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INFORMATION OF SOCIAL CAPITAL FOR THE FARMER GROUP OF GREEN BELT IN KEDUNGOMBO RESERVOIR BANK ON THEIR SELF-HELP ATTITUDE IN MANAGING THE GREEN BELT LAND

Sutopo, MS

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Abstract: One of cases of development raised around 1990s is especially addressed to the compensation process and the migration of inhabitants who were removed from their land by the development project of Kedung Ombo Reservoir. Even, many inhabitants who kept staying in their houses will be involved in the inundation process of water. Since the past up to now, the green belt around Kedung Ombo Reservoir has been managed by the farmer group of green belt management that of course must be accompanied by the agricultural counselor, DPU (Dinas Pekerjaan Umum/Public Works Service), NGO, and university community. In line with this, Brata (2004) said that recently, the social capital is an interesting issue to be discussed and studied more. The World Bank conveyed that the social capital has a significant impact on the developmental process (Word Bank, 2000). The developmental activities will be easier to reach and the cost will be less if there is a social capital. Therefore, the importance of the influence of the social capital’s economic value for the farmer group of green belt in Kedung Ombo Reservoir bank on the self-help attitude in managing the green belt land is necessary to be studied in depth. Social capital does not mean „capital” in a usual meaning such as property or money, but it has a metaphor meaning. It is a really important asset or capital in the society. Social capital includes good desire, sense of friendship, sense of sympathy, as well as social relation and tight cooperation between individual and family to form a social group. The social capital is also understood as a set of norms, social network and organization where the society gets access to the power and resources, and where the decision and policy making are conducted. Similarly, in the field of managing the green belt land, the regional government also implements the program of empowerment on the society’s potential, with the hope that there is a strong partnership between the officials of the Local Government of Sragen and the inhabitants of Kedung Ombo Reservoir bank. Through this strong partnership, the society is hoped to be encouraged to help and cooperate with the local government. From this study, it can be concluded that the social capital has brought the farmers community to be able to control the existing environmental capital, physical capital, economic capital, human capital, political capital, and information capital.

Keywords: Social Capital, Information Capital, Farmers’ Community, Green Belt Land
INTRODUCTION
The development of reservoirs in Indonesia in general, includes the development of Kedung Ombo Reservoir for many interests, is one of regional development aspects in order to increase the prosperity and welfare of Indonesia (Bintarto, 1992). From the above explanation, it shows the importance of “The Influence of Economic Value and Information on the Social Capital for Farmer group of Green Belt in Kedung Ombo Reservoir Bank on Their self-help Attitude in Managing the Green Belt Land”

OBJECTIVE
The research objective is determining the meaning of social capital and to suggest the implication of social capital among Farmer group of Green Belt in Kedung Ombo Reservoir Bank.

LITERATURE REVIEW

Table 1.
Social Capital of Farmers of Green Belt Land in the Green Belt Area

<table>
<thead>
<tr>
<th>No</th>
<th>Community Capital</th>
<th>The Form of Capital</th>
<th>Social Capital (Agreement on the order)</th>
<th>Validity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Environmental Capital</td>
<td>The Availability of water</td>
<td>Agreement on the organizing of water use</td>
<td>Among villages</td>
</tr>
<tr>
<td>2</td>
<td>Environmental Capital</td>
<td>The green belt land</td>
<td>Agreement on the land consolidation</td>
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<tr>
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<tr>
<td>4</td>
<td>Environmental Capital</td>
<td>Residential land</td>
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</tr>
<tr>
<td>5</td>
<td>Environmental Capital</td>
<td>Climate</td>
<td>Agreement on the consideration of the season</td>
<td>Among villages</td>
</tr>
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<td>6</td>
<td>Environmental Capital</td>
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<td>Agreement on being joined the farmer group</td>
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</tr>
<tr>
<td>7</td>
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<td>Agreement on raising the cattle and maintaining the security</td>
<td>Among hamlets</td>
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<td>2</td>
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<td>Agreement on developing the agricultural business</td>
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<tr>
<td>No</td>
<td>Community Capital</td>
<td>The Form of Capital</td>
<td>Social Capital (Agreement on the order)</td>
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<td>2. Road of residence Agreement on developing the residential road</td>
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<td></td>
<td></td>
<td></td>
<td>3. <em>Denplot</em> house Developing a <em>denplot</em> house in the land belongs to UNS</td>
<td>Among the farmer groups</td>
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<td></td>
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<td>4. Drill well Agreement on using the drill well</td>
<td>Among hamlets</td>
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<td></td>
<td></td>
<td>5. Cattle stall Agreement on building the cattle stall in the <em>denplot</em> land of UNS in Dukuh Tapen, Gilirejo</td>
<td>Among hamlets</td>
</tr>
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<td>3</td>
<td>Human capital</td>
<td></td>
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<td></td>
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<td>1. Environment Agreement by the group to manage the belt land in Kedung Ombo Reservoir bank</td>
<td>Among hamlets</td>
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<td></td>
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<td></td>
<td>2. Physic Agreement by the group to build the <em>denplot</em> house, the cattle stall, the green belt <em>denplot</em></td>
<td>Among groups</td>
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<td></td>
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<td>3. Economy Agreement by the group to make effort in making a business of productive <em>craftsman</em> of Garut</td>
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<tr>
<td>No</td>
<td>Community Capital</td>
<td>The Form of Capital</td>
<td>Social Capital (Agreement on the order)</td>
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<tr>
<td>4</td>
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<td></td>
<td>Agreement by the members of the farmer group</td>
<td>Among members</td>
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<td>2</td>
<td>Marketing network</td>
<td></td>
<td>Engloring the marketing networkjaringan pemasaran produk farmer group baik pengrajin maupun produk pertanian</td>
<td>Among members</td>
</tr>
<tr>
<td>3</td>
<td>The market targets to Solo city around it</td>
<td></td>
<td>Agreement on the enlargement of regional market network</td>
<td>Among members</td>
</tr>
<tr>
<td>4</td>
<td>Partnership</td>
<td></td>
<td>Agreement on making partnership for saprodi</td>
<td>Among villages</td>
</tr>
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<td>5</td>
<td>Financial institution</td>
<td></td>
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<td>5</td>
<td>Political capital</td>
<td></td>
<td>Agreement on a meeting of farmer group</td>
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<td>2</td>
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<td></td>
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<td>4</td>
<td>Organization of farmer group</td>
<td></td>
<td>Agreement on cohesiveness of the farmer group</td>
<td>Among members</td>
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<tr>
<td>No</td>
<td>Community Capital</td>
<td>The Form of Capital</td>
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</tr>
<tr>
<td>5</td>
<td>5. Figure of society</td>
<td>• Uniting the opinion with the figures of society</td>
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<td></td>
<td></td>
<td>2. Marketing network to outside regions</td>
<td>• Agreement on the enlargement of trading network</td>
<td>Among members</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. The partnership network of UKP</td>
<td>• Agreement on the enlargement of partnership network</td>
<td>Among members</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Documentation</td>
<td>• Agreement to make documentation in every activity</td>
<td>Among members</td>
</tr>
</tbody>
</table>

**METHODOLOGY**

The research used literature review and qualitative study among inhabitant of the green belt around Kedung Ombo Reservoir.

**FINDINGS**

1) Social capital has brought the farmer community to the ability of controlling the existing environmental capital, physical capital, economic capital human capital, political capital, and information capital.

2) The awareness as a role of mutual life, the existing social capital has become the organizational stabilization in the level of farmer community in the green belt land.

**CONCLUSION**

1) The government support in the form of aids for holding the agricultural business as well as the developing mechanism is needed to protect and to perpetuate the of the farmers in the green belt land area in Kedung Ombo Reservoir bank.
2) People must continue developing and socializing the existing community capital.

