

UN High Commission of Refugees

Situation of the Malaysia Refugees

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INTRODUCTION

The United Nations High Commission of Refugees is an organ which has fought for the safety and security of many asylum-seekers, stateless people, returnees, displaced people and refugees . For over half a century, UNHCR has worked to ensure that everybody has the rights to find safe refuge and asylum in another country. The help provided, including protection, shelter, spread of education and health has played a crucial role on strengthening the basic human rights to everyone. Moreover, this organ work closely with governments to advice and support in what is needed. The Commission´s help, nowadays, has been seen in relevant refugee crisis in Africa, Asia and the Middle East, which calls not only this commission but non-governmental organizations to play a role in defending refugees rights to allow them to live in safety and dignity in foreign countries (“Protecting Refugees”, 2018).

The constant movement of hundreds of people globally, has pressured the international law to protect refugees as much as possible. Nowadays, due to economic, political and security concerns, governments are applying much stronger border controls. These border controls have brought confusion between migrants and refugees which is an issue that is leading to rejection and mistrusting treatment. This conflict not only involves the protection of many vulnerable people but also the effectiveness of the global protection system. According to the UN Refugee Agency, refugees are defined as people and sometimes complete villages and towns which flee religious persecution, armed conflicts and even their own governmental system. Their environment is so dangerous that they cross national borders to seek sanctuary in nearby countries searching for assistance from organizations or the state (“Protecting Refugees”, 2018).

Year by year the number of people suffering the mistreatment of other countries increase severely. According to the UNHCR database, approximately “in 2016, 65.6 million of people globally are forced from home and among them there are about 22.5 million refugees, over half of whom are under 18 years old”. Moreover, 10 million are stateless people who have been denied a nationality and basic human rights, while 20 people are displaced every minute due to persecution. Many people in danger need the help of the international community to receive fair treatment. Middle East countries including Turkey, Pakistan, Iran, Iraq, Lebanon as well as Asian countries like Malaysia, Thailand and Bangladesh suffer from refugees at a great extent (“UNHCR statistics”, 2018).

Countries that belong to this organization have genuinely agreed to protect and look forward all people’s and nature’s rights. Current situation of refugees in Malaysia affects socially, economically and emotionally people that are going through this situation. It is the duty of all nations to look forward to what is best always taking into consideration the countries position and possible options for vulnerable people, in order for them to have their rights being respected.

HISTORY OF THE PROBLEM

From small to major issues, refugees are rapidly increasing in scope as the government's strong security actions increase as well. The situation in Malaysia is a clear example of it.

Over the past centuries many groups have sought asylum in Malaysia after having fled persecution and conflict. The Indochinese refugees, for example, have been one of the most relevant groups of refugees arriving to Malaysia. After the fall of Saigon in 1975, approximately two million people left from Laos, Vietnam and Cambodia on boats and overland, seeking refuge in The Philippines, Indonesia, Malaysia and Thailand. Malaysia offered permanent residence to Cambodian Muslims, while many Vietnamese, initially, were sent back unless the UNHCR intervened, until Malaysia participated in the intergovernmental Comprehensive Plan when around 250,000 Vietnamese were hosted in temporary camps (Ahmad, Majid, 2012).

Like the previous example, other refugee seekers have arrived to Malaysia reflecting on the severity of this issue. During pre-colonial times, groups from China and India arrived to Malaysia seeking refuge. Then, during colonial times, the British allowed Chinese workers to enter Malaysia. Moreover, in the late 1980s and 1990s, immigration in Malaysia increased in a large scale. For example, when conflicts appeared in Sumatra, the Acehnese came to the peninsula of Malaysia. Many were given permanent residency, mainly Indonesian. Others even granted citizenship with the forming of Malaya (McGregor, 2014).

