

# Sexual and Gender-Based Violence Among Refugee Communities in Malaysia

A Policy Brief by Women's Aid Organisation

January 2021





## ACKNOWLEDGEMENT

This paper by Women's Aid Organisation is authored by Jan Li Yuen with research assistance from Natasha Dandavati and input provided by Aiman Mohd Misri, Gaayathrey Balakrishnan, Gunawathi Ramachandran, Hannah Reshma Jambunathan, Jaskirath Kaur Sohanpal, Jasmine Lilian Loke Abdullah, Lilian Tan Jin Lian, Louise Tan Min Yue, Mankiran Kaur, Melissa Akhir, Nazreen Nizam, Nur Adila Md Ali, Shalini Ravindranathan, Syar S Alia, and Yu Ren Chung.

Our work is generously funded by the United Nations High Commissioner for Refugees (UNHCR). The views expressed in this paper are those of the author and do not necessarily reflect those of the United Nations or UNHCR.

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# Sexual and Gender-Based Violence Among Refugee Communities in Malaysia

A Policy Brief by Women's Aid Organisation – December 2020

Written by Jan Li Yuen

## Overview

Refugee women in Malaysia are at significant risk of sexual and gender-based violence (SGBV) as a result of their lack of legal status in the country, the normalisation of violence within refugee communities, and the inaccessibility of protection and justice mechanisms, all of which are further exacerbated by xenophobia against refugees. This paper is targeted at key stakeholders including policymakers, Members of Parliament, and relevant government ministries including the Ministry of Home Affairs, the Ministry of Foreign Affairs, the Ministry of Health, and the Ministry of Women, Family, and Community Development. It is also targeted at first responders to SGBV, including the police, welfare department, and hospitals. It contains findings from WAO's workshops, social worker experience, and secondary data. Its objective is to provide an overview of the situation of refugee communities in Malaysia with regard to SGBV and propose appropriate policy recommendations.

## Issues:

- 1. Refugee women are at increased risk of SGBV due to their lack of legal status**
- 2. Violence within refugee communities is normalised, contributing to SGBV**
- 3. Refugee women have limited access to protection and justice mechanisms and support services for SGBV**
- 4. Refugee women face limited access to healthcare services for SGBV**
- 5. Xenophobia exacerbates SGBV against refugee women and hinders their ability to seek help.**

This policy brief draws on findings from WAO's capacity building workshops with refugee women, client cases, and other sources of information, and makes corresponding policy recommendations for each of the issues above

## Introduction

As of October 2020, there are 178,450 refugees and asylum seekers registered with the United Nations Refugee Agency (UNHCR) in Malaysia, with 32% of these being women and approximately 26% being under the age of 18.<sup>1</sup>

The first refugees were Vietnamese who began to arrive by boat in Malaysia in 1975. Currently, the majority of refugees are from Myanmar. The increase in the number of refugees is the result of the ongoing persecution of the Rohingya, who are denied

<sup>1</sup> The UN Refugee Agency (UNHCR). "Figures at a Glance in Malaysia." Available at: <https://www.unhcr.org/en-us/figures-at-a-glance-in-malaysia.html#:~:text=As%20of%20end%20October%202020,or%20fleeing%20persecution%20in%20Myanmar.>

Burmese citizenship, and regularly subjected to violence at the hands of the military government.<sup>2</sup>

Malaysia is not a signatory to the 1951 Refugee Convention, nor to the 1967 Protocol Relating to the Status of Refugees, and also lacks any kind of comprehensive framework for refugees and asylum seekers. The 1951 convention establishes the principle that refugees should not be forcibly returned to a territory where their lives or freedom would be threatened. UNHCR's main role in pursuing international protection is to ensure that states are aware of, and act on, their obligations to protect refugees and persons seeking asylum.<sup>3</sup>

Refugees in Malaysia—including those registered with UNHCR—are treated as illegal immigrants.<sup>4</sup> The lack of a legal framework results in a failure to recognise the rights of refugees—such as the right to work and the right to education and healthcare—as well as in more direct violations of refugee rights, such as through abuses in immigration detention and in the form of SGBV.<sup>5</sup>

Refugees' lack of legal status in Malaysia intensifies their vulnerability to violence, as they are left unable to access treatment or justice for reasons including fear of arrest. The lack of the right to work also hinders access to legal sources of livelihood and employment opportunities, and pushes refugees into the informal sector for work, where they are often taken advantage of and subjected to abuses without any protection from mistreatment. Without the right to work, many refugee women are left to depend on their partners or their community, and are made further vulnerable to SGBV at home. Additionally, fears of arrest, detention, and police extortion often deter refugee women from reporting violence, leaving them trapped in unsafe situations.<sup>6</sup>

According to Parliamentary responses, the government says that it provides aid such as food while refugees are waiting to be accepted into another country.<sup>7</sup> However, in reality, the environment in Malaysia is far from friendly to refugees, who are prone to arrests and detention for not having valid documents, even if they possess a UNHCR card.

