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# REPORT OF THE STUDY TOUR TO MALAYSIA

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(Abridged Edition)

Possibility of the network for the assistance to the democratization and the  
process to peace of Myanmar:

Consideration after the study tour for the research on Rohingya refugees in  
Malaysia and the attendance at 6th Asia Pro Bono Conference



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# I. Introduction

## 1. Research Abstract

Dinesh Joshi

### Introduction

Rohingya<sup>1</sup> crisis is perceived to be one of the critical global problems in the present. Although Rohingyas have been fleeing Myanmar since earlier times due to an ethnic violence, the rate has increased abruptly mostly in this year as the result of widespread persecution in August<sup>2</sup>. They are seeking refuge mostly in the neighboring countries like Bangladesh or in other South East Asian countries including Malaysia<sup>3</sup>.

Malaysia being an Islamic state, it is commonly believed that Rohingyas have less trouble adjusting to this country due to the commonality between the religion they follow. In addition, as a founding member of ASEAN, it is the responsibility of Malaysia to contribute towards addressing the emerging Rohingya crisis that has both regional and global implications.

However, certain legal, theoretical or technical complexities pervade Malaysia to play its part. For example, Malaysia is not a party to the UN convention relating to the status of refugee till this date. On top of that, Malaysia has its own national interests to protect its citizens. This lack of treaty obligation is bringing a lot of ambiguities for Malaysia to deal with asylum seekers legally or administratively.

Some policy considerations<sup>4</sup> are being discussed in Malaysia slowly with regard to refugees but their effectiveness is yet to be realized fully.

In this kind of situation, it is likely that many refugees reaching Malaysia may be susceptible to human rights abuses. Indeed, some media sources have cited the occurrence of human trafficking, forced marriages, forceful working conditions among other issues.

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<sup>1</sup> They are an ethnic group, majority of whom are Muslims, living in Buddhist-majority Myanmar for centuries. They are often described as the world's most persecuted minority.

<sup>2</sup> The Guardian (2017). *Myanmar treatment of Rohingyas looks like "textbook ethnic cleansing", says UN*. Retrieved from <https://www.theguardian.com/world/2017/sep/11/un-myanmars-treatment-of-rohingya-textbook-example-of-ethnic-cleansing> on September 23, 2017

<sup>3</sup> It is believed that nearly one million Rohingyas have fled Myanmar since 1970s. Prior to the violence that erupted in August, UN estimated 420,000 Rohingya refugees in Southeast Asia, of which Malaysia hosts around 150,000 Rohingya refugees.

<sup>4</sup> This includes Deputy Prime Minister Ahmad Zahid Hamidi's announcement of a pilot scheme in March to allow Rohingyas to work provided that they are UNHCR cardholders and that they have passed health screenings. However, only 40 have signed such a scheme so far indicating an ineffectiveness of such a policy either due to the lack of documentation of large influx of refugees or their plight to work illegally forcefully.

It is hard to understand and analyze the situation existing there solely by being based on second-hand information. Therefore, this research aims to bring the new and updated findings through a fieldwork in Kuala Lumpur (covering insights from various stakeholders) that can help us understand the situation deeply and truly.

### **Research Objectives**

1. To deeply understand the current situation of Rohingya community in Malaysia in reference to various aspects
2. To construct arguments with regard to the responsibility or voluntary actions to be taken by different stakeholders for Rohingya protection
3. To cast light on the feasible future options and discuss in detail their relevance to Rohingya social integration (or resettlement)
4. To draw the gaps existing in the work of various stakeholders and recommend them a better approach to Rohingya protection

### **Research Methodology**

The research will follow an interview based fieldwork method. The data and information obtained from the field will serve as the primary source of data. Other information obtained from journals, newspapers, social media, community organizations etc. will serve as secondary source of data. For the purpose of this research, seven major stakeholders have been identified for the interview. They include: (1) Rohingya refugees (2) Malaysian civilians (Malaysian community living around the Rohingya refugees) (3) Malaysian legal professionals (4) International/local organizations (IOs, NGOs, INGOs) (5) Companies (those who have hired Rohingya people as well as others who might hire them in the future) (6) Schools (to understand the situation of children, one of the most vulnerable groups) (7) Malaysian government officials.

Tools: A mix of open and close ended questionnaire will be used during the interview

Analysis: A qualitative analysis of the information will be made

### **Expected outcome:**

☆ A report grasping the overall situation of Rohingya community in Malaysia through updated information

## 2. Schedule

Date	Time	Event	Notes
<b>Preliminary Activities</b>			
Sep.2(Sat)	18:10	Brief meeting (1)	After the symposium of Japan Federation of Bar Associations
Sep.13(Wed)	19:00~21:00	Meeting (2)	@The University of Tokyo Komaba campus Dinner afterward
Sep.24(Sun)	11:00~14:00	HSF Refugee café	Guest: Mr. Zaw Min Htut Open-style event
	17:00~ 18:00	Visited Rohingya resettled refugees	Mr. X's family
Sep.25(Mon)	12:30~14:00	Thought about pro bono	Hiroshi Maeda, Esq. (Partner of Nishimura & Asahi Law Firm)
	15:00~17:00	Thought about the problems of the procedure of recognition as refugees	Shogo Watanabe, Esq. (Izumibashi Law Office)
	17:30~ 19:00	Discussed how to share the achievements through media	Ms. Miyako Maekita (Sustena)
<b>Malaysia Study Trip</b>			
Sep.28(Thu)		Departure Narita→Kuala Lumpur	Prof. Sato arrived at KL on 27
Sep.29(Fri)	9:00~10:00	Visited UNIQLO Malaysia	Ms. Cindy Chong (Administrative Manager)
	11:00~13:00	Visited UNHCR Malaysia	Mr. Richard J. Towle (Representative) Hiroshi Miyauchi, Esq. <i>et al.</i>

	14:00~16:00	Visited RSM	Mr. Abdul Ghani Bin Abdul Rahman (Deputy President) <i>et al.</i>
	16:30~18:00	Visited RWDN	Ms. Sharifah Bt Husain (President)
Sep.30(Sat)	8:30~17:30	APBC day 1 -Pro Bono & Refugees -Pro Bono & Bar Associations -Pro Bono & SDGs	Tour in KL afterward
Oct.1(Sun)	8:30~17:45	APBC day 2 -Pro Bono & Human Trafficking -Pro Bono & Migrants -Pro Bono & A2J, Real Law Solutions, Community Engagement in Developing World	Running event in the morning Dinner afterward (performance by each country, delegates from Japan danced PPAP)
Oct.2(Mon)	10:00~12:00	APBC day 3 -Pro Bono & Legal Education	Yoga event in the morning After the morning session, moved on to Mercy Malaysia
	14:00~16:00	Visited Mercy Malaysia	Ms. Nusrat Binti Hassan (Program Officer) Ms. Suhana Binti Shahrum (Health Program Officer)
Oct.3(Tue)	9:30~17:30	UNHCR Seminar	Collin Andrew, Esq.: Strategic Litigation etc.
	17:30~18:30	Interview with a Malaysian local lawyer	Collin Andrew, Esq. Seminar venue ~ shopping mall at the China town
Oct.4(Wed)		KL→Narita Breakup	Prof. Sato returned on 5

Post-trip Activities			
Nov.22(Wed)	18:45~20:30	Briefing session	@The University of Tokyo Komaba campus Dinner afterwards
<p>We are planning to visit (revisit) some of those people from whom we learned about Rohingya problem since the beginning of this project (e.g. Mr. Zaw Min Htut, Mr. Yunus, Mr. Shogo Watanabe). In addition, we are going to have more one-day study tours, brush up this report, and share the achievements through media sources.</p>			



## **II. Report of the Activities**

### **1. Preliminary Activities**

#### **(1) HSF Refugee Café & Visiting Rohingya Refugees Resettled to Japan**

**Takanori Mizuno**

##### **1. HSF Refugee Café**

Human Security Forum (HSF) held a Refugee Café at Village JAM on September 24, inviting Mr. Zaw Min Htut, who can be described as leader of Rohingya refugees living in Japan. More than 20 people including our team came to this open café, interestedly listened to his speech and enjoyed decent lunch thereafter with him in a casual atmosphere.

Although the author had listened to his stories twice when I studied in Prof. Sato's seminar during the previous semester, his passion and insight amazed me even more this time. I worked as a communicator with him and took him to the café. While we were walking with a reporter of NHK toward the site, he showed us a determined mind to strive for Rohingya's equal rights and to change Japan into a country which is kind enough with refugees. In his speech, he firstly explained the history of Rohingya full of tribulations beginning with the origin of Rohingya based on his own research. He then moved on to his personal experience of adversities from how he fled to Japan to what he had done to this day. Finally, he emphasized on the current state of instability in the Rakhine state and required Japan to show a more positive attitude to protect Rohingya people.

Some of the crucial information which drew my attention mentioned within his talks is listed below.

- Since around 95% of Rohingya are illiterate due to serious lack of education, they always face difficulties in the asylums. For example, one day Mr. Zaw Min Htut had to help a Rohingya person by holding his hand to write his own name on documents when he applied for a certificate of residence in Japan.
- Money can solve almost everything in Myanmar corrupted with bribery. Without the help of money, Mr. Zaw Min Htut would not have been able to graduate from Yangon University regardless of his academic performances.
- Monetary aid to Myanmar by developed countries will only contribute to the vicious cycle of refugee generation processes and never solve the root causes. Mr. Zaw Min Htut wishes Japan could initiate more individual and effective approaches like

accepting more number of Rohingya under the refugee status, or provision of better welfare to secure vulnerable Rohingya refugees.

- Mr. Zaw Min Htut expects Advisory Commission on Rakhine State to achieve something positive about Rohingya. I wonder what he thinks about it after the advisory commission published its final report with recommendations in 2017 and Aung San Suu Kyi's declared to follow it. Malaysian government should be a signatory to the 1951 Refugee Convention as well as to the 1967 Protocol, or at least officially accept Rohingya refugees, according to him.
- The international society should create a safety zone for Rohingya. I find this assertion quite new. The problem may be that it is unclear what a justifiable and legitimate way is to do it.

## 2. Visiting Rohingya Refugees Resettled to Japan

Interviewees	Mr. X, his wife and son
Date	Sep. 24 (Sun) around 17 p.m. – 18 p.m.
Interviewers	Yasunobu Sato, Wakaba Hara, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno

After HSF Refugee Café, we visited the house of Mr. X's family and had an interview. Mr. X came from Kuala Lumpur (KL) and is the first Rohingya person whom Japanese government accepted under the third country resettlement program. He told us of his hard life using English which he had not acquired a good command of. His narratives will begin from the next paragraph, but before that I would like you to keep in mind that there might be some small misunderstandings because of the language barrier.

When living in Myanmar, Mr. X participated in the movement for democracy in 1991 after graduation from high school and was targeted by the police. Because of that, he quit university only 3 months after entrance and got out of Myanmar. He arrived in KL alone in 1995 via Thailand. But he had to move back and forth between Thailand and Malaysia afterward, and eventually settled in KL in 2007. He experienced working as a labor at a shrimp plantation on a severe condition there. His wife is a daughter of a Mon mother and a Muslim father. Getting

married and giving birth to his son, his family had to earn more money not only to live but also to raise him.

