

Specialized Legal Assistance: Refugees & Asylum Seekers (Malaysia)

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LEGAL AID IN MALAYSIA

- **NATIONAL LEGAL AID DEPARTMENT** (Jabatan Bantuan Guaman – JBG)
 - i) Criminal matters (only for minor offences & if plea of guilt is being recorded)
 - ii) Various type of civil matters
 - iii) Family matters
 - iv) Syariah family matters
 - Mediation for Syariah and Civil cases
 - Legal companion services



LEGAL AID IN MALAYSIA (2)

- Bar Council Legal Aid Centres
 - Funded by all lawyers in Malaysia (RM100/- per year from 20,000 lawyers)
 - 15 Legal Aid Centers in the West Malaysia (mostly in the same office at the State Bar Committee building)
 - Handles criminal, quasi criminal, employment, family, syariah criminal & matrimonial and Public Interest Litigation.



LEGAL AID IN MALAYSIA (3)

- The National Legal Aid Foundation
(Yayasan Bantuan Guaman Kebangsaan – YBGK)
- Government funded.
- Lawyers will be paid for acting from the point of arrest, remand, charge and bail without a means test. Only for Malaysians.



LEGAL AID IN MALAYSIA (4)

- **Court Assign Counsel Scheme.**
 - Only applied to capital punishment matters.
 - Administered by the Judiciary together with assistance from the Bar Council of Malaysia for the list of volunteer lawyers.
 - Government funded.



Statistics of Refugees/Asylum Seekers in Malaysia (2023)



- **161,150** from Myanmar
 - 107,030 Rohingyas
 - 24,600 Chins
 - 29,520 other
- **23,070** from 50 other countries
 - 6,510 Pakistan
 - 3,210 Yemen
 - 2800 Afghanistan
 - 2,720 Somalia
 - 1,290 Sri Lanka
 - 660 Iraq
 - 600 Palestine

Statistics of Refugees/Asylum Seekers in Malaysia (2023)



- 66% are men
- 34% are women.
- 51,170 children below the age of 18.
- **Total 184,220**

Refugees in Malaysia:

- All asylum-seekers must first undergo a rigorous procedure and fulfil the refugee definition.
- UNHCR defines 'refugee' as someone who has fled their country due to war and conflict, or who has fled due to a well-founded fear of persecution in their home country on the grounds of their race, religion, nationality, membership of a particular social group, or political opinion. Refugees have lost the protection of their own countries and are unable to return home safely.
- **There is no domestic legal framework governing asylum and protection of refugee in Malaysia.** At present, there is no legislation or policy that provides for their access to legal work, education, healthcare or other services.



Refugees in Malaysia (2)

- No legally recognized status in Malaysia
- Cannot apply for a legal work permit
- Refugees work informally in Malaysia.
 - 45.5% are working in the services sector (food and beverage, cleaning, retail),
 - 24.6% are working in the construction sector,
 - 4.2% are in the agriculture sector and
 - 3.8% are working in the manufacturing sector.
 - The remaining 20% consist of labourers (7.7%), housewives (9.7%) and other services (4.4%).



R.A.L.A.S.

- **UN Refugee Agency + Bar Council (Kuala Lumpur) Legal Aid Centre (KLLAC)** launched the first phase of a programme to provide legal empowerment for refugee communities living in the Klang Valley called the **Refugees and Asylum-seekers Legal Aid Scheme (RALAS)**

R.A.L.A.S. (2)



1.Program Launch:

1. Date: 19 December 2018
2. Organizations involved: UNHCR and Bar Council (Kuala Lumpur) Legal Aid Centre (KLLAC)

2.Program Name:

Refugees and Asylum-seekers Legal Aid Scheme (RALAS)

3.Purpose:

Provide legal empowerment for refugee communities in the Klang Valley, Malaysia.

4.Unique Aspect:

First-of-its-kind program in Malaysia.

5.Commencement and Phases:

1. Program started in October.
2. Completed its first phase in early December.

R.A.L.A.S. (3)



1. Motivation:

1. Response to increasing legal concerns and queries raised by refugees in regular engagements.

2. Objectives:

1. Empower refugee communities with knowledge of relevant laws in Malaysia.
2. Inform about legal rights and obligations.
3. Provide an opportunity for free legal consultations with trained lawyers.

3. Sessions:

1. Many sessions have been held - participants from diverse backgrounds, including Afghanistan, Iran, Iraq, Myanmar (Rohingya), Pakistan, Palestine, Sri Lanka, Sudan, Somalia, South Sudan, Syria, and Yemen.

R.A.L.A.S. (4)



1. Topics Covered in RALAS Sessions:

1. Employment law
2. Family law
3. Syariah law
4. Civil law

2. Audience Diversity:

1. Participants represented a diverse range of backgrounds, age groups, and genders.

3. Achievements:

1. Comprehensive and practical training on refugees' legal rights and obligations under Malaysia's legal system.
2. Free legal consultation provided to individual refugees.

LIST OF RALAS CASES



Immigration Law

Pihak Berkuasa Negeri Sabah v Sugumar Balakrishnan & Another [2002] 4 CLJ 105 (Federal Court)

Tun Naing Oo v PP [2009] 6 CLJ 490 (High Court)

Kya Hliang & 10 Ors v PP [2009] AMEJ (High Court)

Subramaniam Subakaran v PP [2007] 1 CLJ 470 (High Court)

Hossain v PP [2008] 7 CLJ 560 (High Court)

Iskandar Abdul Hamid [2005] 6 CLJ 505 (High Court)

Re Lang Za Thong [2009] 1 CLJ 108 (High Court)

PP v Ali bin Umar & Ors [1982] 2 MLJ 51 (High Court)

LIST OF CASES (2)



Child Rights

Re N(A Child) [2003] 3 CLJ 126 (High Court)

Re N (A Child) [2004] 2 MLJ 299 (Court of Appeal)

J (A Child) v PP

Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh [1995] 2 CLJ 855

PP v KM (A Child) [2010] 9 CLJ 605

Employment Law

Ali Salih Khalaf v Taj Mahal Hotel [2014] 2 LNS 0245 (Industrial Court)

Judicial Review

Ruwaida @ Royeda & 6 Others v Komanden, Depot Imigresen Belantik & 3 ors

Medical Negligence

16. Pyu Pyu Ma v Dr. Lim Soo How & 6 Ors 16



THANK YOU