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2 Ahmad, A. A., Rahim, Z. A., & Mohamed, A. M. H. B. (2016). The refugee crisis in Southeast Asia: The Malaysian experience. *International Journal of Novel Research in Humanity and Social Sciences*, 3(6), 80-90.

3 Women's Aid Organisation. "The Status of Women's Human Rights: 24 Years of CEDAW in Malaysia." January 2019. Available at: <https://wao.org.my/wp-content/uploads/2019/01/The-Status-of-Womens-Human-Rights-24-Years-of-CEDAW-in-Malaysia.pdf>

4 Women's Aid Organisation. "24 Years of CEDAW in Malaysia."

5 Hansard from Malaysian Senate; "namun atas dasar kemanusiaan pelarian yang memegang kad UNHCR ini dibenarkan tinggal sementara sehingga ditempatkan ke negara ketiga atau pulang ke negara asal".23 Sept 2020

6 Women's Aid Organisation. "24 Years of CEDAW in Malaysia."

7 Hansard from Malaysian Senate; "namun atas dasar kemanusiaan pelarian yang memegang kad UNHCR ini dibenarkan tinggal sementara sehingga ditempatkan ke negara ketiga atau pulang ke negara asal".23 Sept 2020

## Issue 1 - Refugee women are at increased risk of SGBV due to their lack of legal status

In the Committee on the Elimination of All Forms of Discrimination against Women's ("CEDAW Committee's") 2018 Concluding Observations to Malaysia, the Committee emphasized that:

...the lack of a legal and administrative framework to protect and regularise the status of asylum seekers and refugees in the State party exposes asylum-seeking and refugee women and girls to a range of human rights violations, including arbitrary arrest and detention, exploitation, sexual and gender-based violence, including in detention centres, as well as limited access to the formal labour market, public education, health, social services and legal assistance.<sup>8</sup>

Similarly, Asylum Access Malaysia, which provides direct legal services to refugees, has highlighted how refugee women's lack of legal status exacerbates their vulnerability to SGBV at home, at work, and in detention centres, and simultaneously makes it far more difficult for them to access help.<sup>9</sup>

### Issue 1A - Lack of legal status pushes refugee women into the informal workforce and makes them vulnerable to SGBV

As a result of the absence of legal recognition, refugees in Malaysia largely lack access to either government benefits or aid, or the right to work.<sup>10</sup> Without the ability to receive or earn income to pay for basic expenses, many refugees are forced into the informal workforce and are vulnerable to vocational dangers as well as various forms of abuse by their employers without any protection under the law.<sup>11</sup> For refugee women, they face the risk of SGBV both at home and in their informal workplace.

As noted by academic Cecilia Ng, "Issues associated with [refugee women's] illegal status are low wages, informal and irregular work, unpaid/delayed wages, termination without notice, and sexual abuse."<sup>12</sup>

Refugee women working in the informal labour market are at particular risk of sexual harassment and exploitation. According to the Arab Renaissance for Democracy and Development (ARDD), women working in the informal labour market are at risk due to the fact that the informal labour market is, "Characterised by a lack of social protection and employment contracts, as well as exclusion from the benefits of labour legislation," and thus "informal employment is pervaded by uncertainty, insecurity, inadequate work conditions and low wages, creating power imbalances that increase employees' chances of experiencing sexual harassment."<sup>13</sup>

8 Committee on the Elimination of Discrimination against Women: Concluding observations on the combined third to fifth periodic reports of Malaysia, Adopted by the Committee at its sixty-ninth session (19 February-9 March 2018)

9 Asylum Access Malaysia. "Asylum Access Malaysia Independent Shadow Report to the Committee on the Elimination of All Forms of Discrimination Against Women. Refugee and Asylum-Seeking Women."

