

Transnational Marriages among Muslim Refugees and Their Implications on Their Status and Identity — The Case of the Rohingyas in Malaysia¹

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Abstract

Economic progress and political stability in the last four decades has turned Malaysia into a favoured destination for prospective migrants pursuing education at Malaysian institutions of higher learning, in search of better lives as well as better economic opportunities. Besides voluntary migrants there are also a small number of asylum seekers and refugees who are forced to leave their homeland because of persecution by the state, or political instability. In 2012, Malaysia had around 221,836 people of concern to the United Nations High Commissioner for Refugees (UNHCR). Of these, 101,835 were asylum seekers and refugees mainly from ASEAN member countries. Over 92 percent are from Myanmar. They comprise several ethnic groups but the most problematic are the Muslim Rohingyas, numbering over 22,700 in 2012 who have endured decades of persecution and discrimination by the government and were stripped of their Myanmar nationality in 1982. Malaysia is not a signatory to the Convention on the Status of Refugees 1951 and it has no legal mechanisms to administer the refugees. Technically, they are “illegal immigrants” as they arrived illegally and without travel documents. Consequently, life for asylum seekers and refugees is a relentless struggle economically, socially, and security-wise. One of the major challenges for them is in the area of marriage and the family. As many of the Rohingya refugees are men, there is an acute shortage of prospective brides from their community. Rohingya men are induced to marry out, mainly with other foreign women who are working in Malaysia.

This chapter provides a brief account of the socio-economic and legal status of the Rohingya, examines their marriage patterns, and explains why many - especially men - are marrying out of their ethnic group. It will discuss the consequences of exogamic marriage, especially with foreign women in Malaysia, for the status, identity and rights of wives and offspring

involved. Data for the chapter was gleaned from a nationwide survey on the socio-economic status of the Rohingya carried out between 2009 and 2010, and on-going fieldwork on the same community.

Key words: Asylum seekers, refugees, Rohingya, and transnational marriages.

1. Introduction

Since the 1970s, Malaysia's political stability and relatively better economic development than some of its neighbours attracted large scale inflows of foreign nationals. In the Population Census 2010, the number of non-citizens residing in Malaysia rose to 2.3 million - or 8.2 percent of the total population - from over 1.2 million (5.5%) in 2000. Among the foreigners are voluntary migrants in pursuit of higher education, better lives, and economic opportunities of which low-skilled foreign workers form the largest group. There are also a small number of involuntary migrants comprising asylum seekers and refugees who are forced to leave their country because of state persecution, political instability, and natural disaster. Of these the highest number are from member countries of the Association of Southeast Asian Nations (ASEAN).

In 2012 Malaysia had around 221,836 people of concern to the United Nations High Commissioner for Refugees (UNHCR) of which 90,185 were refugees, and 11,650 asylum seekers registered with the UNHCR in Kuala Lumpur² (UNHCR Global Trends 2012: 39–41). Over 92% were from Myanmar. They comprise several ethnic groups – Chins, Karen, Mons, Rohingyas, Burman Muslims, and others of which the most problematic are the Muslim Rohingyas, who have long suffered persecution under the ruling junta and were stripped of Myanmar citizenship in 1982 (Zaw, M.H, 2003). They began to arrive in Malaysia in small numbers in the late 1970s, and their inflow escalated by the 1980s. In the second half of 2012, thousands of Rohingya arrived in Malaysia to escape inter-ethnic conflict with Buddhists which saw hundreds of Rohingya dead and thousands displaced and dispossessed. Most of the new arrivals were not registered with UNHCR Kuala Lumpur. Nonetheless, the number of Rohingya

registered in 2012 rose to 22,772, making them the second largest ethnic group among the Burmese refugees, next to the dominant group, the Chins.

As Malaysia is neither a party to the Geneva Convention Related to the Status of Refugees 1951, nor the New York Protocol 1967, refugees in the country are in a legal limbo. There are no legal mechanisms to administer them, and their basic rights as enshrined the Universal Declaration of Human Rights (UDHR) is not guaranteed by the state, making their lives a relentless struggle. Being outside the law is problematic and one area where the problem is most acute is the institution of marriage and the family. The majority of the Rohingya refugees are males and with the acute shortage of women, many are induced to marry out of their ethnic group. Based on our research carried out since 2009, about 25% of all married male Rohingyas have non-Rohingya wives whom they met and married in Malaysia. Such marriages are viewed with concern by some sections of the community as they are perceived as diluting ethnic identity and negatively affecting the status of wives and offspring, especially their rights to protection and assistance from the UNHCR.

This chapter provides a brief account of the socio-economic and legal status of the Rohingya, examines their marriage patterns, and explains why many, especially men, are marrying out of their ethnic group. It will explain the consequences of marrying out, especially with foreign women in Malaysia, for the status, identity, and rights of wives and offspring involved. Data for the chapter was gleaned from a nationwide survey on the socio-economic status of the Rohingya carried out between 2009 and 2010, and ongoing fieldwork on the same community.

2. Significance of the Study

The chapter is undertaken in the light of serious inter-ethnic and inter-religious conflicts in the Rakhine region in Myanmar beginning June 2012, involving the Buddhist population and Muslim Rohingyas, that left hundreds of Rohingya injured and dead and over 140,000 homeless. While there are overwhelming

expressions of sympathy from the world community for the ethnic Rohingyas in the conflict area, many people are unaware of the plight of Rohingyas who left Myanmar in the last three decades or so as a result of their continuous persecution by the state. The UNHCR estimates that about 1.5 million Rohingyas (or about half of their population) have left Myanmar in search of political asylum abroad. This chapter tries to project the plight of the Rohingya refugees in Malaysia, in the hope that they too will receive some attention and assistance.

