

Research Article

# The Exploitation of Refugees in Malaysia From 2017 until 2022

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## Abstract

In Malaysia, 182,120 refugees and asylum seekers are registered with UNHCR at the end of March 2022. Moreover, Malaysia's resources and geographical position have made it a popular destination for refugees escaping violence, persecution, and human rights violations in their home country. However, Malaysia only serves as a transit country rather than a resettlement country for the refugees. While waiting for all of the procedures to be completed to be placed in a resettlement country, these refugees are subjected to various forms of exploitation from multiple parties. This article aims to investigate what kind of exploitation is faced by the refugees in Malaysia from 2017 until 2022. This article adopted using the qualitative research method. Next, this article was written using primary and secondary data. The primary data was obtained to complete this paper by conducting semi-structured face-to-face interviews and phone calls with five refugees and six locals. The population in this study is Rohingya refugees who worked

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at construction sites in Terengganu and Syrians who worked at restaurants. Besides, the locals are from three states in Malaysia: Terengganu, Selangor, and Johor. The secondary data used in this study is based on a series of journal publications, working papers, newspapers, reports, and websites, including UNHCR websites. All of the primary and secondary data focused on the exploitation of refugees in Malaysia and refugees in general contribute to triangulating primary data based on empirical knowledge and document confirmation. The findings are four types of exploitation in Malaysia from 2017 until 2022: exploitation of wages by the employer, smugglers, beggar's syndicate, and local authorities.

**Keywords:** Refugees, Exploitation, Malaysia

## Introduction

A refugee is defined as someone unable or unwilling to return to their place of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a specific social group, or political opinion, according to the 1951 Refugee Convention (UNHCR Malaysia, 2022). They've had to run with nothing but the clothing on their backs, abandoning their homes, belongings, jobs, and loved ones. At the same time, exploitation can be defined as using someone unfairly for your own advantage.

Malaysia allows refugees to enter the state on humanitarian grounds. The nation has welcomed refugees from Southeast Asia, including Vietnamese, Cambodians, Acehnese, and Southern Filipinos; they lived in Malaysia before migrating to third countries. Burmese ethnic and religious minorities make up the majority of long-term refugee communities in Malaysia, with few opportunities for resettlement. According to Razali, R et al., in the article *Refugees in Malaysia: Protection Framework, Challenges, And Implications*, Malaysia had to deal with two big refugee waves in the 1970s, one of Filipinos and the other of Indochinese refugees. Other refugees fleeing severe conflicts in and outside the area have selected Malaysia as a primary destination. Malaysia still accepts refugees from Myanmar's oppressed ethnic minorities, particularly the stateless Rohingya (Razali, R et al., 2021).

Moreover, both the Indochinese and the Filipino refugees were mainly accommodated in camps and provided with essentials by the UNHCR. Vietnamese migrants were eventually repatriated or transferred to third countries, but Muslim refugees from Mindanao

were given residency permits and allowed to stay indefinitely (Munir-Asen, 2018). Malaysia also granted temporary residence and employment permits to people of concern from Aceh, Indonesia, allowing them to enter the Malaysian labor market and remain legally in the country. Malaysia used the cause of assisting Muslim victims of the war in Bosnia and Syria to portray a political image as a "leader in the moderate Islamic world." (Razali, R et al., 2021).

In Malaysia, 182,120 refugees and asylum seekers are registered with the United Nations High Commission for Refugees (UNHCR) at the end of March 2022. Moreover, 156,110 people from Myanmar, including 103,810 Rohingyas, 22,700 Chins, and 29,600 people from other ethnic groups, escaped persecution in Myanmar. The remaining 26,000 people are refugees and asylum seekers from 50 countries, including 6,750 Pakistanis, 3,750 Yemenis, 3,320 Syrians, 3,230 Somalis, 2,860 Afghans, 1,640 Sri Lankans, 1,200 Iraqis, 780 Palestinians, and others attempting to escape war and persecution (UNHCR Malaysia, 2022).

In addition, there are no refugee camps in Malaysia. Instead, refugees live in low-cost apartments or houses in cities and towns. These places are frequently overcrowded, and it's not uncommon for multiple families or dozens of people to share a room. In international law, refugee status is determined and protected. Since Malaysia is a non-signatory to the 1951 Refugee Convention and its Protocol, these refugees have no legal protection under Malaysian law and are constantly being exploited by irresponsible parties. The refugees tend to be exploited in various ways and sectors. This article aims to investigate what kind of exploitation is faced by the refugees in Malaysia from 2017 until 2022.