10 IDEAS. "Economic Impact of Granting Refugees Right to Work." Page 8.

11 IDEAS. "Economic Impact of Granting Refugees Right to Work." Page 8.

12 Cecilia Ng. (2011). Gender and Rights: Analysis for Action. Penang, Malaysia: Good Governance and Gender Equality Society Penang and Women's Development Research Centre Universiti Sains Malaysia. Page 41.

13 Arab Renaissance for Democracy and Development (ARDD). "Silent women: ARDD's Report on harassment problem in the workplace." Page 9. Nov 2018. Available at: <https://reliefweb.int/report/jordan/silent-women-ardd-s-report-harassment-problem-workplace>

Since refugees in Malaysia do not have the legal right to work, they have no choice but to partake in the informal workforce, and women in particular become vulnerable to abuse in the form of sexual harassment, exploitation, and violence. In the experience of WAO and other NGOs such as Tenaganita and Asylum Access Malaysia in providing direct services to refugee women who are SGBV survivors, refugees experiencing SGBV and harassment at the hands of their informal employers are reluctant to go to the police to report for fear of being detained. Another common issue that has been raised by refugees who have suffered violence at the hands of Malaysian nationals is that they fear no one (including authorities) will believe the word of a refugee over a Malaysian; this is due in part to the xenophobic culture and attitudes towards refugees in Malaysia.

Currently, Malaysia does not have an independent sexual harassment law to provide non-criminal recourse and remedies for survivors of sexual harassment, so the only avenue of recourse available to a survivor of sexual harassment would be to file a police report. Similarly, since informal workers are not protected under the Employment Act 1955, they have limited options for recourse if an employer withholds their wages, forces them to work unreasonable hours or perform dangerous tasks, or fails to give them time off or sick leave.

## **Issue 1B - The lack of legal status leads refugee women to be economically dependent on their partners and vulnerable to abuse**

In addition to the risk of SGBV faced by refugee women in the context of informal employment, the lack of legal recognition and the right to work also results in their economic dependence on their partners, making them not only more vulnerable to domestic violence, but also making it harder for them to escape it. It also adds to extreme financial strains and uncertainty that can exacerbate domestic situations and violence, including marital rape.<sup>14</sup>

In a workshop conducted by WAO<sup>15</sup> with Rohingya refugees conducted in September 2020, one participant shared that:

“When the women turn down their advances, the husband sometimes hits. The wife doesn’t have anywhere to go. I had been suicidal before as I was forced to sleep with my husband every day, or else he would hit me.”

Economic dependence of refugee women on their abusive partners also means that leaving the abusive situation may be nearly impossible, since most of these women lack any other financial support systems. Because government domestic violence shelters require the filing of a police report for admission,<sup>16</sup> many women would choose to stay in the abusive home over this option, and may be unaware of other options such as NGO shelters. A lack of legal recognition and marriage registration could potentially cause issues when attempting to access remedies under the DVA. Refugee women are largely

<sup>14</sup> Beh Lih Yi. “Silent in fear’: refugee women in Malaysia unprotected against violence.” Reuters. 7 Jan 2018. Available at: <https://fr.reuters.com/article/us-malaysia-refugees-women-idUSKBN1EX00F>

<sup>15</sup> Komuniti Selamat Workshop With Rohingya Refugees In Kota Tinggi, Johor 26-27 September 2020

<sup>16</sup> Women’s Aid Organisation. “The Shelter Needs of Domestic Violence Survivors and the Availability and Accessibility of Shelters and Related Services in Selangor and Kuala Lumpur.” August 2019. Available at: <https://wao.org.my/wp-content/uploads/2020/01/Shelter-Needs-of-Domestic-Violence-Survivors-in-Selangor-KL.pdf>

unable to seek recourse from the courts for divorce due to their marriages not being registered due to the lack of legal recognition. This also leads to further issues surrounding maintenance and child custody.

## **Recommendations:**

- 1.1 The government should act to implement the CEDAW Committee's recommendation and adopt a comprehensive legal framework for refugees and asylum seekers, so they are no longer regarded as illegal immigrants. This would remove the barriers to refugee women survivors of SGBV seeking help due to fear of arrest or detention.
- 1.2 The government should allow refugees to work legally. This would alleviate the issue of many refugees being pushed into informal employment and subsequently being subjected to abuses by their employers without any avenues for recourse. Additionally, it would help mitigate some of the exacerbating factors to domestic violence among refugee families, such as extreme financial stress. Finally, this would allow refugee women to avoid being completely financially dependent on their abusers and allow them to support themselves in the event they leave the abusive home.
- 1.3 The government should immediately pass the proposed sexual harassment bill in Parliament, as this would provide some recourse for refugee women who are survivors of sexual harassment in the context of informal employment without them having to go to the police, which they may be reluctant to do for fear of arrest and detention.
- 1.4 The government should also allow for registration of refugee marriages nationwide.

