

FOREIGN WORKERS

The Law And Practice In Malaysia

*Ashgar Ali Ali Mohamed
Farheen Baig Sardar Baig
Muzaffar Syah Mallow
Mohammad Naqib Ishan Jan*



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15.1 INTRODUCTION

This chapter seeks to explain the concept of 'asylum' and the people who demand for it. Seeking asylum is a right of an individual but whose right is it to grant asylum? When a person is granted asylum, he is recognised as a refugee and by virtue of that status enjoys certain fundamental rights including the right to wage earning employment or the right to work under the 1951 Convention relating to the Status of Refugees as amended by its 1967 Protocol relating to the Status of Refugees. But what about asylum seekers whose status is yet to be recognised as refugees? Do they enjoy rights, including the right to work under international law or under the laws of their host countries? Nowadays, host countries are rare to find as most countries that are parties to the 1951 Refugee Convention have shut down their borders on the face of asylum seekers thereby making it difficult for them to get in. Asylum seekers are choosing alternative routes to get into those countries. They make use of transit countries where they undergo refugee determination process conducted by the local office of the United Nations High Commission for Refugees (UNHCR) and thereafter they may be sent in an orderly fashion to those host countries that are willing to accept them as refugees. Malaysia is one of the countries in South East Asia which hosts so many asylum seekers temporarily and it does so purely on humanitarian ground. It is working closely with the Office of the UNHCR allowing this UN body to conduct its refugee determination process, to help genuine asylum seekers to reach their intended destination and provide humanitarian assistance to those asylum seekers who are still waiting for resettlement. While waiting for the determination of their refugee status and thereby settlement in a willing host country, asylum seekers often suffer from joblessness in all transit countries including Malaysia. Malaysia is one of the most peaceful and

* This Chapter is contributed by Mohammad Naqib Ishan Jan.