There is a dearth of serious work on refugees in Malaysia. This may be due to their relatively small number compared to over 3.1 million economic migrants (both legal and irregular)³ who are more visible and problematic, thus capturing the attention of many researchers. Refugees are officially categorized as irregular migrants, or “illegal immigrants” as they are referred to locally. This blurred distinction between the two types of irregular migrants appears to have been accepted uncritically by some. In many academic writings, especially on refugees in Sabah, refugees are subsumed in the literature on irregular migrants. However, in recent years there have been attempts made by a few in the academic community in Malaysia to differentiate between the two categories of migrants; a few have ventured into refugee studies. One of the earlier studies on refugees is a Master’s thesis by Tan (2008) on the Rohingyas in the Klang Valley (Selangor and Kuala Lumpur). Adopting an anthropological approach she examined the lives of the Rohingyas, the difficulties they faced in adjusting to the new social landscape, the changes they had to make in their social structure and organisation. Another anthropological study is by Azizah (2009) which deals with Filipino refugees in Sabah. Azizah highlights the many negative stereotypes held by the local population of the refugees, which she refutes based on empirical data. In view of their long stay in Sabah and their contributions to the state’s economic development, she calls for a durable and humane solution to the protracted Filipino refugee problem by according them permanent resident status. There are also four other Masters’ theses on the refugees by Shazlin Yanti (2009), Andika Ab. Wahab (2011), Aizat Khairi (2012) and Hunnekes (2012). The work of Sha-

Shazlin Yanti, Andika and Aizat are anchored in international relations, focussing on the human security of the refugees. Shazlin Yanti concerns herself with all Myanmar refugees in Malaysia, while Andika studied the Chins. Aizat compares state policy on the Rohingyas in the Peninsula and the Moro (Filipino) refugees in Sabah, and the impact such policy and its implementation has on the human security of both groups. Hennekes, on the other hand, examines public perceptions of Muslim Refugees (Rohingyas and Acehnese) in Malaysia as reported in the Malay national daily *Utusan Melayu*. In 2012, Aryanthi Azis an independent researcher also studied the Rohingya community under an Asian Public Intellectual (API) fellowship project focusing on the problems faced by the Rohingyas as undocumented people in Malaysia.

A major theme cutting across these recent works is the concern for the plight of the refugees and the need to accord them some basic rights; a shift from the concern of earlier studies which saw the refugees - part of the irregular migrants category - as a threat to national security (see among others, Ramli Dollah, Wan Shawaluddin, Diana Peters, and Marja Azlima Omar, 2003). This chapter, which is an extension of my earlier paper on the Rohingyas (Azizah 2010) will hopefully help reduce the gaps in the current literature on refugees in Malaysia.

3. State Responses to the Refugees

Refugees, like many irregular economic migrants, do not have proper travel documents and enter Malaysia illegally. Technically, refugees are “illegal immigrants” who can be charged under the Immigration Act 1959/63 for illegal entry. Nonetheless, in accordance with Section 14 of the UDHR, Malaysia adopts a humanitarian approach towards asylum seekers reaching its shores by allowing them to stay in the country until a durable solution is found for them. However, there is no legal mechanism in place to administer them. This leaves the asylum seekers and refugees in a legal quagmire, for while they are allowed to stay, their rights as residents in the country are not defined. It also leaves enforcement of-

Officers in a bind as they are unclear how to deal with the refugees. The refugees' ambiguous legal position leaves enforcement officers no choice but to resort to the Immigration Act 1959/63 for guidance in their encounters with them. Under this Act, irregular migrants are liable for arrest and be charged in court and if found guilty, they can be fined, caned, imprisoned, and then deported. It also makes the refugees vulnerable to all kinds of exploitation, discrimination, and persecution by unscrupulous parties. For example, they are often short-changed by employers and subject to extortion by criminal gangs offering protection as well as by rogue law enforcement officers (see among others, SUARAM Annual Report (various years), Amnesty International, 2010 (55–62) and The Equal Rights Trust, 2010). As residents in Malaysia, the refugees' fundamental human rights - particularly freedom from fear and want - are not protected. Their basic rights to choose their job, to own property, to marry and found a family, to gain access to basic housing, state health and educational facilities as well as legal recourse to justice are not guaranteed by law.

Over the years, however, there have been a few concessions made by the state to assist some sections of the refugee population, especially those with social and cultural links with the dominant local population. For example, Muslim Cambodian refugees in the Peninsula who arrived in the mid 1970s have been granted permanent resident status (Mohamad Zain 2003), while Filipino refugees with close kinship links with some Sabah *Bumiputera*/indigenous groups are allowed temporary stays under the IMM13 pass⁴, renewable every year. In 2002 and 2006 the Federal government announced a plan to give them permanent resident status but the plan was not executed due to strong opposition from some Sabah politicians⁵ (see Azizah Kassim, 2009). There was also an attempt in 2004 to grant temporary stays under the IMM13 pass to the Rohingyas in view of their stateless status, but the plan was aborted within two weeks of its implementation due allegedly to malpractices in the registration process which saw some economic migrants from Bangladesh and India being registered as Rohingyas, thus making them eligible for the IMM13 card. The government too has granted

the refugees 50% discounts on medical charges at state hospitals. Most importantly, since 2002 there has apparently been a “covert” understanding among enforcement officers not to arrest refugees and if they are mistakenly arrested, intervention by officials from UNHCR Kuala Lumpur is sufficient to have them released. Such a directive which was allegedly reiterated in 2011 did not trickle down to enforcement officers in the field, and Rohingyas and other refugees continue to be arrested even now.

