

A close-up photograph of a woman wearing a white hijab, holding a young child. The woman's face is partially visible as she looks down at the child. The child is wearing a black and white striped shirt. The background is dark, making the subjects stand out.

**CHILD  
MARRIAGE  
in the  
ROHINGYA  
COMMUNITY  
in PENANG**



## ACKNOWLEDGMENTS

This is a community-driven documentation discussed and produced out of the experience and insights of Rohingya refugee women, men and youth.

This follows the commitments of the Core Principles adopted by the Penang Stop Human Trafficking Campaign (PSHTC)/ASPIRE Penang, which stress the importance of changing our approach to research and funding to ensure more resources, skills and money reach refugee communities, and to support refugee communities in documenting their own experience.

The documentation presented here is therefore based on discussions within the Rohingya community in Penang in particular. This includes through the engagement of the Penang Refugee Network, a network of community leaders built up over the years through the work of PSHTC/ASPIRE Penang, and includes discussions with women, men and youth.

The document has also benefitted from the comments and insights of other groups and persons including members of the Penang Working Group. We thank everyone for their insights and support.

We should add that the key coordination work for this document was undertaken by Zahid Alom and Jarni Shah. Editing and production of this document was undertaken by James Lochhead.

## FOCUS ON CHILD MARRIAGE

The focus on child marriage follows on-going work in Malaysia, the region and globally. An important context was the announcement by the then-government, Pakatan Harapan, in 2019, of its National Strategic Plan for Addressing the Causes of Underage Marriage.

This potentially important step forward in tackling child marriage was key for this document. The Rohingya refugee community are very much part of the experience in Malaysia of child marriage. It would therefore be good if initiatives to address the issues in the Rohingya community were linked up to initiatives taken in relation to the issues highlighted in the National Strategic Plan.

At the time of this update (November 2020), it is unclear what the future for this National Plan will be. But whatever it is, we very much look forward to working with appropriate agencies and officers in reaching the objectives set out in the Plan to minimise and eventually eradicate the incidence of child marriage. As referenced in the latter section of this document, we would add the commitments to the Sustainable Development Goals (*'leave no one behind'*), and the UNHCR Malaysia's Strategic Directions 2017-2021, as key contexts for tackling the issues.

Please contact us for any further information or clarification. We are all in this together.

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Following the original circulation of this report in January 2020, we have been active in developing community-based initiatives to take forward the tackling of the issues (see pp 28-32). For some of this work, we have been fortunate to have the support of the Canadian High Commission, through the Canada Fund for Local Initiatives. This includes the printing of this document. Thank you to Canada, and this report has been updated for print in November 2020.

This photo: UNHCR

Cover Photo: New Straits Times

# INTRODUCTION

## CHILD MARRIAGE IN MALAYSIA

This Document has been compiled in the context that child marriage has been gaining increasing attention in Malaysia. There was the commitment in the 2018 Buku Harapan (Pakatan Harapan's manifesto), which promised to ensure the minimum age for marriage is 18 years old (*Commitment 4.2 in the Special Commitments for Women*). And while it was in power, after the election of 2018, there were a number of statements and initiatives confirming the government's intention and hope that child marriage can be eliminated. These included statements by the Prime Minister, by the Ministry of Women Family and Community Development, and by agencies such as JAKIM. They also included work by the National Task Force on Child Marriage in revamping its National Action Plan.

A number of reports on child marriage in Malaysia already exist which have highlighted the various factors and possible 'solutions' relevant to child marriage. All of them emphasise that there is a combination of factors (*see box below*). All of them suggest the need for a multi-pronged strategy if child marriage is to be successfully tackled. All of them stress the fact that in Malaysia, child marriage is not illegal. Each of the different legal systems that exist in Malaysia (civil, *syariah*, *adat*) 'allow' for child marriage. The consequence is shown in the figures which indicate that there are several thousand child marriages sanctioned by the different authorities in Malaysia within the last five years. This has caused alarm and considerable debate.

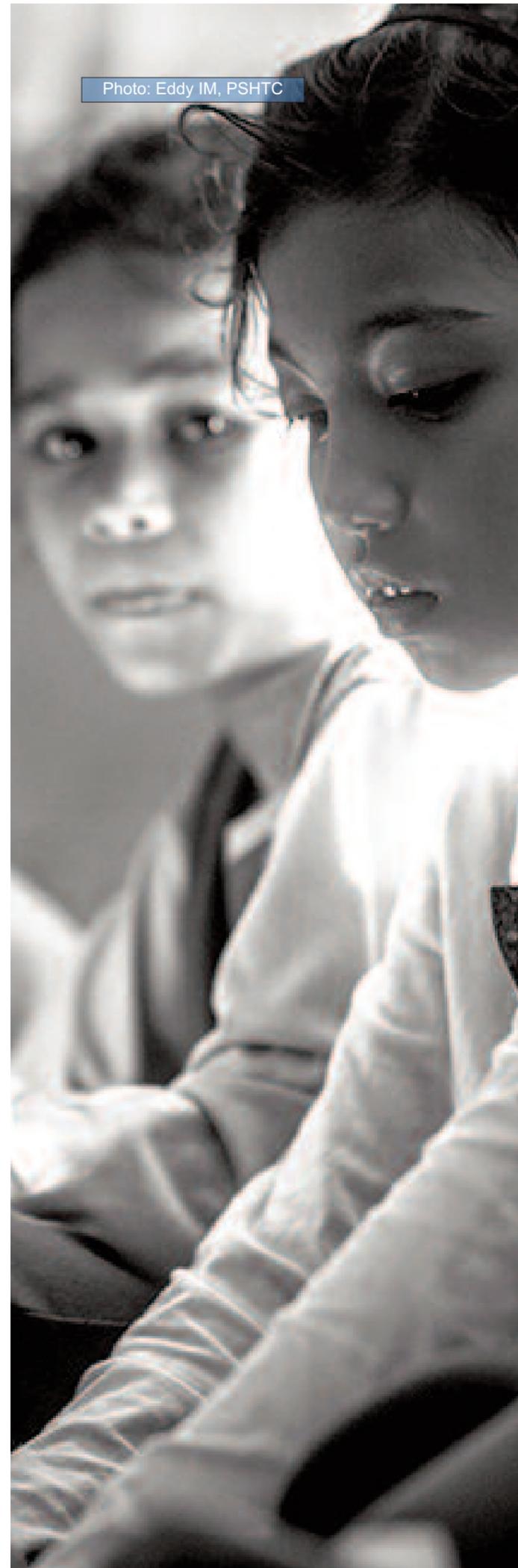
We understand that the political situation at the moment is uncertain. But however the country wants to move forward on tackling the issues, this document affirms a commitment to help in whatever way we can to eliminate the practice of child marriage. To do this effectively, we are urging that we include refugee communities in the discussions and initiatives. There are many opportunities for significant actions. We hope this document helps build an understanding so that the opportunities can be identified and the 'solutions' worked on together. We look forward to being a part of this.

## DEFINITION OF CHILD MARRIAGE

The Committee on the Rights of the Child defines child marriage as **any marriage where at least one person is under 18 years old**. This definition sets what may be considered as a global standard, which is to set the minimum age of marriage as 18 for both parties. This is what past Malaysian governments have committed to, for example in Commitment 4.2 of the Special Commitments for Women, in the 2018 manifesto of Pakatan Harapan.

Of course many countries and jurisdictions, including in Malaysia, have established different minimum ages for marriage, often different for girls and boys, and even where there is a minimum age, many (as in Malaysia) make provisions for exceptions.

Photo: Eddy IM, PSHTC



## THE AIMS OF THIS DOCUMENT

As indicated opposite, this document has a number of aims.

Firstly, it would like to connect what is happening with regards to child marriage in Malaysia generally to what is happening in a refugee community like the Rohingya. This will help ensure efforts towards eliminating child marriage in Malaysia are inclusive and comprehensive.

Secondly, and related, this document would want to highlight the similarities in factors and potential responses to child marriage that exist in all Malaysian communities, including in refugee communities. This makes the pooling of experience, resources and ideas for tackling child marriage mutually beneficial and reinforcing, across government and non-government agencies.

At the same time, this document would point to the huge opportunities immediately available to the Malaysian government to tackle the issue of child marriage specifically in refugee communities including the Rohingya. So thirdly, referring to this, this document highlights the particular, significant and important difference for refugee communities here, which is: without any legal or administrative framework, refugees are forced to find survival strategies on a day to day basis, given they have no access to education or employment (other than 'illegal' work), and are constantly in fear of harassment, extortion, arrest and detention from the authorities. The lack of any rights or protection means that regular income is impossible to guarantee, and poverty is a reality for many refugee families. This document puts child marriage in this context. If the Malaysian government was able to provide a status for refugees in this country, whereby they were able to find some protection under the law and plan some future with a modicum of security, then the incentive for example for parents to marry their daughters young would recede. This is not the only factor explaining child marriage: this document goes on to outline the many other factors that are relevant (not least that child marriage is not illegal). But it is a crucial one. The understanding of this will allow us to include appropriate policy initiatives and programmes which are responsive to, and inclusive of, the situation facing refugees in Malaysia, as part of the on-going work on child marriage and the tackling of the issues.

