 2019). The local community with limited funding may be able to provide the basic necessities of access to food, water, and shelter – but not sufficient access to mental health support. This new essential service for refugees requires a champion such as the UNHCR or an appropriately funded NGO.

MOVING FORWARD

It is time for the government of Malaysia to have a relevant department – an improved version of the current immigration and naturalisation department with additional rules and regulations to attend to migrants of various types, particularly refugees and asylum seekers. Building a robust system with appropriate facilities

and services would help the state to be in a better position to assist refugees. Malaysia is already hosting more than 100,000 refugees from different origins and may continue to do so under the banner of humanitarian aid and brotherhoods. However, hosting without a properly organised system incurs unexpected costs and consequences for the government, including the tarnished image of its international diplomatic relationships, especially with the Trafficking in Persons Report – this provides an indicator of a country's ranking for Human Rights Violations (Azizah and Ragayah 2011; Kartini 2015). A country's negative image is bad for foreign investors and industries, and the Ripley effect is simultaneous.

Malaysia can learn best practices and cost-efficient ways of managing migration and refugees from the Office of International Migration based in Sweden. The state and the non-governmental organisations can further optimise their roles and functions to build a better super-diverse community. It is time for the government to fully recognise the state of current global migration and act with wisdom to develop new pools of people with undiscovered talent and expertise. Canada is an excellent example of encouraging migration and cites many reasons for doing so: substantial economic contribution to meet new market demands, new skills and talents, human capital and labour supply, new knowledge and experience different from locals, and possible new business networks. Dany Baha (2018) argued that the faster refugees are integrated into the labour force, the faster they can become productive members of society. To realise that, the state must proactively provide refugees with the rights to work, health, and education to start their lives in their host countries.

A control mechanism of granting an employment card, permanent resident status or lawful permanent resident status without the capacity to vote will be a way to maintain the privilege of the local citizens in tandem with the Malaysian Federal Constitution. This mechanism has been actively adopted in the United States of America (Gogol 2022). The most important is to create a pathway for refugees to continue living as human beings without the unnecessary burdens of procedures limiting their rights to work, move around, and enjoy a decent life. Becoming a signatory to the Refugees Convention of 1951 would motivate the government to be responsible and responsive.

Also, Malaysian society is well-known for its unity in diversity as an ideal image. However, cohesion is more appropriate to describe the multiethnic community that constantly experiences agree-to-agree and agree-to-disagree contexts on various issues. Still, the common diversity since the post-independence period of 1957 revolved around three major ethnic groups: the Malays, Chinese and Indians. Later, the Malays and the natives of Sabah and Sarawak shared the same label as

people of indigenous origin after the forming of Malaysia in 1963. This common perspective must change because Malaysia is home to diverse subethnic groups, refugees, asylum seekers and migrant workers. They reflect real super-diversity in Malaysia due to their diversified race, dialect, and culture. This social reality term of super-diversity was coined by Vertovec (2021), who defined diversification based on migrants' diverse origins that cause rising inequalities, social differences, health hazards, and social unrest.

CONCLUSION

Ideally, managing refugees demands a crucial commitment and must be institutionalised rather than be ad-hoc. The Malaysian government's framework for attending to refugees is stuck in the approach of general immigration and declines incomplete documents to "paper citizens." The government has tended to view refugees as a problem rather than a reality to manage deliberately. Hence, efforts to provide assistance or resolve contemporary refugee issues are left best in the hands of NGOs and the UNHCR working together. Not being a signatory to the Refugee Convention of 1951 means that it is left open for a country's leader to determine whether or not to participate voluntarily in helping refugees – there is no binding responsibility. The Malaysian state continues its diplomatic strategy and image to offer temporary shelters in the name of humanitarianism, but the method and approach remain non-cohesive.

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