3) The forming of next generation in order that there is no finish in the existing social capital mechanism initiated by the members of farmer groups of the green belt management.

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STUDENTS’ PERCEPTION OF SERVICE QUALITY DELIVERY IN A PRIVATE HIGHER EDUCATION INSTITUTION

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Abstract: Students are well described as a respectful customer of higher education and how they expect to be treated during the service delivery and the actual end result experienced by them will affect their judgment of the quality of service delivery. The quality of service in universities can be identified through the frontline interface of customer services centre. Thus, the purpose of this paper is to identify the gap between students” expectation and perception towards the quality of service delivery in UNISEL based on five dimensions of SERVQUAL. The questionnaires were adapted from Parasuraman, Zeithaml, and Berry (1985) and tailored to academic settings, were distributed to all students from three faculties of UNISEL Shah Alam campus. A total of 371 students participated in the survey, giving a usable rate of 97%. The results were analysed using the Statistical Package for Social Science (SPSS). The findings show a significant difference between the students” expectation and perception in all five dimensions of SERVQUAL. The presence of negative quality gaps in all dimensions was determined. Students” expectations had a higher level than of the perceptions. Nevertheless, this paper might have missed some relevant work that has been published in other areas that have not been taken into consideration. The findings of this study cannot be generalized to other universities due to the different environment and situation. Therefore, there is still a need for further investigation to be able to generalize and extend these findings.

Keywords: Expectation, Perception, Service Quality, SERVQUAL

INTRODUCTION

In the today competitive world, the customers” standard of living is increasing and giving importance of service sector. This era service sector has become the dominant element of the economy. In a recent survey, „quality”, „customer satisfaction” and „identification of what constituted value to the customer” were identified as either important or very important elements (Coulson-Thomas & Brown, 1990). To keep the customers satisfied, the service providers are very active to provide the manufactured goods with added value while having good service quality in order to survive in their business. (Bostrom, 1995). Companies with perceived high-quality goods and services typically had long-term profitability.
than companies with perceived low quality. In the long run, the quality of the goods and services will be the most important factor that affects the business competitiveness.

**OBJECTIVE**

Therefore, the objective of this study is to identify the gap between students’ expectation and perception towards the quality of service delivery in UNISEL.

**LITERATURE REVIEW**

The service quality (SERVQUAL) model was initially introduced by Parasuraman et al. (1985) is a foundation model that was used to measure the service quality and has been used as an indicator in finding the gap of service quality in many industries by measuring the expectation and perception of the customer. According to Parasuraman et al. (1985), customers’ perceptions of service quality are influenced by five “gaps”:

- **Gap 1** – The Knowledge Gap - the difference between customer expectations and management perceptions of customer expectations;
- **Gap 2** – The Policy Gap - the difference between management perceptions of consumer expectations and the translation of these perceptions into service-quality specifications;
- **Gap 3** – The Delivery Gap - the difference between the service actually delivered by frontline service personnel on a day-to-day basis and the specifications set by management;
- **Gap 4** – The Communication Gap - the difference between service delivery and what is promised in external communications to consumers;
- **Gap 5** – The Service Quality Gap - the difference between customer expectations and perceptions.

Parasuraman et al. (1985) further discussed that consumers evaluated service quality by comparing expectations with perceptions on ten dimensions. However, these ten dimensions were subsequently collapsed into five generic service-quality dimensions, as follows:

- **Tangibles** - the appearance of physical facilities, equipment, and personnel;
- **Reliability** - the ability to perform the promised service dependably and accurately;
- **Responsiveness** - the willingness to help customers and provide prompt service;
• Assurance - the knowledge and courtesy of employees and their ability to inspire trust and confidence;
• Empathy - the level of caring and individualized attention the firm provides to its customers.

METHODOLOGY
The primary data collection process was carried out using a structured questionnaire, was designed based on Parasuraman’s service quality model (Parasuraman et al, 1985). A total of 400 questionnaires were distributed to all students from three faculties of Shah Alam campus. In all, 382 students participated in the study. After going over the respondents" data, 371 questionnaires were usable for further analysis, giving a usable rate of 97%.

FINDINGS

| Table 1: Gap between Students’ Perception and Expectation |
|---------------------------------|-----------------|--------|---------|--------|
| Item                            | Expectation Mean | Perception Mean | Gap    | Rank   |
| Employees at the administration office are appropriately dressed | 4.3450 | 4.0296 | -0.32  | 4      |
| There are a sufficient number of service counter provided at the administration office | 4.2507 | 3.2210 | -1.03  | 3      |
| Employees at administration offer always smile while dealing with students | 4.3423 | 2.9569 | -1.39  | 1      |
| Sufficient waiting space is provided at the administration office | 4.2561 | 3.1887 | -1.07  | 2      |
| Employees at the administration office are punctual in delivering promises | 4.6146 | 3.1159 | -1.50  | 1      |
| Employees at the administration office show a sincere interest in solving students’ problems | 4.6523 | 3.1644 | -1.49  | 2      |
| Administration office perform the service right the first time | 4.5849 | 3.3315 | -1.26  | 3      |
| Employees at the administration office provide accurate information administration office | 4.5310 | 3.3531 | -1.18  | 4      |
| Services provided at administration office comply with client charter | 4.4852 | 3.2534 | -1.23  | 2      |
| Employees at the administration office provide quick and efficient services | 4.3908 | 3.1563 | -1.24  | 1      |
| Employees at the administration office are ready to help the students at all time | 4.4825 | 3.3073 | -1.18  | 3      |
| On your first transaction at the administration office, employees provide the right services | 3.7925 | 3.3450 | -0.45  | 4      |
| Employees at the administration office are skillful and efficient in conducting their tasks | 4.4771 | 3.2884 | -1.19  | 1      |
| Employees at the administration office ensure to maintain their credibility | 4.2776 | 3.2561 | -1.02  | 3      |
| Employees at the administration office are knowledgeable in providing services to the students | 4.5391 | 3.4070 | -1.13  | 2      |
| Students data are safe and secured (ID card, birth | 4.5499 | 3.7224 | -0.83  | 4      |
CONCLUSION

The adapted SERVQUAL model from Parasuraman et al (1985) was used to measure the students' expectation and perception towards the service quality delivery at UNISEL. The findings show a significant difference between the students' expectation and perception in all five dimensions of SERVQUAL where the presence of negative quality gaps in all dimensions was determined. In other words, students have negative perceptions of service quality delivery. Reliability which had the largest gap was found to be the most important dimension for all students. Therefore, the university has to make more effort especially in the selection of administrative officers and improve their level of independence in their work by providing them with proper training and motivate them. Improvements in the behavior and appearance of their employees are most likely to enhance student perceptions of service quality. As a result, it will create a positive word-of-mouth among student and will reflect the image of the university.

MAIN REFERENCES


Bostrom, G. O. (1995). Successful cooperation in professional services: What the characteristics should the customers have? Industrial marketing management, 24(3): 151-165


MOTIVATION FACTORS OF INTERNET-SUPPORTED LEARNING ENVIRONMENT (ISLE) AMONG MALAYSIAN UNIVERSITY STUDENTS

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2 English Unit, Centre for Languages and General Studies, Sultan Idris Education University, Malaysia

Abstract: Internet-supported learning environment (ISLE) is necessary for students in higher institutions in order to be able to learn efficiently in a class. The study investigated the importance of applying ISLE among Malaysian university students to understand the acceptance of technology whether it is in line with the major shift in the education system in 21st century. It was measured through students” motivation level in learning using four ISLE motivation factors which included technology, effort, persistence and task choice. The four ISLE motivation factors by Bekele (2010) were mapped in the questionnaire based on Innovation Components Configuration Map by Javeri & Persichitte (2007). The finding showed that all the four ISLE motivation factors affected student motivation level in accepting technology in their learning. Since ISLE is relatively less structured, student focused, and process oriented, it helps students to learn the courses more efficiently.