Fourthly, in responding to the issue of child marriage, as for any community-based issue, there are considerable opportunities to directly include women, youth and men from the communities in the planning, design, delivery and evaluation of community-based programmes and initiatives. This is increasingly understood to be absolutely essential if longer-term community-based approaches are to be successful, in whatever community we are working with (orang asli, refugee, rural, urban). Externally controlled, top-down, short-term 'tick-box' delivery will not work. The inclusion of key persons within the communities, including women, men, youth, community leaders, religious leaders, and teachers will not just help the successful tackling of the issue of child marriage, but will help fulfil wider ambitions of people-centric development, 'inclusivity' and resilience, expressed in the 11th and 12th Malaysia Plan, the Sustainable Development Goals, and many other documents including UNHCR Malaysia's own Strategic Directions 2017-2021.

The rest of this document elaborates on all these points.

We welcome feedback and comment, and we would happily work with the Malaysian authorities and any other potential partner, to ensure that the situation faced by and in refugee communities like the Rohingya are not left out of any policies and initiatives designed to tackle child marriage generally in this country. We are all part of a collective parcel, and can all be part of a collective solution.

# WHY IS THERE CHILD MARRIAGE IN THE ROHINGYA COMMUNITY?



Photo: Malaysiakini



Photo: VOA News

## CHILD MARRIAGE IN THE ROHINGYA COMMUNITY

The concern generally about the incidence of child marriage in Malaysia is echoed by concern about the extent of child marriage in the Rohingya community. For the latter, it is happening, and it would seem to be increasing.

This is not because the Rohingya have always insisted on child marriage. Its practice has been very much dependent on the law. So it is reported that when the government of Myanmar set the age of marriage at 18 for the Rohingya community, the community followed this law.

There are reported exceptions to this, where Rohingya ran to neighbouring Bangladesh to register marriages, but community feedback would indicate that these are exceptional.

So while we do of course need to recognise the important context of patriarchy, and 'cultural and religious norms' (see pages below), we would argue that child marriage amongst the Rohingya community here is importantly a consequence of the situation whereby child marriage is not illegal in Malaysia. It is allowed, and so there is no legal penalty if it happens. This is a crucial base factor to remember in the discussion of the other factors relating to why child marriage exists and persists in the Rohingya community here.

## WHY ROHINGYA HAVE ENDED UP HERE

The exodus of Rohingya from Arakan state and other parts of Myanmar has been going on for several decades, a consequence of the systematic oppression of the community by the Burmese military government, and especially following the change in citizenship rights in 1982.

The exodus has become particularly marked over the last ten years, following persistent outbreaks of serious violence and the effective organising of anti-Rohingya sentiment amongst local Burmese populations. This was accompanied by the effective organising too of boats and other routes out, by people smugglers and human traffickers (often the same syndicates).

In such dire circumstances, the opportunity to flee the life-threatening (genocidal) situation was itself fraught with danger and the need to pay (bribes or for journeys). It was the case that often the only option was for men to flee to countries like Malaysia. This was partly because a man was deemed more likely to survive the hazard of the journey and the intense vulnerability of the person making that journey. It was also partly because it was culturally more acceptable that it would be the man able to establish himself in a foreign country as a refugee and find the wherewithal (including livelihood) to survive.

There were few families who could afford the expense of relocating everyone at once. Of course the recent violence left people with no choice but to flee en masse to neighbouring Bangladesh; as we know, hundreds of thousands did.

The exodus of mainly men to places like Saudi Arabia, India, Thailand and Malaysia, amongst other places, has resulted in something of a skewed demography in the resulting communities. For example, in Malaysia, there is a disproportionate number of Rohingya men (over 65%) compared to Rohingya women (35%). This disproportion is more exaggerated at age over 18, with the proportion of men significantly higher.

This is an absolutely crucial factor in understanding 'why child marriage?'. When we look at the choices available to Rohingya men who are ready to get married, this demography impacts options. As will be described in the next pages, Rohingya men report that they have experienced or are experiencing significant challenges in 'finding' the right brides, and that increasingly a key option is to marry someone under 18 from the local Rohingya community.

In putting this forward as an explanation, we expect many readers to have some reaction, and we welcome feedback and comment, and of course the sharing of experiences from others who might have a different experience or insight.

## FACTORS

Of course demography cannot by and of itself explain why child marriage takes place in a community like the Rohingya. We have to be aware of the contexts within and beyond the community which might be supporting or negating the acceptability of child marriage.

Here we see an environment which has little sanction against child marriage. It is not against the laws, neither the laws in Malaysia nor any customary laws that the Rohingya may have brought with them from Arakan state. Rather, child marriage is seen by many in the community, including religious leaders, as an obvious and acceptable response to the situation families, including young women, find themselves in.

Understanding these contexts does not mean that we accept them or the practice of child marriage, but allows us to look at the reasons why child marriage is happening and then find appropriate responses to tackle the issues with a view to stopping it.

The following pages expand these points.

# LACK OF LEGAL STATUS AND PROTECTION



Photo: UNHCR

One key context relevant to the incidence of child marriage in a refugee community like the Rohingya is that this community has no status in Malaysia.

There is no legislative or administrative framework relating to refugees in Malaysia: refugees are not recognised by the government and have no rights.

This is because Malaysia has insisted that it is merely a 'transit country', whereby refugees land here but are then resettled on to third countries. It is the United Nations High Commissioner for Refugees (UNHCR) who is given responsibility for arranging this, through its office in Kuala Lumpur.

However, the fact is that for years, the numbers of resettlement places being offered by third countries (including the USA, Canada, Australia and EU countries) have never been enough to resettle all the refugees in Malaysia.

This means that there are thousands of refugees from many different ethnicities and backgrounds who have been living in Malaysia for many years, without any rights at all.

In other words, thousands of women, children and men who have fled horrific circumstances of persecution and violence in their homelands have found themselves continuing to live in highly precarious circumstances in this country. They remain subject to arbitrary treatment by the authorities and others in the host community and facing daily possibilities of harassment, extortion, threats, abuse, violence, and possible detention.

They continue to have no rights to work and therefore no protection at work, despite the fact that, to earn a livelihood

to survive they have no choice but to work as 'undocumented' workers, with all the vulnerability and risk that such employment brings.

Refugees have major challenges, too, in accessing healthcare, housing, education and any basic right that most of us take for granted. And when things go wrong, they continue to have little or no right to redress. Women and girls of course are particularly vulnerable.

It cannot be emphasised enough what this lack of status means, not least for women and girls.

It means poverty is extensive.

It means that refugee communities like the Rohingya operate in limbo in Malaysia, on the margins of society, where planning for the long-term is impossible and where choices are dictated by the challenges of day to day survival.

This also relates to decisions about who to marry and at what age.

Living on the perimeters of their host society, it also means that they are thrown back onto their own customs and norms.

Where these are essentially patriarchal and conservative in nature, the chances of practices such as child marriage being challenged are less.

In other words, a confluence of the situation where people have no rights, 'no future' and no obvious economic opportunities other than to survive day by day combine to provide an environment where child marriage persists.



Photo: Reuters

## CRUCIAL DIFFERENCE

The confluence also makes for significant differences in the factors behind child marriage.

If we compare the Rohingya community to the situation in Malaysia (as documented by research), a major difference lies in the significance of child marriage being used as a 'solution' to 'inappropriate' teenage relationships, including where these have resulted in pregnancy.

Many reports describing the Malaysia situation indicate this is the major explanation of why children are 'allowed' to marry.

For the Rohingya community in Malaysia, however, for the moment this does not seem to have been so significant. Community feedback indicates that there have been relatively few examples of where children are married following pregnancy or a consensual sexual relationship.

This does not mean it does not happen at all, nor that it will not become more significant in the (near) future. It is still crucial that we include refugee communities like the Rohingya into initiatives designed to raise awareness amongst teenagers, families and community leaders (including religious leaders), relating to respectful relationships, sex education and gender equality.

But if we are to tackle the issue of child marriage within a refugee community like the Rohingya effectively we need to recognise that this aspect is less immediately relevant. Tackling the issues of rights, protection, poverty and inequality are arguably the more important issues for now.

All this is discussed in greater detail in the following pages.