Mr. X worked also for building construction because he has expertise of electrical wiring. On top of that, since he speaks more languages than other workers, his boss gave him a lot of chances to work (however, he said he had trouble with the boss). After accumulating these job experiences, in 2009 or 2010, one of his friends called him and introduced several countries including Japan to which he might be able to resettle. He chose Japan among them mainly because it would take less time for application procedures than other candidate countries like Australia, Denmark, the US, etc. Three months after the application, he and his family were finally permitted to resettle in Japan.

His family has lived in Japan for 9 months as of September 24, 2017. He learned Japanese for 2 weeks before the migration and 6 months after his arrival in Refugee Assistance Headquarters (RHQ). However, he still has a long way to go (he can understand Hiragana, but Kanji is too difficult for him for now). He learns Japanese language once a month. It was found that his Japanese language skill is not enough for effective communication on a daily life basis.

Mr. X said his current job is hard for him. It seems that he works at a place where he can utilize his technical skills of electrical wiring. However, to be a professional worker, he has to graduate from a technical school in Japan with a certain qualification, which according to him is tough.

His family resettled with 5 other families from Myanmar. But it was not easy for them to communicate with each other in Burmese as all of them had different origins like Karen, Mon, Burmese and Chin. He also felt that Rohingya were not thought good of even by those refugees of other ethnic minorities. He underlined that Rohingya had a history of as many as 2000 years.

Here are his responses to the independent questions that the interviewers asked:

1. Mr. X learned Burmese language from his wife.
2. Rohingya people are not allowed to go to university. Likewise, they are impeded from getting professions even if they are equipped with a certain expertise owing to their belonging to this group.

3. Resettlement to Japan and not to other countries is good for refugees in that (1) the society is safe, (2) they are never exposed to threat by the police during the inquiry, and (3) there is already the presence of a Rohingya community and mosques (although not enough).
4. As of September 24, in 2017, Mr. X's family is the only one Rohingya family in the area. He wishes there were at least a few more Rohingya people around, who would ease their loneliness and inconvenience. He also wants a mosque nearby to offer his prayer (he even said he was willing to live there long if a mosque were in the vicinity).
5. He is anxious about his sick parents left in his hometown.
6. It will rather be better for his son (now 9 or 10 years old) to get a job in Japan rather than returning to Myanmar. It is hard to think of repatriation as a viable option now due to existing turmoil in his hometown. He can consider repatriation as a choice if the conflict really ends, but still he is going to let his grown-up son choose whether he will return or stay.
7. Mr. X's son has never experienced bullying at school. Rather, the school is kind enough to prepare documents both in Japanese and English so that the parents can understand.
8. Mr. X was isolated in the workplace at first after resettlement because he could not speak Japanese and other co-workers could not speak English. He said he had never received satisfactory treatment at work.
9. Malaysians in KL were sometimes kind. In many cases, however, they were discriminatory against Rohingya due to the existence of misunderstanding. Mr. X felt sad being discriminated although him and Malaysians belonged to the same religion.
10. He strongly feels that proficiency of Burmese or English is crucial for Rohingya to realize safe evacuation or resettlement.
11. Japanese is quite difficult to learn as compared to learning Malay.

Reviewing the interview, it came to my mind if the problems faced by Mr. X represent the problems faced by the entire Rohingya community living in Japan. There are two main limitations to our interview. The first is that information we got from Mr. X is not clear enough to affirm that it is completely factual mainly due to the language barrier. The second limitation is that I still do not understand on what criteria the Ministry of Justice assessed Mr. X's family and allowed them to resettle in Japan. It is of great importance to observe and analyze the pilot case of Mr. X's family in planning the future resettlement projects. I felt that supports are lacking particularly in accommodating their religious belief, community and Japanese language expectations. Accepting refugees is not only about allowing people to be in, but it is

more about taking responsibility of those who come in. As many stakeholders should work on supporting the accepted refugees decently, it is high time that the government take the initiative to unify these stakeholders as much as possible for a common goal of enhancing Rohingya people's life in Japan.

## **(2) Learning Pro Bono and Problems with Refugee Registration in Japan**

### **i. Overview**

**Takanori Mizuno**

We considered what the concept “pro bono” itself indicates in the first place, as we were going to put another focus on it besides the Rohingya refugee issue and connect each other through the project by attending 6th Asia Pro Bono Conference. In order to gain some hints or insights from an eminent legal professional’s experience, we visited Hiroshi Maeda, Esq., who works at Nishimura & Asahi Law Firm, which is one of the largest global law firms in Japan.

The word pro bono means “for public good” in Latin, which is generally regarded as volunteer activities by professionals (especially lawyers) for those who cannot otherwise have access to their services mainly due to monetary or geological problems. We asked to Maeda, Esq. what pro bono signified to him and whether he had engaged in pro bono work. He answered that he had never seen his own work as such pro bono and that it was just the case that his involvement with the regular business like Private Finance Initiative (PFI) cases (e.g. construction of infrastructure in developing countries) finally lead to comprehensive benefits of society such as the provision and improvement of public services. His jobs do not fit with the definition of pro bono in that payment is out of the purpose as he stated, but it is also true that the contribution has directly enhanced even the poorer. This interview intrigued me to be eager to pay further attention to how the underprivileged receive “free” services by professionals.

Afterward, we moved on to Izumibashi Law Office and held an interview with Shogo Watanabe, Esq., who had long been taking initiative for Burmese refugees’ winning the official status of refugees against the Ministry of Justice of Japan. He gave us an interactive lecture casting a critical view on the refugee policy of Japan. The details will be delivered in the next paragraph.

At Izumibashi Law Office, we got together with Ms. Miyako Maekita (President of Sustena), who is famous for creating attractive advertisements featuring serious social issues that may otherwise seem boring and unapproachable to ordinary citizens. After leaving there, we had dinner with her, discussing how to introduce our project and advocacy. She gave us a lot of advice and offers.

**ii. Visiting Shogo Watanabe, Esq. (Izumibashi Law Office)**  
**~ Critical View on the Refugee Policy of Japan~**

**Tatsuya Ogawa**

Interviewee	Shogo Watanabe, Esq.
Date	15:00~17, Sep. 25 (Mon), 2017
Place	Izumibashi Law Office
Interviewers	Wakaba Hara, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Takanori Mizuno

**1. Aim**

Shogo Watanabe, Esq. is one of the leading lawyers in Japan working in the field of refugee protection. We visited his office to know more about contemporary refugee policy adopted by Japanese Government to prepare ourselves better for the planned study tour to Malaysia.

**1. Issues with Refugee Policy in Japan:**

**A. Strict standards by Immigration Bureau of Japan**

The recognition of refugee status by Japan is too strict as you can know from the fact that only 28 people got such recognition out of more than 10, 000 applicants in the year 2016. That's mostly because the bureau determines on an individual basis while most countries in Europe do so on a group basis. Watanabe, Esq. concluded that Japan deviates far from the international standards although it ratified Convention Related to the Status of Refugees in 1981.

**B. The structural defects of Ministry of Justice**

The problem is that there is no specialized agency dealing with refugee problems at the Ministry of Justice. Today, the recognition of refugee status is charged by the general affairs department (one of the five departments affiliated with Immigration Bureau). As it can be inferred from the name, refugee problem is just one of many issues dealt by the department. The ministry lacks proper mechanism to overlook the field of refugee as well as it lacks required manpower to handle such issues. Watanabe, Esq. said this illustrated the passive attitude of Japan regarding refugee problems.

## **1. The solution proposed by Shogo Watanabe, Esq.**

- **The facilitation of the recognition process of refugee status:**

Today, the recognition of refugee status takes too long time because of the inspection on an individual basis. It makes the applicants suffer day by day because most applicants are in distress and afraid of being expelled while they are waiting for their turns.

- **The new establishment of the department specialized in refugee problems:**

As I explained earlier, Japan lacks such kind of department, so there is a need to form one as fast as it can to provide quick service to the applicants.

- **The requirement of judges to study refugee laws:**

The applicants who are denied their claims can file complaint of their dissatisfaction and fight in the court of law. However, there are many cases where they generally lose due to the lack of judges who are specialized in refugee protection. If judges reflect on refugee laws explicitly, then it can perhaps increase the prospects of winning even the previously-denied cases.

- **The need of setting up the administrative committee dealing with the challenge faced by refugees**

- **The necessity to handle the first inspection by the officials at the regional immigration bureau (So far both the first and second inspection has been handled by the Ministry of Justice, which is time-consuming in terms of its delivery of results)**



**2. Malaysia Study Tour**  
**(1) Research on Rohingya Refugees**  
**i. Visiting UNIQLO Malaysia**

**Kanta Toshima**

Interviewee	Ms. Cindy Chong (Administrative Manager)
Interviewers	Yasunobu Sato, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Taknanori Mizuno
Date	9:00~10:00, Sep. 29 (Fri), 2017
Place	UNIQLO Malaysia SDN. BHD.

On September 29th, as the first interview in our study trip, we visited UNIQLO Malaysia and interviewed Ms. Cindy Chong, who is a member of refugee support team there. UNIQLO is currently carrying out many projects for supporting refugees all over the world, such as hiring refugee women at work, recycling old clothes and providing them at refugee camps etc. We interviewed about whether or not such kind of projects are conducted in Malaysia and if so, what kind of problem UNIQLO is now facing in Malaysia. Throughout the interview, we came to realize how difficult it is for refugees to get a job in Malaysia. Further, we also came to understand the attitude shown towards refugees by Malaysian enterprises.

First, we asked about the situation of employment for refugees in Malaysia. As Malaysian government has not signed the convention relating to the status of refugees (1951), legally there are no “refugees” but illegal immigrants in Malaysia. Therefore, hiring refugees in the labor market in Malaysia is prohibited and even if they are hired, the form of employment is very harsh. They are hired only in areas such as plantation or other areas that pay low wages, thus exploitation becomes a common practice.

30 refugees including Rohingya are now working at projects initiated by UNIQLO Malaysia. These refugees are working legally, but there are some problems that exist while hiring them. For example, some refugees, such as Rohingya, live as a group, so they do not want to go out their community. Also, as the government want companies to hire refugees as a group in order

to observe them more easily, companies feel it difficult to hire refugees in a group even during the trial.

Second, we heard about UNIQLO Malaysia's projects for support to refugees. There are mainly two projects: the recycling projects and the upcycling projects. The recycling projects are projects which gather old clothes from consumers and provide them to refugees. In Malaysia, which has no refugee camps, this project has failed to specify where refugees live and distinguish them from ordinary citizens. In order to achieve this goal, UNIQLO Malaysia cooperates closely with UNHCR Malaysia. UNIQLO recognizes UN refugee cards, and also cooperates on finding refugee community centers. The upcycling projects are those which gather old clothes, reuse them, make a new bag or porch, and send them to donors. In this process, UNIQLO hires refugee women, and provides them vocational education. The government regulates refugees strictly during their employment period. Also, it is true that the upcycling projects are not large-scale, sustainable businesses yet.

Finally, we interviewed about the possibility of collaboration on refugee supporting projects initiated by UNIQLO. In the present situation, UNIQLO Malaysia cooperates with UNHCR Malaysia, as well as other enterprises such as YKK, and local NGOs. According to Ms. Chong, although there is a strong connection with UNHCR, as for local NGOs and enterprises, there is plenty of room for improvement on the collaboration. Also, she said that it is necessary to get business partners in order to ensure the sustainability of refugee support programs. Actually, some enterprises are now carrying out plans for support to refugees in Malaysia. For instance, IKEA is holding furniture assembling services conducted by refugees, and Ms. Chong opined that those companies including UNIQLO Malaysia should not be competitive but cooperative to each other. She also emphasized on the necessity to design projects that have long-term visions. She said that companies which are now conducting some sort of refugee support projects should maintain their activities in Malaysia. UNIQLO should further expand its local enterprises, and just in this way, the private sector can change people's mind toward refugees in the Malaysian society.