## **Issue 2 - Violence within refugee communities is normalised, contributing to SGBV**

Based on feedback received from participants in WAO's workshops,<sup>17,18</sup> refugee women face deep-rooted patriarchal attitudes, social norms, and practices that stereotype and discriminate against them. Some of these justify and normalise violence in the home. Furthermore, domestic violence, psychological abuse, and sexual violence are found to be prevalent within these communities.

Some studies have shown that there is a direct correlation between domestic violence and changes in men's income-generating activities in refugee communities.<sup>19</sup> One study of Rohingya men in Bangladesh found that:

Negative changes in men's lives, such as unemployment and alcoholism, have a much stronger negative impact on women as they increase the women's economic burden. Men may then attempt to prove their 'masculinity' through irresponsible sexual behaviour, domestic violence or other ways. The women face threats from men within their own family and community as these men not only seek control over the income, but also seek to reassert their status as head of the household<sup>20</sup>.

<sup>17</sup> Komuniti Selamat Workshop With Rohingya Refugees In Ampang 14 & 17 September 2020

<sup>18</sup> Komuniti Selamat Workshop With Somali Refugees In Gombak, Selangor 2 & 5 October 2020

<sup>19</sup> Akhter, S., & Kusakabe, K. (2014). Gender-based violence among documented Rohingya refugees in Bangladesh. *Indian Journal of Gender Studies*, 21(2), 225-246.

<sup>20</sup> Akhter, S., & Kusakabe, K. (2014). Gender-based violence among documented Rohingya refugees in Bangladesh. *Indian Journal of Gender Studies*, 21(2),

Experiences shared by refugee women with WAO also support the existence of this correlation.

In a workshop conducted by WAO with Rohingya refugees in September 2020,<sup>21</sup> 15 participants were asked about who has power in their families. Their responses were that:

- i) the father has power over the mother and
- ii) the husband has power over the wife and children. The participants acknowledged that the power in this context was granted by the women themselves and the society.

In another workshop with Somali refugees, held in October 2020,<sup>22</sup> when the discussion of consent was raised, the participants, made up of 34 women and two girls, said “religiously it’s not good to say no (to sex), but one has the right to say no or yes.” When asked if saying no would make the husband feel bad, the responses were;

- i) “I think so” and
- ii) “I blame myself, I’m the one who’s saying no.”

In this same workshop, other cultural norms mentioned by participants were:

- i) “People say if you have a happy marriage, it’s not good because it’s healthier / necessary to fight in a marriage;”
- ii) “Two people who are married are not always happy
- iii) “In Somalia, they say that if your husband doesn’t touch you (hit you), you should be patient”
- iv) “In our culture in Somalia, we were raised to be patient with men, and for our children to respect their fathers, to not react.”

Such cultural norms, coupled with a lack of access on the part of refugee women to information about their rights and support services that are available, leads to not only the normalisation but also the acceptance of SGBV among refugee communities.

## **Recommendations:**

2.1 The government should fund more outreach among refugee communities to raise awareness on SGBV. This could be facilitated and implemented by UNHCR and partner NGOs who could go into refugee communities to conduct trainings and workshops similar to the ones WAO has conducted with Rohingya and Somali refugee women. Additionally, this could include awareness raising materials via targeted media, social media, and other mediums in the relevant languages.

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225-246.

21 Komuniti Selamat Workshop With Rohingya Refugees In Ampang 14 & 17 September 2020

22 Komuniti Selamat Workshop With Somali Refugees In Gombak, Selangor 2 & 5 October 2020



## Issue 3 - Refugee women have limited access to protection and justice mechanisms and support services for SGBV

### Issue 3A - Lack of SOPs on police and welfare support for refugee SGBV survivors results in many refugee women not receiving the help they need

Although the Domestic Violence Act 1994 and the Penal Code apply to refugees, in practice, their implementation is lacking when it comes to refugees, and these individuals are denied the ability to utilise the protections and access to justice available under the law. Refugee women seeking safety from abusive spouses must report to the police to obtain an Interim Protection Order (IPO), but the police have the authority to arrest refugees at any time—even when reporting a crime. A woman may avoid the police by obtaining an Emergency Protection Order (EPO) from the Social Welfare Department. However, these orders are only valid for seven days, and EPOs still require police intervention in the event of a breach of the order.<sup>23</sup> Based on their experience, the Child Protection and Sexual and Gender-based Violence (CP - SGBV) Unit of UNHCR Malaysia have seen very few refugees successfully obtain an EPO. This could perhaps be due to a lack of information being made available to refugees in their respective languages about available protection.