To benefit from the concessions made by the Malaysian government as well as social and financial assistance from the UNHCR, refugees must have a UNHCR refugee registration card or written proof that they have registered themselves as asylum seekers with the agency and are waiting for confirmation of their status as refugees. In practice however, many refugees especially the Rohingyas do not have a refugee registration card either because they have not registered as asylum seekers with UNHCR, or because they are waiting for their card to be processed. Getting to the only UNHCR office in Malaysia in Kuala Lumpur is a problem for many asylum seekers especially those from outlying states in the north, east, and southern parts of the Peninsula. For those living in Johor, Penang, Kedah, Kelantan, Terengganu, and Pahang for example, the cost of getting access to the UNHCR office in Kuala Lumpur is prohibitive, especially if there are many in their family. The costs include transport, accommodation, subsistence in Kuala Lumpur, and loss of earnings. The administrative procedures are lengthy; some may take years and require several trips to the UNHCR office. As a result, many refugees go without any UNHCR documents. Some of the undocumented whom I met during fieldwork have been in Malaysia for more than a decade. In one family in Penang, the household head and his family members have gone without documents for 19 years because he cannot afford to go to Kuala Lumpur to register them.

Those without such documents cannot access the few benefits/concessions conferred on the refugees by the state and the UNHCR. They are also excluded from assistance and protection by the UNHCR which includes the three durable

solutions to their problems i.e. resettlement, voluntary repatriation, and local integration. Without the card they are more likely to be treated by enforcement officers in the same manner as irregular economic migrants. The stress on official documentation and the difficulty in getting such from the UNHCR drive many refugees to buy fake UNHCR cards from the many syndicates specialising in forgery.

4. A Profile of the Rohingya Refugees in Malaysia

The Rohingya began arriving in Malaysia at the end of 1970s. In the early 1980s when Myanmar revoked their citizenship, the inflow into the country increased, a pattern that continues to present day. They are smuggled into the country by sea or by land via Thailand, entering Malaysia largely through the northern states of Kelantan, Kedah, Perlis, and Penang. They choose to come to Malaysia instead of staying in Thailand as it is a Muslim country and, for later arrivals, because they may already have relatives in Malaysia. Some arrive in Malaysia using fake passports, making their way via Bangladesh. As many arrive in Malaysia surreptitiously and undocumented, their actual number cannot be ascertained. Statistics from UNHCR Kuala Lumpur reveal that in 2012 there were 22,772 Rohingya refugees and asylum seekers in the country. However, because many asylum seekers are not registered with the UNHCR, their actual number is much higher. Our nationwide survey on 940 households covering over 5,300 people in 2009–2010 found that about 25% of Rohingya household members are not registered with the UNHCR. Based on these findings it can be assumed that the actual number of Rohingyas is 25% greater than those registered with the UNHCR; probably around 25,500. With the new arrivals from Myanmar after the inter-ethnic conflicts in June 2012, their number is said to have risen considerably to an estimate of 35,000 in 2013.

4.1. Geographical Location

Rohingya refugees are found only in the Peninsula and, as some have been in

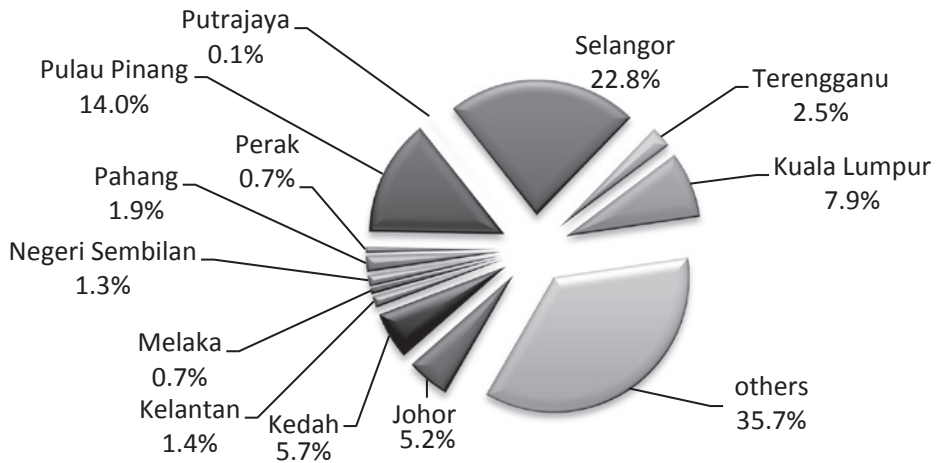
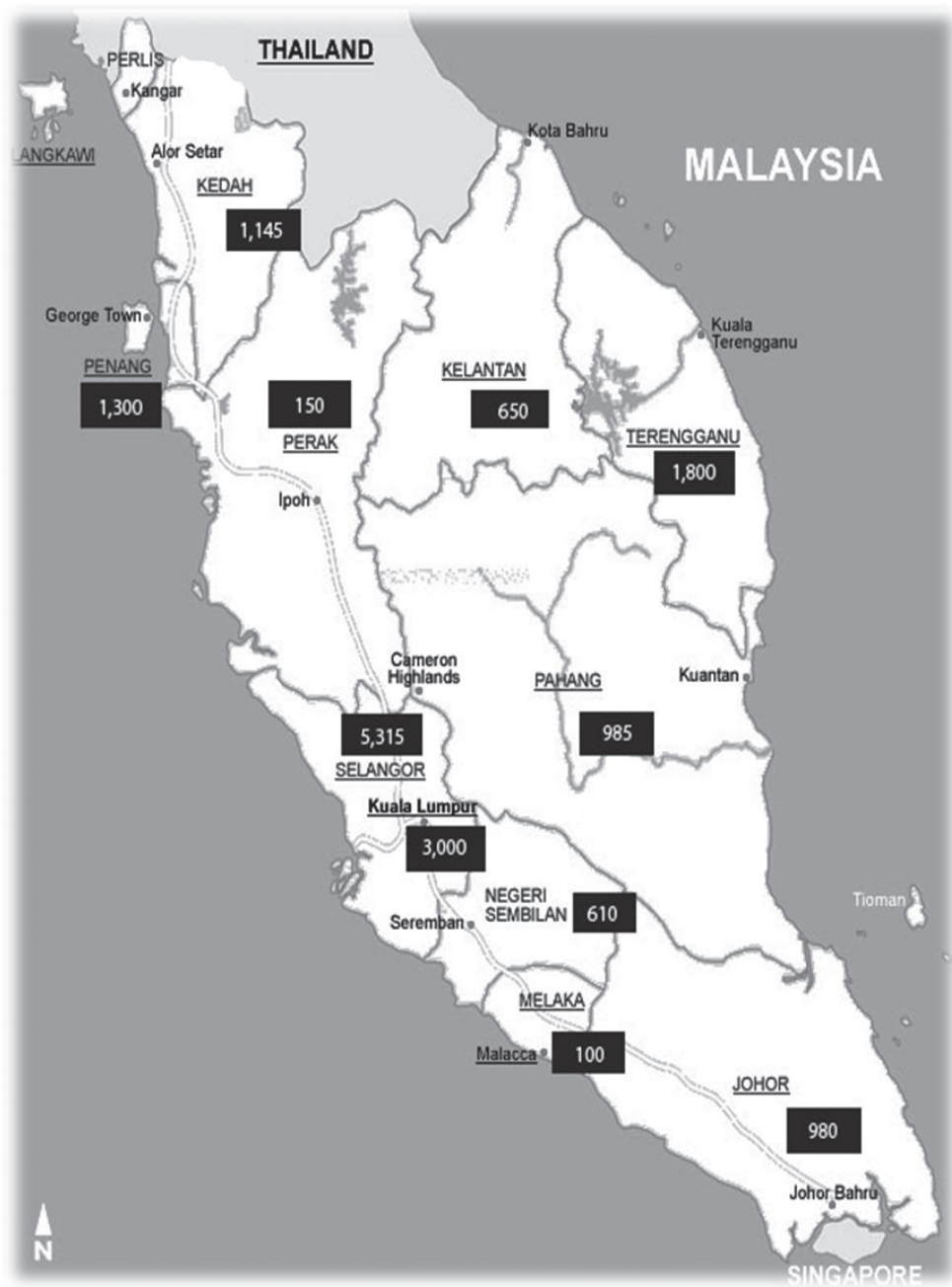