Keywords: Internet-supported learning environment (ISLE), Learning motivation, 21st century education, Technology, E-learning

INTRODUCTION

In the era of technology, people access the internet to find and share information, communicate, and exchange ideas with other internet users. Internet seems to provide a potential effective approach in the learning environment. Even though it is possible to teach without the internet access but in this era of modernization where the technology developed rapidly, it is hard to deny the importance of technology in our learning environment. The use of technology in our learning has changed the landscape of education field in 21st century. It forms the new student approaches to learning, teaching approach to teach and how educators interact with students (Hargadon, 2009). Despite of the advancement of internet and computer in learning, the use of traditional learning is still valid (Lokie, 2011).
OBJECTIVE
To determine the overall motivational factors influences of Internet Supported Learning Environment (ISLE) in Higher Education.

LITERATURE REVIEW
The utilization of technology especially the computer and internet access have a tremendous effect on the whole aspects of people’s lives. In this era of globalization, internet existence is regarded as a gift to the world of education and making the educator task easier. The whole world seems to be an electronic village where everyone can communicate with each other. Focusing on the motivation aspect, the use of technology to support the learning environment plays important roles as the students’ motivation is a major issue faced by educators in the field. According to Pintrich & Schunk (2002), motivation is one of the crucial factors for a productive learning and it also affects the acquisition and demonstration of higher-order thinking skill. Therefore, it is very important for the educators to examine the overall motivational factors influences of Internet Supported Learning Environment (ISLE) in Higher Education. This would bring a better understanding of how and to what extent ISLE impacted the phenomena.

METHODOLOGY
The population of this case study was second year undergraduate students from one of the universities in Malaysia. The sample was 40 undergraduate students who experienced e-learning system in their learning with the duration of fourteen (14) weeks and they were having face-to-face and online learning interaction. The questionnaire was adapted from Innovation Components Configuration Map by Javeri & Persichitte (2007).
FINDINGS

Table 1. Relationship between Overall ISLE Motivation Factors (OMF) and the Students’ Motivation Level (ML) in ISLE

<table>
<thead>
<tr>
<th></th>
<th>ML</th>
<th>OMF</th>
</tr>
</thead>
<tbody>
<tr>
<td>ML</td>
<td>Pearson Correlation</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>40</td>
</tr>
<tr>
<td>OMF</td>
<td>Pearson Correlation</td>
<td>.364*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.021</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>40</td>
</tr>
</tbody>
</table>

*. Correlation is significant at the 0.05 level (2-tailed).

CONCLUSION

This present study recommended that motivation factors must also emphasize on the supports. These denote technology leadership and support provided by faculty or tutors, administrators, and peers. Technology leadership provides logistics crucial for success. Presumably, support factors directly affect and are affected by success and technology and course factors. Within the supports factor the result will be more effective in finding the motivation level in ISLE. It can be concluded that ISLE has benefited students in their learning especially in increasing their motivation level. Compared to classroom learning environments, ISLE are relatively less structured, student focused, and process oriented. Consequently, adequate level of student motivation is a key to success. In addition, students may enroll for more online courses if they get satisfied with their first encounter with ISLE. That is partly why previous studies considered motivation among the success measures in ISLE in Higher Education.

MAIN REFERENCES


THE ENTREPRENEURIAL TRAITS AS MODERATING VARIABLE IN THE RELATIONSHIP BETWEEN ACADEMIC PERFORMANCE AND ENTREPRENEURIAL ORIENTATION OF UNIVERSITY STUDENTS: A STUDY IN INDONESIA HIGHER EDUCATION CONTEXT

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Abstract: This research aimed to exam the role of entrepreneurial traits as moderating variable on relationship between students’ academic performance and entrepreneurial orientation. This research was conducted university students. The data were drawn from 250 students through survey using questionnaires. There were four universities participated in the survey. The results of survey were analysed using hierarchical regression analysis to answer the proposed hypotheses. The finding of the research found that students’ academic performance significantly affected on entrepreneurial orientation of the students. Meanwhile, the students’ entrepreneurial traits significantly influenced on entrepreneurial orientation. Testing of moderating effect demonstrated that entrepreneurial traits significantly moderated relationship between students’ academic performance and entrepreneurial orientation. Implications of the finding were also discussed in the paper.

Keywords: Entrepreneurial orientation, entrepreneurial traits, academic performance

INTRODUCTION

The issues of entrepreneurship in have been interesting discussion for scholars since last two decades. The role of entrepreneurship in nations can be seen from its impact on creating new job opportunities which in turn might reduce unemployment rate. Entrepreneurship is source of innovation and creativity that pushes the one country’s economy development and growth (UNCTAD, 2004). Entrepreneurship has been identified as the best solution to reduce unemployment and poverty among the youths, especially higher education graduated who cannot find jobs (Brownhilder 2014). Therefore the issue of entrepreneurship is recently becoming central issue in developed country, such as Indonesia. On the basis of the data from Indonesia Statistics Bureau (2015), the growing up of work force is greater than the growing up number of job opportunities. Therefore, long terms strategies are needed to address this
issue, mainly strategy related to process creating entrepreneurship through educational process. The role of university becomes crucial to change students’ mind-set from job seeker to job creator. It can be argued that university or higher education institutions could be a starting point to choose the next career afterward for graduated. This issue appears to be essential and important since the chances to find jobs is getting decrease, moreover the job opportunities is becoming more limited for job seeker due to slowly economic growth.

OBJECTIVE
The research objective is to determine the effect of entrepreneurial traits (i.e. self-confidence, innovativeness, risk taking) that is surmised to strengthen entrepreneurial orientation.

LITERATURE REVIEW
Entrepreneurial orientation (EO) refers to a strategy making process which guides firms developing constant innovations, adopt a proactive posture in the market and undertake risky investments (Stam and Elfring, 2008). In term of academic performance in college, grade point average (GPA) is commonly used as an indicator student performance and achievement to evaluate student persistence (Osher & Kneidinger, 2000). Entrepreneurship is known to be highly influential on the development of economies (Audretsch and Keilbach, 2004).

METHODOLOGY
Data were obtained from university students in West Sumatra Province Indonesia. There are four universities participated in the current study. A total of 300 questionnaires were distributed to the universities. Participants were involved in voluntarily basis and responses were treated with confidentiality.
FINDINGS

Table Regression Analysis

<table>
<thead>
<tr>
<th>Variable a</th>
<th>Entrepreneurial Intention</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 1</td>
</tr>
<tr>
<td>Step 1: Main Effect Academic Performance</td>
<td></td>
</tr>
<tr>
<td>Academic Performance (AP)</td>
<td>.136**</td>
</tr>
<tr>
<td>Step 2: Main Effect of Entrepreneurial Traits</td>
<td></td>
</tr>
<tr>
<td>Entrepreneurial Traits (ET)</td>
<td>.224**</td>
</tr>
<tr>
<td>Step 3: Interaction</td>
<td></td>
</tr>
<tr>
<td>Academic Performance x Entrepreneurial Traits (AP*ET)</td>
<td>.311**</td>
</tr>
<tr>
<td>Overall F</td>
<td>1.162</td>
</tr>
<tr>
<td>$R^2$</td>
<td>.021</td>
</tr>
<tr>
<td>F Change</td>
<td>4.281**</td>
</tr>
<tr>
<td>$R^2$ Change</td>
<td>.062</td>
</tr>
</tbody>
</table>

Note: $N = 250$. Entries are standardized regression coefficients. a Variables are standardize.

