

Achieving Local Integration: Self-help mechanism utilised by refugees in Malaysia.

Stephanie Lee

Local integration in Malaysia

Local integration has been identified as one of three durable solutions for refugees and is closely tied with self-reliance, as in order to integrate a level of self-efficacy is required. There are similarly overlapping themes in regards to local integration and resettlement, as for a refugee to be successfully settled, they need to integrate into the new society.

Malaysia has extended permanent rights of residency and citizenship to refugees in the past, however, the lack of permanence of the status undermines the refugee population's ability to properly integrate. It is the same lack of permanence that allows the Malaysian government to bequeath the status in the first instance. Local integration involves an economic element. The diverse cultural make-up of Malaysia contributes to the ability for some refugee groups to "blend". Recognising that refugees in Malaysia occupy a legal penumbra, their invisibility can be viewed as an asset as there is not a xenophobic push to expel or alienate, unlike many countries that are signatories to the Convention.

Whilst Malaysia does not provide the legal dimension to local integration in the majority of cases, it does effectively provide the economic and social and cultural dimensions of local integration. The full achievement of local integration as a durable solution has been acknowledged by the UNHCR as aspirational in nature. Two out of three of the elements are fulfilled in the Malaysian context, therefore, in a practical sense local integration has been achieved for some refugee groups. Community based organisations (CBOs) play an integral role in the facilitation of local integration in regards to shelter, employment and education in Malaysia. Recognising that a non-place is not ideal, refugees in Malaysia exert agency in creating room for themselves, thus creating a place in Malaysian society. With relative freedom of movement and employment opportunities, Malaysia provides a comparatively comfortable environment for refugees.

Primary research

Oral interviews were conducted with lawyers, case workers and academics who were chosen as a result of their professional experience working with refugees in Malaysia. The interviews identified some of the major areas that refugees in Malaysia are pioneering self-reliance techniques, particularly through the formation of CBOs and thus integrating into Malaysian society and some of the challenges faced by specific groups of refugees communities.

Self- help mechanisms

Against the background of legal disenfranchisement, refugees in Malaysia have developed a range of strategies to ensure self-reliance which results in local integration. The creation of CBOs is one of the ways in which refugees organise and establish themselves in Malaysian society in regards to the provision of healthcare and employment needs. The existence of CBOs creates networks of protection throughout Malaysia, which affirm that even without state intervention, local integration is occurring. Refugees do not have work rights and therefore cannot access the regular employment market in Malaysia and are thus exposed to "3D jobs" (dirty, dangerous and degrading) and open to exploitation at the hands of employers. It is against this background that CBOs are invaluable to assist members to find employment, Anonymous Interviewee A explained that available jobs in the NGO sphere in Malaysia are communicated to certain CBOs, including the Somali Community Centre or to Afghan community leaders in an informal manner. The interviewee went on to explain that some CBOs keep a record of the skills of their members in order to match them to suitable employment. The creation of working entitlements for Rohingyas is a positive step in this respect, as amongst the practical benefits, it acknowledges that refugees are not part of a problem to be solved and rather represent the possibility of being contributing members to society.

Malaysia's comparatively tolerant approach to the illegality of refugees assists them to exist in a liminal zone. The use of bribes and the informality of accommodation allows refugees to create a space for themselves in society. A durable solution in the context of Malaysia is both possible and reasonably attainable despite the Malaysian government not granting permanent protection. This achievement has the potential to create regional stability and alleviate the onward movement of people through perilous means.

Role of CBOs to assist integration

When asked whether community based organisations CBOs assisted refugees to become self-reliant in Malaysia, Anonymous Interviewee B explained that CBOs "provide a much-needed avenue for refugees to mobilize and make their voices heard to civil society in Malaysia." CBOs in Malaysia are a representation of self-reliance in the sense that they exist to support and coordinate members of the refugee community. CBOs provide an entry point for advice and guidance for newly arrived refugees as well as providing an avenue to disseminate information regarding UNHCR policy and Malaysian laws. CBOs provide a range of services, from connecting members with employment to finding housing and providing social support and basic necessities. This level of organisation is the embodiment of self-reliance resulting in a version of local integration without State intervention. Jennifer Clement, who works with unaccompanied minors at the SUKA Society explained "...CBOs assist by providing some sense of normalcy and access to basic services which is not attainable from the State. The presence of NGOs & CBOs also provide for better information sharing and a support system in the country which may provide some stability". Established networks of relatives and the wider community is one of the main reasons refugees come to Malaysia.