Chart 1: Distribution of Rohingya Refugees by Administrative States in the Peninsula (June 2012) Total: 22,772

Source: Unpublished data from UNHCR Kuala Lumpur.

the country for over three decades, there are now identifiable Rohingya communities in many states. The largest concentration is in the Klang Valley where 30.7% of the Rohingya population is found. This is followed by Penang (14%), Kedah (5.7%), Johor (5.2%), and Terengganu (2.5%). Smaller numbers are found in Pahang, Kelantan, Melaka, Negeri Sembilan, and Perak (see Map 1 and Chart 1). There is no record of Rohingya settlements in Perlis although the state which shares a common border with Thailand is often used by undocumented Rohingyas to enter Malaysia illegally. Rohingyas prefer to live in Kedah which is next door to Perlis as there are already a number of Rohingya communities in the state, i.e. in Alor Star and Sungai Petani. Furthermore the prospect of getting a job in Kedah is much better than in Perlis which is a relatively poor state in the Peninsula.

Although there are many identifiable Rohingya communities in these states, attesting to their long stay and “settled” status, a large number of Rohingyas - especially the newly arrived adult male population - lead an ambulatory lifestyle, moving from place to place in search of jobs. Once they are financially stable, they will usually find a permanent place to stay close to their own ethnic group.



Map 1 Location of Rohingya Communities in Peninsular Malaysia, 2012

Source: Adapted from a map provided by the UNHCR, Kuala Lumpur.

4.2. Demographic Profiles

Most of the Rohingya refugees are males who arrive without female family members. The latter - especially wives and young children - are sent for at a later date when the men are financially stable. It may take a decade before wives and children arrive, if at all. A large number of the male population are in the economically active age group, between the ages of 18 and 59 (see Chart 2 & 3).

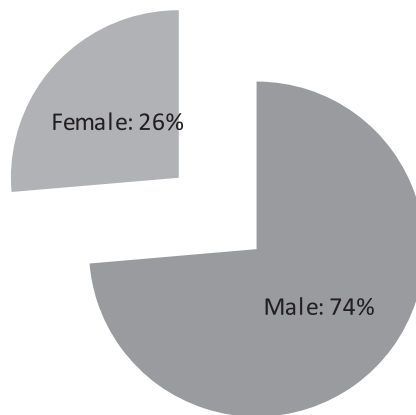


Chart 2 Rohingya Refugees By Sex (June 2012) Total: 22,772
Source: Unpublished data from UNHCR Kuala Lumpur.

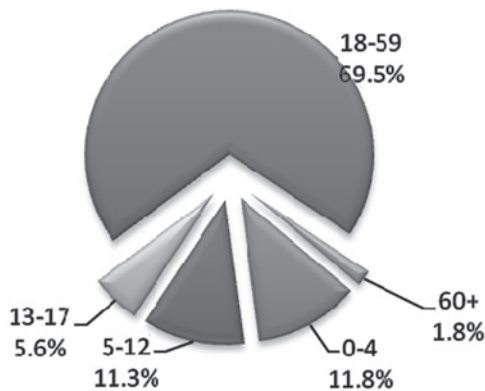


Chart 3: Rohingya Refugees By Age (June 2012) Total: 22,772
Source: Unpublished data from UNHCR Kuala Lumpur.