Furthermore, at the start of MCO, UNHCR Malaysia had contacted the Talian Kasih regarding services being made available to refugees. They mentioned that services were available; however, in practice, access is severely limited due to a lack of interpreters. Talian Kasih also mentioned that the most that they could do was redirect the refugee calling to the nearest police station.

Access to police reporting, case updates, and Interim Protection Orders (IPO) under the Domestic Violence Act 1994 are inconsistent for refugee women who experience and report SGBV. In some instances, such as the case study highlighted below, police officers have denied survivors their right to make initial police reports, and in situations where they are able to make a report, many survivors share that there is a lack of updates on case investigations. Additionally, if the refugee women lack documentation of their marriage, they cannot get protection orders under the DVA, which currently does not cover non-married partners within its scope.

Refugee's fear of police due to abuse of power (e.g. extortion suffered either by the survivor or their community members) has resulted in some refugee survivors being extremely reluctant to approach the police for assistance<sup>24</sup> UNHCR has also anecdotally heard of cases where refugee rape victims who approach the police station are instead detained for lack of documentation.

*Case Study 1 - Aliyah is a Rohingya refugee who has experienced SGBV since 2017 by two different perpetrators, beginning in her country of origin. Aliyah's ex-partner, used to coerce her to have sexual relations with him, and blackmailed her with publishing intimate photographs of her which he had taken without her consent if*

<sup>23</sup> International Women's Rights Action Watch Asia Pacific (IWRAP), When Illegality Is The Starting Point: Refugees And Domestic Violence In Malaysia.

<sup>24</sup> Welton-Mitchell, C., Bujang, N. A., Hussin, H., Husein, S., Santoadi, F., & James, L. E. (2019). Intimate partner abuse among Rohingya in Malaysia: assessing stressors, mental health, social norms and help-seeking to inform interventions. *Intervention*, 17(2), 187.

*she did not comply. Although he told Aliyah he had deleted the photographs, he instead stored them and later uploaded them to social media once he and Aliyah had arrived in Malaysia.*

*In 2020 Aliyah decided to file a police report following this incident as she feared her pictures being circulated. However, when she tried to take action against the perpetrator and prevent the further dissemination of the images, the police instead detained Aliyah for four hours at a local police station before she could even finish lodging her report. Aliyah was detained on the basis of her status and denied her right to report. Aliyah managed to contact a community leader who assisted to free her from the police hold, even after which she was denied her right to lodge a report. Aliyah did not want to risk trying to take action at a different police station and being detained again.*

Based on the experience of WAO social workers, there are times when the police state that no action could be taken, therefore these cases are not investigated. Even in cases where the investigation is concluded and results in the perpetrator being

charged, survivors are sometimes not kept informed, which causes their IPO to expire and also causes them to lose the opportunity to apply for a Protection Order (PO) which must be filed within 14 days of a perpetrator being charged. In such situations, survivors are left unprotected by perpetrators due to the lapse of the IPO and being kept in the dark around the status of their case.

Due to the lack of SOPs, response by the welfare department (JKM) has been inconsistent in providing support to survivors of SGBV and children in need of protection due to nationality status, as observed by WAO in our case management. In situations where survivors are identified and referred to JKM by One Stop Crisis Centres (OSCCs), JKM does provide protection, by facilitating the survivor to get an Emergency Protection Order (EPO), which is from JKM itself, as well as to get IPOs and POs.

However, there is no clear directive on the process flow for refugee cases.