## FACTORS in CHILD MARRIAGE

As is clearly highlighted by every major recent report on child marriage in Malaysia and the region, there are a number of factors that contribute to the perpetuation of child marriage. It is difficult to put them in any 'order', since these factors are inextricably linked. They include

Cultural Norms / Patriarchy / Religious Practice which includes notions of Gender Equality and the position of women/brides

A Legal Framework which allows for child marriage across jurisdictions

Poverty linked to limited options with respect to education, employment and healthcare

Ignorance of child rights and consequences of marriage on a child

### (For refugees and other stateless communities)

Lack of rights and protection which deny opportunities for education, employment and security of person, affecting the ability to plan for the future, leading to short term survival strategies



# THE CHOICE FOR MEN



## OPTIONS FOR A MAN WANTING TO GET MARRIED

We have argued above that demography is something to be considered as a contributing factor to the incidence of child marriage in the Rohingya community in Malaysia. On these next pages, we go through what women and men in the community have reported as the sort of options available to those considering marriage (and why they might end up agreeing to marry girls under 18). We do this not to make any judgements on the choices but to provide basic understanding on what is behind the incidence of child marriage. Only then can we plan initiatives which may help counter factors supporting child marriage.

For men wanting to get married, what are the options? They include:

### a) *finding a bride who is over 18 from within the Rohingya community here in Malaysia.*

This reportedly is much the preferred option. But there are a few reasons why this may not be taken up. Firstly is the simple arithmetic: there are significantly less Rohingya women than men in Malaysia, and significantly few women over 18 who are not yet married.

So it is reported that many men have difficulty in finding a prospective bride from within this group.

Two further factors might reduce the chances of this happening.

One is that one group of Rohingya women over 18 in Malaysia available to be married would be divorcees, but it is reported that both men themselves and their families would not see such a match as ideal.

Two is that, interestingly, it is reported that many men (and their families) also would prefer a bride who was born in Arakan state. Those born in Malaysia (of which there is an increasing population: they are still stateless) are seen to be 'different', perhaps more assertive and less obedient.

These are areas that will certainly be the subject of extra research and documentation and discussion.

### b) *arranging a bride (over 18) from the family, village or other network 'back home'* (which for many now means the Bangladesh refugee camps).

This option fluctuates in importance depending on how easy it is to find transport, how expensive it is, and how uncertain or dangerous it is deemed to be. It is reported that a few years back, this option was relatively popular because transport was available (people smuggling syndicates had regular boats) and many people somehow or other managed to raise the necessary money (often by going into debt).

However, it is reported that the turmoil following the mass exodus from Arakan state in the last three years reduced this option. People had less available finance to pay for trips, and boats were less easy to find. However, there are signs that this option is again becoming a factor, as desperation in the Bangladesh refugee camps drives people to seek alternatives, and people smugglers are again active (for a price).

### c) *finding a bride from another community.*

This could be from the Malaysian community, more obviously (for religious purposes) a local Muslim. But the feedback is that for example Malay women do not see a refugee man as an attractive option, given the precarious nature of his status and his vulnerability to arrest and detention.

Indonesian women may also be an option, but again feedback indicates that in this case, it is the refugee man who is worried, that his wife will simply one day (perhaps sooner rather than later) take the children, any money and perhaps his heart, and simply go home to her village. So again, while there are certainly examples of such marriages, they are not widespread.

### d) *buying a bride from a human trafficker.*

Many commentators describe this as THE major factor in the practice of child marriage amongst the Rohingya. The desperation of families either in Arakan state or in the camps in Bangladesh, and of teenagers including teenage girls, make for a happy situation for human traffickers. They obviously have been actively recruiting from this vulnerable population, and are likely finding many who are ready to believe the promises of ideal futures.



Photo: Straits Times

And there is the perception that there are plenty of willing buyers here in the Rohingya community in Malaysia.

But we might note that reports from the community are mixed. There is disagreement about how widespread this practice is: some say relatively rare, some say more common. Some remark that since marriage is anyway a transaction involving 'buying a bride' (even where the marriage is mutually arranged), it is not such a far step to buy from a human trafficker.

This would indicate that there is very little awareness of the seriousness and consequence of the crime of human trafficking, perhaps predicated on the lack of arrest and prosecution of human traffickers, not least in connection with the awfulness of the Wang Kelian camps.

This is discussed in more detail in the pages on Human Trafficking and People Smuggling below.

## ARE MEN TAKING ADVANTAGE?

One question which people have asked is: are men taking advantage of the situation to marry child brides as second or third brides?

Again, without claiming this is definitive, the feedback from community respondents (including women) would indicate that the answer would be: it does happen, but not with any regularity. It is indicated that the overwhelming number of (child) marriages are first marriages.

This is one of several areas that would benefit from clear data, which is impossible to find where the community is outside the mainstream of society, which includes outside the systematic recording of marriages and births.



# THE CHOICE FOR FAMILIES



Given the previous paragraphs, there are reasons why men are marrying brides under 18, given that it is not against the law. But why would parents agree to such a marriage?

There are two main reasons, both of which have been well highlighted by relevant studies and reports. These are: economics, and protection for their daughter.

## ECONOMIC INCENTIVE: POVERTY

'As long as the conditions for family poverty are prolonged, parents will be inclined to endorse child marriage for their daughters.' *From: In-depth Examination of issues surrounding the reasons for child marriage in Kelantan, Malaysia, by Kohno et al, 2019*

Refugees are almost by definition hugely vulnerable populations. The Rohingya share a history of vulnerability, having faced systematic oppression for several decades in their homeland of Arakan. Many hundreds of thousands have ended up in situations where they have no rights, little security, limited if any access to education, limited if any access to livelihood opportunities, and little certain future.

Poverty has been an ever-present history for the majority. The recent report of the **UN Special Rapporteur on Poverty in Malaysia** highlighted the extent of poverty among refugee communities here.

It starts by saying that 'Malaysia keeps refugees in extremely precarious conditions that all but guarantee they will fall into poverty'.

It continues 'Barring refugees from work or public education creates immense hardship for families that should be under Malaysia's protection, and robs the country of their economic contributions'.

Where poverty is persistent and intense, the maximising of any assets then of course is important. In a situation where a daughter has had little or no education, has little access to formal employment, has few marketable skills, and there are no obvious avenues to address any of these things (even if the family chose to: which relates to the upcoming section on *gender roles*), the incentive for a family to 'cash in' on the daughter as a bride may become overwhelming.

The price at the moment is anywhere between RM5,000 - RM15,000, which to a family struggling to meet daily needs, is a significant sum.

The choice to agree to marry off a daughter even when aged below 18 may also become even more pressing when the issue of safety and protection is added.



## PROTECTION OF DAUGHTERS

For any refugee, having no rights means there is continued vulnerability to harassment, arrest and detention from the authorities and others.

Where a refugee suffers a crime, there is little confidence that making a police report will secure protection.

Families are well aware that women and girls face particular vulnerability to sexual harassment and potential violence.

And where women and girls leave the house, there is the ever-present threat of arrest and detention, which may carry not only particular trauma but importantly the possibility that the reputation of the daughter and the family will be compromised.

In this situation, parents may well decide that marrying their daughter is the most obvious way to secure a safe and protected future.

We can flag ignorance about child rights, ignorance about the possible mental, emotional and physical damage that may be a consequence of marrying too young, and also ignorance about the incidence of domestic violence which might follow marriage.

But at the moment the concern for safety and protection of daughters and the family's reputation is consistently put forward as a key explanation of why parents choose to marry their daughters young.

These two factors - economics and safety - are critical in pushing Rohingya families to marry their daughters early - arguably, a survival strategy that is a response to the particular circumstances faced by a Rohingya refugee family here in Malaysia.

And this will continue to be a viable response where the practice does not run contrary to the law, and where religious authorities are happy to endorse the marriage. Raising the age of marriage for any partner to 18 years old would have a huge impact on this.



# CULTURAL PRACTICES AND GENDER ROLES



Photo: India West

If the demographic, economic and safety factors help explain the options faced by prospective Rohingya bridegrooms and families in Malaysia, the fact is that if there was a context where child marriage is deemed unacceptable, then the practice would not be so common (or eliminated entirely).

But this is not the case; there are few voices in the community openly denouncing the practice of child marriage.

So we need to consider why this is, with an awareness of the cultural and religious influences being crucial. In the case of the Rohingya, these are heavily patriarchal and conservative.

## GENDER ROLES AND RELATIONS

Generally speaking, it is the men who are invested with decision-making powers; the role of women is a domestic role, that of the homemaker and carer. The attitudes to daughters are then framed in the context of gender relations. Women are ascribed to a particular domestic role: daughters are for marriage.

Much of the feedback from the communities referred to the perception that a young female child 'has nothing to do' other than preparation for marriage/actually be married.

If this is accepted as a 'cultural norm', then we would strongly argue that this norm is likely to continue unless there are challenges to it.

In other environments, economic necessity coupled with higher education and changing attitudes to the rights of women (which may be linked to or translate into an understanding of the benefits of gender equality for individuals and for our society) are among factors which have helped loosen

the pervasive influence of patriarchy and begun to provide some autonomy and options for women and girls, to everyone's gain.

Access to information and to wider discussions have also helped this, not least through the knowledge economy and use of Information and Communications Technology (ICT).

