

Walls against Legal Identity: A Qualitative Study on Children of Refugees without Birth Registration in Malaysia

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Abstract : Malaysia is not a signatory to the 1951 Refugee Convention and its 1967 Protocol despite receiving the largest share of refugee inflows in Southeast Asia aside from Thailand. In Peninsular Malaysia, the majority of refugees and asylum seekers are from Myanmar, with Rohingya refugees recording the highest number compared to all other ethnicities. In the eastern state of Sabah, the presence of refugees who have long established themselves in the state is connected to those who escaped military persecution in southern Philippines in the 1970's and 1980's. A combination of legal and non-legal factors has created and sustained an adverse atmosphere of deprivation of legal identity for children of migrants including refugees born in Malaysia. This paper aims to qualitatively analyse the barriers to birth registration as the cornerstone of every person's legal identity for children of refugees born in this country, together with the associated human rights implications. Data obtained through semi-structured interviews with refugees in Kota Kinabalu, Sabah and Rohingya refugees in Peninsular Malaysia shall be studied alongside secondary sources. Results show that births out of medical facilities, suspension of birth records, illiteracy, lack of awareness on the importance and procedures of birth registration, inability to meet documentary requirements, as well as fear of immigration enforcement, are the key factors hindering birth registration. These challenges exist against the backdrop of restrictive integration policy to avoid destabilising demographic and racial balance, political sentiment stirring xenophobic prejudices, as well as other economic and national security considerations. With no proof of their legal identity, the affected children grow up in a legal limbo, facing multiple human rights violations across generations. This research concludes that the country's framework and practice concerning birth registration is in need of serious reform and improvement to reflect equality and universality of access to its birth registration system. Such would contribute significantly towards meeting its commitments to the post-2015 sustainable development agenda that pledges to 'Leave no one behind', as well as its recently announced National Human Rights Action Plan.

Keywords : birth registration, children, Malaysia, refugees

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