## Objective

To investigate what kind of exploitation is faced by refugees in Malaysia from 2017 until 2022.

## Literature Review

The 1951 Convention Relating to the Status of Refugees has yet to be ratified by Malaysia. The absence of a legal framework for acknowledging refugees and asylum seekers has created problematic and exploitative conditions for refugees and asylum seekers. This dilemma arose due to their lack of rights to work, their lack of legal status, their lack of legal protection, and their continued risk of arrest, imprisonment, and refoulement (CIVICUS, 2021). Employers hire refugees under the counter and without validation. They are often exploited and paid very poorly, sometimes not even paid.

Next, according to Maria Grazia Giammarinaro, the Special Rapporteur of the Human Rights Council on trafficking in persons, particularly women and children, the Rohingya from Myanmar have been disproportionately affected by refugee trafficking in Malaysia. The first scenario involves the debt bondage of Rohingya refugees who arrive in Thailand by sea or land routes before being trafficked to palm oil plantations for labor exploitation. They are held captive and tormented. This scenario was proven when there were contentious findings of dozens of secret camps and 140 graves in Wang Kelian, in the northern state of Perlis (Razali, R et al., 2021).

Additionally, there has been evidence of child trafficking linked to forced begging among the refugee community, particularly among Rohingya children. Moreover, human trafficking for labor

exploitation has been identified among Filipino and Indonesian refugees, asylum seekers, stateless persons in Sabah, and Rohingyas from Myanmar. Being outside of the state system and lacking access to formal labor and justice have been identified as critical factors that increase their vulnerability to opportunistic traffickers (Razali, R et al., 2021). In some situations, smuggled Rohingyas have already arrived in Malaysia but are held in a secret location by the country's smugglers. The Rohingya victims will only be released if their families or friends pay an additional ransom or the balance of the overall smuggling fees. These cases show that their smuggling could evolve into another humanitarian crime: human trafficking (Wahab A., 2020).

After the refugees arrive in Malaysia, they usually apply for the UNHCR Card. The process is quite long, and it will take time; refugees must undergo a series of documentation and interview sessions before they are recognized as refugees by UNHCR. Moreover, UNHCR documentation has only one purpose: to acknowledge a refugee's or asylum seeker's need for international protection. The UNHCR documentation assists in protecting refugees and asylum seekers against deportation back to their home countries, where their freedom and lives may be jeopardized. This is known as the principle of non-refoulment in customary international law, which is binding on all governments, regardless of whether they have signed the 1951 Convention Relating to the Status of Refugees. The UNHCR card is not a driver's license, a legal document, a passport, or a residence permit. It does not grant the person legal immunity (UNHCR Malaysia, 2021).

Due to the armed conflict in Syria, many people were forced to displace to neighboring countries, including Malaysia. According to UNHCR, at the end of March 2022, there were 3,320 Syrians registered in Malaysia (UNHCR Malaysia, 2022). In addition, the Syrian community also arrived in Malaysia even before the conflict broke out since some of them expected that war would erupt due to the anti-government protests that erupted before the revolution. Those who first arrived in Malaysia in 2013 were persons with families and dependents and male adolescents who had elected not to join the Syrian army or had been recruited to do so. Sunni Muslims made up the majority, while Shiites comprised the minority. They arrived in Malaysia on a tourist visa and then applied for a UNHCR refugee card, allowing them to stay lawfully in the country. Among the exploits these Syrian refugees face is that they are forced to work for 80 hours a week for a low wage at the restaurant. They had no choice; they must do work for their survival and family. These Syrian refugees were also driven to run if authorities conducted a raid, and if they were unable to escape and were apprehended, they were sentenced to prison (Emily Fishbein, 2020).

After so many cases of exploitation of refugees, Malaysia had finally devised a trial scheme known as MyRC that allows 300 Rohingya refugees from 160,000 to work lawfully in the nation as of March 2017. Those chosen will work for companies in the manufacturing and agricultural industries. This project was established to prevent forced labor and exploitation and provide refugees with the necessary skills and cash to support themselves before being relocated. But this scheme did not continue, and it just stayed on trial.

In March 2022, M. Saravanan, Minister of Human Resource Malaysia, stated that the government is working on a guideline on permission for refugees to work in Malaysia. Saravanan stated that his ministry would investigate suitable sectors for refugees and ensure that allowing them to work does not result in competition for jobs with Malaysians. He also stated that the ministry would work to make this a "pulling factor" for more refugees and asylum seekers with UNHCR cards to enter the nation. On the other hand, the minister did not indicate when this guidance would be implemented. M. Saravanan also stated that the government will be able to ensure that these refugees are added to the national database and that any relevant details about them are updated regularly using this approach (Free Malaysia Today, 2022).