However, the Rohingya community face significant difficulties in participating fully in this.

Without any rights or protection, the community have very limited access to education. Excluded from mainstream Malaysian schooling, Rohingya boys and girls will be lucky if they have access to even the sporadic, uneven provision offered voluntary or community-based groups.

The huge effort involved in this provision in the end is only able to reach a minority of Rohingya children, and that mainly for primary school age groups. There is notably little provision at all for secondary school age groups; hardly any in Penang.

The exclusion of refugees from rights to education then has significant impact on the options and futures of girls within the community. Lack of legal status binds girls into prevailing cultural norms where the future of daughters is confined pretty much to marriage.

Even where parents were willing to invest in education for their daughter(s) and would consider supporting their daughter(s) find employment, these options are not available, at least in any constructive, protected sense.

With no rights to employment, refugees, including refugee women, have no protection against abuses at work. For

women, not only do these include (as for men) lack of or underpayment of wages, long hours, no rest days and no health insurance in case of accident, but also extend to sexual harassment and abuse.

Further, going out of the house to work (or indeed to school) exposes refugees to the very real possibility of harassment and detention by the authorities, which again carries for women and girls the possibility of sexual harassment and abuse.

The outside world is precarious; for women doubly so. In this environment, protection and the consequent lack of obvious protection is also a major factor in determining decisions for daughters.

As many reports and stories have highlighted, the designation of a domestic role as the defining role for a woman in communities like the Rohingya means that marriage is the arena where a woman (and daughter) is considered safe.

So we do need to acknowledge that many parents have understandable worries about their daughters, not least in regard to potential sexual harassment and sexual violence.

Marriage is seen as providing a security and protection which the outside society cannot provide.

Photo: Malay Mail



# CHILD MARRIAGE AND THE RELIGIOUS AUTHORITIES

The Rohingya community is a stateless Muslim community and so the influence of Islamic religious norms and interpretations is of major importance.

So the attitudes of the (Rohingya) Islamic religious authorities are crucial to either endorsing or preventing child marriage.

At the moment there are only a minority who would counsel against it; the majority of the imam and mullah are reportedly fine with marrying under-18 brides.

Given that there is no legal or administrative status afforded to refugees in Malaysia, the mechanics of getting permission to marry reverts back to within the Rohingya community itself (especially outside of the Klang valley). This means that the prospective bridegroom or a male family member or most likely his negotiator will approach the (Rohingya) mullah.

The mullah will set the date and time and will ask for the following details: name of the two getting married, the father's name of the bride, the amount of the *maha* (bridal payment) and the ages.

The latter are not verified, and where the age of either party is under 18, it is very rare that the mullah will question. It is after all not an illegal practice; on the contrary, it is legally acceptable.

The payment to the mullah is usually between RM50 to RM200.

It is reported that the Penang Rohingya religious authorities have less connection to the local Malaysian syariah networks than their KL counterparts. In other words, they operate relatively independently of the Malaysian authorities. There will be the local imam, the mullahs, the surau committees (usually between 5 and 10 men) and the local community leaders who appoint the imam.

In Bagan Dalam, for example, there are three mosques/madrasah, each with their own committee who appoint the imam. The mullah may act as an advisor and may be engaged in daily operations to a greater or lesser degree. To become a mullah, you need to complete Grade 12 at the madrasah, on which you are given a certificate. Some will go on to become an imam.

If the practise of child marriage is to change, unless the law itself is changed (which of course would be a major step forward), then it is attitudes of the mullah, the imam, the surau committees, the community leaders as well as the families and the prospective bridegroom which must change.

This will entail some consistent and inclusive work at community level. All parties will need to be involved, as distinct groups and in collaboration. This includes all the mullah and imam; all parents; all community leaders; all youth. The challenge is to understand better the negative impact of marriage on young girls (and boys) and to find ways of answering the other reasons why families may find it suitable to marry off their daughters at an early age. This is discussed further, below.



Photo:Straits Times

## PRESENT SYARIAH LAW IN MALAYSIA

*The Rohingya community are not the only community in Malaysia where child marriage is not against the law. It is legal across Malaysia. This is one of the huge issues. If the law sanctions or provides procedures whereby child marriage is allowed, then the practice will continue. As it does, in all communities across the country.*

*Child marriage is not illegal in syariah law in Malaysia. Here, we should note that the present interpretation and implementation of the syariah law here is not centralised: each state has an autonomy in determining and passing enactments to govern syariah law.*

*There is of course effort to coordinate and standardise, led in particular by JAKIM (the national government agency responsible for Islamic affairs). But in the end it is up to the states whether or not to accept and implement.*

*The situation in Malaysia at the moment (for syariah) is that there is no standard agreement about the legal age of marriage for a girl or a boy. Each state allows procedures whereby child marriages can take place, and so child marriages do take place.*

*Some states have enacted legislation to set an age of marriage, but it is not uniform. And no state has enacted a law stating that no one under the age of 18 years old can be married.*

*This at the time of writing (January 2020) is being widely debated and the Malaysian government has published its Plan of Action to tackle child marriage. Here, there is encouragement to all states in Malaysia to standardise the age of marriage to 18. Some would appear to be more sympathetic than others; it is hoped considerable progress will be made soonest.*

*In the meantime, where marriages are permitted for brides under 18, there would seem to be no publicly available Standard Operating Procedure which would explain the criteria by which such marriages are condoned and no easily available records of numbers and reasons of such marriages, state by state.*



Photo:World Concern

# LACK OF AWARENESS OF CONSEQUENCES ON THE CHILD

One aspect reported by members of the Rohingya community as well as people working with the community has been the general lack of awareness at any level of the community about the consequences of child marriage on the child.

This may well be a shared situation with other Malaysian communities, for example the *orang asli*.

The lack of awareness extends to the lack of understanding of what marriage might mean in terms of the physical, emotional and mental readiness of the young person. There is plenty of documentation from around the world to demonstrate that the consequences on all these three things can be devastating.

This is not something that is much talked about by the community.

It should be realised that the background of many of the Rohingya mean that they have had little or no access to education, either in Arakan state or here in Malaysia. Add to this the fact that they continue to be marginalised in Malaysia, with no rights and no status, means the sort of information to which they have access, and the sort of discussions of which they are able to be a part, may be limited.

This increases the chances that parents, community leaders, religious leaders and children (including teenagers) will remain ignorant of possible negative consequences following a decision to marry a child.

If the Malaysian government were to recognise a status for refugees, and bring them into the mainstream of society, one immediate result would be a greater scope for reaching such communities and for involving them in discussions such as those related to child marriage.

This could mean that communities like the Rohingya are particularly seen as important to involve in Malaysia's National Strategic Plan for Addressing the Causes of Underage Marriage. This would hugely help the chances for an overall protection for refugee children and greater protection against child marriage and possible abuse of child brides.

Acknowledging that marginalised communities like the refugee communities, including the Rohingya, need to be involved would then open greater opportunities for involving women, teenagers (girls and boys), men, community leaders and religious leaders with the authorities. Sharing experience and pooling resources would help identify the most effective way of reaching these different target groups, in terms of approach, content and follow-up. Of course these will vary according to the particular target group.

Essential is the full involvement from the beginning of Rohingya community women, men and teenagers, in the design, delivery and evaluation of any programme.

This is emphasised in the pages to follow.



## WHAT HAPPENS AFTER MARRIAGE?

### Marriage a Safe Space?

One arena of awareness is the consequence of marrying children young and their possible exposure to situations for which they do not possess the necessary emotional experience or maturity to allow them to cope.

For young brides, this sadly may include the experience of domestic abuse and violence.

For any community across the globe, the existence of gender based violence, including domestic violence, is of huge concern, and has been the subject of much legislation and many programmes. For the Rohingya community, the situation is no different.

Indeed, many would argue that the incidence of domestic violence is significant. Some have argued that the incidence is influenced by the fact that this community has had such an intense experience of trauma and have no protection, rights or certainty of future in Malaysia. The trauma could be direct experience of the genocide that has been going on in Arakan state for many decades; it may be the reports and videos of what has recently happened to families and loved ones still in Arakan state (or perhaps now in Bangladesh); and/or it may be experience of the journey to Malaysia, which possibly included horrific conditions and trafficking camps. The situation they find themselves in here, with no security, no rights, no ability to plan for futures for themselves and their families, and with a daily fear of being stopped, harassed, extorted and/or thrown into detention, does not help.

There is no question that domestic violence occurs. Women from the community have no shortage of examples. What is a little unclear is whether domestic violence is more likely to be perpetrated by husbands against child brides, or whether the incidence is the same, or less. This of course depends too on the definition of what constitutes domestic violence, and this relates importantly to how the community itself sees domestic violence.