* $p \leq .05$. ** $p \leq .01$

CONCLUSION

This research uses variable of academic performance, entrepreneurial traits as independent variables and entrepreneurial orientation as dependent variable. The research observation used questionnaires that distributed to 250 higher educational students in West Sumatra Province, Indonesia. Academic Performance significantly influence on student’s Entrepreneurial Orientation. This result supports the hypothesis (H1) constructed. This result explains the higher academic performance of students; the more students demonstrate entrepreneurial orientation. Entrepreneurial Traits have positive and significant influences toward student’s Entrepreneurial Orientation. This result supports the hypothesis (H2). The student with strong traits in self-confidence, innovativeness, and risk taking will be strengthen orientation to be entrepreneur after graduating from universities.

MAIN REFERENCES


OCCUPATIONAL STRESS AND THE LAWS IN SELECTED JURISDICTIONS

Dr Ashgar Ali Ali Mohamed¹, Dr Mohamad Naqib Ishan Jan¹, Dr Muhamad Hassan Ahmad¹, Shahadat Hussain¹

¹Ahmad Ibrahim Kuliyyah of Laws (AIKOL), International Islamic University Malaysia (IIUM)

Abstract: In the contemporary modern and globalised world, it is common for the majority of employers to draw a great attention to the productivity of the workforce rather than the employees working capability and physical and mental conditions. Businesses and industries have always been striving towards maximising profit and minimising the cost. As a result, employees of uncountable organisations suffer from the alarming occupational stress in catching up with the respective schedule of productions, shipments and services. The question arises here is that whether there should be some regulatory measures to relief the occupational stress of the workforce? Accordingly, this article examines the laws relating to the occupational safety and health in selected jurisdictions, namely, Malaysia, Australia, Canada, the United Kingdom and New Zealand in order to evaluate whether these laws protect workers’ mental health. It is found that the existing legislations on occupational health and safety in the selected jurisdictions do not explicitly address on the emotional and mental health of employees.

Key words: Occupational Stress, Work-related Stress, Mental Wellbeing, Occupational Health, Work-life Balance
INTRODUCTION

Stress is defined as “to feel pressure or tension, worried and nervous exerted on a material object or caused by a difficult situation, or something that causes this condition”. It can also be defined as “state of mental or emotional strain or tension resulting from adverse or very demanding circumstances”. Stress is usually described as “the body's nonspecific reaction or response to demands made on it, or to distressing events in the surroundings”. It is “a method by which we perceive and survive with environmental intimidation and challenges”. Stressors - factors that cause stress - can be personal and/or environmental events.

OBJECTIVE

To propose that a specific legislation is warranted to regulate occupational stress closely and carefully in order to provide better work-life balance to the workforce.

LITERATURE REVIEW

There is a significant “relationship between stress and job performance”. Stress is the common denominator for depleting work performance and productivity. This may arise due to various factors such as “persistent lateness or tardiness, taking excessive sick leave and repeated absences,” among others. Persistent lateness or tardiness, absence from workplace and leaving the office earlier than the scheduled working hours, can have serious effects on employer's productivity, profits and reputation. It may also cause hassle to other co-workers who will have to cover up the more tasks in order to compensate for those who absent from work or reported late for work.

Some commentators have argued that occupational stress effects on memory uniformity where it shows the elements of working memory are prejudiced by occupational pressure like the memory is working even after the office hours. Anxiety is one of the most frequent stress condition through which memory performance has been examined by the concern researchers. Ashcraft and Kirk observe that a person in high anxiety inevitably will lead to slower processing of different aspects of mathematical calculations. Furthermore, researches have also shown that stress plays a vital role in judgment and decision making in day to day life.
### FINDINGS

#### MALAYSIA
- Employment Act 1955, a statute which is only applicable to employees in the private sector. It prescribes inter alia, the payment of wages, deduction of wages under certain circumstances, maternity protection, certain restriction on night work, underground work and in certain places of work for female workers, rest days in each week for workers, annual leave, maximum hours of work in a day, public holidays, annual and sick leave, and overtime payment for extra hours of work, among others but it does not deal with safety and health of workers at the workplace.
- The Employees’ Social Security Act 1969 is a social legislation primarily provides inter alia, benefits within their scheme of insurance which all industrial are required to register their establishment with the Social Security Organisation and their employees should be insured in accordance with the Act.
- Occupational Safety and Health Act 1994 is the Act that provided in the preamble are as follows: “to secure the safety, health and welfare of persons at work and to promote an occupational environment adaptable to the person’s physiological and psychological needs.
- National Council for Occupational Safety and Health functioned to carry out the objectives of the Act and to submit reports as well as make relevant recommendations with regard to any matters relating to the objectives of the Act.
- Factories and Machinery Act 1967 provides for matters relating to safety, health, and welfare of persons in the factory, and the registration and inspection of machinery.

#### AUSTRALIA
- The Commonwealth Fair Work Act 2009 provides a balanced atmosphere for productive workplace relations which can promotes national economic development and social inclusion for all Australians.
- The observance of the Act is overseen by the Fair Work Commission and the Fair Work Ombudsman.
- The Fair Work Commission enforces the Act and examines the legislation including “updating entitlements, national minimum wages, and operates as a tribunal to hear claims and declare rulings”.
- The Fair Work Ombudsman administers and investigates “allegations of breaches in the workplace and initiates legal proceedings”.
CANADA

- Federal and Provincial Occupational Health and Safety Regulations for ensuring and protecting occupational health and safety of employees at the workplace.
- The Occupational Health and Safety Regulations are the basic laws for the protection of the employees in the workplace from any sort of physical and mental disturbance which is often known as occupational stress.

THE UNITED KINGDOM

- The Health and Safety at Work Act 1974 is the basic legislation for health and safety management in the workplace which enacted and enforced by the Health and Safety Executive (HSE) and local authorities known as the “Local Council”. The Act requires the employers to ensure health, safety and welfare at work for all of their employees.

NEW ZEALAND

- The New Zealand Health and Safety in Employment Act 1992 has been substituted by the Health and Safety at Work Act 2015. Which regulates workplace health and safety issues in New Zealand together with the regulations made under that Act.
- Hazardous Substances and New Organisms Act 1996 is the law that regulates the hazardous substance and new organism to protect the workplace environment for the sake of health and safety of the employees.

CONCLUSION

As discussed above, the laws in Malaysia, Australia, Canada, the United Kingdom and New Zealand do not explicitly address the issue of occupational stress. The workplace safety and health legislations in the abovementioned jurisdictions merely emphasised on workers safe and healthy work environment at the workplace and thus excludes psychological distress at work. In other words, the existing legislations on occupational health and safety do not explicitly address on the emotional and mental health of employee let alone imposing any liability on the employer. It is therefore submitted that a specific legislation is warranted to regulate occupational stress closely and carefully in order to provide better work-life balance to the workforce.

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V. Employees’ Social Security Act 1969, ss. 4 and 5.

OCCUPATIONAL STRESS: AN ANALYSIS OF THE CAUSES

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Arun Kasi¹

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Abstract: Occupational stress may have an impact on the effectiveness of an organisation. Excessive workload or demand, stressful deadlines, long working hours, insufficient number of staff, lack of support from co-workers and supervisors, annoying co-workers, unsatisfied customers, and hazardous working conditions, among others are some of the underlying causes of occupational stress. Job uncertainty due to impending retrenchment, restructuring or management changes and hostile work environment could also give rise to occupational stress. Occupational stress often results in high dissatisfaction among the employees in terms of job mobility, burnout and poor work performance and less effective interpersonal relations at work. Excessive or unmanageable demands, insufficient support from co-workers and unsatisfactory working conditions may affect staff-motivation and productiveness. Long-term stress or traumatic events at work may have affect the workers physically and psychologically. In light of the above, this paper seeks to deliberate on the causes of occupational stress with reference to unmanageable workload, job insecurity, sexual harassment, workplace discrimination and employer’s unlawful conduct.