Options outside of The Convention

Refugee Status Under *Syariah* law

Article 3 (1) of Malaysia's Constitution outlines that "Islam is the religion of the Federation". *Syariah* law applies to Muslims in Malaysia, which is around 60 per cent of the population. Acknowledging that policies and decisions by elected parties are reflective of the priorities of the majority Malays, the possibility exists of a human rights model based in Islam. Seet argues that grounding refugee protection in human rights founded on Islamic principles would compel the Malaysian Government to strengthen refugee protection. Proposing a religious model of human rights, Seet argues it would acknowledge the universality of human rights, fostering a notion of ownership as opposed to the perception that human rights are a western concept. This is particularly pertinent in a post-colonial political climate such as Malaysia, where collective identity has been established through independence. A religious model of human rights could assist Malaysia to establish itself as model of Islamic compassion in the region, bolstering its identity as an Islamic country.

A religious model of human rights has the potential to include refugee protection in Islamic tradition. Drawing heavily on the examples provided by Shoukri, the concept of *non-refoulement* and RSD exists in Islamic law and thus should be persuasive in the Malaysian jurisdiction. Shoukri uses the example of the situation surrounding the signing of an agreement known as the *Slh al-Hudaybiya* between the Prophet and the delegate of Quraysh, contained in the biographical works of the *Sirah* (explanations of the life and works of Muhammad). A group of slaves joined the Prophet prior to the signing of the agreement; when their return was requested the Prophet refused. Significantly, the slaves did not seek refuge based on shared religious ideas, but to seek safety from slavery. The Prophet's decision not to return the slaves indicates an unwillingness to send people back to situations that infringes upon their fundamental rights, which is the principle of *non-refoulement*. Shoukri outlines that refugee protection is also found in verse 60:10 of the Quran, which outlines a story of a woman who converts to Islam and requests not to be returned to her unbelieving husband. The woman claims to be at risk of persecution from her husband as a result of her religious conversion and the Prophet is instructed to examine the genuineness of the woman's claim. Shoukri explains that this example sets the principle of assessment when determining the status of someone seeking protection, a concept that persists in modern RSD.

Establishing that there is a tradition of RSD and a recognition of the principle of *non-refoulement* in Islamic texts, it is argued that Malaysia would be acting in a manner congruent with its religious principles if it were to commence RSD on a governmental level. The examples provided by Shoukri outline situations that cover adherents and non-adherents to Islam, both being extended equal protection. Commencing RSD rooted in Islamic tradition is a performative notion that could outline Malaysia's sincerity in regards to the creation and upholding of an Islamic style of governance.

Conclusions

The paper has focused on the agency exerted by refugees in Malaysia in regards to self-reliance techniques that have contributed to local integration. Whilst Malaysia does not provide permanent protection, in many ways local integration has already been achieved through the availability of employment and ease of accommodation for refugees. Although some refugee groups have greater access to integration than others, a durable solution in the context of Malaysia is both possible and reasonably attainable despite the Malaysian government not granting permanent protection. This achievement creates regional stability and alleviates the onward movement of people through perilous means. The existence of CBOs creates networks of protection throughout Malaysia, which affirm that even without state intervention, local integration is occurring.

Through the process of conducting interviews for the paper, it became clear that insurmountable problems exist for refugees in Malaysia that are not easily reconcilable. This paper has submitted that Malaysia has an obligation not to *refoule* refugees in international law and possibly *Syariah* law despite Malaysia not being a signatory to the Convention. It therefore suggests that the Malaysian government needs only to make relatively minor changes to facilitate further integration of the refugee community. The creation of working entitlements for Rohingyas is a positive step in this respect, as amongst the practical benefits, it acknowledges that refugees are not part of a problem to be solved and rather represent the possibility of being contributing members to society. Codifying protection against immigration detention for persons of concern to the UNHCR (i.e. those with UNHCR cards) would assist to distinguish refugees and those seeking protection from people who have overstayed their visas. The provision of legal protection against detention would also destigmatise refugees in the Malaysian community, giving legitimacy to the status of awaiting permanent protection. Malaysia could implement a temporary visa category for refugees without taking any steps towards ratifying the Convention, maintaining the system of RSD and resettlement as administered by the UNHCR.

On a global scale an opportunity exists to research how human rights, specifically in the context of RSD, could be implemented by other Islamic countries under *Syariah* law, as opposed to the Convention. It is noted that the Organisation of Islamic Cooperation (IOC) developed the Ashgabat Declaration in 2012 in regards to refugees in the Muslim world, however the emphasis was on voluntary repatriation as opposed to RSD or resettlement. Further exploration of whether Quranic texts have been relied on to the development policies regarding refugees in the Islamic world is possible and pertinent as the dominance of isolationist ideology grows amongst Western nation states.

Dialogue surrounding refugees can easily become fixated on a particular model of framing, therefore occluding important considerations in understanding and approaching one of the most challenging geopolitical issues states face today. In particular, this approach can overlook the ways in which refugees carve a space in legally unspecific circumstances, through a range of self-reliance and vulnerability reducing techniques, and in some cases flourish. While not a solution in and of itself, conceptualising refugees as people with innate agency and dignity is a necessary step in establishing a capacity building approach that could allow refugees to become members and contributors to the host society.