Feedback from the community would indicate that, as in all patriarchal societies, there is a level of acceptance of domestic violence which may mitigate any awareness about a negative consequence. This means that many people in the community, including parents, would not see the possibility of violence as a particular negative of child marriage. If one of the arguments put forward by families in favour of marrying young daughters is that the marriage provides protection and a safe space, and the counter argument is put that actually marriage is not a safe space because domestic

violence is likely, then a response may be that 'at least marriage is safer' than any alternative.

This poses a number of questions and opportunities for tackling this.

First, it stresses the imperative of giving centre stage to the stories and experience of women and girls. These are so often hidden and/or denigrated. Many groups have been attempting to do this, and their experiences will be invaluable in seeing how this can best be done in a situation where there is likely to be resistance from key men religious and/or community leaders.

Further, the situation again emphasises the importance and benefits to all of changing the Malaysian laws to provide a legal and administrative framework for refugees, which would have as a major result the better protection of women and girls.

And if we do adopt a common and inclusive approach to tackling the issue of child marriage in Malaysia, we can also share best practice in the delivery of programmes for boys and girls in relation to understanding the need to respect each other, to view domestic violence as unacceptable, and to learn issues such as 'good touch bad touch', and sexual and reproductive health.

There is every opportunity for concerted collaboration and sharing between the Malaysian government and its agencies, as well as local NGOs, UNHCR and community-based partners, in conducting such programmes and helping both to eliminate child marriage and extend crucial life skills to children and teenagers and adults, for a better and more secure future.



# HUMAN TRAFFICKING and PEOPLE SMUGGLING



Photo: PSHTC (Graves from Wang Kelian)

## **HUMAN TRAFFICKING and child brides**

There has been much speculation and some documentation on the connection between human trafficking and child marriage. A particular focus has been on the Rohingya community.

The first thing to be said is that human trafficking in any form and in any numbers is unacceptable and needs to be stamped out. At the same time, human trafficking has become one of the best organised and most lucrative criminal activities in the world, and not least in this region. To tackle it requires major commitments, nationally and across borders, and major resourcing. At the moment this is not always apparent.

### **Human Trafficking and People Smuggling**

The assessment of the extent of human trafficking of child brides can be skewed by different inclusions into what is understood by human trafficking. What is said here in no way is condoning either trafficking, smuggling or the practice of child marriage. But we should note that there is a difference between people smuggling and human trafficking, a difference which much of the documentation confuses. People smuggling is an arrangement of transport between two 'willing' partners (the purchaser of the transport and the supplier of the transport). There is neither duplicity or coercion, and on arrival the person transported is free to do as he/she likes.

The transport of many brides/daughters from Bangladesh or Myanmar to be married in countries like Malaysia to an already arranged bridegroom here would be 'smuggling' rather than 'human trafficking'. The fact that many agencies and people are calling it 'human trafficking' may stem from the fact that they identify that the child involved may not be a willing partner. But strictly speaking the child is defined as a child precisely because they have no legal agency: in the law, they are deemed too young to make key decisions on their own behalf. So it is parents or guardians who make decisions and bear the legal responsibility. There are many instances where such decisions may not be agreeable by the child but this does not give the child legal status to challenge the decision (at least not at the moment in reference to Rohingya children).

The arranging of young children to be married by parents or guardians may well be seen by many NOT to be in the child's best interests, which is why we oppose child marriage. But legally, it is not the child who is responsible for the decision. This is true where the marriage is arranged within a village or neighbourhood or country, and it is also true for marriages arranged 'cross-border'. It is not clear why some agencies or advocates suddenly give a different autonomy to the child when they are in transit, stating that it is 'human trafficking' because the child is being 'coerced'.

This does not preclude the possibility that what started out as a voluntary agreement between the parents/guardian and the smuggler turns into a situation of trafficking, where the transaction is proven to be a falsehood and there is no husband waiting, or when the child is held pending further payments from parents or relatives, or when the child is simply sold off to a different buyer. This most certainly happens.

Many syndicates arranging the transport may be both smugglers and human traffickers, and there are many instances where what started as 'smuggling' (a voluntary arrangement) has turned into human trafficking (now involuntary and out of control).

And of course it is also very possible that the child may be abused by the smuggler during the journey.



Photo:Getty AFT

A very worrying consequence of the genocide against the Rohingya and the mass exodus of people to the Bangladesh camps is the significantly high number of orphans and single children who have been part of this exodus.

Hundreds of thousands of Rohingya boys and girls are coming from a terrible situation, are unlikely to have had opportunity for education or skill acquisition, and are struggling to identify any future. Inevitably these children and teenagers are highly vulnerable to the promises and lure of human traffickers.

If this means (as it almost certainly will) that there will be an increasing 'supply' of child brides available for purchase, then it is possible this option will be increasingly tempting to Rohingya men in countries like Malaysia, especially if the price is cheaper than any arranged marriage.

This makes it imperative that people in the communities here understand the awfulness of human trafficking, the strict penalties for anyone participating in the crime, and that the Malaysian government is fully up to speed in its commitments to eradicate human trafficking and bring human traffickers to justice (see accompanying Box).

We might add some comment on two other factors.

One is the 'ease' of the journey. Where there were regular boats plying the route from Myanmar/Cox's Bazaar to Thailand and Malaysia, both the smuggling and human trafficking of persons, including child brides, was more common. It has been

reported over the last year that boat journeys were more difficult, with the Bangladeshi and Burmese authorities making it more challenging for any exodus from the camps or from Myanmar. Prices as a result went up and (this is the second factor) the number of people able to make (and afford) the crossing went down.

However, desperation to escape the conditions in the camps in Bangladesh may drive an increase in the number of boats: there certainly is a potential increase in the number of persons wanting to make the journey, any journey, away from the refugee camps in Bangladesh.

So, while figures are hard to establish, feedback from our community and information from a variety of community-based, NGO and government sources would indicate the fact that girls under 18 are being both smuggled and trafficked for marriage.

Given the circumstances facing the Rohingya in Myanmar, Bangladesh and the region, this is likely to increase.

This makes it even more imperative that there is strong commitment (backed by the necessary resources and actions) to bring to justice those involved in human trafficking; that refugee communities are brought into the discussions and initiatives related both to human trafficking and the issue of child marriage and the mainstream of Malaysian laws and penalties; and that the practice of child marriage is comprehensively tackled.

## HUMAN TRAFFICKING and PEOPLE SMUGGLING are not the same

**People Smuggling** is a transaction between two 'willing' parties (the buyer and the seller) whereby transport is arranged to carry a person from A to B (normally across a border, 'illegally'). On arrival, the person paying to be transported is free to go. It is 'voluntary'.

**Human Trafficking** is where a person, through duplicity, threat or coercion, has lost all control of their situation and their lives, and has become a commodity to be bought, used or sold. The initial 'agreement' may have been 'voluntary', but this will have changed.

## ANTI-TRAFFICKING MEASURES

There should be absolutely no doubt that it is completely unacceptable that any person is trafficked for any reason. PSHTC together with many others have been calling for a coherent, well-resourced strategy to combat human trafficking in Malaysia and across the region. This would importantly include engaging with vulnerable communities including refugees and migrants in a way that is supportive and constructive, and which unites communities and authorities against all forms of human trafficking.

This has been one of PSHTC's six points for firming up an effective strategy to combat human trafficking in Malaysia. A summary of these points can be found at [www.penangstoptrafficking.com](http://www.penangstoptrafficking.com)

## AWARENESS OF TRAFFICKING LAWS

It is a little difficult to gauge the extent to which people in the Rohingya community are aware of the legal penalties for people smuggling or for human trafficking. It is possible that for 'smuggling', this is a fact of life for their community (it is their only way of fleeing), and the legality or otherwise is hardly relevant. Many have had experience of being detained for having no documents, and daily face this prospect, and it is this that impacts the community rather than the crime of 'smuggling'.

For human trafficking, there may be some awareness of the fact that this is a major crime for which there are penalties. But where there are so few cases of arrest and prosecution, this may not be of immediate concern. Add to this the inaction taken by the authorities for years about the Wang Kelian trafficking camps, and the lack of any prosecution of any Malaysian involved in these camps, and it is not surprising that there is scepticism within the community about the seriousness of the crime and the seriousness of the authorities in prosecuting people committing the crime.

This can change and there is plenty of opportunity for the Malaysian government and its ASEAN counterparts to increase resources and commitments to stamp out human trafficking. As part of this, working with people in the refugee communities, including the Rohingya, is important. Awareness building programmes can be part of this. But it is suggested that these will only work if there is clear action against human traffickers, so that there is clear demonstration of the consequences of being involved in human trafficking. ACTIONS speak louder than words.



Photo: NST

# APPROACHES for TACKLING CHILD MARRIAGE



## INTRODUCTION

The above pages set out a number of interlocking factors that surround the practice of child marriage in the Rohingya community.

Readers may be aware of the many overlaps with the situation related to child marriage in other, Malaysian communities in the country. This is a shared situation.

Responses to tackle child marriage therefore need to happen at a variety of levels, undertaken by different actors, including the Malaysian government and including community-based groups and persons.