Key words: Stress, Occupational, Causes
INTRODUCTION

The occupational stress in the present globalised world has fraught a tremendous concern to the employees and other stakeholders of organisations. This is a sombre dilemma in many organisations around the world and its impact can be substantial. Occupational stress can be defined as the gap between work-demands and individual-ability to fulfil those demands. The underlying cause of stress include lack of resources and equipment, heavy work schedule such as working late or overtime, under-staffing, increased workload and responsibility, poorly designed shift-work, tight deadlines, ineffective handling of bullying and harassment, uninteresting or uninspiring job, poor interpersonal relationship with superior, not corporative colleagues and worry of losing job due to uncertain economy condition affecting the organisation, among others. Occupational stress often results in high dissatisfaction among the employees in terms of job mobility, burnout, and poor work performance.

OBJECTIVE

The main aim of this study is to deliberate on the causes of occupational stress with reference to unmanageable workload, job insecurity, sexual harassment, workplace discrimination and employer’s unlawful conduct.
FINDINGS

Occupational Stress: The Causes are as follows:

<table>
<thead>
<tr>
<th>Unmanageable workloads</th>
<th>The key performance indicators (KPI) imposed on an employee to gauge performance which is unrealistic or unreasonable will give rise to unnecessary stress level amongst the workers in the workplace.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job insecurity</td>
<td>Feelings of life dissatisfaction, lack of self-esteem, lack of personal control and general psychological depression, and other stress related illness such as hypertension, cardiac disorders, and gastric ulcers, among others, which increase with continued unemployment.</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>Sexual harassment refers to an improper, unbecoming and totally unacceptable conduct as it violates a person’s honour and dignity.</td>
</tr>
<tr>
<td>Workplace Discrimination</td>
<td>Discrimination means a comparative unfair treatment of a person on grounds such as race, gender, disability, age and religious belief, it can caused to a lowered self-esteem, lack of self-confidence, mental distress, anxiety and depression.</td>
</tr>
<tr>
<td>Employer’s wrongful conduct</td>
<td>It imposes a duty on the employer to treat the workers fairly and reasonably during employment and where dismissal is inevitable, it should be carried out in a justifiable manner.</td>
</tr>
</tbody>
</table>

CONCLUSION

Employer must ensure that the workers are treated fairly and that work assignments are reasonable and commensurate with the position and the capability of the worker to discharge. Overwhelming job demands or too high job expectation could lead to frequent sick leave or unplanned leave application due to stress related illnesses. Occupation stress may also arise when a worker is harassed or humiliated in the presence of a co-worker or customer of the company, when he or she is falsely accused of a gross misconduct such as theft, demotion involving reduced responsibilities and/or positioning within the corporate hierarchy where his or her newly assigned position involves a substantial reduction in salary and responsibilities, making a significant change in the employee’s job location at short notice and forced resignation.
SELECTIVE REFERENCES

EMPLOYMENT OF REFUGEES: A MALAYSIAN PERSPECTIVE

Mohammad Naqib Ishan Jan¹, Ashgar Ali Ali Mohamed¹ & Muhamad Hassan Ahmad¹

¹ Department of Civil Law, Ahmad Ibrahim Kulliyyah of Laws, International Islamic University Malaysia, P.O.Box 10, 50728,KualaLumpur,Malaysia

Abstract: It is an undeniable fact that, despite not being a Party to the 1951 Convention Relating to the Status of Refugees (1951 Convention), Malaysia is exemplary in assisting refugees while they are waiting for the repatriation to their own country or resettle in a third country. However, the refugees recognised and registered in Malaysia with the United Nations High Commission for Refugees (UNHCR) are not financially supported by any institution. Therefore, they have no choice but to engage in employments which are not legally permitted under the Malaysian law. This situation opens the door for numerous forms of exploitation. In fact, the existing refugees in the country can contribute as active work in the local workforce and thereby increasing the productivity and generate revenue for the government. It can also reduce the reliance of foreign workers in the local labour market. Nonetheless, the employment of refugees can be challenging to engage for the stakeholders if there is no efficient and proper legal framework to govern the human resources practices for this aspect as there is no legislation dealing with the employment of refugees in Malaysia. Accordingly, this paper aims at identifying some challenges of the employment of refugees in enhancing the Malaysian economic growth. It also explores whether developing a legal framework in order to allow and enforce the employment of refugees in Malaysia would be feasible. This study is primarily doctrinal and qualitative in nature. The paper significantly contribute to some of the key focus areas in the Eleventh Malaysia Plan (2016-2020) such as improving labour productivity in the local economy, generating revenue for the government and promote human rights.

Key words: Refugees, asylum seekers, foreign workers, migrant workers, employment
INTRODUCTION

The world experiences the worst refugee crisis after the World War II, which results to 86% of refugees being displaced in developing countries. The number of people forced to seek refuge increased every year, due to unavoidable reasons like natural disasters, or even worst; human rights violations, conflicts, or persecution (European Commission, 2017). Governments worldwide have started to be awakened by current events but unfortunately only a few are willing to accept and offer helping hands to the unfortunate refugees. The citizens, on the other hand, tend to show compassion quicker than their governments (ITUC, 2015).

OBJECTIVE

The objective is to show that this reflux of refugees in Malaysia can be a blessing than a menace. It is prudent to take this as an opportunity to fill the gap in the labour market
# FINDINGS

## FUNDAMENTAL PRINCIPLES OF INTERNATIONAL REFUGEE LAWS

| • International refugee law is defined as “a set of rules and procedures that aims to protect, first, persons seeking asylum from persecution, and second those (whose status is already recognised as refugees)”.
| • The main instruments on the right to work in international and regional level:
  | i. 1951 Convention
  | ii. the International Covenant on Economic, Social and Cultural Rights
  | iii. the European Social Charter
  | iv. the European Convention on the Legal Status of Migrant Workers
  | v. ILO Migration for Employment (Revised) (No. 97) and Migrant Workers (Supplementary Provisions), 1975 (No. 143) Conventions.|

## REFUGEES AND THE RIGHT TO WORK

| • The 1951 Convention in its Articles 17 to 19 expresses the opportunities of self-employment, wage-earning employment, and employment in liberal sectors (Schuettler, 2017).
| • According to Article 17 of the 1951 Convention, persons legally recognised as refugees are to be granted the fundamental human rights to work.|

## MALAYSIAN POSITION

| • According to Mallow, one hundred forty five countries have become parties to the 1951 Convention, yet Malaysia has neither ratified the 1951 Convention nor the 1967 Protocol.
| • Malaysia is urged to re-evaluate its assessment on this issue (Mallow, 2017).|

## REFUGEES AND ILLEGAL IMMIGRANTS: A NECESSARY DISTINCTION

| • It is specified by the 1951 Convention that a person is qualified to be a refugee if:
  | -the person has already been considered a refugee under prior treaty arrangements.
  | -the person is outside the country of his nationality (or not having a nationality) and is unable or unwilling to avail himself of the protection of that country due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion.|

## PROBLEMS AND CHALLENGES FOR REFUGEES WITHOUT THE RIGHT OF EMPLOYMENT

| • The ‘refugee’ status is non-existent in Malaysian law and, no special rights are granted to persons who have been recognised by the UNHCR.
| • Refugees and asylum seekers are in the same way subject to the Immigration Act 1959/63 as if they have... |
entered or remained in Malaysia unlawfully, exposing them to imprisonment, whipping, detainment and removal.

| UNDERSTANDING THE IMPORTANCE OF THE RIGHT TO WORK IN THE MALAYSIAN CONTEXT | • Refugees  
- If refugees are given the access to the labour market, it gives them the necessary skills and financial gain easing their return to their country of origin and their process of reintegration (Chope, 2014).  
• Society  
- Might increases the host countries' revenues as this means that refugees need to pay taxes and buy goods and services.  
• Economy  
- Economic studies have shown that a 10% net rise in low-skilled foreign workers could increase 1.1% of Malaysia’s GDP and increase wages for Malaysian with more job opportunities (Moreno, 2016). |

CONCLUSION

On the matter of refugee’s employment, it is recommended that Malaysia should make use of this refugee’s influx into its advantage by creating a win-win situation for both, i.e. for itself and refugees. As highlighted above, Malaysia should create a legal framework for the employment of refugees to boost its fast booming economy.