## Methodology

This article adopted using the qualitative research method. Next, this article was written using primary and secondary data. The primary data was obtained to complete this paper by conducting semi-structured face-to-face interviews and phone calls with five refugees and six locals. The population in this study is Rohingya refugees who worked at construction sites in Terengganu and Syrians who worked at restaurants. Besides, the locals are from three states in Malaysia: Terengganu, Selangor, and Johor. Moreover, for the secondary data, the author mainly uses a series of journal publications, working papers, newspapers, reports, and websites, including UNHCR websites, to write this article. All of the primary and secondary data focused on the exploitation of refugees in Malaysia and refugees in general contribute to triangulating primary



data based on empirical knowledge and document confirmation. The author used a data triangulation to ensure the underlying information's consistency, reliability, and validity. The reason why the author is using the document analysis method is that this method is cost-effective.

### **Theoretical Framework**

The international instruments prohibit all forms of exploitation and abusive treatment of refugees. Refugees are people, and as such, they are entitled to fundamental human rights as outlined in the Universal Declaration of Human Rights (UDHR). According to article 14 (1) of UDHR, every individual has the right to seek and receive asylum from persecution in other countries (United Nations, 2020).

In addition, the 1951 Refugee Convention and its 1967 Protocol also provide a guiding framework for refugees' human rights protection. According to the Convention, a refugee is a person who is unable or unwilling to return to their home country because of a well-founded fear of persecution on consideration of race, religion, nationality, membership in a particular social group, or political opinion. Moreover, the non-refoulement principle asserts that no state can expel or return ("refoul") a refugee to a territory where their life or freedom would be threatened. The 1951 Refugee Convention signatories must follow its definitions and principles (Asylum Access, 2021).

Besides, chapters III (wage-earning employment) and IV (welfare) of the 1951 Refugee Convention and its 1967 Protocol will protect the refugees from various kinds of exploitation in Malaysia.

However, this convention is inapplicable in Malaysia's domestic context due to the non-ratification of relevant treaties, reservations of specific treaty provisions, and norms that have not been translated into binding law or legislation. Moreover, the Federal Constitution is Malaysia's highest law.

According to the Malaysian Government, Malaysian human rights have been constructed with four primary sources: the Federal Constitution, the Universal Declaration of Human Rights, Malaysian politics and socio-culture, and the Cairo Declaration on Human Rights in Islam (CDHRI). Article 8 of Malaysia's Federal Constitution states that "all persons are equal before the law and are entitled to equal protection of the law." The use of the word "person" rather than "citizen" indicates that this right is guaranteed to all people, including those who are documented or undocumented and refugees. These treaties and national laws remain vital legal tools for describing and prescribing state commitments to protect asylum seekers and refugees from punishment, expulsion or refoulement, and denial of rights and benefits. However, based on the findings, it seems like the refugees in Malaysia are not protected under Malaysian law.

## Findings

This article aims to investigate what kind of exploitation is faced by the refugees in Malaysia from 2017 until 2022. In this context, the authors have collected data related to the exploitation of the refugees in the period before the COVID-19 pandemic, during the COVID-19 pandemic, and during the COVID-19 endemic.

Under Malaysian law, refugees are not permitted to work, although some do so to make a living. There are many kinds of exploitation that happen to the refugees in Malaysia. This situation occurred because legal employment is not available for most refugees in Malaysia. It is considered illegal under Section 6 of Act 155 (Immigration Act 1959/63) and is not covered by any of the Employment Act 1955's interpretation clauses. Even though some Acehnese and Filipino refugees have been given IMM13 passes (social visit Pass) allowing them to live and work, Rohingya refugees have not been allowed to engage in the economy officially, except for a few trial projects permitting them to work (Leong C. E, 2020). Refugees in Malaysia are part of the attractive, inexpensive, flexible, and often exploitable workforce due to the lack of a legal and protection framework for them. Recruiting refugees is substantially less expensive than hiring foreign labor since they are not subject to registration or a statutory minimum pay (Todd et al., n.d.).

Employers have been known to force refugees to work for less than minimum wage, take unpaid leave, or resign because of their refugee status during the pandemic. The outbreak caused many refugees to lose their employment. There is nothing in place to safeguard the refugees against such exploitation. Most refugees facing these difficulties are depressed and emotionally drained from figuring out how to survive and stay safe.

