

# REFUGEES IN MALAYSIA

By Eva-Lotta Hedman



“EVERYONE HAS THE RIGHT TO SEEK AND ENJOY IN OTHER COUNTRIES ASYLUM FROM PERSECUTION.”

Universal Declaration of Human Right Article 14(1)

Older run-down neighborhoods tucked amidst the gleaming towers of Kuala Lumpur, crowded apartment blocs in working-class districts surrounding urban centres, make-shift shelters along muddy paths cut into the remaining jungles near construction sites or plantation agriculture: these are the milieus where tens of thousands of people have sought refuge in Malaysia in recent years. Along with hundreds of thousands, sometimes millions, of migrant workers who reside in the country without official work permits, many of those seeking refuge have also, in myriad ways, contributed to the economic growth and prosperity for which Malaysia has been widely admired elsewhere in Southeast Asia, and beyond. Large numbers labour in the construction industry and on agricultural plantations outside urban areas (e.g., Klang Valley, Cameron Highlands), but many also work in restaurants and fresh food markets in the cities.

Malaysia presents a notably curious mixture of celebratory and censorious preoccupations with its refugees, or ‘illegal migrants’, as they are termed under the country’s Immigration Act. On the one hand, the Malaysian authorities have pursued a range of increasingly punitive measures targeting ‘illegal migrants’ in recent years, including the frequent deployment of the Immigration Department’s notorious auxiliary enforcement unit, Rela

(Ikatan Relawan Rakyat, or People’s Volunteer Corps) whose powers were considerably expanded by government decree in 2005. On the other hand, the United Nation’s Refugee Agency (UNHCR) and its local partners have brought celebrations of World Refugee Day to Malaysia with a number of ‘awareness-raising’ activities and festive events each year, starting in 2005.

Since the 1990s, the nature and dynamics of cross-border movements in Southeast Asia have spelled an increasingly complex asylum-migration nexus. In the face of such movements, the Malaysian government has publicly upheld its position on the status of ‘illegal migrants’. A non-signatory to the 1951 Refugee Convention, and related Protocols, Malaysia has yet to formally recognize the right to seek asylum, or establish any mechanisms to process asylum claims or to provide protection to refugees (including against refoulement). The 1959/1963 Immigration Act provides the key piece of legislation for immigration regulations and procedures, which fall under the jurisdiction of the Ministry of Home Affairs. Under Article 6 of the Immigration Act, any person who enters the country illegally will be severely punished, and Article 15 of the same legislation refers to ‘illegal entry or presence in the country’, thus adding overstaying to the punishable offence of illegal entry. These are the articles used to detain and to charge illegal migrants by those tasked with the enforcement of the Immigration Act.

Under the new amendments introduced in 2002, the Immigration Act provides for more severe punishments of undocumented persons, who may face ‘a fine not exceeding ten thousand Ringgit or imprisonment for a term not exceeding five years or both.’ In a further departure, which has attracted considerable criticisms from national and international human rights organisations, the amended Immigration Act (Section 6) sets out that all non-citizens failing to produce valid documentation ‘shall also be liable to whipping of not more than six strokes.’ The police and immigration authorities are granted far-reaching powers of arrest, detention and deportation of any undocumented person under the amended Act, which does not limit the permissible period of detention at immigration detention centres. To assist or harbour an undocumented person in Malaysia is likewise punishable by fines, imprisonment, and even judicial caning.

Since the 1990s, the Malaysian government has also mobilised a series of high-profile campaigns aimed at the deportation – or, often, de facto expulsion – of ‘illegal migrants’. The scale of such campaigns can be gleaned from the number of such migrants arrested in Malaysia – more than two million, according to one estimate for the period 1992-2001. Indeed, by the mid-1990s, police, army and immigration raids targeting migrants had become

common, and the Malaysian government had also stepped up efforts to secure sea and land borders. More recent high-profile campaigns against ‘illegal migrants’ in Malaysia have also involved the government declaring periods of amnesty during which undocumented migrants were encouraged to return ‘voluntarily’ followed by subsequent ‘crackdowns.’ Having publicly declared its plans to deport 1.2 million ‘illegals’ before the end of 2005, for example, the Malaysian government launched another high-profile crackdown, code-named “Ops Tegas,” on 1 March of that year, following a period during which undocumented migrants were also granted an ‘amnesty’ to return home and acquire formal documentation for their lawful reentry into Malaysia. As yet another high-profile campaign against ‘illegal migrants’ gained momentum in 2007, without any prior amnesty offer, refugees and asylum-seekers, including women and children, found themselves the targets of arrest and detention. At this writing, another such campaign, first scheduled to start on 15 February this year, is currently gathering momentum.