SELECTIVE REFERENCES

EMPLOYMENT RIGHTS OF REFUGEES UNDER THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES

Mohammad Naqib Ishan Jan¹, Ashgar Ali Ali Mohamed¹ & Muhamad Hassan Ahmad¹

¹ Department of Civil Law, Ahmad Ibrahim Kulliyyah of Laws, International Islamic University Malaysia, P.O.Box 10, 50728,KualaLumpur,Malaysia

Abstract: The 21st Century is shockingly witnessing the growing trends of stateless, vulnerable and persecuted people around the world. Albeit the 1951 Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol Relating to the Status of Refugees (1967 Protocol) offer numerous legal basis for the protections of refugees, these are still seemed inadequate to address the global plights of refugees. One of the problems associated with refugees is unemployment while seeking refuge in the host State. Surviving in a foreign country without a proper mean to earn a living often compels them to indulge in illegal activities which may inevitably affect the national security of the host nation. Hence, it is essential to guarantee employment rights to the refugees for their survivals. It is observed that most of the States nowadays are reluctant and not very much forthcoming in welcoming refugees let alone employing them. In fact, there are many benefits that a host State can gain from allowing refugees to work while they are living it its territory, namely, promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy, among others.

Key words: Employment rights, Refugees, Standards of treatment, 1951 Convention Relating to the Status of Refugees, United Nations High Commission for Refugees (UNHCR)

INTRODUCTION

Generally, the responsibility to grant access to safe and lawful employment is a fundamental human right. This is a fundamental principles and applicable to all persons, which also consist of refugees and asylum seekers, for good reasons. Allowing a person to involve in safe and lawful work enables that person to fulfill his or her basic survival needs and also to contribute to the needs of the family, community and the country in which they reside. The recognition of this right is an avenue that a person may achieve a range of other civil, political, economic, social and cultural rights. This further fulfilled the human desire to feel useful, valued and productive.
OBJECTIVE

To examine major legal provisions dealt with the employment of refugees under the 1951 Convention.

LITERATURE REVIEW

By looking at the current global trend, most of the States nowadays are reluctant and not very much forthcoming in welcoming refugees let alone employing them. Therefore, authors recommend through this paper that a host State should allow refugees to work while they are settling it its territory for the purpose of promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy.

FINDINGS

1. Development of International Refugee Law

  - Refugee Protective Measures Initiated by the League of Nations
    - Established in 1919 under the Treaty of Versailles, was the first international organisation that faced a large influx of refugees.
    - The main cause for the influx of refugees was the First World War that started on 28 July 1914 and continued until 11 November 1918.
    - The League of Nations took some limited measures to respond towards the protection of some, though not all, refugees.
    - Russians, Armenians, Assyrians and Assyro Chaldeans and Germans are the only categories of refugees who came within the mandate of the League's agencies for refugees.

  - Refugee Protective Measures Initiated by the UN
    - Established on 24th October 1945, which acknowledges the problem of refugees and displaced persons of all categories is one of the immediate urgency.
    - The UN General Assembly tasked the Economic and Social Council (ECOCOS) to institute a comprehensive organisation to look for solutions with regard to refugees. Meanwhile, the General Assembly decided to establish the United Nations High Commissioner for Refugees (UNHCR) and it started its journey as the only international body responsible for the defense of refugees since 1951 (Degu, 2002).

2. Minimum Standards of Treatment

  - It establishes the main rights and obligations of refugees as well as the treatment to which they are entitled from the country of asylum (UNHCR, 2006).
  - The rights or the minimum standards of treatment refugees enjoy under the 1951 Convention are accompanied with certain duties as Article 2 makes it clear that refugees have duties to "the country of asylum, including "respect for its laws and for measures taken for the maintenance of public order".
  - The minimum standards of treatment of refugees under the 1951 Refugee Convention include first national treatment, which is the highest standard requiring that refugees to be treated the same as nationals in various matters.
3. Employment Rights of Refugees

- Under the 1951 Convention, refugees have rights to be employed, self-employment, practice a profession, own a property, and access to higher education.
- It categorises these rights into three types:

| Wage-earning Employment | • A refugee with legal status who stays in a host country would be accorded to status of a foreign national and such will grant the right to engage in employment for the purposes of earning income.
|                        | • The problem arises at this juncture is that term 'wage-earning employment' was not specifically defined in the 1951 Convention.
|                        | • It is assumed that "the term 'wage-earning employment' comprises employment as those who are remunerated to a greater or smaller extent in the form of little payment, commissions or percentages (farmhands, office workers, salesmen).
|                        | • Article 17 applies to assistant dentists, assistant architects, law clerks and assistant attorneys, etc" (UNHCR, 1997).
|                        | • Article 17 (2) -in any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
|                        | -has completed three years’ residence in the country;
|                        | -has a spouse possessing the nationality of the country of residence
|                        | -has one or more children possessing the nationality of the country of residence".
| Self-employment        | • Article 18 of the 1951 Convention imposes duty up on the State Parties to provide a refugee the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.
|                        | • the State parties should support refugees with the opportunity to own a land for those interesting in agricultural farming, industries, etc.
| Liberal Professions    | • Article 19 (1) of the 1951 Convention requires State Parties to recognise the educational qualifications of the refugees through the competent authorities and allow them to practice a liberal profession if they desire.
|                        | • The purpose of this provision is to integrate the status of refugees in the society by making them skillful in the area of their interest so that they will be able to provide better services.
|                        | • Under Article 19, a refugee hold an educational certificate and that qualification need to be recognised by the competent authorities of the State in whose territory the refugee is lawfully settling.
|                        | • A diploma must be considered as recognised if it is obtained from a university or an equivalent institution in the country concerned.
|                        | • To make some clarification on some of the terms in this provision for the purposes of understanding, these terms are two fundamentals which profession (the person concerned must possess certain qualifications, normally confirmed by a diploma from a university, or a similar institution, or a license from a State agency, a chartered society or some other legally competent body allowing him to practice” (UNHCR, 1997)) and liberal (the person concerned acts on his own, not as an agent of the State or as a salaried employee).
CONCLUSION

In a nutshell, the 1951 Convention makes it compulsory for the Contracting States to provide refugees with rights to be employed, self-employment, practice a profession, own a property, and access to higher education. These rights are inalienable and thus any Member State that hosts refugees should be aware of these exercisable rights by refugees and ensure these rights in its respective domestic legislation. Of course, the standards of treatment with regard these rights mentioned in the 1951 Convention are not exhaustive as it merely sets the minimum standards of treatment. Therefore, other sets of international human rights law and international customary law can be referred to fill the gap in the international refugee law if that is necessary. By doing so, a State Parties is considered not only in compliance with the 1951 Convention and 1967 Protocol but also promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy.