In this interview, we asked about the situation of refugee employment and the role of the private sector on addressing the refugee issues in Malaysia. Throughout the interview, we realized that most of the problems are faced by refugees in Malaysia as the country has not signed the convention relating to the status of refugees of 1951. On the other hand, we also

realized that private sector possibly has a greater role to play in order to help resolve the refugee issue. The initiative started by UNIQLO Malaysia can be a reference point for other enterprises. We hope that large global companies including UNIQLO cooperate with local enterprises on refugee supports, and change people's view towards refugee in the Malaysian context.



## ii. Visiting UNHCR Malaysia

**Kanta Toshima**

Place	UNHCR Malaysia
Date	11:00~13:00, Sep. 29 (Fri), 2017
Interviewees	Mr. Richard J. Towle (Representative of UNHCR Malaysia), Mr. Hiroshi Miyauchi (lawyer, UNHCR Malaysia) and other 4-5 staff members of UNHCR Malaysia
Interviewers	Yasunobu Sato, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno, Dinesh Joshi

On September 29th, we visited UNHCR Malaysia in Kuala Lumpur, one of the biggest agencies that support refugees in Malaysia. As the government does not sign the 1951 Convention Relating to the Status of Refugees, UNHCR recognizes refugees and provides them with the identification cards instead of the government. These cards do not have legally binding force but have factual value, and if one has the card, he/she can receive some benefits at educational or medical services. In this interview, we asked about UNHCR Malaysia's projects and the problems related to their implementation.

Throughout the interview, we found that, cooperating with the government, enterprises, and local NGOs, UNHCR Malaysia implements 5-year plan to support refugees and prioritizes them based on their emergency at the registration. Also, we actually visited the registration office, and interviewed the officer in charge. We found that there are about 1,000 applications per day, and it seems that human resources at UNHCR Malaysia is not enough to handle such a mass.

First, we asked about UNHCR Malaysia's plans for supporting refugees. According to the "UNHCR MALAYSIA STRATEGIC DIRECTIONS 2017-2021", which was provided to us after the interview, UNHCR Malaysia has set 5 goals of their activities. They are:

1. Empowered and resilient refugee and stateless communities,
2. Legal and policy framework for refugees and stateless people in Malaysia,
3. Network of stakeholders supporting refugee communities strengthened,
4. Transitional and durable solutions available,

#### 5. Adequate and sustainable funding mechanism established.

In order to achieve these goals, UNHCR Malaysia cooperates with the government and enterprises. However, for the cooperation with the government, Mr. Richard said that they have still some kind of feeling of distrust of the government, and UNHCR Malaysia is not sharing refugees' crucial data which they get at the registration, such as information about the reason of persecutions.

Second, we heard about the criteria for refugee registration. Basically, UNHCR follows the terms and conditions set forth by the 1951 convention. But, in order to register refugees in an urgency, UNHCR conducts hearing surveys on refugee communities and put a priority on refugee children, as well as the specific ethnicities. However, owing to the limited capacity of UNHCR, the work of UNHCR may not have been that effective. Therefore, there is a need to modify the legal and political frameworks of UNHCR in the first hand.





### iii. Visiting Rohingya Society in Malaysia (RSM)

Dinesh Joshi

Place	Rohingya Society in Malaysia (RSM) Office and Learning Center
Date	14:00~16:00, Sep. 29 (Fri), 2017
Interviewees	Mr. Abdul Ghani Bin Abdul Rahman (Deputy President) and 5 other male representatives Rohingya people belonging to RSM Adult male: around 20, Adult female: about 5, Little children (ages of elementary school): around 20 boys and 20 girls
Interviewers	Yasunobu Sato, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno, Dinesh Joshi

#### 1. Rohingya problem

One of the ethnic minorities in Myanmar called Rohingya (which is not recognized by law) is reported to be the most persecuted communities in the world in the present context. They have been discriminated in every walk of their lives by the Myanmar government. Most of the people in the world came to know about their problem only after 2012<sup>5</sup> but the real problem arose starting or even before the Anglo-Japanese war<sup>6</sup>. The Myanmar government charges Rohingyas to be migrants from Bangladesh or sometimes Rohingyas are perceived to be laborers brought by the British during their occupation. While it is often believed that some unskilled Bengali laborers migrated to lower Burma (modern day Myanmar) during 1870s, other historical credentials like the ruling of Rakhine state by the Sultan of Bengal until 1531, an independent existence of Arakan (nowadays called Rakhine state) until 1826 etc. prove that muslims lived in this area since time immemorial. Myanmar government these days claims that

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<sup>5</sup> There was a riot in the Rakhine state in 2012 where more than 1000 Rohingya people lost their lives and more than 125,000 people were forced to be displaced.

<sup>6</sup> British ruled Burma for over a century starting from 1824. During their rule, they did not only promise “Muslim National Area” to the Rohingya but also crafted colonial policies like entering many migrants from the present-day Bangladesh for labor. However, the promise made by the British to Rohingya muslims was revoked, the British regime ended and Burma got independence.

During the World War II, the present-day Rakhine state turned into a battleground where Rohingya sided with British and other Rakhine people (Buddhists) sided with Japanese forces. After the war, Rohingya started their rebellion against government policy in the 1950s, especially with regard to their citizenship rights and the promised state by the British. However, this was also the time for Buddhist religious revival as well as to the growth of nationalist movements who had anti-muslim sentiments. These contradictory demands by Rohingya minorities and the nationalists led to a sense of hatred against each other.

there are no Rohingyas in the country, but it is surprising to see why the international community keeps its mouth shut on this untruthful statement.

Instability persisted in Arakan since mid-twentieth century. There was a mass massacre of Rohingya in the state in 1942 during the Japanese invasion which led to a communal violence in the immediate aftermath of independence of Burma (present-day Myanmar) in 1948. The military coup gave continuity to its historical progression of persecution in 1962 viewing Rohingya as a threat to nationalist identity. With Rohingya classified as “foreigners” in 1974, the military started its nationwide campaign to register for citizenship in 1977. This resulted into an escape of about 200,000 Rohingyas into Bangladesh. Although an indigenous race, Rohingyas were denied citizenship under the newly enacted Citizenship Act of 1982. The proliferated violence compelled around 250,000 more to escape to the neighboring Bangladesh in 1991/92. The riots in 2012 killed over 1000 people and displaced over 125,000 Rohingya Muslims internally in the camps in Sittwe. In August 2017, an insurgent group commonly known as “Arakan Rohingya Salvation Army” (ARSA in short) launched a coordinated attack on 30 security posts in Rakhine state. This resulted into an intensive military search operations in Rohingya residential areas. As a consequence, thousands were murdered and hundreds of thousands were forced to flee into neighboring countries like Bangladesh, Myanmar, Thailand etc.

## **2. Leaving Myanmar: A hard choice**

Most of the people leave Myanmar because their right to citizenship are denied or neglected. Without this identification as a citizen, they are deprived from enjoying their other basic human rights. This kind of treatment started long before and is continuing even though the country has made a democratic transition a few years back. Rohingyas are asked to do a hard labor for free, they are harassed, their marriages are obstructed, and they are even required to take a permission from the security forces (which is often time-consuming) to move from one place to another within their own land. The immigration made provisions to allow Rohingya people leave their hometown for 45 days only until 2002 (that was later reduced to 14 days only). When found travelling to Yangon (the capital city), people are arrested and deported back to their hometowns. The arrested would have to undergo up to 10 years of imprisonment. This hints that Rohingya people are discriminated in various walks of their daily life. For example- even during the riots of 2012, many wounded Rohingya people were taken to hospitals. But they were just neglected and not taken care of because of which many of them died. Another example is even to meet a relative who is in prison, Rohingya people must seek



the permission from the security. If they cannot bribe the security officer in charge with money, they won't be allowed to visit their near and dear ones. Government (military) officers are used to make money from these innocent Rohingyas. They often write bad reports about Rohingya situation to attract good amount of funding which they later use for their personal benefits. When one's right to free movement is restricted, he or she is denied access to other opportunities. A few opportunities to serve the government existed until 1988. But when the military general took power in the same year, these opportunities were cut off and Rohingyas were kept in an open prison. In 1989, the government intentionally settled Buddhists in Muslim-majority areas of Rakhine (formerly known as Arakan). Many Rohingyas were killed and given long-time jail sentences. It was a planned and a systematic way of cleansing their ethnic group.

Burmese muslims including Rohingyas steadily lost their citizenship status since 1948. Although they have been living in Myanmar for centuries, they must apply for citizenship under the new Burma Citizenship Act of 1982. A very few Rohingyas apply for the citizenship, they bribe the officers with money in false hopes of getting their citizenship cards, but they are always rejected just because they are Rohingya muslims. Their files are never opened at all. People do not get an opportunity to obtain education. People were deprived of education for about seven to eight decades. The young and educated Rohingyas become the prime targets of the military forces. The existing condition costs a lot of socio-psychological burdens for their survival. Starting 1942, there have been more than 34 military operations so far on the Rohingya community in the Rakhine state. More than 150,000 internally displaced persons (IDPs) have been residing in camps in Sittwe and other places since 2012. These camps lack health and educational services. The laws in the Upper Myanmar like Yangon, Mandalay and other cities are a bit different than those in Rakhine state. In upper Myanmar, Rohingya people get some opportunities to be engaged in that is why many have escaped their homes in Rakhine state for these economically well-off cities. To overcome the unbearable situation back home, some Rohingyas have migrated to Bangladesh, made fake passports there and even managed to leave for Saudi Arabia. In the name of Rohingya, the government takes in a lot of assistance from different parts of the world but does nothing for their welfare. Nobody wants to live under these circumstances.

### **3. Migration to Malaysia**

Rohingyas have been migrating to Malaysia since 1988. There are about 100,000 Rohingyas currently living in Malaysia (only 57,000 are registered and over 40,000 are unregistered). People chose to come to Malaysia, especially after the Rakhine violation of 2012. People find it easy to go there because at least one of their relatives live there who can provide the in-comers with free accommodation. Those coming to Malaysia are relatively uneducated and prefer to go there due to closer physical proximity. People also consider migrating to Malaysia because they understand that Malaysia has a big construction sector which has the potential to provide them with job opportunities to sustain their living. Migration to Malaysia is not a choice but rather a destiny for many of the refugees.

In 2002, the Malaysian government made an emergency announcement requiring all the foreigners illegally staying in Malaysia to leave the country within two months. Rohingyas belonged to this category as they did not have any legal documents to prove their identity. That was the hardest time for the Rohingyas staying in Malaysia. Looking for some options and hopes, the Rohingya community leaders went and consulted with Mr. Shinji Kubo, the Head of UNHCR-Malaysia at that time. In 2003, the leaders even went to appeal to the Ministry of Foreign Affairs-Malaysia not to send them off to Malaysia-Thai border owing to security reasons. In the process of exploration, they discovered that maintaining a partnership with a Malaysian NGO could help protect them. Therefore, they got contact with a local NGO “ABIB” who agreed to make a partnership with UNHCR for their protection and recognition. This partnership started documenting the total number of Rohingyas living in Malaysia. According to their preliminary data, as equal as 10,000 Rohingyas lived in Malaysia at that time (during 2002/3) who were later registered with the United Nations (UN) in Kuala Lumpur and were provided the UNHCR cards by 2005.