Malaysia has adopted a peculiarly populist and strangely spectacular approach to apprehending ‘illegal migrants,’ an approach quite distinct from that of neighbouring Thailand, the region’s other major destination for (irregular) migration. The most obvious manifestation of this phenomenon in Malaysia, and one that has begun to attract wider international attention, is the increasingly prominent role of ‘volunteer vigilantes’ in the raiding and arresting of ‘illegal migrants.’ For some time, the media has reported on the presence of ‘Rela,’ short for Ikatan Relawan Rakyat, or People’s Volunteer Corps, at raids against ‘illegal migrants’ at workplaces and residences across peninsular Malaysia. There have also been numerous accounts of unlawful behaviour by Rela members themselves in the course of conducting such raids against ‘illegal migrants.’ More generally, Rela’s mounting activism and pervasive disregard of due legal process and norms have attracted wider attention.

While numbers alone cannot capture this phenomenon, the following figures nonetheless offer further indication as to the scale and significance of Rela in Malaysian politics and society. Recent membership estimates range upward from 340,000 (2006) to 475,000 (2007), thus far outnumbering Malaysia’s law enforcement and armed personnel, who number fewer than 200,000 nationwide. Official government figures show a three-fold increase in the active involvement of Rela in government-led campaigns to rid Malaysia of ‘illegal migrants’

Malaysian authorities have sought to respond to the mounting public criticism focused on Rela and thus invariably offered further glimpses into the nature and extent of this phenomenon. Against charges of widespread

practices involving Rela in the extortion of money and the 'confiscation' of cell phones, clothing, jewelry and household goods during raids against 'illegal migrants,' for example, there has been the odd case of the police arresting Rela members on suspicion of robbery during such raids. Responding to concerns about Rela's demonstrated proclivity for excessive force and what amounts to illegal policing practices, the government-backed Human Rights Commission has made a series of recommendations 'to reform Rela,' including the vetting of recruits, human rights training, and better pay to encourage 'more professional behaviour.'

However, there is little evidence to suggest that the Malaysian government seeks to reverse recent developments that have allowed for the emergence of Rela as the nation's largest and most notorious vigilante formation. With origins in territorial militias and neighbourhood watch practices, Rela was subsequently re-activated as an auxiliary enforcement unit under the Immigration Department and authorised by the Emergency (Stipulated Powers) Act 1964. In February 2005, the powers of Rela were expanded by government decree and, as a result, this so-called 'volunteer force' has been given the right to bear and use fire arms, stop, search and demand documents, arrest without a warrant, and enter premises without a warrant. The new government regulation specifically added a reference to 'illegal immigrants' and, furthermore, also included a provision for the protection against legal 'action, suit, prosecution or proceedings against ...any member of the Ikatan Relawan Rakyat in respect of any act, neglect or default done or committed by him in good faith or any omission committed by him in good faith, in such capacity.' In the process, Rela members have also come to enjoy tangible indicators of its new-won status in the form of government issued weapons and uniforms, as well as the provision of insurance cover and a bounty of RM80 per apprehended undocumented migrant. In short, 'Rela has become the government's pet enforcement arm.'

In further developments, Rela has put pressure on the Malaysian government to legislate for Rela to become an autonomous department. According to an announcement from the Ministry of Home Affairs in November 2007, moreover, Rela's remit has been expanded to include responsibility for guarding Immigration Detention Centres, allegedly requiring special training of members in 'shooting and detention work.' Rela members had also reportedly been invited to join an 'Elite Squad' in tracking down illegal migrants at various city locations on weekends, including at shopping malls.

## Celebrating World Refugee Day in Malaysia

Curiously, during the same period when national citizens have been increasingly mobilised to assist in the capture and, ultimately, removal of 'illegal migrants,' celebrations of World Refugee Day under auspices of the U.N.'s Refugee Agency have also gained greater circulation in Malaysia. A far cry from the public spectacle and participation associated with World Refugee Day events elsewhere, the first such celebration in Malaysia remained markedly formal and contained in 2005. There were two events organised for this occasion. First of all, the UNHCR launched its new Handbook on Refugee Law for Parliamentarians in Bahasa Melayu translation at Parliament on 21 June 2005, with some representatives of concerned NGOs present, as well as UNHCR officials, in addition to a number of (Opposition) MPs. This ceremonious event thus proceeded within the walls of Parliament, in the absence of any wider (actual or virtual) participation by either Malaysian citizens or 'illegal migrants'.