In setting out some of these, it needs to be emphasised that the same or similar proposals have been made by many other reports and documents relating to child marriage in Malaysia, and many initiatives, especially based in the community, are already tried and on-going.

We just need to consolidate, collaborate and share. And in focussing on community-based delivery, the following pages outline some of the messages that have been used and crucially also highlight the need and opportunity to support processes of planning and delivery which are community-involving and community-empowering.



Photo: NST

## ON-GOING WORK IN PENANG

The first circulation of this Report was in January 2020. It was produced partly as a contribution to the development of the Malaysian national policy to address underage marriages in the country. As we continue to stress, the issue is by no means confined to the refugee community here in Malaysia.

But a big part of the idea of this report was to look at opportunities and strategies for tackling the issue, with an emphasis on community-led initiatives. We have been doing this in Penang.

First, we organised a series of interactive workshops over four week-ends for three distinct groups of refugees: women, men and religious leaders. This was in partnership with PS The Children (who were supported by the Embassy of the Netherlands).

Each of these three groups have produced an action plan of how they will take the messages and discussion to others in their local communities. This is now on-going.

And specifically for the women's team, we have been fortunate to have the support of the Canadian High Commission, through its Canada Fund for Local Initiatives.

This supports a series of initiatives to involve families, friends, neighbours and networks in awareness and discussion about the advantages and disadvantages of child marriage, with a view to reducing and eliminating the practice.

We need to understand that this is not so easy. As this report hopefully documents, the issue of child marriage in the Rohingya community, is complex. It is linked to wider issues of (no) status of refugees here, economic uncertainty, lack of security and protection (not least for daughters: younger girls and teenagers) and the lack of obvious options for a sustainable future, again especially for younger girls and teenagers. And behind all this, the fact that in Malaysia underage marriage is not illegal is a major factor.

But community-based initiatives represent one strategy for tackling the situation. This underpins the initiatives in Penang, and explains the following pages which chart some of the messages. and highlight the opportunities for adopting or supporting a methodology of delivery that is community- and women-empowering.

Onwards and forwards....

# THE MALAYSIAN GOVERNMENT A KEY DRIVER

## THE MALAYSIAN GOVERNMENT A KEY DRIVER FOR CHANGE

At the level of government, the Malaysian government can do two things which will immediately affect the practice of child marriage in refugee communities in Malaysia, including the Rohingya.

First, it can (as it has committed to doing) standardise the law so that the legal age of marriage is 18 years old. Once this commitment is realised across all jurisdictions, including in *syariah* law, then the practice of child marriage will be significantly and immediately reduced to the point of elimination.

For the Muslim Rohingya community, it will be particularly important that the setting of the legal age of marriage to be 18 is agreed and implemented by the *syariah* authorities in Malaysia.

Second, the Malaysian government should also honour its promise of providing a legal and administrative framework for refugees in this country, so that they no longer live in limbo, stateless, half in and half out of mainstream Malaysian society. Earlier in this Document, we have argued that no rights for refugees (including Rohingya) means no protection, and this obviously extends to the protection of women and girls. No rights also means that people have few options, and this includes women and girls.

If refugees were given a legal and administrative status, this would immediately provide a protection for the women, girls, men and boys in the community which presently does not exist.

Providing a legal and administrative status would allow people and families in the refugee communities, including the Rohingya, to work 'legitimately', to plan futures, to be free from daily fear of harassment, extortion or detention, and to invest in a long-term future for their children. It would particularly provide women and girls with options.

By giving rights and protection women and young girls will be able to access education and their families realise their potential as economic contributors to the household, so helping households out of poverty and acting as an important deterrent to the 'instant' fix of selling daughters as brides.



Photo:Aljazeera

## RECOGNISING A RIGHT TO EMPLOYMENT as crucial too in ELIMINATING POVERTY

Expanding on this, if the Malaysian government implemented a policy to give rights to employment for refugees (as exemplified to in Promise 35 of Buku Harapan), then a huge step forward would also be taken in combatting poverty and reducing vulnerability to human trafficking and modern day slavery.

As described above, and again this is something shared with other Malaysian communities, poverty is a critical factor in child marriage.

Reducing poverty, not least by opening up educational and employment opportunities for women and girls and boys, is therefore an essential part of tackling and eliminating child marriage. It would also bring refugee communities including the Rohingya closer in line with Malaysian mainstream law and discussions.

By providing a status for refugees, this would mean that if and when the Malaysian government standardises across jurisdictions the legal age of marriage to be 18, communities like the Rohingya would be more bound to follow.

Their present status, which gives them no status and leaves them at the margins of our society, does not encourage this.

This can be immediately changed and for the better of all. Further, providing a legal and administrative status may also help encourage MAPO and enforcement agencies to acknowledge, respect and work more closely with refugee communities to identify and tackle the crimes of human trafficking and modern day slavery.

This has long been a suggestion, and it is timely to give it due attention.

In addition, bringing refugees into a legal and administrative framework will help the Malaysian government fulfil commitments to principles of inclusivity, resilience and strength as committed to in documents like the 11th Malaysia Plan and the Sustainable Development Goals (SDGs).

The latter affirm 'no one is left behind', but at the moment, refugees are nowhere to be seen.



Photo:PSHTC/ASPIRE Penang

## A MULTI-PRONGED APPROACH

Most people working on the issue of child marriage are aware of the complexities of the situation and the need to adopt a multi-pronged approach.

For refugees, including the Rohingya community, as long as child marriage remains legal, and as long as the refugee communities in Malaysia have no rights and little prospect of economic advancement, doubly so for the women, then the practice will almost certainly continue and possibly get worse. So advocacy for changes to these situations clearly needs to be a part of any strategy for tackling underage marriage.

Beyond this, the fact that certain attitudes and assumptions may support the practice of child marriage, as outlined in earlier pages, means that we need to consider initiatives aimed at raising awareness and changing attitudes.

These initiatives will be targeted at different groups, including religious leaders and authorities, community leaders, men in the community, women in the community, parents, youth, girls and boys, and potential community workers.

There is of course already experience built up by many groups who have designed and delivered a variety of programmes aimed at all or some of these target groups.

This experience will be invaluable in helping guide future work, especially if pooled with the experience, materials and feedback from work being done in other Malaysian communities with regard to child marriage.

Collaboration and sharing will greatly help the process of success. And a number of questions can be addressed by this, including

- who exactly are the different target groups we need to reach in the community, who would include women, teenagers (girls and boys), men, community leaders and religious leaders and the authorities?
- what would be the most effective way of reaching these different target groups? What different material/

programme content will most effectively reach these different target groups, how can the work be integrated across target groups, how are the groups brought together, and what follow-up is needed?

- how are we ensuring that we include community women, men and youth from the outset in the design, delivery and evaluation of any programmes or initiatives?
- how do we ensure that initiatives specifically on child marriage are integrated into any wider community-based work being done with and by refugee community workers, helping achieve the UNHCR Goal of 'empowers, supports and capacitates refugee communities' as a whole?
- how are we measuring success? what indicators are we using and how is any evaluation fed back and shared across groups and communities so that future programmes and initiatives can benefit?
- how are we ensuring that the background of deprivation faced by those in the community, not least the women, is acknowledged and factored for? This includes any lack of formal education and the possible challenges of literacy, which may make us adapt our approach. Like all of this, how can we ensure that this is best worked out directly with key women, men and youth in the community?
- how are we guaranteeing that the voices and experience of people in the community, importantly including women and girls, are heard and supported? It is widely accepted that we need to avoid external parties lecturing the community. We need to be aiming at the ideal situation where this is an integrated, community-based, shared journey.
- if there are contradictory messages on the legitimacy of child marriage, how will we arrive at the message we want (that it is to be discouraged and eliminated)?
- are we thinking that explicit rights-based appeals are unlikely to resonate with a group that has no rights? How are we dealing with this?

Key to all of this is the need to fully involve refugee communities in any discussion, design and delivery of any initiative with the aim of addressing the issues around child marriage. This will be basic to any success.

**COMMUNITY INITIATIVE:  
IMMEDIATE HEALTH OF THE CHILD/DAUGHTER**

We mentioned earlier that there is considerable lack of awareness amongst parents and others in the community relating to the consequences of getting married early, on the child. Programmes to deliver such messaging are needed.

The messaging can draw on existing initiatives and materials already being used by refugee community-based groups, NGOs and Malaysian government agencies working across Malaysia.

Materials and discussions can highlight the health consequences for the girl or boy if married below 18, including the physical, mental and emotional consequences. This can be done by using a mixture of own-language graphics and videos to introduce basic biology, to which then can be added a discussion about the possible effects.

Potential consequences of early marriage with regard to the possibilities of domestic violence and domestic abuse have also proven to resonate with parents and community leaders.

And we continue to stress the importance and benefits of the involvement and ‘empowerment’ of community women, men and youth in devising and delivering the message(s). This is crucial, and is highlighted in our next section.