### **Issue 3B - Limited safe spaces and shelters for refugee survivors of SGBV**

A 2019 study by WAO and Institut Wanita Berdaya Selangor found that there are a lack of shelters in Malaysia specialising in domestic violence and other forms of SGBV.<sup>25</sup> For those shelters run by JKM, survivors must file a police report before they can be admitted, which is a deterrence for many survivors.<sup>26</sup>

Another study similarly found that there are a lack of shelters providing specialised services for survivors of SGBV, as well as shelters that accept non-citizen women.<sup>27</sup>

According to the latter study, some government shelters only provide admission to non-

25 Women's Aid Organisation. "The Shelter Needs of Domestic Violence Survivors and the Availability and Accessibility of Shelters and Related Services in Selangor and Kuala Lumpur." August 2019. Available at: <https://wao.org.my/wp-content/uploads/2020/01/Shelter-Needs-of-Domestic-Violence-Survivors-in-Selangor-KL.pdf>

26 Ibid.

27 Loganathan, T., Chan, Z. X., de Smalen, A. W., & Pocock, N. S. (2020). Migrant Women's Access to Sexual and Reproductive Health Services in Malaysia: A Qualitative Study. *International journal of environmental research and public health*, 17(15), 5376.

citizens who have been issued protection orders by the court.<sup>28</sup>

The lack of availability or accessibility of government-run shelters results in many survivors being dependent on shelters and other support services being provided by NGOs.

### **Issue 3C - Language barriers hinder access to hotlines and other support services**

Language barriers also pose an issue for refugee women who are survivors of SGBV to access services, resulting in them lacking knowledge of their rights and available aid.<sup>29</sup> This barrier exists for services such as Talian Kasih and other local hotlines, as they do not cater to individuals who do not speak the local languages.

Based on the experience of WAO's social workers, the lack of interpreters at police stations can also result in a refugee survivor's report not being taken down at all.

The provision of interpreters who are also trained in SGBV response and sensitised to survivors' trauma is critical to survivors being able to come forward and fully express themselves, which is crucial both to them receiving the treatment and support they need as well as to relaying information that may be relevant to the police or court case<sup>30</sup>. Additionally here is a further challenge of refugee community interpreters being required to take part in legal and court proceedings, which may cause them to be reluctant to get involved.

*Case Study 2 - Jenny is a refugee in Malaysia. She was raped by someone in her community; the perpetrator recorded the act and disseminated the video among members of the community. Jenny was referred to WAO in 2020 for assistance to take police action against the perpetrator. There is only one translator available for the dialect that Jenny speaks, and this translator only works on certain days of the week. This made it challenging to coordinate information-gathering sessions, counselling sessions, and plans to go to the police station to lodge a report.*

*After the interpreter assisted with taking down Jenny's full case history, her WAO social worker then translated the police report into Malay. Two social workers, the interpreter, and Jenny went to the police station to lodge the report together. However, due to the pandemic, the police stations were only allowing one person inside at a time to lodge the police report. When WAO explained that the client needed an interpreter, the police said that at most two people could be allowed into the station. However, the interpreter could neither speak Malay, nor advocate on behalf of Jenny. The WAO social workers had to explain the situation to the police officers multiple times before they consented to allow Jenny, the interpreter, and one social worker into the station to lodge the police report.*

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<sup>28</sup> Ibid.

<sup>29</sup> Malaysiakini: "Survey: Migrant workers, refugees in M'sia fear speaking up on injustices" 31 Oct 2019

<sup>30</sup> Assoc Prof Siti Hawa, Forum on GBV & Refugees "Examining the Sources and Impact of Violence against Women through a Refugee Lens" held on 8 Dec 2020

## **Recommendations:**

3.1 The police and JKM must have clear SOPs to deal with cases of SGBV against refugee women. Among other things, these SOPs must achieve the following:

- Ensure that refugee women who go to the police to report SGBV are not arrested or detained as a result of their immigration status.
- Ensure that translators are available or on-call to support refugee women in filing police reports and obtaining protection orders related to SGBV.
- Accept alternative forms of evidence of marriage from refugee women who may lack documentation but are being abused by their husbands so they can pursue a case under the Domestic Violence Act 1994.

3.2 For JKM shelters serving SGBV survivors, remove the requirement of having to file a police report, since this effectively excludes refugee women—who may not want to go to the police for fear of arrest and detention—from getting the help they need. Rather, JKM can conduct an intake assessment to understand the survivor's circumstances and evaluate the need for shelter.

3.3 The government should allocate additional resources through the national budget to assist refugee women SGBV survivors. This includes, among other things, allocations for services such as staffing the Ministry of Women, Family, and Community Development's Talian Kasih hotline with additional staff specialised in both SGBV and working with refugees who face trauma, as well as available interpreters in the relevant languages. Such specialised support services and interpreters must also be made available at police stations, JKM offices, and courts.