The second UNHCR-sponsored initiative organised in conjunction with World Refugee Day in 2005 was a photo exhibition titled 'Face to Face: Confronting the Humanity of Refugees in Malaysia' at the Kuala Lumpur Performing Arts Centre (KLPAC). Opened by the Regent of Perak at a ceremony attended by some 100 guests, this exhibition featured photos taken by Bernice Chauly during a two-month project commissioned by UNHCR. It presented an opportunity, for the select patrons of the KLPAC and its interiorised notion of 'public space', to encounter the figure of the refugee, as represented in a series of photographs displaying the solemn faces of the young and the old, the male and the female, the Acehnese and the Rohingya, and other Others.

The organisers had also invited actual existing refugees to join in the opening of this photo exhibition. While adding a 'live' element to the refugee images fixed on the wall, the invitation to attend also requested refugees to participate in a very particular way—through 'their traditional performances'. While such celebrations of 'culture' and 'difference' enjoy wider resonance in the context of Malaysia's post-colonial plural society, they also, in this particular context, appeared to lend a measure of authenticity and immediacy to the notion that refugees, as self-declared (other) 'others', properly 'belong' elsewhere.

After this opening gambit in the celebration of World Refugee Day in Malaysia, various related activities and events have been organised under the auspices of the UNHCR each successive year. In 2006, for example, another exhibition of refugee images was held at the Photographers' Gallery in Kuala Lumpur, with Dr Volker Türk, UNHCR-Malaysia Head of Mission, officiating at the opening on 24 June. Titled 'Making the Invisible Visible', the exhibition featured photos by an international 'UNHCR photographer', Canadian Sarah Hoibak, who had captured these images

during the UNHCR's community outreach visits in Kuala Lumpur and Selangor.

As in the previous year, the 2006 World Refugee Day in Malaysia also included activities organised to involve actual refugees in a more direct

way. By contrast with the emphasis upon tradition and performance that marked the first such celebration in Malaysia, the second instead embraced a more contemporary innovation of the 'Carnival' hosted in the grounds of UNHCR on 20 June 2006. Reportedly attended by some 250 refugees from different communities living in greater Kuala Lumpur, this event was organised as an opportunity for a family outing in a 'safe space', while also providing refugees with an opportunity to interact with the staff of UNHCR and concerned NGOs. With support from a small number of private and corporate sponsors, as well as from volunteers and refugees themselves, the 'Carnival' featured a bouncy castle, clowns, face painting, games and many other activities for children, who comprised more

than half the total number of refugees participating in this event, as well as food, drink and prizes, with gift packs and a takeaway meal from McDonald's at the end of the day.

Once tried in the grounds of UNHCR, this 'Carnival'-style celebration of World Refugee Day was to return the following year. On 15 June 2007, UNHCR staff and volunteers organised a 'day of fun and treats', and, once again, the focus was very much on refugee children, with a reported 230 children present compared to some 100 adults. Thus inspired, perhaps, the Ministry of Arts and Heritage seized the opportunity to promote a 'mini concert' by refugee children 'from various ethnicities' on World Refugee Day, 20 June. At this event, more than 50 refugee children reportedly 'performed traditional songs and dances' to an audience of some 200 people, including government and law enforcement officials, representatives of the diplomatic community, media, and NGOs, as well as academics, lawyers and volunteers.

A more widely noted phenomenon in the context of international humanitarian encounters, the focus on children at the commemoration of World Refugee Day in Malaysia was also evident in the 2008 'Hands of Hope' campaign sponsored by UNHCR, especially in the 90-second Public Service Announcement produced for broadcast television and also posted on YouTube. Narrated in nursery-like English and blending animation with children's finger-puppet shadow play, this short film follows a young girl on her dangerous flight from warfare into exile:

*Home was ma. Home was pa.... But one terrible day, ma and pa were torn away, and I had to leave, all alone. Men with guns, had no choice but to run. Flee to the forest. Run to the hills. My body was tired but I feared to stay still ...* (UNHCR 2008, transcription by author).