SELECTIVE REFERENCES


RECOGNITION AND PROTECTION OF REFUGEES IN MALAYSIA

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Abstract: Malaysia possesses a great reputation for allowing refugees to live in the country until they repatriate or resettle in a third country. People who came to Malaysia due to wars, armed conflicts, political conflicts, and persecution in their country of origin need to approach the United Nations High Commission for Refugees (UNHCR) for the formal recognition as refugees. They can be recognised as refugees by the UNHCR after undergoing through a lengthy interview process to determine whether they are genuine refugees. However, they are not legally recognised in Malaysia due to the fact that Malaysia is not a party to the 1951 Convention Relating to the Status of Refugees (1951 Convention) and also the 1967 Protocol Relating to the Status of Refugees (1967 Protocol). Besides, there is no specific domestic law dealing with the protection and rights of refugees. Accordingly, refugees are exposed to various kinds of exploitations while waiting for the repatriation to their own country or resettle in a third country. Sometimes, the waiting period may well be over a decade due to numerous reasons.

Key words: Refugee, Stateless Person, Asylum Seeker, 1951 Convention Relating to the Status of Refugees, United Nations High Commission for Refugees (UNHCR)
INTRODUCTION

International refugee law and humanitarian law are both part of human rights law. The rationale behind these laws is to safeguard people in particular situations (such as circumstances like armed conflicts and oppression). Later on, human rights laws were further developed, however, it is far crucial to regard refugee law and refugee protection as a part of the human rights context. It is also essential to note that there are some States that are still not signatories of the 1951 Convention. The overall standards of law apply universally and even the few States that have not yet signed the 1951 Convention are hosts to a large number of refugees and are respectful to the principles of international refugee law, particularly the code of non-refoulement (UNHCR, 1992).

OBJECTIVE

This paper aims at identifying existing legal frameworks that can be applicable for the protection of refugees in Malaysia.

LITERATURE REVIEW

Authors want to explore whether it is time for Malaysia to become a party to the 1951 Convention. Alternatively, this issue can also be addressed by enacting a local statute for protecting refugees in Malaysia without becoming a member to the 1951 Convention.
FINDINGS

- The Nature of International Refugee Law

The 1951 Convention
- occurred from 1947 to 1950, based on the suggestion of the UN Human Rights Commission whose early thought focused toward the people who were not protected by their own states.

The 1967 Protocol
- presented as a result of continuous refugee outbursts right after the introduction of the original 1951 Convention.

Third Parties' Are Not Bound by the 1951 Convention and the 1967 Protocol
- There are specific Articles in both the 1951 Convention and the 1967 Protocol which have the customary law standing, or “erga omnes” which means that countries which are neither signatory to the 1951 Convention nor the 1967 Protocol ought to uphold those Articles.

- Three Pillars of International Law for the Protection of Refugees

Definition of the Refugee under International Law: Who Are Refugees?
- The term refugee is being used for persons who left their place of stay for a variety of reasons, such as violence and conflict. Sometimes the term refugee is used to refer to people who have been displaced from their home due to natural disaster. However, under international law, it has more precise meaning (Refugee Council of Australia, 2016).

Distinction between the Refugee, Asylum Seeker and Economic Migrant
- Article 1A (2), now read along with the 1967 Protocol and with exemption of time-based and location restriction, gives a broad meaning of the word “refugee” as including any individual who is not on the boarders of their nation of origin and incapable or reluctant to go back or to put themselves under its defense, due to logical fear of harassment because of race, faith, citizenship, affiliation with a certain societal group (an extra reason lacking in the UNHCR Statute), or political view.
- An asylum-seeker is someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated.
- An economic immigrants is a persons looking for more favourable employment and economic stability. The aim of their stay is just to acquire enough monetary funds and then go back to their countries to purchase land, build a house, sustain immediate and extended family and retire in their homeland.

Asylum Seeker
- An individual that his application for refuge yet to be processed. The asylum system is properly arranged to identify whether someone is eligible to be a refugee.
- In different situations, refugees may not be capable of gaining access to official status determination procedure or they may not even know that they have a right to seek security as a refugee.
- not every asylum seeker is a refugee. Some may have acceptable statements for security that warrant them to global safety and aid. The rest will not be determined neither as refugees nor needing any other type of international security.

IDPs and Refugees
- Same as refugees, IDPs have escaped from their homes due to forceful situations (like armed conflict or war, widespread violence and disregard of human rights) but dissimilar to refugees, IDPs have not gone across international borders to get security but stayed inside their home states.
• UN Mandate for the Protection of Refugees
  - The UNHCR, a branch of the UN whose primary function is to provide security and aid to refugees around the world, is the one taking care of the refugees. The organisation was established on 14 December 1950 with its base in Geneva, Switzerland.
  - In December 2003, the UN General Assembly decided to abolish the time constriction on the order of the UNHCR till the time comes when the crisis of refugees is resolved. Since its establishment, the organisation managed to support more than 50 million refugees to successfully have a start over in their lives, in the process being awarded two Nobel Peace Prizes – in 1954 and in 1981 respectively.

• Fundamental Principles of International Refugee Law

Legal Basis of Non-refoulement
- As stated in Article 33(1) that: “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.

Exceptions to the Principle of Non-refoulement
- In principle, this signifies that refugee can, in special circumstances, be deported in two circumstances: (1) if they pose a danger to the host country; and (2) when their confirmed felonious character and documentation causes a threat to the public.

Minimum Standards of Treatment
- These privileges encompass unhindered entry to the courts of law, to primary education, to work and the facilitation of documentation, which include a passport.
- Most countries provide the travel document, which has largely been recognised as the old “Nansen passport”, an identification document for refugees created by the founding Commissioner for Refugees, Fridtjof Nansen, in 1922 (Introductory Note, the 1951 Convention).
- Further provisions are concerned with rights such as right of entry to courts, education, social security, shelter and liberty of movement (OHCHR, 1993).

• Treatments of Refugees in Malaysia
  - In the 1970s and 1980s, the UNHCR helped the government of Malaysia to take in and locally settle more than 50,000 Muslims from Philippines, Mindanao, who escaped to Sabah. The UNHCR also helped the government of Malaysia to locally shelter thousands of Cham Muslims from Cambodia during the 1980s, plus hundreds of Bosnians in the 1990s. In the last 10 years, the UNHCR based in Malaysia resettled over 100,000 refugees (Yunus, 2017).

• Malaysian Laws Relating to Refugees
  - Due to the fact that the government of Malaysia has not signed yet the 1951 Convention and the 1967 Protocol, refugees and asylum seekers are consequently “lumped together” as unlawful immigrants as stated in the Immigration Law of 1959/1963.
  - Modifications made to the law in 1997 and 2002 warranted tougher punishments for immigration crimes, including as equal as a five-year prison verdict, a MYR 10,000 fine and lashing not exceeding 6 lashes.
CONCLUSION

Although Malaysia is not signatory to the 1951 Convention and 1967 Protocol, but it possesses a great reputation for allowing refugees to live in the country until they repatriate to their country of origin or resettle in a third country. On temporary basis, the power that has been bestowed upon minister of home under section 55 of Immigration Act can be invoked in order to solve the various problems that the refugees face and legalise their presence in the country. However, in the long term, Malaysian government may either ratify the 1951 Convention and the 1967 Protocol or enact a new law that governs refugee matters as the issues of refugees can be continuous in nature.

SELECTIVE REFERENCES

AN APPRAISAL OF THE CHINA’S CLAIMS IN THE SOUTH CHINA SEA TERRITORIAL DISPUTES

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Abstract: Competing territorial and boundary claims over the various maritime features in the South China Sea among the disputing parties, namely, Brunei, China, Malaysia, Taiwan, the Philippines and Vietnam have been one of the most contentious issues for some decades. China claims almost 90 percent of the South China Sea by arguing that both maritime and land territories in the region were regarded as integral parts of the Chinese nation since centuries ago. In the same vein, other disputing parties also made numerous claims to their respective contiguous parts of the South China Sea. Despite the fact that these nations have been trying to resolve the disputes, tensions among the rival countries have steadily increased. This study is primarily doctrinal and qualitative in nature. The paper greatly contributes to evaluate Chinese territorial claims in resolving the South China Sea territorial disputes. The authors propose that China has to acquire the sovereignty over land territories in the South China Sea in conformity with the modes of acquisition of state territory under contemporary international law. Then, it can claim maritime boundaries on the basis of the land territory in accordance with the relevant provisions under the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982). It is further suggested that the adjudicative settlement either before the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS) or an ad hoc international territorial arbitration would be desirable between or among the parties to deliberate further on the disputes with the view to maintain the international peace and security.