3.4 As part of a broader awareness campaign targeting SGBV within refugee communities, the government should undertake targeted outreach in refugee communities in the relevant languages to raise awareness of available support services, including shelters, hotlines, and counselling. There should also be production of easily understandable and accessible information in the form of booklets, videos, voice messaging, and text message

3.5 There should be systematic training of police and welfare officers on refugee issues in order to achieve greater sensitization in handling cases involving refugees. These training should encompass issues such as interpretation, culture, refugee challenges, and effective communication. Joint dialogue between UNHCR, enforcement agencies, and relevant stakeholders should also be held on a regular basis as a platform to raise and address related issues.

## Issue 4 - Refugee women face limited access to healthcare services for SGBV

### Issue 4A - OSCC guidelines are not uniform nor refugee friendly

Although there are standard OSCC guidelines,<sup>31</sup> each hospital has their own internal SOPs which determine the course of actions within the Emergency Department. Although making a police report is not a prerequisite to receiving medical support and services within OSCCs, some hospitals still impose such a requirement: in certain hospitals, survivors who refuse to lodge police reports are turned away or not seen by the OBGYN unless payment for medical services is made up-front.

Additionally, based on WAO's experience assisting refugee women survivors of SGBV, without the POL 59 form, which can only be obtained from the police upon lodging an SGBV-related report, hospitals may in certain circumstances require refugee clients to put make a down payment for the fees before being registered by the registrar as a patient in need of medical services. Survivors who are non-Malaysians are also typically not referred to JKM even if they need services.

Responses from Rohingya participants in a WAO workshop held in September 2020<sup>32</sup> indicated that when refugee women go to the hospital to seek treatment for injuries, they are asked to first make a police report and also make payment before any treatment is provided.

### Issue 4B - Refugee women are subjected to higher rates for treatment at government hospitals

In addition to other barriers to seeking medical treatment, refugees are subject to foreign national fees, which can be a barrier to them getting the care they need, particularly given their lack of legal right to work.<sup>33</sup>

In 2005, UNHCR negotiated a Memorandum of Understanding with the Ministry of Health to provide a discount of 50% of the foreigner rate at public healthcare facilities for all refugees registered with UNHCR.<sup>34</sup> However, these fees still impose significant barriers to accessing healthcare for many refugees, including survivors of SGBV.

*Case Study 3 – Jenny, a refugee in Malaysia whose case was discussed earlier and who was referred to WAO in 2020, found it very challenging to get a job to support herself and her children because she had a bone infection, a chronic health issue that she developed in her home country. Jenny saw a doctor in Malaysia for treatment, who said that it required surgery, and that without surgery the infection could spread. Jenny is not encouraged to stand for long periods of time or be in contact with water for too long; this excludes her from some of the only jobs available to refugees in Malaysia – food service or cleaning jobs.*

31 Loganathan, T., Chan, Z. X., de Smalen, A. W., & Pocock, N. S. (2020). Migrant Women's Access to Sexual and Reproductive Health Services in Malaysia: A Qualitative Study. *International journal of environmental research and public health*, 17(15), 5376.

32 Komuniti Selamat Workshop With Rohingya Refugees In Kota Tinggi, Johor 26-27 September 2020,

33 Women's Aid Organisation. "24 Years of CEDAW in Malaysia."

34 Chuah, F. L. H., Tan, S. T., Yeo, J., & Legido-Quigley, H. (2019). Health System Responses to the Health Needs of Refugees and Asylum-seekers in Malaysia: A Qualitative Study. *International journal of environmental research and public health*, 16(9), 1584.

*As a refugee, Jenny is charged twice the rate for healthcare that Malaysian citizens are. She approached multiple organisations for assistance to fund the surgery, but was turned away on the basis that there were too many funding requests. As a result, Jenny decided not to pursue surgery and instead has been forced to live with the chronic pain in her leg.*

#### **Issue 4C - Refugees incur risk of being reported to Immigration and being detained when they seek medical treatment**

Another barrier refugee women face when seeking medical treatment relates to a directive issued by the government that requires public hospitals to refer undocumented asylum seekers (those without a UNHCR card) and migrants seeking treatment to the Immigration Department.<sup>35</sup> In addition to the risk of arrest by police and the high fees imposed on refugees, the risk of being reported to Immigration and detained serves as yet another obstacle to refugees seeking medical treatment, including for injuries related to SGBV.