Much like the hands of 'pa' in the beginning of this short film clip, the reference to 'helping hands' at the end recalls the UN refugee agency's logo of two hands joining together in the shape of a protective shelter over the figure of a person. In a promotional photograph for the 'Hands of Hope' campaign, a young boy is also shown making this sign, with the inscription 'help turn tragic endings into stories of hope' printed across the page. While ostensibly focused on a child fleeing military repression in Burma, this film clip is as much about protection and, indeed, the protector - that is, in this case, the UNHCR - as it is about refugee children. One implies the other and, once again, the commemoration of World Refugee Day in Malaysia has presented an opportunity to celebrate not merely refugees but also the individuals and organisations concerned with their wellbeing.

As the above brief glimpses indicate, Malaysia has seen an expanding repertoire of activities and events to mark World Refugee Day since its introduction in 2005. To date, the institutionalisation of such a 'day of festivity and tribute' under UNHCR auspices has seen its most elaborate articulation to date with reference to the arts and entertainment. Indeed, at the 2005 World Refugee Day launch event in Malaysia, 'it was the first time the Office publicly brought refugees into the public sphere through the photos, and through their traditional performances' a UNHCR report said. In the context of subsequent such commemorations in Malaysia, as shown above, the figure of the refugee has come into focus through photo exhibitions and traditional performances, children's activities and family events, as well as prize-winning 'multi-media awareness campaigns' featuring animated film, table-top and so-called 'interactive' print media advertisements. As a result, encounters with refugees, as celebrated rather than criminalized or otherwise negative Others, have involved (re)presentations inscribing refugees within humanitarian and cultural discourses, thus, in a kind of double jeopardy, leaving them outside not merely state and nation, but also history and politics.

Such recent celebrations of World Refugee Day are particularly noteworthy as Malaysia remains a non-signatory to the 1951 Refugee Convention, and continues to encourage large-scale, high-profile and vigilante-reinforced campaigns to 'flush out illegal migrants' for arrest, detention, and deportation (or simply expulsion). Authorised by the international bureaucracy with headquarters in Geneva and inspired by World Refugee Day initiatives supported by its counterparts elsewhere, UNHCR in Kuala Lumpur was instrumental in making possible the appearance of the refugee as a figure worthy of celebratory commemoration rather than punishing condemnation in Malaysia, if only for a day and largely confined to the interiorized, privatized public spaces of the art gallery and the gated compound of the Refugee Commission. In this regard, UNHCR assumed a notably assertive and exclusive claim to (re)presenting refugees on the occasion of World Refugee Day in 2008, compared to the earlier rounds characterized by greater tentativeness and inclusiveness vis-à-vis fellow 'concerned' supra- and national citizens.

On closer reflection, the case of Malaysia helps illuminate our understanding of the slippage produced in the encounters between national body politic and international humanitarian spirit. That is, enabled by the good offices and vanguard leadership of UNHCR, the carefully scripted (near) encounters between citizens and non-citizens in Malaysia examined above also enjoyed a diplomatic immunity of sorts. In this context, it is worth noting that, while the

Malaysian government has refrained from entering into written agreement with UNHCR since the Comprehensive Plan of Action came to a formal end in 2001, it has also allowed for a certain 'humanitarian space' within which the well-being of refugees remains the primary concern of the Refugee Commission. Indeed, the current UNHCR regime in Kuala Lumpur has engaged more directly with the Malaysian government and public, concerned NGOs and refugee communities in recent years, admittedly with mixed results, and its interventions necessarily ad hoc.

However imperfectly and incompletely, the presence and activities of UNHCR on the sovereign terrain of Malaysia have served to deflect away from the government undue attention and expectations as regards the responsibility for 'governing' refugees. Not unlike the kind of slippage effected through the creation of this 'international humanitarian space', ostensibly displacing refugees and the responsibility for their well-being outside (inter-) national politics, the celebration of World Refugee Day under UNHCR auspices also carves out a - delimited temporal - sanctuary from the everyday invisibilities and special emergencies within which 'illegal migrants' exist in contemporary Malaysia. In a curious way then, the designation of an official international day of celebration also serves to authorise the wider and more pervasive national disregard for the rights of refugees in Malaysia, and elsewhere. That is, in identifying refugees as deserving of, in the words of the UNHCR campaign, 'our encouragement, respect and support' on the occasion of World Refugee Day, these campaigns also (re)confirm the (national) designation of the figure of the refugee as, fundamentally, not one of 'us', but rather one of 'them'. In the current Malaysian context, such distinctions would seem to resonate quite strongly and unfortunately with the government-backed *Rela* campaigns that deploy so-called national citizen volunteers against 'illegal migrants'. ■

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