Key words: State territory, territorial dispute, boundary dispute, South China Sea, international dispute resolution
INTRODUCTION

In the contemporary world, the South China Sea appears to be one of the most controversial areas that triggered several maritime boundary and territorial disputes among various nations in the Southeast Asia. The disputing parties include Malaysia, Negara Brunei Darussalam (Brunei), the People’s Republic of China PRC (China), the Republic of China ROC (Taiwan), the Republic of the Philippines (the Philippines), and the Socialist Republic of Viet Nam (Vietnam) (United Nations, 2018). Subject matters of these disputes comprise the Pratas Islands (Dongsha Qundao), the Scarborough Shoal (Huangyan Dao), the Macclesfield Bank (Zhongsha Qundao), the Paracel Islands (Xisha Qundao), the Spratly Islands (Nansha Qundao), James Shoal (Zengmu Ansha) and some other rocky outcrops, atolls, sandbanks, reefs and numerous submerged features in the South China Sea (US Department of State, 2014). Apart from the claims made by China over these subject matters in the South China Sea, the Pratas Islands and the Macclesfield Bank are claimed by Taiwan; the Scarborough Shoal is claimed by Taiwan and the Philippines; the Paracel Islands are claimed by Taiwan and Vietnam; the Spratly Islands are claimed by Brunei, Malaysia, Taiwan, the Philippines and Vietnam; and the James Shoal is claimed by Malaysia as well as Taiwan (US Department of State, 2014).

OBJECTIVE

This paper predominantly aims at evaluating the territorial claims made by China in the South China Sea as to whether or not these claims are in accordance with the contemporary international law.

LITERATURE REVIEW

To resolve it in peaceful manners. In settling any boundary or territorial dispute before international courts and tribunals, in practice, it is crucial for a state to prove that its claims over the territories in which it is claiming sovereignty are valid and legitimate under the principles of contemporary international law. Therefore, authors intend to evaluate the Chinese sovereign claims in the South China Sea as to whether or not these claims are in accordance with the contemporary international law in the following discourses.
FINDINGS

1. Historical Background Of The China's Claims In The South China Sea

- On 17 April 1895, China and Japan signed a peace treaty named “Treaty of Shimonoseki” in which Taiwan was transferred to Japan together with all islands belonging to it (Park, 1973).
- On 03 September 1937, Japan occupied the Pratas Islands. In addition, it invaded Spratly Islands and Hainan Island in 1938 (Council on Foreign Relations, 2017). China declared its territorial sea only up to “three nautical miles” which was in consistent with the contemporary international customary law of that time and had not yet made any claim all over the South China Sea (Wang, 2010).
- On 26 December 1943, the Three Great Allies, i.e., the United States (US), the United Kingdom (UK), and China, issued the “Cairo Declaration” which mentions that: “The three great Allies are fighting this war to restrain and punish the aggression of Japan.
- Both declarations do not spell out any detail about the China’s sovereignty over the archipelagos and waters in the South China Sea.

| Eleven-dash line | - On 01 December 1947, China - under the rule of the Kuomintang Party - claimed sovereignty over maritime territories in the South China Sea within an Eleven-Dash Line on a map.
| | - referred to as the “Dotted Line,” “U-Shaped Line,” and “Cow’s Tongue” by various commentators.
| | - The maritime features within the Eleven-Dash Line include Taiwan, the Pratas Islands, the Scarborough Shoal, the Macclesfield Bank, the Paracel Islands, the Spratly Islands, James Shoal and some other rocky outcrops, atolls, sandbanks, reefs and numerous submerged features in the South China Sea (US Department of State, 2014). |
| Nine-dash line | - In 1953, the People’s Republic of China removed two of the dashes encompassing the Gulf of Tonkin and reduced it to be the Nine-Dash Line (Brown, 2009).
| | - China had asserted its claims over the disputed territories in the South China Sea on the basis of this Nine-Dash Line claim.
| | - During 2000-2004, the Nine-Dash Line was further modified to be in line with the Agreement on the Delimitation of the Territorial Seas, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin (Beibu Gulf) between China and Vietnam (US Department of State, 2014). |
| Ten-dash line | - In June 2013, the SinoMaps Press – the sole Chinese state mapping authority under the State Bureau of Surveying and Mapping – published the latest national map that adds a Tenth-Dash Line to the east of Taiwan as a part of its official sovereignty claim to the disputed territories in the South China Sea (Graham, 2013). |
| Objections from the neighbouring States | - Brunei, Malaysia, the Philippines and Vietnam have officially been protesting these Dash Line claims made by China in the South China Sea in various ways including diplomatic means, political means, adjudicative means and sometimes even by way of using force at different point of time. |
2. The Appraisal Of The China’s Claims In The South China Sea

- Albeit China has three different Dash-Line claims, i.e., Eleven-Dash Line (1947), Nine-Dash Line (1953) and Ten-Dash Line (2013), it has never provided a proper chart that specifically described its maritime entitlements in the South China Sea as required by the UNCLOS 1982 (Articles 16, 47, 75, 76 (9) and 84 of the UNCLOS 1982).

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<th>Maritime boundary claims</th>
<th>If China is making maritime boundary claims, China has to comply strictly with the UNCLOS 1982 as it is a Party.</th>
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<td>- The UNCLOS 1982 uses the term “historic” in three counts for the purposes of maritime boundary delimitations.</td>
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<td>- Article 15 provides that “the equidistant median line should be drawn from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured if the delimitation of the territorial sea between States with opposite or adjacent coasts could not be done with an agreement between the respective State Parties”.</td>
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<th>Land boundary claims</th>
<th>If China is making land boundary claims, China still has to comply with the contemporary international legal principles on the modes of acquisition of state territory.</th>
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<td>- a state cannot acquire the territory even by exercising self-defense to repel armed force used against it. This will still be regarded as illegal acquisition of territory due to the involvement of the use of force (Malanczuk, 1997; Hamid, 2011).</td>
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<td>- colonial powers needed to grant independence statehoods to most of the States that were under their subjugation.</td>
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<td>- there are only three essential legal concepts in which a State can acquire territory, i.e., occupation, prescription and cession.</td>
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<td>- there are a few more legal principles upon which the territorial acquisition by a State can be derived, namely, acquiescence, recognition, estoppel, continuity, contiguity, uti possidest and self-determination (Hamid, 2011).</td>
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<td>- Only after acquiring the land territory, it will be able to claim maritime boundaries in accordance with the relevant provisions under the UNCLOS 1982.</td>
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CONCLUSION

These maritime boundaries and territorial disputes are likely to continue until and unless these disputes are resolved in one way or another. The parties to the disputes have already resorted to all available means but their efforts have not been able to bring any tangible result yet. Of course, any armed confrontation among the disputants is not desirable as it would entail grave repercussions to the international peace and security, inter alia. Under the auspices of the UN, members are required to resolve disputes among them in peaceful manners as prescribe in Article 2 (3) and Article 33 of the UN Charter. It is thus proposed that the adjudicative settlement either before the ICJ, the ITLOS or an ad hoc international territorial arbitration would be desirable between or among the parties to deliberate further on the disputes with the view to maintain the international peace and security.

SELECTIVE REFERENCES