Rohingyas in Malaysia, although have innumerable problems in their daily life, face two major challenges especially regarding health and education sector. Health has been perceived as a problem to people of all age group and at all time. However, education has become a challenge for children, especially after 2006 when the number of school-going children rapidly increased in the community.

#### **4. Health challenges**

Health is very important to Rohingya people of all age group. Their vulnerability further necessitates to go to hospital quite often. However, Rohingya refugees are not recognized by

law as such. Visiting a hospital is not that easy in Malaysia if people are not recognized by law. To get treatment at the hospital, first, there is a requirement to deposit a certain amount of money. Without this deposit, there is basically no access to hospital. Those having a UNHCR card have a privilege to enjoy up to 50% discount if they go to government hospitals. But, if they do not have any documents and the UNHCR card, they can still have access to the hospitals with the letter issued by RSM. But, in this case, the patient is obliged to pay 100% of the fees. This puts a lot of economic burden on the patient. With UNHCR card, one can buy an individual insurance that costs 10,000 Ringgit (or 12,000 Ringgit for the family insurance) but that is just limited to the registered Rohingyas. The non-registered ones have a hard time visiting hospital. Sometimes, people with no documents are taken advantages of by the hospitals or even arrested by the police from the hospitals. They are sent to prison at least for a period of 3 months. The process that follows for their release is quite lengthy. UNHCR is called upon and the arrested is sent to a detention camp where he or she usually faces interrogation for about 6 months to 1 years' time until the final release.

## **5. Educational challenges**

Education stands as another critical challenge for the Rohingya community in Malaysia. The Rohingya children are not allowed to join government schools according to the Malaysian law. The private schools are relatively expensive, and they also require administrative documents which are hard to be presented in the case of Rohingyas. There are a few community schools established in Malaysia by UNHCR specifically for refugees through the help of several NGOs and INGOs. For example- a Buddhist NGO from Taiwan "Tzu Chi" has been cooperating closely with RSM, as well as UNHCR to open some schools for Rohingya children in KL. There are 7 such learning centers in KL that are run by local NGOs like "Malaysian Muslim Welfare Organization." The total number of Rohingya children living in Kuala Lumpur is close to 10,000. Considering the increasing number of children, the number of learning centers in KL is not enough for students' adjustment and so is the quality of education provided. To nurture these children, there is a limited support from UNHCR. For example- UNHCR supports by paying a monthly salary of one teacher for one learning center and the rental fees of the building (or facility) only. The Malaysian government provides no support at all. Rest of the teachers are selected from among the educated Rohingyas themselves. This puts huge economic burden on the community (RSM). Owing to the number of children, the amount of support provided by UNHCR is very minimal. UNHCR has its own constraints and

limitations. Therefore, there is a need to provide further educational support (financial or material) to Rohingya children in the days to come.

#### **Education to Rohingya children at the learning centers run by RSM:**

- Around 500 families with a population of 2000 (Children- 45%, Youth-35%, Elderly-20%) live in the community that we interviewed. Those aged 10-20 years is the largest group. In the learning center that we visited, there were 85 students (aged 6-13 years) with a male to female ratio of 60:40.
- Not all the children in the community have an access to the learning center due to its capacity.
- Children generally join the school at the age of 6 but sometime those aged 5.5 years also are admitted.
- The school opens at 6:00 am until 2:30 Pm (8.5 Hours) with 1 hour long lunch break.
- The children are provided education only until an elementary level. Education beyond elementary level is a problem.
- 3 teachers teach at the center on a rotational basis. One teacher teaches religious studies/Qur'an, another teacher teaches English and Science and the other teacher teaches Malay language.
- It is hard to go to NGO-run schools due to the lack of transportation, personal security and discrimination (psychological pressure).

#### **6. Effectiveness of a pilot project launched by the Malaysian government in March 2017**

In March 2017, the Malaysian government in collaboration with the UNHCR launched a pilot project that allowed Rohingya refugees to work legally in Malaysia with a temporary working permit. However, this project has not been that effective. Through the project, it was hoped that refugees have a better access to health, education etc. and that they suffer less from discrimination. However, the needs and demography of Rohingya were not identified before sending the registered Rohingya to work in plantations and manufacturing sectors in unknown countryside. Most of the refugees now live in and around KL with their families. If the male, who is the sole breadwinner of the family is taken to a place that he has never heard of and made to work with the time to return home kept uncertain, would the family (or potential employee) be happy to accept the deal? Obviously, not. On top of that, the security of refugees (unlike the local workers) is not guaranteed. There are so many opportunities to work in Malaysia doesn't mean that migrant workers (or refugees) should be used inconsiderately to

fill the vacuum created by the market demand. Provisions should be created in such a way that refugees are given an option to choose among the work, location etc. This hints that either jobs for refugees should be created near their settlement areas or the potential employees should be allowed to take their family with them (with their securities guaranteed) in cases where they are sent to countryside for work.

## **7. Future in Malaysia**

Leaving Burma (Myanmar) does not necessarily mean that Rohingya are safe elsewhere. Many Rohingya men and women are discriminated, detained and or exploited as cheap labors as their status is not recognized by the Malaysian law. Refugees do not have their personal safety. In this regard, if Malaysian law turns to be a bit flexible towards the legal recognition of refugees (who are not illegal migrants), it may be easier for the Rohingya community members to find jobs and sustain their lives. For example- UNIQLO is willing to hire some Rohingya as employees provided that Malaysian law allows it.

Similarly, every parent is concerned about the education of their children. However, there is no hope for education to the refugee children in Malaysia. The children have several desires and aspirations, but they are kept in the dark (unlike other children who enjoy their universal right to education) simply because of their belonging to the minority Rohingya group. In principle, education is the key to shape the kind of person one wants to be. But, when children are deprived from their enrollment to schools, they don't get to study in a formal way. If the Malaysian government could just recognize them, it would allow many innocent children to obtain their studies. Since children are the hopes for the future, their access to education could help them enjoy their right to education and may lead them live a dignified life unlike their ancestors in the future.

## **8. Possibility of Japan's resettlement program**

Rohingya people have no choice. They are forced and compelled to migrate to neighboring countries like Bangladesh (mostly), Thailand, and Malaysia since 1970s. These days, the migration pattern of Rohingya has found new destinations. Rohingya problem has already been a critical global problem and at this moment, it is the responsibility of every nation-states on the planet to help protect these stateless people living in misery.

In 2008, Japan hinted towards the possible resettlement of Rohingya (in large groups) in its territory. However, official statements with regard to the implementation of any such plans are yet to come out from the Japanese government. There are about 230 Rohingya people

settled in Japan so far. Many of them are not granted the refugee status but are living under the status of Special Permission to Stay in Japan or Provisional Release (a few). Unlike the countries in the West, some of the Rohingya who come to Japan have not been able to enjoy their right to family reunification. The husband lives in Japan, the wives and children live in Malaysia. When the left-over families apply to go to Japan, many applicants are denied from the Japanese immigration based on their inability to speak Burmese language. How can one speak in these languages if he or she was denied an opportunity to go to Burmese schools? Japanese immigration needs to understand this reality and be more flexible in the selection of genuine Rohingya refugees.

Japan has already launched the provision of accepting 30 Syrian refugees per year for the next five years as students under its resettlement program since 2015. This provision can be expanded to Rohingya youth as well. This can, no matter how small it might be, help address the problem of manpower shortage in Japan in the future provided the so-accepted students are given an opportunity to master their Japanese language abilities (also an opportunity to enhance their acquaintance with Japanese culture and system) and hired by Japanese corporations later.

## **9. Repatriation to Myanmar: A last hope**

As the country of origin, Myanmar is the last hope for return to the Rohingya people from their temporary settlements. They have not only left some of their family members or relatives, they have left their land, property, customs, practices and other intrinsic values back home. If a favorable condition can be created whereby discrimination against Rohingyas is prohibited, everyone seems to return home. But, this requires a greater sense of responsibility and commitment from the part of Myanmar's government. Aung Sang Suu Kyi, the present state counsellor who has been awarded the Nobel peace prize for her long dedication towards bringing democracy in Myanmar is often criticized for not playing her part to provide justice to Rohingyas. Upon the pressure from the international community, and more specifically through the efforts of United Nations (UN), respected repatriation schemes for Rohingya people can be designed in the long run.

## **10. Way forward**

Rohingya problem is closely related to their statelessness. Britain and Japan are somehow responsible for the ethnic divide in Myanmar amongst Rohingya and the nationalist forces. If both the governments stand together and organize a mutual international conference, it would help the global community understand the truth behind the present crisis in Myanmar. UN

being the last resort to dispute resolution of problems that are of global concern, the organization can make efforts in convincing the authorities in Myanmar about granting citizenship to genuine Rohingya population. As an alternative, it can make an appeal to its member states to accept Rohingya under third country resettlement program as it has been the case with other refugees in the past (Example- Bhutanese refugees in the U.S.A.). As an emergency need, UN (or its agency UNHCR) can request its member states to contribute their support to the Rohingya crisis existing in countries like Bangladesh, Malaysia etc. where Rohingyas have been temporarily settled.

### **Annex: Questionnaire to RSM (Made by Takanori Mizuno)**

Our team held a number of interviews with various stakeholders involved with the Rohingya Refugee issue during the entire process of the research. In order to make them well-structured and effective to gather information, we prepared the formal questionnaires for each interviewee: (1) Rohingya refugees (and their communities), (2) UNHCR Malaysia, (3) Malaysian local legal professionals who deal with (Rohingya) refugee cases, (4) enterprises in Malaysia, (5) Mercy Malaysia, (6) Malaysian government (we did not use it), (7) Malaysian local residents (we did not use it), etc. Although it is impossible to show all of the questionnaires because of the limited space, this (prepared for our visit to RSM) is presented as an example.

#### **Questionnaire to Rohingya refugees (and Rohingya communities)**

*We are the students from the University of Tokyo and Hitotsubashi University conducting a field research on the present situation/s of Rohingya community in Kuala Lumpur, Malaysia. We would be grateful if you could spare some time in answering the following questions. We assure you that the information obtained from you would be used only for the research purpose. We thank you in advance for your time and consideration.*

#### **SECTION 1: For Rohingya individuals**

##### **PART 1: General Information**

(1) What is your gender?

A. Male B. Female C. Others

(2) Could you tell us your age? Please choose one.

A. ~10 B. 11~20 C. 21~30 D. 31~40 E. 41~50

F. 51~60 G. 61~70 H. 71~80 I. 81~

## **PART 2: Evacuation**

- (3) Where did you live and who lived with you before evacuation from Myanmar?
- (4) What was your social status before evacuation? If you had a job, could you tell us what you did in detail?
- A. Company worker
  - B. Self-employed (e.g. farmer, hunter, fisherman, craftsman, shopkeeper)
  - C. Civil servant
  - D. Student
  - E. Others ( )

(5) When and why did you leave your home country? Who accompanied you?

(6) Which of the followings do you think your migration was like?

- A. Forced to evacuate
- B. Left my home country at my own will
- C. Others ( )

If your answer to (6) is A, please proceed to (7). If B, please skip (7).

(7) Why did you come to Malaysia, but not to other countries?

## **PART 3: Life in Malaysia**

(8) Where do you live now? Who lives with you?

