

**THE RATIFICATION OF THE 1951 REFUGEES CONVENTION:
PROTECTION OF THE RIGHTS OF ASYLUM SEEKERS IN MALAYSIA**

By

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ABSTRACT

This project paper discusses the issue of ratification of the 1951 Convention relating to the Status of Refugees (also known as the 1951 Refugees Convention) in order to provide protections and rights to asylum seekers in Malaysia. The project paper outlines our research proposal which consists of basic layouts in conducting our research. It comprises of the historical development of the law on asylum seekers throughout the years, basically before and after the introduction of the 1951 Refugees Convention. Furthermore, this project paper illustrates the present situation in regards to the protection of asylum seekers in Malaysia as Malaysia currently is not a party to the said convention. Subsequently, we will look into practices by countries that had ratified the 1951 Refugees Convention, more specifically United Kingdom and Australia; to know the basic standard of care and the treatment provided by these countries in the protection of asylum seekers. Conjointly, this project paper explores on the issue of conflict on duties of states on asylum seekers, as well as the settlement on the issue of rights of asylum seekers. In addition to all the foregoing, this project paper highlights on recommendations to be observed to protect the rights of asylum seekers.

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CHAPTER ONE: INTRODUCTION

1.0 Introduction

This legal research revolves around the 1951 Refugees Convention and how we can provide protections to asylum seekers in Malaysia. Malaysia currently is not a party to the said convention. In order to thoroughly examine the situation and cater to the need to resolve the issue, the research is divided into two sub- issues. Firstly, the research will discuss on the current situation and law regarding the asylum seekers in Malaysia. Subsequently, we will look into practices by countries that had ratified the 1951 Refugees Convention, to know the basic standard of care provided in the protection of asylum seekers.

1.1 Background

According to Article 1A(2) of the 1951 Convention Relating to the Status of Refugees, a refugee is a person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and who is outside the country of his nationality and is unable or owing to such fear unwilling to avail himself of the protection of that country. An asylum seeker is a person who applies to be recognized as a refugee under this definition. If successful, they are granted asylum or refugee status.¹

The issue on asylum seekers and refugees has always become a significant matter to be discussed on. Due to the fact that Malaysia does not ratify the Convention, the implication is that, there is an absence of legislation and weakness in the administrative structure for asylum seekers.² The asylum seekers who are

¹ Christina Pourgourides, "Dilemmas in the Treatment of Asylum Seekers," *Science Direct* 6, no. 2 (2007): 56.

² Pranom Somwong and Marie Hubertland, *Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination*. International Report, Paris, France: FIDH Publication,