4.3. Economic Status

In an earlier paper (Azizah 2010) the writer provided an account of the socio-economic status of the Rohingya community in Malaysia. The situation is somewhat the same today. In terms of living areas, they are mainly urban-based where jobs are easier to find. In view of their blurred legal status and lack of formal documents they have no access to formal employment, hence their concentration in the informal sector where they are engaged in paid employment or are self-employed. In the former, they work as labourers in the construction sector and in wholesale markets; as cleaners, cooks and dishwashers in restaurants, or are employed as garbage collectors by contractors engaged by urban authorities to clean towns and cities. A few with some form of formal education at secondary or post-secondary levels - in particular those specialising in Islamic education - are engaged as teachers in community-based learning centres⁶ where English, Malay, science, mathematics, and Islamic subjects are taught to primary school children. The self-employed work as gardeners, collect discarded goods (cardboard boxes, newspapers, plastic bottles, iron rods, etc.) for sale, engage in petty trading selling semi-precious stones, fish, vegetables, and cooked food at roadside stalls, or take up contracts to supply shops with cooked food. A few become building sub-contractors. In the countryside, they are mainly employed in the agricultural sector. In Kedah, for example, many are contract workers in padi planting while others work with smallholders dealing in rubber, oil palms, fruit, or vegetables. For the majority, jobs are temporary. They work for short spells of a week or more, are dismissed, then re-hired as and when their services are needed. Unemployment and under-employment are major features of their economic activities.

The majority are very poor, living hand-to-mouth on average daily earnings of RM30–RM40 due mainly to exploitation by greedy employers, or customers in the case of the self-employed. To augment their meagre income, many - especially women and children - resort to begging, especially on Fridays and on religious and festive periods such as the Muslim month of *Ramadan*, *Eidil Fitri* (the cele-

bration at the end of Ramadan), *Eidil Adha* (the end of the annual *Haj* pilgrimage), Chinese and Indian New Year festivals, and Christmas. For a few, especially the old, the sick, as well as single mothers with many young children, begging is their main occupation. We found twenty elderly beggars in one Penang village alone. However, there are a few “successful” Rohingyas, especially those who have been in the country for over three decades and who are in the retail business or working as sub-contractors in the construction sector.

5. Family and Households

The Rohingyas are divided into several ethnic sub-groups from different areas in the Rakhine region in Myanmar. Members of each ethnic sub-category, especially those with close family and kinship links, usually live close to each other to enable co-operation, especially in crises such as major illnesses, accidents, when a household head gets arrested, or a death in the family.

In urban areas, they live in rented accommodation in low cost public housing, squatter areas, and undeveloped slum-like “urban villages”. Young unmarried males usually live together, forming all male households at their workplace, the most popular of which are “*kongsi*”: make-shift temporary structures provided by building contractors for workers at construction sites. Many also form groups of five or six and live together in rooms rented from Rohingya households or in newly built shop lots where one unit is often shared by a group of fifteen to twenty people⁷. Over 36% of Rohingya households are all-male. The number of nuclear family households is relatively small (25.2%) while extended family households form the majority at 38.6%. In the latter, nuclear families share their living space with close family members; siblings, parents, or other relatives of the household head or his wife. There are also a few polygamous households where co-wives and their children live together.

In rural areas, they often live in Malay villages among the local Malay population with whom they share a common religion – Islam. They usually occupy abandoned houses rented from absentee owners who have since migrated to

towns. A few lucky ones pay no rent on condition that they take care of the house and the orchards for the owners. Sharing living space as in urban areas is also common to defray living costs and to facilitate mutual help. The majority of all rural households are the extended type with a few all-male households. The need to live close together is felt most in rural areas as their numbers are usually small and they live among strangers.

In both rural and urban areas, average household size is six persons to a living unit (a room or house) with a few having over fifteen people. Overcrowding is common in urban areas where housing cost is relatively high in comparison with income. In Kuala Lumpur and Selangor for example, monthly rental for a squatter hut is RM400, and RM700 for a two room low-cost public housing unit. The majority of Rohingya homes have limited basic amenities. They are also sparsely furnished, mainly with goods picked from dumping grounds, repaired, and put on sale by some enterprising members of the community. These include settees, television sets, radios, fridges, wall pictures, cooking pots and pans, and other utensils.

6. Marriage Patterns

As Muslims, the Rohingyas view marriage as a necessary union for both adult men and women, mainly to prevent them from getting involved in immoral activities and sexual misadventure. Marriage is for procreation and to cater for the basic daily needs of men and women. Their goal in marriage is practical: to complement male and female roles. As explained by many Rohingya respondents, a man needs a woman to do household chores and to care for him as would his sister and mother, because the former would marry out of the family, and the latter he would outlive. Correspondingly, a woman needs a man to support, protect and care for her through life. Marriage is usually arranged by family members or, in the case of older men separated from wives in Myanmar and looking for a second wife, by friends. As in many traditional marriages, the majority of Rohingyas do not believe in love before marriage: love is expected to develop after

marriage. Non-marital unions are highly frowned upon.

Preferred marriage partners are those from their own ethnic group especially between members of a kinship group who originated from the same village or districts back home in the Rakhine region in Myanmar. Similarities in family background, religion and culture are seen as a necessary ingredient for a successful marriage. However, such ideals are rarely attainable in Malaysia due demographic and financial reasons.

Based on data from UNHCR Kuala Lumpur, there is an acute lack of females among the Rohingya population in Malaysia, especially those in the marriageable age group. As shown earlier, the majority (73.6%) of the Rohingya population comprises males, and the number of males in the marriageable age group far outweighs that of females. As shown in Table 1, the number of men in the marriageable age group (18–60+years) is 14,056 compared to 3,322 women

Table 1 Marital Status By Age & Sex (June 2012)

Ages (Years)	Male						Female					
	0–4	5–12	13–17	18–59	60 +	Sub-Total (No. & %)	0–4	5–12	13–17	18–59	60 +	Sub-total (no. & %)
Divorced				122	14	136 (0.8)			1	89	3	93 (1.5)
Engaged				13		13 (0.1)						0
Married			7	6,918	238	7,163 (42.7)			24	2,180	31	2,235 (37.2)
Single	1,382	1,332	721	5,864	2	9,301 (55.5)	1,310	1,241	517	373	2	3443 (57.4)
Separated				25	2	27 (0.2)				25		25 (0.4)
Widow				99	31	130 (0.7)				113	93	206 (3.5)
Total (%)	1,382 (8.2)	1,332 (8.0)	728 (4.3)	13,041 (77.8)	287 (1.7)	16,770 (100)	1,310 (21.8)	1,241 (20.7)	542 (9.0)	2,780 (46.3)	129 (2.2)	6,002 (100)

Note: Total population is 22,772 (F=26.4%) & 16,770 (M=73.6%). Lightly shaded numbers and percentages are the marriageable groups.