#### **Recommendations:**

4.1 The Ministry of Health should introduce additional guidelines in addition to the existing SOPs for OSCCs to direct hospital emergency departments in cases of treatment of refugees, including refugee SGBV survivors. These SOPs should ensure that all refugee survivors of SGBV are able to access the treatment they need without filing a police report and regardless of their ability to pay.

4.2 The Ministry of Health should amend the treatment rates for refugees to be the same as local rates, since although registered UNHCR cardholders are entitled to a 50% discount from foreigner rates, these rates can still be prohibitive for refugee women to seek treatment for injuries from SGBV and other conditions. Malaysia should consider adopting a model similar to Thailand's, which allows for undocumented migrants and refugees to access health insurance<sup>36</sup>.

4.3 In line with the CEDAW Committee's recommendation in their 2018 Concluding Observations, the government should immediately repeal the directive requiring public hospitals to refer undocumented asylum-seekers and migrants to the Immigration Department.<sup>37</sup>

<sup>35</sup> Women's Aid Organisation. "24 Years of CEDAW in Malaysia."

<sup>36</sup> Susheela Balasundaram (UNHCR), Forum on GBV & Refugees "Examining the Sources and Impact of Violence against Women through a Refugee Lens" held on 8 Dec 2020

<sup>37</sup> CEDAW/C/MYS/CO/3-5. 9 Paragraph 40(c). March 2018. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbol-no=CEDAW/C/MYS/CO/3-5&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CEDAW/C/MYS/CO/3-5&Lang=En)

## Issue 5 - Xenophobia exacerbates SGBV against refugee women and hinders their ability to seek help

In addition to the legal and structural barriers that limit the ability of refugee women survivors of SGBV to seek help, cultural barriers in the form of xenophobia also exist. Such attitudes have existed towards migrant workers and refugees for some time, but have been further exacerbated since the start of the COVID-19 pandemic, particularly against the Rohingya community.<sup>38, 39, 40</sup>

Such xenophobia and antagonistic attitudes from police, politicians, and even ordinary citizens both in person and online create yet another barrier to refugee women seeking help for SGBV, whether from the police, hospitals, or other entities.

*Case Study 4 - Shahira, a woman from a Middle Eastern country, came to Malaysia seeking asylum in 2019 with her ailing sister and mother. Within a few months of her arrival in Malaysia, Shahira's mother passed away. As her ailing sister was very much dependent on her, Shahira took a job at a restaurant in town.*

*Following the discrimination she faced from her supervisor at her place of employment, Shahira decided to quit the job. Shahira's colleague, Mira (a local), and her friends attacked Shahira on her last night of employment, shouting that it was their only opportunity to attack her. Shahira was traumatised and sustained a few bruises. She became extremely afraid to step out of the house, fearing another attack from Mira and friends. However, Shahira could not seek protection from the police due to her immigration status in Malaysia. She was undocumented when the incident occurred and the locals who attacked her threatened that they would call the police and have Shahira detained. Shahira had to relocate in order to protect herself from further harm. She also could not go back to her place of employment to collect the back wages she was owed. She contacted a solicitor who represented the company she worked at and was told that there was a police report against her for being undocumented. Hence, Shahira could not come forward and seek justice for the incident of abuse that occurred, or for the compensation she was entitled to, leaving her susceptible to further harm.*

### Recommendations:

5.1 Incorporate into trainings and SOPs of police; JKM; medical officers, judges and magistrates; and other government personnel modules on responding to refugees to raise awareness and promote sensitivity in response.

5.2 Issue Public Service Announcements through the National Security Council to promote understanding and awareness on the part of Malaysian citizens of the situation of refugees in order to help curb xenophobia and violence.

38 East Asia Forum. "Disinformation and xenophobia target Malaysia's Rohingya." 19 June 2020. Available at: <https://www.eastasiaforum.org/2020/07/11/disinformation-and-xenophobia-target-malysias-rohingya/>

39 The New Humanitarian. "Fear and uncertainty for refugees in Malaysia as xenophobia escalates." 25 May 2020. Available at: <https://www.thenewhumanitarian.org/news/2020/05/25/Malaysia-coronavirus-refugees-asylum-seekers-xenophobia>

40 Foreign Policy. "Malaysia's Coronavirus Scapegoats." 19 June 2020. Available at: <https://foreignpolicy.com/2020/06/19/malysias-coronavirus-scapegoats/>



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