Just as many groups asked for asylum, Malaysia offered it to different groups, many of them Muslim refugees. That was the case in 1994, when Malaysia offered asylum to about 350 Bosnian Muslims fleeing from the Yugoslavia conflict. Likewise, in the 1970s, Malaysia offered refuge to approximately 120,000 Muslim refugees, most of them from southern Philippines. Another time when Malaysia offered a place and work permits to refugees was after military operations in 2003 and after the devastating Asian Tsunami in 2004. However, many of these groups found themselves in almost the same inhuman situation as their country of origin. This is because many asylum seekers, refugees and stateless people were treated as illegal immigrants, many were detained in detention centres for a long time and were even deported to border zones where they were vulnerable to human trafficking attacks (Szehoong, 2009).

Specifically in Malaysia should have a responsibility towards refugees and asylum seekers, but because it is neither a signatory of the 1951 Refugee Convention nor its 1967 Protocol, many refugees are at risk of harsh treatment and arrest since there is no distinction between undocumented workers and refugees. Fortunately, Malaysia has confirmed two international human rights treaties, the Convention on the Rights of the Child (CRC) and the

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which have helped, in small percentage, to implement measures to protect vulnerable groups from unfairness punishments (Ahmad, Majid, 2012).

Therefore, along with the Malaysian government lack of importance on refugees, is the mistreatment and oppression of many of them. Day by day people move from their place of origin to experience a difficult life with no chance of education or work hoping in few years his life will change (“The UN refugee...”, 2018). This issue correlates directly with the low socioeconomic level of many refugees, leading to a life of hunger, of insecurity and unfairness.

As long as political instability, nations at conflict and persecution exist, many refugees, asylum seekers and stateless people will continue to suffer. Therefore, it is vital that the Malaysian government works with the international community to ensure that every host country will protect vulnerable groups in spite of growing number of refugees.

CURRENT SITUATION

As mentioned before, thousands of refugees and asylum seekers continue to languish poverty and lack of rights due to the lack of action undertaken by the Malaysian government. Since at the end of June 2018, approximately 158,620 asylum-seekers and refugees are registered with UNHCR in Malaysia. Most of them came from Myanmar, but also from other countries like Pakistan, Yemen, Somalia, Syria, Sri Lanka, Afghanistan, Iraq, Palestine and others. However, there have been government actions which have improved a little the situation, such as responding to the Rohingya refugee crisis, the implementation of the Tracking Refugee Information System in 2017 and working more often with the UNHCR in establishing the Joint Task force in 2016 (“Figures at a...”, 2018). But despite the government’s effort, there are still about 62,000 Rohingya refugees in Malaysia, and approximately 40,000 more which are not registered with no legal refugee status, and the numbers are still increasing.

It should also be recalled, that children are a main social sector that is mainly present through the process of migration and also has to carry with the drawbacks. Thousands of children in Malaysia escaped from Rakhine State by boat, largely before 2015 when Kuala Lumpur began to deny Rohingya arrivals. Still the ones which luckily could pass the Malaysian borders, their lives depend on risks and unfairness (Hui, 2018). The UNHCR supports a “parallel school system”, which is mostly run by charitable groups and faith-based groups, but still, only around 30% of children refugees.

Whilst Malaysia's effort and progress is evident, many mistreatment nowadays continue to occur. According to Richard Towle, UNHCR representative of Malaysia, refugees

“have no legal rights, no right to work, no opportunity for mainstream education, and are obliged to seek out a very difficult living in the grey market economy of the country”. Therefore, the problem should continue to be addressed since matters like the lack of formal frameworks, access to fundamental rights, detention of children and women and the lack of access to education and healthcare, continue to affect many vulnerable people (Hui, 2008).

Specifically speaking, the National Security Council, in charge of migration measures in Malaysia, has a highly classified decision making process from any public. This has let unfairness and discrimination to take place increasing forced migration cases and the situation for migrants only gets more complicated. There are potential limitations towards the living of migrants in Malaysia, which delimits their living and life quality.

UN ACTIONS

Due to the posing threat at which refugees encounter themselves in Malaysia where their basic rights, security and in the worst cases their lives are in danger, the United Nations has been developing certain actions as a way to help people deal with the vulnerable situation they encounter themselves in. Through the UNHCR, the agency has ensured that refugees will not be returned involuntarily to a country in which their lives are in danger and helps refugees repatriate voluntarily to their homeland, integrate in countries of asylum or resettle in third countries. Also due to the lack of administration dealing with refugees and asylum seekers, the agency conducts the registration, documentation and refugee status (“Protection in Malaysia...”, 2018).