Source: Adapted from data provided by the UNHCR office in Kuala Lumpur.

(13–59 years) i.e. a male/female ratio of 4: 1. The table also reveals that while there are 7,163 married men, there are only 2,235 married women. This indicates that a large number of the married men (4,928) do not have their wives with them in Malaysia. The wives are back home in Myanmar or somewhere else, such as in Thailand where many of the Rohingya men live for some time before making their way into Malaysia. Hence there is a high demand for women from unmarried males as well as from married men unaccompanied by their respective wives. It is common practice for members of the latter group to take another wife in Malaysia before they send for their first wife. As mentioned earlier, many men migrate without their wives and children and send for them later, when they have enough money to pay for their passage. This may take years. One male respondent in our study left when his baby girl was born and it took him 15 years before he could bring his wife and daughter to Malaysia. In the meantime he took another wife in Malaysia and had four children with her. Another respondent is not so lucky; he was not able to save enough money to send for his wife and two children whom he has not seen for the last twenty years. Mindful of the expected long separation from their wives and family members, many Rohingya men take another wife in Malaysia, ending up with the dual responsibility of having to support both wives and families.

This population imbalance between the number of marriageable men and women has led to a high demand for prospective brides. The result is a decline in the age of marriage for girls. Many Rohingya girls are married off by their parents at the age of twelve and thirteen years old, a much lower age compared to that of girls in their native state of Rakhine, Myanmar, who are generally married off at fifteen and sixteen years of age. The marriage of young girls contravenes Malaysian Islamic Family law that specifies the minimum age of marriage for women as sixteen. This, according to many parents, is to safeguard the girls' reputation. Few girls go to school and have little to do at home. With so much free time and many single men around, parents are afraid their young daughters may get involved in extra-marital relationships that will tarnish the girls' reputation

and that of their family.

The gender imbalance has also led to an escalation in bride wealth (*mahr*) and marriage gifts which are now beyond the reach of many Rohingya men. A forty year old man in Trengganu whose wife left him and his four young children for another man had to pay the *mahr* (obligatory marriage payment among Muslims) and a gift totalling around RM12,000 to a female relative - the mother of a twelve year old girl - before she consented to his marrying her young daughter. A young man in Kulai, Johor reportedly had to offer RM20,000 to the parent of a girl found for him by his parents before they agreed to accept him as their son-in-law. He had to save every cent of his meagre wages as a restaurant cook for three years to come up with the amount. These are extreme cases. On average, a marriage can cost a man up to about RM5,000 for the *mahr* gift in addition to the cost of the wedding reception, which is still high considering their typically low and irregular incomes. To overcome the shortage of marriageable girls, many families resort to “importing” brides from among relatives back home. This is also a costly exercise as the cost of “smuggling” in a bride is about RM8,000 if she is to come “legally” on fake passports via Bangladesh, though much less if she is to be smuggled in through Thailand. For those who cannot afford to import a Rohingya bride from Rakhine, the only option is to marry out of their ethnic group.

With regards to choosing a bride from outside their ethnic group, many Rohingya male interviewees expressed keenness to marry Malay women. However, this would also be a costly exercise due to the high cost of marriage gifts - in monetary form and in kind (*hantaran*) – that many Malay families expect from prospective grooms. Among many Malay communities, the higher a girl’s social status, the greater the *hantaran*. The lowest monetary gift for a prospective Malay bride from a working class family in the Kelang Valley is RM2,000 – 3,000. Additional gifts in kind may be of equal cost. A few Rohingya men are willing to pay for such a marriage as it has many advantages, which will be explained later. Unfortunately, many Malay women are not keen on Rohingya men because of

their uncertain legal status and low socio-economic standing. Moreover, there is also the widely circulated negative stereotype that Rohingya refugees are prone to crime. The few Rohingya men who have married Malay women tend to be well-educated - graduates of college or university in Myanmar, Bangladesh, Pakistan, or Malaysia - who are already economically stable or have potential to move up the socio-economic ladder. Such marriages are seen by many Rohingya men as avenues for socio-economic improvement.

For many Rohingya men who cannot afford to marry their own kind or Malay women, the other option is to marry other available women in Malaysia, especially Muslims. There is presently a large reservoir of marriageable women among foreign workers in Malaysia. At any one time, about half of the millions of legally recruited foreign workers in the country are women. In addition, there are also a high number of female irregular migrants; official estimates are between 1.5 to 3 million in 2011. The majority are Indonesians – mostly Muslim - engaged mainly as domestic workers, production operators in the manufacturing sector, and service sector workers such as cleaners, cooks, or general restaurant workers. Many Rohingya men are engaged in somewhat similar low-skilled jobs, which gives them the opportunity to mix with and become close to these women. Many ended up marrying Indonesian women as their first, second, or third wives. Our earlier study on 666 married Rohingya men in 2009 reveals that about 22.7 % of them married out (1.5% married Malay women, 20.4% Indonesians, and 0.8% Thai women). Our present study shows that these statistics were conservative. There are also marriages between Rohingya men and other non-Myanmar ethnic groups such as Muslim Burman and Malaysian Indian Muslims which were not captured in our earlier fieldwork. Based on the new findings we estimate that around 25% of married Rohingya men in Malaysia have spouses from outside their ethnic group.

Why are Rohingya men prone to marry Indonesian women? These women, who are usually low-skilled workers, are easily accessible to Rohingya men as they are often employed in the same sectors. Marriage with them costs much less.