(9) Do you have an ID card which certificate your citizenship of Myanmar?

- A. Yes
- B. No

(10) If you chose A, how did you get it?

(11) Are you certified by UNHCR as a refugee?

- A. Yes
- B. No

(12) Have you had any job since evacuation?

- A. Yes
- B. No

If your answer to (12) is A, please proceed to (13). If B, please proceed to (14).

(13) Could you tell us more about your work experience?

(14) Could you tell us how you have lived without a job?

(15) How much are you satisfied with your life in Malaysia overall?

- A. Very satisfied
- B. Somewhat satisfied
- C. Somewhat dissatisfied
- D. Very dissatisfied
- E. Don't know

(16) If you feel that something is particularly enhancing your quality of life, please choose the options that apply from below and describe why. (Multiple answers allowed)

- a. Job
- b. Money
- c. Family
- d. Friends
- e. Community
- f. Education
- g. Hygiene
- h. Religion
- i. Others ( )

(17) Concerning (16) "a. Job", are you enrolled in the official pilot program of Malaysia which qualifies Rohingya refugees to be a legal immigrant laborer?



A. Yes B. No

If your answer to (17) is A, please proceed to (18). If B, please proceed to (19).

(18) Are you satisfied with the program? Why?

(19) Are you interested in joining the program? Why?

(20) If you feel that something is particularly degrading your quality of life, please describe what problems you are facing with. (You can choose any of the options that apply to you) If you have more than one problem, can you put them in order in accordance with their seriousness.

a. Job b. Money c. Family d. Friends e. Community f. Education  
g. Hygiene h. Religion i. Others ( )

(21) What do you think the cause/s of the problems you mentioned in (20) are? In particular, do you think discrimination against Rohingya is relevant to them?

(22) Have you ever received any support to overcome these problems? If you have, what is/was it like? Is/Was it sufficient or not?

(23) Have you ever taken any action on your own to overcome those problems? If you have, what is/was it like? What is/were the consequences?

(24) If you face a problem, whom do you consult with? (Multiple answers allowed)

a. Other family members b. Friends c. Leaders of the community you belong to  
d. Leaders of the religion you believe (e.g. Imam, preachers) e. Police  
f. Professionals (e.g. lawyers, counselors) g. Others ( )

(25) Why do you choose them?

(26) What kind of support do you need to solve these problems you face?

(27) Do you have anything in mind you want to put into practice from now in order to overcome those problems?

#### **PART 4: Future Prospects**

(28) What do you want to be like in the future?

(29) Considering the view you mentioned in (26), which option will you choose CURRENTLY and why?

A. Repatriation to the hometown  
B. Local integration in Malaysia  
C. Resettlement in a third country

(30) As an ideal choice, which option will you choose IN THE FUTURE and why?

A. Repatriation to the hometown  
B. Local integration in Malaysia  
C. Resettlement in a third country

(31) If you chose C in (29) or (30), where would you like to resettle? (Multiple answers allowed) Why do you choose it/them?

A. The United States of America  
B. Canada

- C. European country (Name: \_\_\_\_\_ )
- D. Latin American country (Name: \_\_\_\_\_ )
- E. Japan
- F. The Republic of Korea
- G. Others ( \_\_\_\_\_ )

**SECTION 2: For Rohingya Community**

(32) What is the composition of your Rohingya community like?

i. Male : Female = ( : )

ii. Age structure:

0~10 : 11~20 : 21~40 : 41~60 : 61~80 : 81~ = ( : : : : : )

(33) When was your community established?

(34) Who established your community?

(35) What is the objective of your community?

(36) What are the activities of your community?

(37) Does your community have any collaborative relationship with other communities, especially other Rohingya communities inside/outside Malaysia?

(38) What kind of hardships has your community experienced?

(39) What is your community going to do next to overcome those hardships? In particular, is there any plans to widen the connections?

**Thank you very much for your cooperation.**





#### iv. Visiting Rohingya Women Development Network (RWDN)

Dinesh Joshi

Place	Rohingya Women Development Network (RWDN) Office and Learning center
Date	16:30~18, Sep. 29 (Fri), 2017
Interviewee	Ms. Sharifah Bt Husain (President)
Interviewers	Yasunobu Sato, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno, Dinesh Joshi

##### 1. Story of Ms. Sharifah

“There was no safety back home, so my father had to leave the house in Arakan state to save his own life. He left me, my sister, and my pregnant mother (who gave birth to a brother later) behind and came to Malaysia paying a lump sum to an agent. Many Buddhist monks lived in the surrounding of my house. I have seen my young friends being killed, tortured or even heard the stories of young females being raped. To protect their daughters from rapes, parents generally get their daughters marry at a young age. This has been more like a tradition now. We used to live with all the uncertainties in life without our father, the sole breadwinner of the family. Therefore, we decided to leave our house.

We (Me, my mother, sister and brother together) took a boat from the Arakan village to Yangon. But, unfortunately, we were arrested on the way as some locals complained about our visit (movement). We did not have any documents for our verification. My mother was sent to prison in the charge of moving without documents. Me, my sister and brother were sent to Mandalay where I worked as a maid, my sister helped me, and my brother was forced to beg. We had no parents with us. My mother was released only after paying money to the authorities through an agent after 2.5 years.

My father hired an agent in Malaysia (who was a Muslim from Myanmar) to bring my younger brother, sister, me and my mother, one after the other in turns. I was smuggled by a boat from Arakan to Yangon. From Yangon, I took a plane to Thailand and from there I was taken to Malaysia through a jungle when I was just 4 years. I remember being beaten badly during the journey. Lucky that all of us got united with our father finally in 1999. Living in Malaysia undocumented for 4 years, we got our UNHCR cards in 2003 during the first batch of distribution.



Even after coming to Malaysia, I faced a lot of discrimination. Everything is the same here like in Myanmar but one point that makes me happy is that I can live freely. Our community members work as cheap labour. Some of them also work in the construction sector with no safety and a very low pay. Children as equal as 8 years go to the streets to collect metals to earn a plate of food for a day.

I couldn't go to a public school. Therefore, I was sent to a private Malay religious school where I studied for 3 years. I couldn't make any friends there simply because I was Rohingya. I couldn't tolerate the abuse anymore. My father then sent me to a community school run by refugees for obtaining my basic education. I was denied access to secondary education. Through self-preparation, I managed to prepare for the Malaysian High School examination; SPM. I took the test but I did not get my certificate because of my refugee status. I have taken advantages of the 6-month-long course provided by UNHCR. I have learnt English through Youtube. I have also worked hard to Master the proficiency in Malay language.

While I had these opportunities, many Rohingya women are not allowed to go to school. Gaining all these knowledges, I realized that it is my responsibility to impart my learnings to other people. I decided to visit people door to door and educate them. In the due process, I discovered that women were lagging far behind as they never got a chance to go out and learn. Therefore, in December 2016, I founded this organization RWDN for empowering women and to contribute towards community development.”

## **2. Current activities of RWDN**

Currently, the focus of RWDN rests upon three programs as follows: education, livelihood and sports. The specific activities the NGO offers to people (especially women) are as follows:

1. Conducting a craft or skill-making class run for women from 11 AM until 2 PM, Monday through Friday. In this class, the women learn, speak, be friendly, and get to know each other better. Whatever the women make as a craft in the class is later sold, the profit of which goes directly to the maker. In this way, the class serves as a platform for women to communicate with each other. Further, it also provides an opportunity to earn and empower themselves as well as their families.
2. Holding literacy classes in English, Malay and Qur'an to help women improve their language skills as well as providing them an opportunity to strengthen their religious beliefs.

3. Organizing sports (e.g. Running competition for those under 20 years) events on a timely basis to provide recreational opportunities.
4. Conducting a 'self-defense class' for women aimed at promoting gender equality as well as enhancing women empowerment and discouraging ill practices of the society like child marriage etc.
5. Managing shelters to provide consultations as well as protection to women abused by their husbands.

Generally, women in Rohingya community are not allowed to sit together with men to discuss about various problems they face upon by. Due to this kind of traditional belief and practice, it is a bit risky for those women willing to play leadership roles in the community. For example- Sharifah was threatened by the husband of an abused woman who was taking shelter in the one managed by Sharifah. However, as a founder of RWDN, Sharifah is committed to make as many women as possible stronger since she believes that her purpose is not bad.

Rohingya women have been suffering not for a day or two but for generations. Therefore, it is in a way a responsibility for a person like Sharifah (who is learnt and educated) to fight for justice (or help other women fight for their rights). While there are a lot of challenges ahead, Sharifah's team is getting bigger and bigger every now and then. Although she started the NGO all alone, she has been able to accumulate 10 members already. The team is also working together with 2 men (who help them indirectly). Since the mission of the NGO is to contribute towards community development, it cannot be achieved if men are excluded. Therefore, the NGO is concerned about such sensitivities. To promote gender inclusion, the NGO has designed English and Malay classes to be taught exclusively for men. Further, it has also plans to expand the scope of sports like FUTSAL etc. for boys in the coming days.

### **3. RWDN's collaboration with other partners**

Although RWDN doesn't have a broad connection as such, the NGO finds out about the women in need or in danger through case referrals. For example- there are 4 women in the shelter now. They are not from KL but from other areas. RWDN has been collaborating with RSM, UNHCR, and a local NGO called "Nanga Neta" so far. RWDN is a new NGO founded just last year. Considering the time-frame and the list of activities conducted or planned, it can be argued that RWDN has already achieved much. However, there is no limit to its development and expansion. It aspires to expand its network to several countries in the future.

The hope is that soon RWDN networks are expanded in countries like Bangladesh, Indonesia, Thailand etc. where a large influx of refugees has settled in the last few years. This expansion can further reach to countries like India, Sri Lanka etc. which are chosen as new destinations by Rohingya people. RWDN also aims at collaborating with various partners (national or international) to preserve Rohingya culture that is in the verge of extinction in Myanmar.

#### **4. Funding/s and challenges**

RWDN is self-funded and it is for this reason that its scope is limited. The NGO does not receive any support from private sector. Malaysian nationals (individuals) support RWDN through food donation monthly, although it is not regular. RWDN also collect clothes and other usable items from the donors and distribute them to the needy people every Mondays. While financial challenges make the implementation of many of its planned activities impossible, RWDN is marching ahead with its mission with whatever capacity and resources it has. Currently, RWDN is raising funds to buy sewing machines so that many women can be taught about its use. Once the women learn how to use sewing machines, this skill can help them find a safe place to work as sewing is usually done inside the house. In addition, it can also help women have their economic independence to some extent.





## v. Visiting Mercy Malaysia

Takanori Mizuno

Place	Mercy Malaysia
Date	14:00~16:00, Oct. 2 (Mon), 2017
Interviewees	Ms. Nusrat Binti Hassan (Program Officer) Ms. Suhana Binti Shahrum (Health Program Officer) and 2 other female officers
Interviewers	Yasunobu Sato, Wakaba Hara, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno, Dinesh Joshi

### 1. Introduction

Our major interest was to find more on the access to medical care and education of Rohingya refugees residing in Kuala Lumpur (KL), two of the most critical issues for the community members in plight. We were able to familiarize ourselves to the situation of education provided to Rohingya children in KL by visiting Rohingya Society in Malaysia (RSM) and Rohingya Women Development Network (RWDN). The visit to Mercy Malaysia (a medical NGO in KL) was truly valuable in understanding the current circumstances of the above-mentioned two issues.