Photo: Free For All blog

**COMMUNITY INITIATIVE:  
SEXUAL AND REPRODUCTIVE HEALTH**

Related to the ‘immediate health of the child/daughter’ are the important discussions to be had around the theme of sexual and reproductive health.

Again, many groups have developed appropriate materials, modules and approaches related to sharing information and building discussion and awareness within communities about this.

The topic is of fundamental importance, not just to the issue of child marriage, but to the general health, welfare and futures of all persons in all communities: girls, boys, men and women.

We would stress the huge importance of this area in tackling gender inequalities and laying the groundwork for respectful and non-exploitative relationships between boys and girls, men and women, and husbands and wives.

Again, consolidating existing work and sharing best practices would help move this essential messaging forward. Again, we would stress the importance and indeed necessity for involving key persons in the community in so doing.

**COMMUNITY MESSAGING:  
RESETTLEMENT WILL BE AFFECTED**

It has been very clear for many years that resettlement is not an option for the vast majority of refugees in the country. There are simply not enough places being offered, which has led to the situation where thousands of refugees have remained and will remain in Malaysia for the foreseeable future, without rights or protection. We are not alone in arguing that this needs to change.

Nevertheless, in the present situation where many refugees still hold out considerable hope that they will be resettled, one message that might make people think twice about child marriage is that a marriage involving any person under 18 is not recognised in countries like the USA, Canada, Australia and EU countries. It can and should be stressed that such a marriage will jeopardise any chance of someone so married being accepted on a resettlement programme.

This is one ‘stick’ that needs to be messaged with strength and clarity so everyone is clear about this.

**COMMUNITY INITIATIVE:  
HUMAN TRAFFICKING**

One clear messaging which needs to be strongly imparted to all communities, including refugee communities, relates to human trafficking. It is clear that there is every reason to stress the seriousness of the crime of human trafficking, and to make it clear that anyone involved in human trafficking, whether as a human trafficker or as a ‘buyer’ of a person (for example, a child bride) will suffer the full consequence of the law.

For this to make sense to refugee communities, including the Rohingya, enforcement agencies and the government need to show that this will happen - that anyone involved in human trafficking is identified, arrested, and prosecuted. At the moment, there are not enough examples of this; and for refugee communities, the lack of any accountability for Wang Kelian tells the community that the crime is not treated seriously and that Malaysian authorities do not treat refugee and migrant victims and survivors with any respect.

This can and needs to change.

**COMMUNITY INITIATIVE:  
WIDER EMPOWERMENT AND COMMUNITY WORK**

Far too often the response to an issue like child marriage is to devise a training, produce some leaflets, reach out to some community leaders, in a ‘project’ that is timelined (a year?). Rarely is there any long-term plan for how the impact of such an approach can be tracked and maximised. Rarely is there any follow-up to see how effective the different trainers have been and how long they have survived doing their ‘community based work’. Rarely is there any serious commitment to the idea that the issue, like so many, actually both demands a long term commitment to have any chance of working, and has the opportunity to be part of any wider on-going community-based work.

If we are clear about commitments to ‘empower, support and capacitate’ refugee communities to build their own leadership and resilience, then we will take the opportunity to link discussion and initiatives about child marriage to the wider discussions and initiatives going on in the community.

This will mean that we take the time to understand what else is happening in the community, who are key persons, what are the existing leadership structures, what opportunities exist for supporting women’s voices and leadership, and how the work on child marriage can be integrated into ongoing and longer-term work to build stronger networks, voices and articulation across the community.

This links to ‘methodology’, which is our next section.



**DIGITAL POSSIBILITIES FOR MESSAGING**

In tackling child marriage, consideration of how to use social media to carry the messages to different target groups in the community will be foremost in many peoples’ minds. Thinking and designing how best to do this offers a major opportunity for directly involving persons from the community, including girls, youth, women and men. This is part of a process of collective empowerment, with the immediate starting point here being through inclusion in designing and implementing a digital initiative.



## CORE PRINCIPLES: INCLUSION AND EMPOWERMENT

Every interaction with the Rohingya community (as with any community) holds the opportunity for extending, supporting and promoting the involvement and empowerment of people within the community. We refer again to PSHTC's Core Principles which stress this, as well as such documents as the UNHCR Malaysia's Strategic Directions 2017-2021 (which stress refugee empowerment and resilience). We also refer to the Malaysian government's recent Malaysia Plans (giving prominence to empowering local communities and being people-centric), and of course the objectives of the Sustainable Development Goals (SDGs).

We have enough examples to know that if an outside group enters a community, just 'gives the message' and goes away, the chances for any significant impact and success are obviously small.

How much better if we support the women, men, teenagers, girls and boys in the community so that **they are the ones** who identify the message(s), plan and deliver them, and involve others in their community in discussions and feedback on how to make the message better received and acted upon.

This is much more than the 'training of trainers' which has for so long been such an accepted practice by funding agencies and delivery organisations, government and non-government.

It involves taking time to get to know what is happening within a particular community, at different locations, getting to know existing leadership networks, who is who, who is doing what longer-term, and working out how best to integrate and support work on child marriage in the context of longer term community-based work which is the only way to empowerment and resilience.

This means that we need to be a little more rigorous in looking at what is needed to really make an impact and possibility of long-term change. It is strongly suggested that we need to move away from relying on one-off, time-lined programmes and other 'tick-box' initiatives.

Too often programmes seem to lack any real built-in monitoring or evaluation. For example, we may have trained 5 trainers in the community, but if and once we leave, what happens to these trainers? How long do they last? Do we even know?



Photo:PSHTC/ASPIRE Penang

## CORE PRINCIPLES: EMPOWERMENT OF WOMEN

Women's empowerment is of course increasingly and emphatically rightly seen as a basic component of any community initiative, including on child marriage. But we would suggest that too often there seems to be an unrealistic understanding of what the basis and possibilities are for this to happen.

Exposure to a training or to a meeting or two may allow braver women to step a little more forward, which is great. But for more sustainable and fundamental change, again it is a long-term vision with a long-term commitment to building step by step which is necessary.

This will be based on a clear understanding of the nature of the patriarchy in the community and the parameters of men's resistance and women's involvement. Realistic identification is needed of the 'right' community leaders and how to work consistently to build discussions and actions that can overcome any resistance to women's empowerment. This will only happen over a period of years.

So we need to make sure that initiatives on for example child marriage are part of wider initiatives at community level all of which are giving opportunity for women's involvement and ultimate empowerment. This means that we avoid a series of one-off, time-bound projects in isolation from each other, which may tick boxes but have little or no long-term impact.

## CORE PRINCIPLES: RESEARCH AND DOCUMENTATION

Inevitably, given the 'popularity' of this issue, more and more people and organisations will see the value and attraction of conducting more research and producing ever more documentation. We are not against this but we would urge anyone thinking about this to consider making sure that (again!) this is seen as an opportunity for fully involving the community and providing the chance for resources, skills and money to come to the community rather than external institutions and/or non-refugee individuals.

A key PSHTC Core Principle is that 'Information Belongs to the Community'. There are far too many examples (and indeed this is the norm) of researchers coming in from the outside, 'extracting' information from women, men and children in the community, and going away with the information to present or publish without any benefit at all accruing to the community.

The community most likely will not even know what the research was really all about and what happened to it.

We need to turn this on its head: where research and documentation is to be done, funders and researchers should insist that not only is the community fully involved from the beginning in deciding the topic and parameters of the research, but is supported in actually carrying out the research or at the very least acknowledged as a full partner in the research.

This will help transform the way people are valued and acknowledged, and resources are allocated and used. It will help ensure that the approach to research and documentation is part of our collective attack on

marginalisation and exploitation of the community. And it will do this by ensuring that as much of the decisions and resources as possible is in the hands of women, youth and men refugees and directly promotes the skilling, inclusion and empowerment of their communities.

## DOCUMENTATION and the EXPERIENCE OF WOMEN

One aspect of the documentation of child marriage in Malaysia is the importance of hearing from women and girls.

Too often their input is overlooked or marginalised. Yet we know the crucial importance of the contribution of women and girls in the communities if issues are to be identified and workable solutions found.

Unsurprisingly, both older and younger women have unique insights into the contexts, reality and possible solutions for tackling child marriage.

The immediate challenge is to ensure women from the community are engaged ideally in the design and implementation of the research, from the beginning. And there may well be a need to make sure that safe spaces are available whereby women and girls can share their experiences without fear or favour.

The longer-term challenge is to find ways of supporting wider transformations that would support women and girls being able to fully participate and lead on initiatives designed to tackle these sorts of issues. This is a challenge all of us face.



Photo:PSHTC/ASPIRE Penang

# KEY REFERENCE POINTS

## NATIONAL STRATEGIC PLAN to ADDRESS the CAUSES of UNDERAGE MARRIAGE launched January 16th 2020

The infographic details the 2020-2025 plan with 7 objectives, 17 strategies, and 58 programmes & actions. It lists causes of child marriage such as poverty, lack of access to education, and societal norms. It also outlines key commitments like strengthening laws, providing social services, and offering skills training.