In some cases it only involves payment of the obligatory *mahr*, which is a small token sum (sometimes less than RM100) agreed between the prospective bride and groom. The bride-to-be has no relatives to decide on the amount of *mahr* or *hantaran* to be given and how and when the marriage is to be conducted. Hence the marriage can be performed swiftly. Another advantage is the absence of the wife's close relatives in Malaysia that can interfere with the marriage.

Many reasons induce Indonesian women to marry Rohingya men. A few have problems with their employers and need to escape. Others have problems with their families back home, such as existing husbands taking another wife and abusing the money they remit. A few are desperately lonely and feel unsafe as they have never been away from their family before. They need a shoulder to cry on, moral support, and protection, which the Rohingya men can give. The case below illustrates circumstances that led to a Rohingya-Indonesian marriage.

Case 1. Tina, an Indonesian woman from Java, Indonesia, was seventeen when she arrived in Malaysia to work in a restaurant owned by a Malay family twelve years ago. She was happy with her job as the family who hired her treated her well, like "a daughter". She lived with the family, helping with the housework in addition to her duties at a restaurant. Her good looks put her in harm's way. Her elderly male boss fell desperately in love with her and would make passes at her when his wife was away. He also asked her to be his second wife. Afraid that she may be raped one day as they stayed in the same house, she confided her problems to a Rohingya man who worked at another restaurant in the vicinity. The man helped her to run away and found a safe place for her to stay with a family. By leaving her employer, Tina became an illegal immigrant. This put her in a difficult position as she could be arrested if she went out to work. She eventually became dependent on the Rohingya man who helped her, and finally married him. The husband registered her with the UNHCR, who gave her a letter acknowledging her as the wife of a refugee. With this letter she is quite free to move

about, for as a refugee's wife she is less likely to be arrested by enforcement officers. Even if she was arrested, intervention by the UNHCR may lead to her release.

Unlike Tina, many Indonesian women marry Rohingya men as their second or third wife, as their first and/or second wives are still in Myanmar or elsewhere. As shown earlier, thousands of Rohingya men live alone, away from their wives who they hope to bring over some day. In the meantime, they need female living companions, and Indonesian women suit this purpose. The women too, quite often do not contemplate a long-lasting marriage; only for the period while they are working in Malaysia. Many want to return home when their work contract is over. Some view the marriage as akin to a *Mutaah* marriage⁸, allowable in some Islamic sects, but not in Malaysia.

Most of the Indonesian women who have married Rohingya men are Muslims. We found only two cases of non-Muslim women in such marriages. Both were in Penang. One was a Christian Batak from Sumatra and the other a Hindu from Bali. Both converted to Islam prior to their marriage.

7. Solemnization of Marriage

Malaysia has two sets of family laws, one for non-Muslims and the other for Muslims. Muslims are subject to Syariah law and state administrative procedure requires them to register their marriage at the nearest Syariah court in the district where they marry (see among others, Ahmad Ibrahim 1999 & Mimi Karmariah 1999). However, in light of their status as refugees, the Rohingyas are not covered by Malaysian Muslim family law. Among the Rohingyas, marriage is conducted according to the basic requirements of Islam which require only the groom, bride to be, and her *wali* (guardian) - generally her father or his representative - to give her away in the presence of two sane, adult, credible male witnesses. The marriage is not registered and as such not documented. The lack of documentation means there is no marriage certificate. This will give rise to a number of problems with regards to the rights of wife and husband should the

couple get divorced, and to the status of the children born into the marriage.

Many problems have arisen as a result of the lack of marriage certificates. The most common now is enticement of another man's wife. There are cases of women running away from their husband and marrying another man while the earlier marriage is still valid. To curb such incidences from escalating, there have been attempts by some Rohingya associations such as CRIPDO (Community Rohingya Pro-Democracy Organisation) - a Johor based community organisation - in 2003 to document Rohingya marriages and issue married couples with marriage certificates⁹. In Selangor, similar initiatives were carried out by the Rohingya Islamic organization Majlis Ulama Rohingya (MUR, or Council of Rohingya Ulama), which caters for all Rohingya communities in the Peninsula¹⁰. Subsequently, other Rohingya associations have begun issuing their own marriage certificates. However, not many Rohingyas bother to register their marriage. Some do not realise the relevance of marriage registration and the need for marriage certificates. Many of those who do have complained of the high cost of registration and issuance of certificates, which is between RM50 and RM200 depending on the distance of the place of marriage from the location of the issuing office. Others accuse the certificate issuing agency of not investigating the status of the prospective married couples before issuing a certificate, which defeats the purpose of certification, and enables married men and women to contract other marriages, resulting in men and women committing polygamy, which is permitted in Islam for men, but not for women. In addition, the marriage certificates issued are not always recognized by Malaysian state agencies. For example, to register a newly born baby at the National Registration Department, department staffs insist on seeing, among other documents, the parents' identity cards and their marriage certificate. Responses to these certificates from state officials vary between districts within a state, between states, as well as between Federal and state authorities. In Kelantan, such certificates are recognised, while in Selangor and Kedah, they are not always so. The police may recognise these certificates, but the Department of Immigration or members of paramilitary units such as

the *Angkatan Relawan Malaysia* (RELA) may not.

Many Rohingya living close to the Thai border, particularly in the states of Kelantan, Kedah, and Perlis, overcome difficulties in getting a marriage certificate by solemnising their marriage in Thailand. Islamic religious leaders in southern Thailand are ever willing to conduct marriages for Muslims of any origin for a fee much lower than that charged by religious functionaries in Malaysia. The Thai southern states of Narathiwat and Patani are two popular places for Muslims - especially from Malaysia - who want to get married swiftly and cheaply.

8. Impact of Exogamic Marriage on the Rohingya Community

Marrying out to a Malaysian woman is considered to be a wise move for Rohingyas as it removes many of the limitations they face in their daily lives. The refugee husband can apply for a spousal visa to stay in Malaysia. The wife's name or that of her relatives can be used to get trading / business licenses, the couple can open a bank account in the wife's name, buy properties, etc. Their children will automatically be conferred Malaysian citizenship, and enjoy all the benefits and privileges that Malaysian citizenship can offer. Incidents of Rohingya men marrying Malay women are more common in the east coast states of Kelantan and Terengganu where the Rohingya population is relatively small, and they live among Malays. Such marriages have led to the assimilation of some Rohingyas into Malay society.