We held an interview based on an interactive discussion, basically focusing on a questionnaire we prepared beforehand. All the interviewees kindly and proudly answered our questions in detail, which greatly inspired us. This article will summarize what we learned during the interview following the order of the questionnaire overall.

### 2. General Questions

In this part, we asked mainly about the kind of health services Mercy Malaysia provides for Rohingya and how its general services work through inter-institutional cooperation.

Mercy Malaysia approaches refugees including Rohingya people by (1) providing vaccination to children and (2) providing health education. The main fields where these services are provided are the detention centers and the refugee communities. These activities are coordinated by many doctors, officers and a lot of volunteers.

One noticeable thing is that Mercy Malaysia is non-discriminatory in its provisions. It decides to offer the services for a certain group of people through a series of careful assessment,

only after confirming the group as such is in need of its services. In other words, Mercy reaches the vulnerable group regardless of their ethnic background or even without verifying their documentation<sup>7</sup>.

As to the cooperation with other institutions, Mercy Malaysia has created a wide range of connections with stakeholders. It keeps contacts with the leaders of various refugee communities, who are crucial for Mercy Malaysia to determine where demand is. Receiving a request from the people or UNHCR Malaysia, Mercy Malaysia begins an assessment in consultation with UNHCR. Besides, it is ready to work together with other medical entities like Caritas Clinic. Moreover, at a fundamental level, it is necessary to share the relevant data with the Ministry of Health in order to properly share the quotas between them and avoid any overlaps.

However, there are a lot of obstacles surrounding Mercy Malaysia. One thing to note among them is the language barrier. Since most refugees are unable to speak Malay or English, Mercy Malaysia needs interpreters, whose supply is scarce. Therefore, in some cases, younger refugees are required to adjust to new local languages owing to their capability.

### **3. Health Program**

In this part, we shifted the focus of the questions to the health program to Rohingya refugees provided by Mercy Malaysia. As is mentioned above, Mercy Malaysia conducts vaccination to children and health education for free. Such provisions are made prioritizing the female and children. Furthermore, Mercy Malaysia extends its foot to the country of origin of refugees or Rakhine state in Myanmar to provide primary health care for Rohingya people, according to the annual report of 2016.

There are various challenges confronting Mercy Malaysia in its operations. Firstly, the range of health services is limited. Apparently, most services are lighter preventive cares and no intensive operations. This is because of the difficulty to raise big funds to launch projects which are of larger scales and which need a longer period of time for its completion. However, such intensive and costly services should be taken charge of by public medical services in the first place. For this reason, Mercy Malaysia requires the Malaysian government to sincerely understand the causes of refugee's predicament and reduce the price to receive public medical services, especially parturition which is not covered by the health insurance.

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<sup>7</sup> Although Mercy Malaysia is aware that refugees without the qualification by UNHCR are in much worse conditions, it also equally provides those in the detention centers, who do not have the UNHCR ID card, with its services.

Some problems are unique to Rohingya refugees. First, their health conditions are even worse than refugees of other ethnicities, because they have been obliged to live in hygienically more terrible situations. Second, they have the language barrier as is referred above. Third one pertains to gender inequality. Rohingya women cannot go out of the houses and therefore they have trouble voicing out their plight and gaining access to health care. Rohingya, who are recognized as conservative Muslims<sup>8</sup>, rigidly interpret Qur'an and maintain male-dominant families. In addition, Rohingya women are left uneducated in many cases, which hinders them from understanding instructions provided by Mercy Malaysia and finishing a chain of the vaccination program.

#### **4. Outreach Clinic**

Mercy Malaysia opens mobile clinics in refugee communities around six times per month. If there are special requests by individual families, it flexibly adjusts to such needs.

#### **5. Conclusion**

Mercy Malaysia contributes to secure vulnerable refugees' access to basic healthcare services. I was amazed at its prosperity to this day based on humanitarian incentive, and at its flexibility to cooperate with other stakeholders and realize fine-tuned supplies. Still, what Mercy Malaysia can do is fundamentally limited as an NGO, whose budget is both unstable and small. Thus, there must be numerous lessons to learn from the efforts made by Mercy Malaysia in order to sustainably protect refugees including Rohingya in the field of medical practices.

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<sup>8</sup> [http://www.huffingtonpost.jp/2017/09/23/rohingya\\_a\\_23220396/](http://www.huffingtonpost.jp/2017/09/23/rohingya_a_23220396/) (accessed December 17, 2017)



## vi. UNHCR Seminar

**Keito Mizuno**

### 1. Opening remark – UNHCR and refugees in Malaysia

**Ms. Caroline Samuel**

The conference began with a video showing the history of a little girl, who was forced to leave her country because of persecution. The issue of refugee is never an issue irrelevant – we were convinced of the importance of the powerful message. In opening the meeting, Ms. Caroline Samuel, the present director of the Protection Unit of the UNHCR, made a brief yet organized lecture on the role of Malaysia as a refugee-recipient country. Rohingya choose Malaysia as their destination because of the religious proximity or because their family or relatives had already sought asylum in Malaysia before. Malaysia is a non-signatory to the 1951 Convention on the Status of Refugees. Further, there is not any domestic Malaysian law which directly provide guidelines for the status of refugees. Therefore, it requires a careful examination in understanding the process of refugee treatment in Malaysia.

The international law, as such, involves the question of the extent to which the obligation is enforceable within a country. In effect, there is not an explicitly binding obligation upon Malaysia concerning refugee/s. In effect, the absence of domestic refugee law in Malaysia compel Rohingya to be engaged in 3D labors: dirty, dangerous and difficult. In addition, Malaysian immigration act, the provision of which is applied to refugees without thorough consideration of their specific background, imposes 6 years of imprisonment or penalty of 10,000 ringgit, involving whiplash depending on the cases<sup>9</sup>.

Nevertheless, this fact does not exclude the possibility of positive actions to combat against the violation of their human rights. Various actors have proved active in providing protection to refugees. For instance, UNHCR in Kuala Lumpur issues a card upon registration, with which the refugees have access not only to the right to stay, but also to other essential benefits such as the reduction by 50 % in medical fee. The reaction of Malaysian government is rather favorable: it recognizes the de facto power of this card and, although it is not legally obliged, Malaysia is making greater strides towards becoming a more refugee tolerant country.

### 2. Refugee cases in Malaysia

**Collin Andrew, Esq.**

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<sup>9</sup> Immigration Act, Article 6 (3).

The seminar proceeded onto a session concerning the legal practice associated to refugees, in which Mr. Collin Andrew, an experienced lawyer in Malaysia, gave a precise explanation of procedural issues.

Though Malaysia is not a signatory to the 1951 Convention on the Status of Refugees and hence Malaysia is not bound by any relevant treaty, the cases involving refugees have been dealt with in reference to a judicial precedent either in domestic courts or in courts in a given ASEAN country.

Among various cases, he put a focus on criminal cases. It is because the procedures of criminal cases are quite similar in nature to those concerning the status of refugees. Generally, the procedure consists of the following 5 stages: (1) arrest, (2) search, (3) prosecution, (4) conviction and (5) prison sentencing. This series of five stages is a subject to change depending upon the context and situation. For example, in several cases, the Malaysian authority has condoned the stay of refugees, when it had turned out that the refugees possessed UNHCR card (which I mentioned earlier in this report). This flexibility is important because a lot of refugees, and especially children, do not possess their identification document, the absence of which has denied them access to several basic services. In addition, in the stage (3) prosecution, cooperative relation exists among courts in Southeast Asia, based on which they can realize more efficient rulings of refugee cases by prioritizing them according to the costs of receiving them to each country.

However, the life of refugees during the trials is quite troublesome. For example, they do not have access to education in a detention center. In addition, in the case where mother hails from Rohingya community, children cannot obtain nationality because, as a rule, it is the nationality of mothers that determine the nationality of children. Even though legal services in some fields (e.g. criminal cases) have been provided, the reality is that these services are often not completed. It is due to the lack of provisions in the fields of family matters or civil cases, in which refugees experience a lot of difficulty. The most prominent types of allegations include domestic violence and incest. However, only 10~20 % of refugees who have fallen victims to these crimes have obtained conviction ruling from the court, which implies a need for further development in the protection of the rights of refugees.

### **3. Comparative analysis of Japanese and Korean practice.**

**Il Lee, Esq., Mitsuru Namba, Esq., Prof. Yasunobu Sato**

This session gained attention from a lot of participating Malaysian lawyers, because the main theme concerned the history and function of lawyers' networks. Mr. Lee emphasized on

cooperation among various actors involved in refugee issues. For example, Article 29 of Korean Refugee Act prescribes a collaboration between the Head of the Ministry of Justice and UNHCR. In addition, the support by lawyers is explicitly granted to refugees (Article 12). This has encouraged a network of lawyers, as well as to the establishment of several NGOs, that work together to form advocacy groups in each case and operate regularly on a monthly basis.

Mr. Namba introduced the presence in Japan of stratified network consisting of such social actors as lawyers, regional association (which is especially developed in Western part of Japan) and NGOs. NGOs often work with and under guidance of lawyers' associations. The number and importance of this initiative have been growing. as the number of refugees soliciting recognition is expected to rise. For example, lawyers' group for Kurdish refugees made a huge success by realizing their right to family reunification. Problems remain, however, such as the difficulty of forming groups for each case, in the light of diverging origins of refugees.

In concluding the session, Prof. Yasunobu Sato proposed a wider participation to ANRIP, a regional framework in Asia for further cooperation between lawyers. This cooperative scheme embodies a higher prospect of efficient action in solving refugee crisis, by exchanging best practices on a regular basis. He also emphasized the necessity of treating the refugee issue with more attention and appealed every country to take measures with responsibility as a member of international society.

#### **4. Sessions – how are refugees related to society?**

At the last part of the seminar, all the participants including the presenters were divided into three groups. The participants then debated the problems and possible solutions in the following three themes: (1) strategic litigation, (2) the role of media and public awareness and (3) the way to improve the skill of lawyers. Given below are some of the most interesting propositions.

##### **(1) Strategic litigation**

- Strategic litigations are (in effect) highly efficient measures to appeal the legality of the stay of refugees both to the public and to the court.
- The absence of domestic refugee law tends to obscure the obligation of the state. Therefore, it is necessary to reveal the role of international law and state practices.

##### **(2) The role of media and public awareness**

- Society changes the law. Structural reform can be preceded and driven by increasing social awareness.
- There actually have been several attempts to protect the rights of refugees in a voluntary manner, without any obligation imposed by law.
- Effective solutions include:
  - the role of media to deliver the actual impact of refugees on labor market, whose threat tends to be exaggerated.
  - improvement in living condition of refugees, which will minimize both material as well as psychological sense of segregation from other residents.

### **(3) The way to improve the skill of lawyers**

- Concentrated platform of information, on which lawyers can exchange information and know-how and consign the cases within a wider network.

This was basically what was discussed in the UNHCR seminar on the 3<sup>rd</sup> of October 2017. The seminar highlighted the importance of establishing a wider and dense network of professionals, including the Malaysian lawyers, through cooperation. Detailed analysis of the situation is needed, including the comparative analysis of Korean and Japanese legal practices for clarifying the imminent problems and to overcome the differences in order to realize a more efficient system of refugee protection.