The many concerns and factors expressed in this report are highly relevant to the Malaysia government's National Strategic Plan to Address the Causes of Underage Marriage. We look forward to working on the issues together.



Photo: Free Malaysia Today

## UN's SUSTAINABLE DEVELOPMENT GOALS

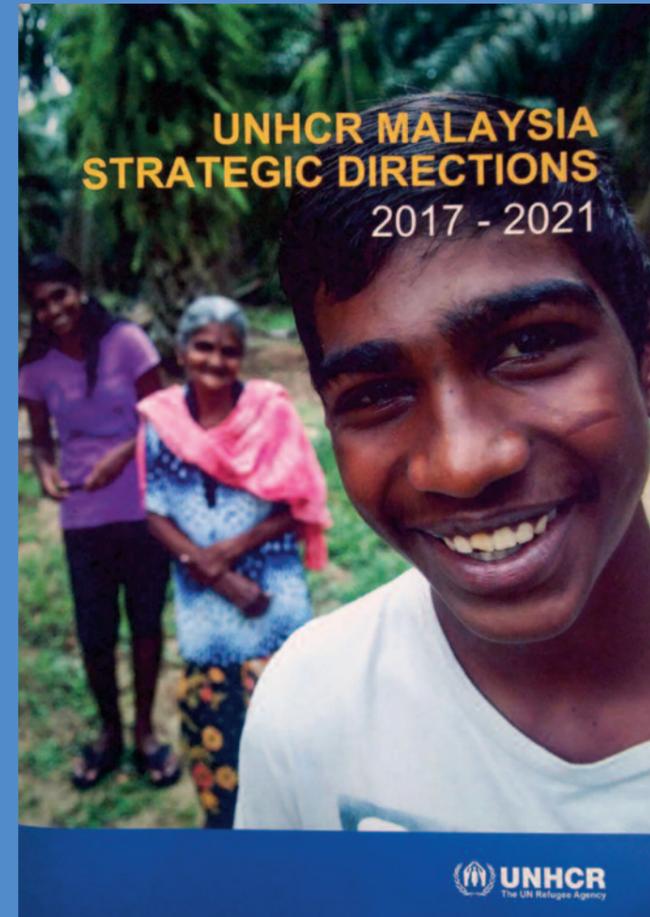
### SUSTAINABLE DEVELOPMENT GOALS

The promise to end the practice of child marriage is also part of Malaysia's commitments to the Sustainable Development Goals (SDGs). The SDGs are a global commitment to 17 shared goals which should be achieved by 2030. These are major goals, each with subsidiary targets.

And a commitment running through all of them is the commitment to 'leave no one behind'. Inclusivity and empowerment are key foundation stones for the achievement of all goals. This then makes it particularly relevant that refugee communities are included in discussions and even more relevant that they are given a status and protection that would stop their being left out and left behind.

Initiatives to tackle child marriage directly refer to Goal 5: Gender Equality, but also are relevant to other goals, not least those referring to Health (Goal 4) and Poverty (Goal 1).

So we would emphasise that the tackling of child marriage links us to wider commitments to how our society is to be organised and on what principles. Making sure that the community are fully involved in the process of discussion, design and delivery of programmes and initiatives is a key part of that.



## UNHCR MALAYSIA STRATEGIC DIRECTIONS 2017-2021

The United Nations High Commissioner for Refugees (UNHCR) is the de facto organisation in Malaysia responsible for the registration, welfare and possible resettlement of refugees in this country. They do this in the absence of any power to give refugees any legal status or rights (which of course can only be recognised by the Malaysian government).

UNHCR Malaysia has as a consequence been long involved in issues affecting the refugee communities here, including the issue of child marriage. It is therefore an obvious partner for anyone in the Malaysian government considering programmes and approaches to combat child marriage across communities in the country. There has already been a history of discussion which can intensify.

We would also note that UNHCR Malaysia's Strategic Directions 2017-2021 commit the organisation to an approach which empowers, supports and capacitates refugee communities to address issues like child marriage.

This is very close to the approach and commitments set out in the PSHTC's Core Principles.

Both should be basic to the methodology of whatever initiatives are taken in relation to child marriage. Which takes us back to the discussions in the previous pages.



### Child Marriage References

National Strategy Plan to Address the Causes of Underage Marriage in Malaysia, by the **Ministry of Women, Family and Community Development**, January 2020.  
<https://www.kpwkm.gov.my/kpwkm/uploads/files/Dokumen/Pelan%20Strategi%20Perkahwinan%20Bawah%20Umur/EXECUTIVE%20SUMMARY.pdf>

Child Marriage in Malaysia (Working Paper), prepared by **Prof Dato' Noor Aziah Mohd Awal and Mohd Al Adib Samuri**, Universiti Kebangsaan Malaysia, for UNICEF MALAYSIA, 2018

Child Marriage: Its Relationship with Religion, Culture and Patriarchy by **Sisters in Islam and Arrow**, 2018

Developing a New Model of Underage Marriage Governance for Muslims in Malaysia by **Rafeah Saidon, Mohamed Azam Mohamed Adil, Noorul Huda Sahari, and others** in Middle-East Journal of Scientific Research 23 (4): 638-646, 2015

Unveiling The Reality Of Child Marriage In Malaysia: Its Factors And Impacts by **Sharifah Syahirah**, 2014 (accessed via ResearchGate)



Photo: PSHTC

# WHO WE ARE



The PENANG STOP HUMAN TRAFFICKING CAMPAIGN works holistically, linking human trafficking immediately to modern day slavery, and to the huge vulnerability of many groups to being trafficked or enslaved.

These groups importantly include refugees, asylum seekers and migrant workers – women, men and children – who have little or no protection in Malaysia.

So we do two main things.

We collaborate with others to raise awareness about human trafficking, as well as bring specific information, experience and recommendations about human trafficking and modern day slavery to the attention of authorities and to policy makers and influencers.

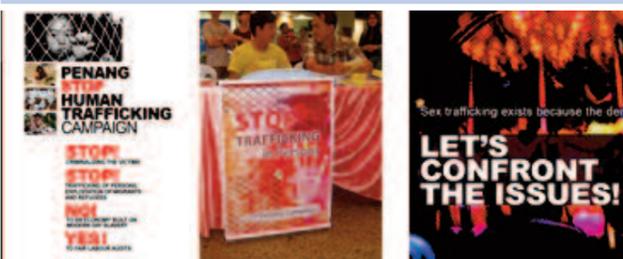
And at the same time, a key part of the work of the Campaign is long-term work with refugee communities, and other vulnerable communities and stakeholders in Penang.

This work has been consolidated under ASPIRE Penang (see opposite).

All this is in the context of our Core Principles, which stress refugee empowerment and the need to challenge many existing assumptions and practices which consolidate marginalisation and dependency.

The Core Principles also emphasise the benefit of working collaboratively and respectfully with all others committed to the same goals. We try to make sure this is a part of our DNA, and to oppose fractures and divisions and people using vulnerable communities and associated issues to further their own private organisational or individual agendas.

Check out our website:  
[www.penangstoptrafficking.com](http://www.penangstoptrafficking.com)



## Aspire Penang

### ASPIRE PENANG

consolidates the work that has been done by the Penang Stop Human Trafficking Campaign with refugee communities in Penang. The work is community-based and community-involving, and is based on the principles of refugee empowerment and self-determination.

Key to the work are our two refugee community workers, three refugee teachers, refugee facilitators of community education classes and a refugee coach. This is all in the context of the Penang Refugee Network, an always-developing network of refugee community leaders, who meet regularly and support many of the activities.

The initiatives include the kindergarten Good Start Learning Centre (a refugee-run school catering to up to 75 children aged 4-6); computer classes and language classes for teenagers and adults; a football project run by teenage youth; the development of a digital information app by and for the refugee community in Penang; community trainings and initiatives on issues such as child marriage, employment, arrest and detention, and education; and community documentation to be used in advocacy. This is in addition to the outreach to particular families and individuals who need specific help.

All this is a result of patient, consistent work framed in a understanding that such work will take many years and needs a real long-term commitment.

It is also based on a commitment to collaborative work with other NGOs and interested parties. This is epitomised but is not limited to the interaction with the Penang Working Group (see below).

Check out our website for more information:  
[www.aspirepenang.org](http://www.aspirepenang.org)



### The PENANG WORKING GROUP

gives meaning to the idea of collaboration and mutual sharing and support. Representatives from refugee communities sit together with persons from the various NGOs working on refugee issues in Penang, and with persons from UNHCR. Issues are shared, questions raised, and solutions proposed.



We welcome any feedback or comment. These can be emailed to  
[penangstoptrafficking@gmail.com](mailto:penangstoptrafficking@gmail.com)

Photo: VOA News