There are four types of exploitation in Malaysia from 2017 until 2022: exploitation of wages by the employer, exploitation by smugglers, exploitation by beggar's syndicate, and exploitation by local authorities.

### Exploitation in Wages by the Employer

A case study on the Rohingya in the Klang Valley detailed the exploitative conditions faced by the migrants working informally. According to Zio Rahaman, a Rohingya who worked in the construction industry, a business owner once robbed him of RM 12,000 in wages for 14 months. He claimed that the employer refused to pay him because his employer knew the Rohingya would be unable to report the incident to the police or the Labor Department. After all, they were not permitted to work in Malaysia.

In Kuala Terengganu, some Rohingya refugees working as construction laborers to build the KTCC Mall have been deceived by their employers. The total salary received by Rohingya construction workers for a month of work is RM 2,400, but they only get paid RM 500 or RM 1000, not complete. When the number of Rohingya salaries increases, employers feel they do not deserve that much money, even though they earn the salary due to their hard work.<sup>i</sup>

Moreover, another scenario always happens in Selangor and Johor, the most developing states in Malaysia. When a large construction project is finished, and only one final process remains, such as handing over the project or building to the owner, the employer or site supervisor will disguise as public and call immigration to report that there are construction workers without valid work permits. When immigration raids the project site, workers who do not have a valid work permit and some of the workers are refugees will be detained. When workers are detained by immigration, the

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i Interview with Rohingya refugee Abdul Rahman and Rofique (not real name), Terengganu, March 2022.

company or employer does not have to pay their salaries, which will make the company or employer a multiplied profit. Incidents like this happen often, and it is an exploitation of migrant workers and refugees working there.<sup>ii</sup>

In another case of Chin refugees from Myanmar (Burma) in Malaysia, they have no insurance or legal remedies because they are hired illegally (Razali, R et al., 2021). Multiple workplace injuries had left people traumatized and paralyzed for the rest of their lives. One of the patients was seriously burned at work and was hospitalized in Malaysia, while his family was relocated to a third nation. He is still vegetative, unable to eat or communicate, and completely unaware of his family's or his fate.

All of these scenarios happen before the pandemic and during the pandemic. During the pandemic, the situation worsens because the employer wants to cut down the budget. The employer can fire the refugees who worked at the construction sites because they can do nothing, including reporting the employer to the labor department because they do not have a valid working contract.

### **Exploitation by Smuggler**

Besides, there is more exploitation happening to the refugees in Malaysia. It is commonly believed that migrants or asylum seekers who accept to be smuggled from one nation to another have granted their permission. This understanding predates the smuggler and the migrant or asylum seeker agreeing to a smuggled contract

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ii interviews with Syahirah (not real name), Johor, and Syafiqah (not real name) from Selangor via phone call, May 2022.

based on mutual profit and interest. However, this notion has been questioned in several actual smuggling events, particularly among Rohingya victims fleeing Myanmar for Malaysia. Some Rohingya victims were unaware that their families and smugglers were orchestrating their smuggling. The victims of the Rohingya in these cases did not give their consent.

In other circumstances, vulnerable Rohingya victims have no choice but to accept the smuggler's terms of smuggling. Smugglers are notorious for keeping their smuggling operations under wraps. Smugglers frequently keep the Rohingya victims in the dark about the routes they take, the mode of conveyance they utilize, and the actual cost of the smuggling. One of the victims said, “The smugglers recognized the Rohingya victims were desperate to flee their village and were willing to listen and pay whatever smuggling price they could. In their smuggling deals, the smugglers were quite merciless. They took care of everything, and the Rohingya victims only had to pay the price” (Wahab A., 2020). In addition, smugglers' use of deception is another concern that many Rohingya victims face. During the recruitment process, deception is frequently used. Many Rohingya victims are uneducated and vulnerable to deception.

### **Exploitation by Beggar's Syndicate**

In Malaysia, when male refugees are exploited at the construction sites and other workplaces, the syndicate exploits female refugees and children as beggars. In 2017, Royal Malaysia Police (PDRM) managed to dismantle a syndicate selling Rohingya ethnic children for RM1,200 to RM1,500 to beg. The syndicate was crushed after police rescued nine children and two teenagers who

were locked up on-premises on Jalan Hang Kasturi in Kuala Lumpur on 1 June 2017. This syndicate is active in selling children with prices ranging from RM1,200 to RM1,500 to certain individuals who are trusted to carry out activities asking for alms (Mstar, 2017).