**vii. Interviewing Collin Andrew, Esq.**  
**~How to Represent Rohingya in Court~**

**Keito Mizuno**

Interviewee	Collin Andrew, Esq. (Collin's Law Chambers)
Date	17:30~18:30, Oct. 3 (Tue), 2017
Place	Venue of UNHCR Seminar ~ The shopping mall in the Chinatown
Interviewers	Yasunobu Sato, Wakaba Hara, Tatsuya Ogawa, Erika Tanaka, Kanta Toshima, Keito Mizuno, Takanori Mizuno, Dinesh Joshi

Mr. Collin Andrew is a practicing lawyer in Malaysia who deals with issues concerning Rohingya. After the UNHCR seminar on 3<sup>rd</sup> of October, Tuesday, he kindly answered to our questions regarding the detailed description of procedures. Among the various issues surrounding Rohingya community in Malaysia, he explained to us in detail and with precision about the legal procedures taken in criminal cases. He mentioned that owing to the stateless condition of Rohingya people, the procedures concerning their staying permits are like those required in criminal cases. Much to our surprise, he revealed a few rather positive aspects of their treatment in Malaysia with regard to the staying status, the language to be used in court and their general condition as a whole during the trial.

First, it is of great significance to determine the status on which Rohingya are staying in Malaysia. Though Malaysia is not a signatory to the 1951 Refugee Convention, and hence there is not a “refugee” status permitted to Rohingya, UNHCR is effectively conducting a wide range of activities. Notably, a special card issued by UNHCR for the registered refugees protects them in several ways. For example- It reduces the medical treatment fee by 50%, and it grants immunity from prosecution in the case of detention by Malaysian authorities on the charge of illegal stay.

Another issue concerning the procedures in court is the language to be employed. Rohingya speak a language of Bengali-Assamese family, quite distinct from Malay. Since the official language employed in Malaysian court is Malay, the advocates find it difficult to communicate with the victims owing to the language barrier. Faced with this problem, it is a legally binding obligation for Malaysian courts to choose and employ an interpreter from the

list corresponding to the language with which one is familiar. Furthermore, the fee necessary for all this arrangement is borne by the courts. This is particularly an effective practice in providing legal access to refugees, who do not possess sufficient financial resources often time.

Finally, the overall situation of Rohingya while their cases are pending should not be neglected. In other words, their rights should continue to be respected while staying in Malaysia. Concerning cases related to the “staying status”, the procedure does not take a long period since the legitimacy of their stay is determined based on their possession of identification document (or a UNHCR card mentioned earlier). On the other hand, criminal cases require a more detailed examination, which could take an extended period of time than the one mentioned initially. As a rule, suspects of crimes can be subjected to detention for no more than three years. For those suspects of crimes not worth the death penalty, the court has the discretion to release them on reasonable grounds. What is striking regarding most of the Rohingya, who seldom possess the identification document, is that they tend to remain in a facility. “This implies not a violation of their human rights, but a concern about their repatriation as their status is not legitimized by their country of origin,” emphasized Mr. Andrew.

The interview made us realize the existence of reconciliation between the respect to human rights of Rohingya and sovereignty reserved to Malaysia. The situation of Rohingya in Malaysia is characterized not by the discriminatory structure as one might expect, but rather by a growing concern about their rights. Various protection measures to guarantee their rights, as illustrated above by the roles played by UNHCR or the assistance provided by court, seem to indicate the possibility of other effective schemes in the future. These new arrangements can be designed with flexible legal aspects and through the cooperation of various actors like UNHCR, courts and the national authorities.





## **(2) 6th Asia Pro Bono Conference**

### **i. Day 1**

**Erika Tanaka**

#### **The Asia Pro Bono Conference**

The Asia Pro Bono Conference is the conference to consider the multifarious ways pro bono initiatives can strengthen access to justice in Asia and internationally, gathering people with diverse backgrounds such as scholars, lawyers, policy makers, social workers, students. It has been held every year in Asian countries after the first conference was held in Vientiane, the capital of Laos in 2012. During this conference (6th one) held in Kuala Lumpur Malaysia, more than 500 participants gathered from over 30 countries, the largest ever since its establishment, and 47 sessions were organized by involving 120 speakers over the period of 3 days.

#### **Plenary Session 1: Strengthening Pro Bono Culture: Unity and Diversity**

Focusing on common values in Pro bono activities and the diversity of each country, practitioners from Singapore, Malaysia, Laos and the United Kingdom introduced the current situations and problems of pro bono activities in their respective countries.

#### **Keynote address by Mr. George Varughese, the President of the Malaysian Bar**

At the beginning, the importance of the right of access to justice was emphasized. On that basis, the history of promoting access to justice in Malaysia and the structure of pro bono activities was introduced. Finally, the importance of the Bar Association's role was reaffirmed in promoting pro bono activities and disseminating access to justice.

#### **Subcommittee 2: Pro Bono, Asylum, Refugees and Statelessness**

During the first sub-session, we participated in the session of "Pro Bono, Asylum, Refugees and Statelessness". This session focused on how to provide judicial service to asylum-seekers, refugees and stateless people, and interactive discussion between the presenters and the audiences followed later.

The presenters were Prof. Yasunobu Sato from the University of Tokyo, Ms. Caroline Samuel from UNHCR Malaysia and Ms. Liyy Kamaludin from UNHCR Malaysia, who were focused in refugee protection practice. Prof. Sato introduced his career working as an advocate, as well as the history and current situation of Japan regarding refugee protection. Ms. Caroline

Samuel has been engaged in refugee protection including refugee application and settlement assistance as UNHCR staff for 10 years in Malaysia and other countries of Asia and Africa. She is the head of the Protection Unit of UNHCR Malaysia now. Ms. Liyy Kamaludin, as the head of the stateless unit of UNHCR, is engaged in mapping stateless persons and introducing a legal system for their protection in Malaysia.

Among the audiences, there were many lawyers and activists who had varied experience of working in the field of refugee protection. Thus, participants revealed the situation and problems of refugee protection in various countries such as Hong Kong, the Philippines, Pakistan and Bangladesh.

Caroline introduced the current situation of refugee protection in Malaysia. According to her, the ethnic distribution of refugees has changed in the recent years, and Rohingya tends to have occupied the largest number. In Malaysia, there is no distinction between migrants and refugees under the Immigration Act. Therefore, it is the role of UNHCR to distinguish whether a detainee is refugee or not. UNHCR staffs visit the detention center every week to interview refugees and know about their concerns. Moreover, although Malaysia has not ratified the Refugee Convention, UNHCR is conducting refugee registration pursuant to the standard of the Refugee Convention. If people are registered by UNHCR, they will not be prosecuted for the violation of Immigration Act as a rule.

Prof. Sato introduced the efforts made by Asian Network on Refugee and International Protection (ANRIP) towards refugee protection. He also highlighted some of the challenges regarding resettlement in Japan. Japan is reluctant to accept refugees and the framework of settlement of refugees under third country resettlement plan in Japan is small. However, a new framework has been introduced recently. Japan has been accepting refugees in the form of students. Also, since Japan has both the economic capacity and increasing need to accept foreign labor force in response to its decreasing population, accepting refugees would help the country mobilize refugees as human resources. Apart from Japan, there is a need to put cooperative efforts by Asian governments and private enterprises for resolving Rohingya crisis.

Following the inquiries from the audiences, Caroline mentioned two solutions that UNHCR began working on newly. First is the "Humanitarian Admission Program" that the EU adopted as a new solution during the recent refugee crisis triggered by the Syrian conflict. Second is the expansion of protection in the country of asylum. Both solutions place due importance on providing protection during the transition to pave a way for safe repatriation.

In Malaysia, perceived as a country of asylum, where many refugees are fleeing from neighboring countries, providing educational and labor opportunities and settlement support to

refugees has been a challenge. Providing support to the asylum-seekers requires the involvement of various actors including the lawyers. Lawyers can play an important role in refugee protection, such as participating in refugee decision procedure as a pro bono and providing other alternative services.

### **Sub-session 2: The Role of Government and Bar Associations in Developing and Strengthening Pro Bono Culture**

The presenters introduced actions and tasks of the government and bar associations to promote pro bono activities in Malaysia, Indonesia, Australia and Japan. Although these countries have various circumstances, similar efforts have been made in each country to promote the Pro bono activity. These activities include cooperation between the government and bar association and formation of a network of legal support comprising diverse actors, not just lawyers.

### **Plenary Session 2: Collaborative Pro Bono Models: Strength and Unity in Collaboration**

In this session, based on the examples drawn from the experiences of Australia, Hong Kong and Singapore, the framework of cooperative system of pro bono activities in Asia was discussed.







## ii. Day 2

Tatsuya Ogawa

In this report, I will summarize two sessions held on the second day of APBC relating to refugees to some degrees.

### 1. Session C: "Pro Bono and the fight against Human Trafficking"

In this session, presenters talked about how each organization practices the fight against human trafficking.

#### A. Archana Kotecha -Liberty Asia (Hong Kong)

Ms. Archana Kotecha reported on Liberty Asia's two distinct mechanisms to fight against Human trafficking. The first point was its data-keeping system. Data is essential to fight against human trafficking. It has the Victim Case Management System (VCMS) team, which deals with timely management of data regarding human trafficking cases. It has set up a cloud-based data system, which users are accessible to and can add some data from in an instance. It is useful for the practitioners to get the up-to-date data.

Second is the mechanism designed to stop the flow of money. Tracking the flow of money is an important factor to tackle human trafficking as well. Human traffickers are attracted to this evil practice seeing economic incentives. The police attempt to crack down these misconducts, but the suspicious actors have destroyed all the evidence before the investigation reaches, so at the moment it is unstoppable. Now, the measures are underway.

Finally, Liberty Asia has emphasized more on the way they detect crimes. Nowadays, Typology of modern slavery is getting popular and more emphasis is being put on in this field. Through Typology, the kind of crimes victims get involved in is easily detectable.

Liberty Asia has maintained a good reputation globally as evident by its nomination for a prize awarded by Financial Times.

#### B. Robert Houston -KL Gates (Singapore)

Mr. Robert Houston firstly posed a question "Who trusts lawyers?" and went on to report on experiences of KL Gates like advocacy with NGO from US, and pro bono meetings hosted by the organization. He said such efforts will contribute to winning citizens' trust in lawyers.

### **C. Kohnwilai -Lawyers Council of Thailand's Anti-Trafficking in Persons Working Group (Thailand)**

Ms. Kohnwilai reported on how the practice of pro bono should be promoted in the fight against human trafficking based on her experience in Thailand.

She mentioned that the development of legal systems in Thailand have already reached a certain standard, but their implementation is lagging far behind. She realized it when she took charge of filing a lawsuit on behalf of a Rohingya victim. She also pointed that the training system of labor supervision officers, which is of low-quality, has lots of room to be improved as well.

Lawyers should not be trapped in the traditional ways to do their jobs, but they should try new things. They can play a key role through pro bono services in the field such as legal advice, mediation, advocacy, documentation and so forth.

As for the current efforts, the introduction of new technology is underway, such as VMS supervising and e-reporting system. And so are the measures taken against money laundering. On the other hand, Thailand faces a lot of challenges like profiling information of criminals, corruption issues, lower level of law executions etc. in the present.

## **2. Session D: "Migrant Workers and Pro Bono Assistance Developing Communities of Practice"**

In this session, each speaker talked about the support for migrant workers and the practice of pro bono in their respective countries. After that, attendants were divided into the groups based on their country or region and had discussions on the related topics.

