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EMPLOYMENT OF REFUGEES: A MALAYSIAN PERSPECTIVE

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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.
### 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:
  1. 1951 Convention
  2. the International Covenant on Economic, Social and Cultural Rights
  3. the European Social Charter
  4. the European Convention on the Legal Status of Migrant Workers
  5. 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, detention 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