After a day of begging around the city and the main streets, there is a van that will take to all the female and child beggars. “I had seen such incidents twice before the pandemic happened, and I was still a student at that time, but there was nothing I could do, just observe their behavior because I was alone,” said Nurul.<sup>iii</sup>

In another scenario, Syrian refugees were apprehended by a local enforcement officer for unlawfully working and sentenced to three months in prison. Syrian refugees became street beggars as a result of their plight. For example, in Bandar Baru Bangi, Selangor, a high number of Syrian beggars with little children roam around the streets asking for money (Nazri, A. S. et al., 2019). Next, in Selangor and Kuala Lumpur, many Rohingya refugees are begging around the shop lots.

This issue was rising again during the endemic when a video of Rohingya children begging went viral. However, the intelligence of the D3 Anti-Trafficking in Persons and Smuggling of Migrants (ATIPSOM) Division of the Criminal Investigation Department (JSJ), Bukit Aman, managed to uncover the truth of this activity, which was not arranged by any syndicate. The beggars used various tactics to gain sympathy (Berita Harian, 2022).

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iii Interviews with Nurul (not real name), Selangor, via phone call, May 2022.

### Exploitation by Local Authorities

Next, Yemeni refugees in Malaysia are also stuck in a life of limbo and exploitation. Most Yemenis took low-wage jobs in restaurants and other food businesses run by their nationals who had moved to Malaysia in the years and decades before the war. In addition, although some officials are ready to turn a blind eye during immigration sweeps, Yemenis refugees are still subject to arrest under Malaysian law if they are detected working (Kermeliotis, T, 2019). In addition, if they wish to avoid being detained, they will almost certainly have to pay money to officers who want to arrest them. This demonstrates that the officers in charge have exploited them.

In contrast, Syrian refugees relied only on UNHCR until the Malaysian government established a Syrian Migrant Temporary Relocation Program to manage refugees, including providing them with a unique visa status that allows them to convert their visa status from refugee to legal migrant. They continue to carry UNHCR refugee cards in the hopes of being moved to other developed nations such as Germany, Canada, or Australia. Despite having proper identification and documents issued by the UNHCR, such as the IMM13 (social visit pass), the refugees are likely to be targeted by the local authorities, mainly police traffic inquiries for their driver's license.

They have an international driver's license, but police traffic refuses it because it is only valid for a year. To some extent, the reckless traffic cop will abuse his authority by requesting money in exchange for dismissing the case. Even when Syrian refugees believe they are following the rules, they are targeted by local enforcement



officers who issue them a ticket for no apparent reason. This strange scenario makes individuals feel insecure and threatens their capacity to survive in a new country.

The same situation happens in Terengganu when Rohingya refugees are detained by the police and summoned or even ordered to pay fines because they are riding a motorcycle without a driving license. There are police who are always waiting at the entrance to the Rohingya housing area to arrest or issue a summons for not having a driving license on them. To avoid being summoned or their vehicles being seized, the Rohingya had to give money to the police. The Rohingya people know that giving bribes is wrong, yet they have to. Otherwise, more money will be spent to settle the matter according to the law.<sup>iv</sup>

The exploitation by the local authorities will continue as long as the superiors do not conduct a thorough investigation into their officers who took bribes and as long as the value of integrity is considered worthless to themselves.

## Conclusion

Even though Malaysia is a non-signatory to the 1951 Refugee Convention and its Protocol, Malaysia is still trying to help refugees based on humanitarian grounds. Malaysia has been helping refugees from the 1970s until now. But Malaysia only can help to give a transit home to them before they get approval from the settlement country. Many kinds of exploitation happen to the refugees when their rights cannot be protected because of no binding legislation.

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iv Interviews with Ahmad and Mohamad (not real name), Terengganu, May 2022.

Allowing refugees to work lawfully is the thing we can do. It will assist them in becoming self-sustainable and less vulnerable, but it will also enable them to contribute to our economy. When refugees can work legally, the exploitation cases will decrease, and the refugees also can report to the Department of Labour Malaysia if they are exploited. Next, wage exploitation and occupational discrimination are common concerns in the lives of refugees in Malaysia. Next, the responsible ministry, such as the Ministry of Human Resources, should assist refugees in negotiating with employers to ensure that they are treated fairly. Lastly, the worst-case scenario is when some irresponsible Malaysian authorities exploit the refugees. The refugees have no way of filing a report and are stuck in a loop in their lives. A special helpline must be established so that refugees can convey their concerns to a specific representative unit for further action. Such a hotline is required to respond to the exploitation, safety, and security threats that refugees face daily. Hopefully, in the future, the exploitation of refugees will decrease, and the rights of the refugees will be secured and protected.

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