It is when Rohingya men marry foreign women in Malaysia that serious problems can occur. Should they have children, they may not be able to register their children's birth and procure birth certificates for them because they do not have marriage certificates, or because their marriage certificates issued by a community based organisation are not recognized by officials at the Malaysian National Registration Department. In cases where birth certificates are issued to the offspring of Rohingya men married to Indonesian women, only the mother's name and particulars are included and not the father's, giving the impression that the baby is illegitimate. The baby is accorded the nationality of the mother,

i.e. Indonesian. When this happens, the child technically ceases to be a Rohingya and a refugee, and is ineligible for the assistance and protection of the UNHCR.

Their problems become more acute when the Malaysian government launches operations against illegal/ irregular migrants from time to time. Presently, the government is carrying out operations to round up illegal immigrants under the 6P Program¹¹. We received reports of many Indonesian women married to Rohingyas being arrested along with their children while their spouses were at work. They are removed from their homes and brought to immigrant holding centres (referred to locally as KDN Depots) because they are viewed as undocumented Indonesian citizens; or as over-stayers if they arrived in Malaysia through authorised ports of entry. Both mother and children are deported to Indonesia and there is little the UNHCR office can do to get them released. After deportation, if they can afford to do so, they return to Malaysia legally or otherwise for a family reunion. If not, the family members remain separated.

A few Indonesian women in such mixed marriages stay with their Rohingya husband only until their children are of school going age. They then take the children to Indonesia, leaving their Rohingya husband in Malaysia to continue with his work so that he can send money regularly for the upkeep of his family in Indonesia. By doing so, they are able to afford their children a state education in Indonesia, as refugee children cannot attend state schools in Malaysia. But such an arrangement breaks families apart. A Rohingya man in Sungai Petani, Kedah who found himself in this predicament had not seen his wife and three children for five years. As a refugee, he cannot get a passport to visit them. After living alone and having to work hard daily to send money monthly to a wife and children he has not seen for so long, the husband now feels his wife is stringing him along. This marriage is already on the rocks, as are many others in similar arrangements.

Another negative consequence of such marriages relates to the right of resettlement to a third country. If a Rohingya man who marries an Indonesian woman has no marriage certificate as proof of their marriage, the non-Rohingya

wife will not be eligible to join him for resettlement. In addition, all receiving countries recognise only monogamous marriage and consequently, second or third wives of a Rohingya man will not be allowed to accompany him in resettlement.

9. Concluding Remarks

The refugees encounter many problems in their daily lives and this chapter highlights only one of them. The root of their plight is the lack of legal administrative procedures to deal with refugees in Malaysia. Presently, three solutions to refugee problems are practised by the UNHCR. Firstly, sending them to third countries; secondly, voluntary repatriation, and thirdly, local integration. For the Rohingya, repatriation is not possible as they are stateless, and resettlement seems very slow where they are concerned. By 2010 only 620 Rohingyas had been sent for resettlement (The Equal Rights Trust 2010: 10) compared to thousands of Christian Chins, also from Myanmar. There are allegations that many receiving countries are reluctant to admit Muslim refugees such as the Rohingya due to widespread misconceptions that Muslims are prone to violence, a stereotype made popular by former U.S. President Bush. Given such circumstances the Rohingyas will remain in Malaysia for a long time and it is in the best interests of Malaysia to examine closely the plight of the Rohingya to formulate a comprehensive plan to overcome their problems.

Unless the various problems facing refugees are addressed, Malaysia may be inundated with an uneducated, unskilled refugee population who will be easily led into anti-social and criminal activities that challenge internal security. It is in the country's interests to develop a comprehensive plan to accommodate the Rohingyas, and accord them their fundamental human rights consistent with the UDHR, Convention on the Rights of the Child (CRC), Convention on Equality and Discriminations Against Women (CEDAW), and other international protocols or conventions.

Notes

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- 2 Others include about 80,000 Filipino refugees in Sabah and approximately 40,000 “persons under UNHCR stateless mandate”.
- 3 Based on statistics from the Immigration Department, in 2011 there were over 1.8 million legal foreign workers and around 1.3 million irregular workers registered with the department.
- 4 Failure to renew the IMM13 pass changes the status of the refugee to “illegal immigrants”.
- 5 As constituent states in Malaysia, Sabah and Sarawak has jurisdiction over matters relating to immigration.
- 6 There are 24 such learning centers run by UNHCR in collaboration with non-government organizations or, in the case of Islamic religious centers, the *madrrasah*, by their local community leaders.
- 7 In many urban areas, there is an oversupply of shop houses which remain vacant for years. To avoid losses many owners let their shops to be used as a “hostel” for foreign workers engaged in the service, manufacturing, and construction sectors.
- 8 A *Mutaah* marriage is a marital contract entered by two consenting parties who agree to be husband and wife for a stipulated, short period of time. This is to ensure that male-female relationships takes place within the institution of marriage, where the rights and obligations of both husband and wife and offspring (should there be any) will be upheld under Islamic law. Such a union is presently prohibited in many Muslim communities.
- 9 Interview with the founder of CRIPDO at his home in Batu Arang Selangor in July 2012.
- 10 MUR claims they have received the endorsement of Selangor’s religious department. The writer is unable to verify this claim.
- 11 The 6P program was formulated and implemented in 2011 to reduce the number of irregular migrants in the country. The name refers to *Pendaftaran* (registration), *Pemutihan* (legalization), *Pengampunan* (amnesty), *Pemantauan*, (monitoring), *Penguatkuasaan* (enforcement), and *Pengusiran* (deportation), which was carried out consecutively in stages during the program’s implementation.

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