### **A. Patrick Earle -Diplomacy Training Programme (Australia)**

Diplomacy Training Programme is a group practicing capacity building in the Asia Pacific region. As for the support for migrant workers, it aims at strengthening advocacy to improve the migrant workers' rights in the region by nurturing human rights activists. It also practices the activities that help promote the consciousness of human rights of people and social responsibilities of companies. In Australia, it joins hands with the legal offices and have them give some legal advice and crosscheck the legal framework of the treaty (United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families). Now, this organization aims at broadening the legal understanding of a variety of people.

## **B. Yumi Itakura, Esq.**

Ms. Yumi Itakura reported about the current situation regarding migrant workers in Japan. In Japan, firstly, migrant workers have to get the status of residence to work. In case the validity of residence expires during a trial, those fighting their cases are recognized as illegal residents and forced to go back to their home countries. To prevent it from occurring, pro bono services provided by lawyers seem indispensable.

Secondly, as for legal support for migrant workers in Japan, Bar associations host a legal advice meeting every year. But today's legal education for them does not suffice partly because of lack of English language proficiency of lawyers and because, in the first place, those essentially in need of such aid may not know about the existence of such provisions.

Finally, the challenge is that all the documents of courts, including the web page, are not accessible in language other than Japanese. It inevitably hinders migrant workers from having access to justice. Also, the lawyers want to hold a legal seminar for foreigners, but it does not turn out to be effective due to the lack of English language proficiency of lawyers and uncertainty regarding the participation of the targeted groups.

## **C. Nattakan Chomputong-BABSEACLE (Thailand)**

BABSEACLE aims at enhancing the capacity of local NGOs and strengthening the network for (or between) migrant workers. It draws up the curriculum compiling the result of research work conducted by experts, hosting the workshop concerning the capacity building, and making a list of information about migrants.

## **D. Deborah Tang – BABSEACLE (Singapore)**

BABSEACLE maintains an email group of migrants and shares the information of the court as per the necessity. The advice she gave was that for the success in providing justice for migrants, there must be solidarity among various organizations aiming at the same goal.

## **E. Workshop: How to build a community of legal service for migrant workers**

Each group in the workshop discussed the promotion of legal access to migrant workers worldwide. Some speakers mentioned not only the network within one country (some said it was already formed) but also the need to form transnational networks to provide legal access for migrants.

## **3. Conclusion**

In both the sessions, the key words highlighted were “Network development” and “Information sharing.” In the contemporary world, the problems faced by migrant workers, including victims of human trafficking, are transnational in nature, and therefore it is hard to find appropriate solutions to address them. To solve these complex problems, it is necessary to share information as well as practice collective advocacy. The pro bono conference can act as a good platform to materialize this purpose.



### iii. Day 3

**Takanori Mizuno**

#### **1. Abstract of the session**

We attended only the morning session titled “Pro Bono and Legal Education Workshop – Understanding Pro Bono in Legal Education: Stakeholder Perspectives”. Different from the previous days, the majority of participants were law students and the rest of them were legal professionals and professors. In the former panel discussion, 5 panelists introduced their own activities related to pro bono and legal education, representing different stakeholders. In the latter workshop, all participants were divided into groups of law students, legal professionals and professors, where collective opinions were exchanged.

#### **2. Panel Discussion: Introducing Pro Bono and Education**

##### **(1) Mr. Rakkit Rattachumpoth (Thailand, Lecturer, Ubon Ratchathani University (URU))**

As a representative of an academia, Mr. Rakkit Rattachumpoth introduced the curriculum of Clinical Legal Education and Apprenticeship of URU. It is mandatory for law students to complete each one, and this system promotes students’ interest in pro bono. In Clinical Legal Education, students do internships at the center of public education and legal aid, and students who choose Apprenticeship receive training of cultivating legal skills at public/private legal institutions. In particular, the center of public education and legal aid functions not only as a legal clinic for citizens but also as a mobile educational institution which holds seminars about law in local areas.

This program has been partly successful according to the speaker, but it also faces challenges. Some students lose incentive to take the course because it does not give them any credit, and some staff members are reluctant to take additional responsibility. He concluded by saying that he was working on to get over these challenges.

##### **(2) Ms. Farishah Islam (Malaysia, Students, Faculty of Law at the University of Malaya)**

Ms. Farishah Islam represented law students. She is enthusiastically involved in the legal clinic program of her university. By being involved there, she can ensure those who are having trouble with their access to justice firstly. Secondly, she can polish up her skills of interviewing with clients and legal writing.

However, she faces some challenges. For example, she sometimes makes the client scared even though she tries to be kind. In addition, she has to manage time more effectively in order to deal with both basic study and the legal clinic. Still, she is proudly continuing this activity because she can cover pitfalls of legal access which are not tackled by legal professionals, and because she can improve necessary skills as a legal professional for the future.

**(3) Aisyah Binti Mohd Soberi, Esq. (Malaysia, Project Officer, Faculty of Law of University of Malaya)**

Lawyers were represented by Ms. Aisyah Binti Mohd Soberi. She is a lawyer acting also as a Project Officer at the Faculty of Law of the University of Malaya. The reason why she decided to be a lawyer and work for a legal clinic is that she was inspired by her great mentor when she was a law student. After coming back to the university to be engaged in the legal clinic project and providing citizens with equal access to legal aid, she has recognized that the key to success of the project is a good manager who supports the whole activities.

One of the challenges of legal clinic is that it is still not easy for capable people to find themselves suitable to be involved in this activity. Legal clinics are not popular among legal professionals under the status quo and relevant internships do not have a long history. Secondly, it is hard to find a good supervisor unlike her.

Finally, she added that the value of pro bono is to embody your sympathy with the clients, not to be too professional.

**(4) Samantha Chong, Esq. (Malaysia, Lawyer, Thong Seng Kong & Associates)**

Ms. Samantha Chong, who represented bar associations, was previously a prosecutor and now a lawyer enrolled in The Malaysian Bar and another bar association working to support refugees.

The role of bar associations in pro bono and legal education is that it can show law students how to practice the theoretical knowledge of law which one learnt. The bar associations she is involved with provide the programs like legal clinics for law students. For example, a visit to a prison enables them to understand that it is impossible to solve difficult problems which some people face by only executing punishments. This experience makes them find other issues; once drug-addicted ex-prisoners are unable to come back to society due to irrecoverable unemployment, for instance. Genuine legal professionals should challenge conventional laws in such a case. They have to respect the spirit of rule of law, not rule by law, resisting to bad laws and finally overcome them.

**(5) Ms. Wimonrekha Sirichaiwan (Thailand, Director of Public Legal Aid and Developing Center, Phayao University)**

The last perspective is communities. I understand “community” in this context as local communities for which legal aid reach for now. I personally think this concept is rather vague and fluid, so careful consideration based on further case studies is necessary to theorize it.

Ms. Wimonrekha Sirichaiwan has a unique career. After graduating from a law school, she worked as a TV personality, during which she made up her mind to be a legal advisor. Later she studied law again at university, and came back to TV programs as a legal advisor. Realizing that most of citizens did not know about law at all there, she determined to switch to pure contribution to society, and now she is engaged in legal education at Phayao University.

She takes part in the legal clinic there as well. A notable challenge as faced by her is to synthetically conduct projects ranging from offering legal services to local communities, maintaining the local customs, to researching beforehand within a limited budget. She was also confused with shy students avoiding eye-contacts. But even such students understand pains of citizens in trouble after practicing legal consultation, according to her.

### **3. Workshop – Exchanging Opinions among Stakeholders**

In this workshop, participants were separated to groups of each stakeholder: law students, legal professionals and professors, and exchanged their opinions on current obstructions and requests to each other which they thought can solve them. Among the opinions were some particularly interesting ones; law students said that lawyers were concentrating so much on their regular jobs that they were not approachable for students, and that the university curriculum should be more flexible to allow them to do extracurricular activities as well. Both of the other stakeholders noted this suggestion quite positively. Since it was found that such opportunities could be highly beneficial, I wished we have had more time for this workshop in order to deepen our understanding.

### **4. Conclusion**

At first, to tell the truth, I did not expect that much of this session. In reality, however, it was the closest theme to me as a law student and so I was highly interested in it. I had no idea of the theme before because I believed that students were irrelevant to pro bono, but now I agree that legal clinics are embodiment of students’ pro bono at least. Considering that not a few universities in Japan have legal clinics and create mutual networks, I am sure I can be a



practitioner of pro bono in this sense. Nowadays, I am stimulated to seek for the possibility of students' pro bono as not just legal clinics but in other ways as well.



### III. Follow-up Papers by Participants (Not included in this abridged edition)



## Conclusion

**Keito Mizuno**

While the issues concerning “Rohingya” are gaining more and more attention in the media in Japan, in practice, Japan has a notoriously negative reputation for its attitude, largely due to relatively low number of refugees annually recognized by the government. This sentiment is something that we participants to the tour, with different backgrounds and specialties, had in common.

The Kuala Lumpur study tour mainly consists of two parts: (1) participation in Asia Pro Bono Conference and (2) direct interview with refugees and those concerned, both of which seem to be essential for new discoveries that we made in the course of the tour. We all would like to express our gratitude to Mr. Hiroshi Miyauchi from UNHCR, Ms. Akari Yuki and Cindy Chong from UNIQLO among all others who coordinated our plan, as well as Prof. Sato and Ms. Wakaba Hara, who gave us an essential and fruitful advice as for the direction and details of the project.

There are two things that seem to be of relevance for overcoming the obstruction to effective refugee protection. First is the importance of investigating the role played by actors other than the national governments, the point strikingly highlighted by the effective influence exercised by UNHCR in Malaysia. Traditionally, the discussion concerning refugee issues tend to focus solely on how to innovate or transform a legal system, in order to harmonize the need of refugees and their social integration. True, it is the basic systems and legal frameworks in which refugees must find their asylum. However, it is at the same time true that in the society, the need and viability of more effective refugee protection is largely affected by the social actors. In this sense, approaches based not only on legal arguments but on situations in reality are essential for both appreciating the status quo and coming up with an effective and feasible solution. For example, in Malaysia, there is not any treaty directly targeting refugees, and they tend to be treated as “illegal migrants” under the scope of Immigration Act. Nevertheless, the reality in Malaysia is not so dim as supposed, as is evident from the role played by UNHCR’s recognition card. It is the view of our project that these non-legal developments must function supplementary with more mature legal procedure, which could realize a more realistic yet effective response to refugees’ needs.

The second point that must be underlined is the need to analyzing carefully the characteristics and needs of refugees and others involved in the issue. Putting it the other way, varying necessities for assistance necessitate the approaches based on these characteristics. This argument is to be considered in the light of the resource, cost and time spent in the refugee protection. The relevance is gaining ever increasing attention as the respect for human rights is recognized internationally. Each of the interviews conducted during this tour, namely those with RSM, RWDN, UNIQLO, Mercy Malaysia among others, made us realize the diversity of their stakes and importance of recognizing these differences. For example, RWDN and Mercy Malaysia emphasized on the need to consider special needs for women. In general, women have not made a societal advance in Islamic society and therefore they tend to be victims of aggression when they have become refugees. RSM likewise repeated the importance of greater investment in the education of children, who will lead the future of the entire community.

The Study Tour mainly focused on the questions of how they should be treated in Malaysia from diverse perspectives. Repatriation to Myanmar is politically important but is out of scope of the project. Myanmar is in the middle of political transformation and realistic analysis is almost impossible without agreed facts to be debated upon. The value of this project thus rests upon a newer approach based on human rights, taking into consideration the changing realities of society.

(This is the last page of the report.)