Moreover, the UNHCR with the cooperation of government agencies, NGOs and donor countries provides legal and physical protection, assistance for refugees including healthcare, education, shelter, counseling and even financial support; carry out a monitoring of detention and if necessary to intervene; gives advocacy, building capacity, civil society partners; and supports refugees by finding resettlement to other countries like United States, Canada, Sweden, Denmark and Australia. Other action done was the Protection Unit which includes the cooperation of the relevant Ministries, the Immigration Department, Judiciary and legal fraternity, the Police Department and other stakeholders to support the Government of Malaysia in managing with refugees. This agreement includes the next action points: firstly carry out detention interventions weekly which according to UN database between 1st of January and 28 February 2017 667 refugees released from Immigration Detention Centres compared to 3,490 in 2016. Secondly, do regular dialogue with relevant Government agencies like when in August and December 2016 a dialogue took place with 1,670 law enforcement agencies which created a new UNHCR card and a Mobile App. And

thirdly, to verify refugee's status with close police cooperation in cases of criminality ("Protection in Malaysia...", 2018).

In addition, due to the challenging operational and political environment, the UNHCR has initiated a five year strategy, in order "to expand protection space and accelerate realization of durable solutions for refugees and other people of concern" (UNHCR, 2018). This program was established within a period from 2017 to 2021. By the end of the first year of implementation, there were 133 community centers were supported, in order to facilitate the access to education of boys and girls, focusing on the primary level. Also, there were 74,000 new UNHCR identity cards issued; and 22,600 people were registered. There were 3,000 releases of from immigration detention of people of concern. By 2018, it is expected to increase the school-aged children within the primary education up to the 75%; as well as have the 98% of people of concern registered on individual basis. Adding the 15,500 status determination decision that the UNHCR aims to address. For this year, the UNHCR aspires to build "community resilience through community-based protection that will be mainstreamed into all protection and assistance interventions" (UNHCR, 2018).

POSSIBLE SOLUTIONS

The inappropriate treatment to refugees and asylum seekers in Malaysia and in any other place in the world should not be tolerated, since as human being everyone deserves basic humans rights as good education and health. As Hannah Seitz points out, "the lives of refugees in Malaysia are often lived in the shadows, with a constant risk of deportation or detention (...), the registration of refugees is essential to their safety, be it through UNCHR or the initiatives of the government itself" (Seitz, 2018).

Therefore, concerned by the refugee international crisis, the following proposals are presented,

A. Short Term

- a. Start a management system by increasing security in borders, considering the overall identification between migrant, refugees, etc.
- b. Open centers for refugee organization including the detention but also assistant help for refugees with no sources of income and situations in danger.
- c. Increase the overall financial investment in programs for the protection of refugees rights and health.
- d. Create social awareness in society for the incorporation and help to the refugees sector to society.

- e. Expand the volunteer base in order to increase the fastness of the project and receive better results.

B. Long Term

- a. Even though Malaysia is not a signatory of the 1951 refugee Convention, legal recognition should be provided for refugees not be viewed as illegal migrants.
 - b. Malaysian government should permit permanent asylum guaranteeing health and education.
 - c. Conduct a formal registration and coordinated return system and readmission for all refugees aside from the refugee cards given by the UN body.
 - i. These will provide every refugee a formal recognition as a citizen mostly to the ones that have never been formally recognised as legal in their own homeland.
 - ii. Refugees will have, at least, a limit access to basic informal services as healthcare and employment.
 - d. Strengthen the asylum policy
 - e. Regarding employment, refugees should be given proper training and work permits for them to have a better quality of life.
 - i. Jobs should be guided towards the formal sector of Malaysian economy.
 - ii. Working rights should be strengthen for every refugee.
- This will erode the wages not only for foreigners but to local citizens, charity will be replaced with economic contribution and Malaysian economy will increase its national productivity.

The chair is looking forward to work with the whole committee to find peaceful and effective solutions that will ensure the safety and security of refugees in Malaysia and eradicate this situation.

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