

UNHCR Policy and Its Impact on Refugees in Malaysia: A Critical Assessment in 2025

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Abstract:

The goal of this research paper is to critically examine the impact of the United Nations High Commissioner for Refugees (UNHCR) on refugee protection in Malaysia, a country that is a non-signatory to the 1951 Refugee Convention. Despite lacking a domestic asylum framework, Malaysia hosts over 200,000 refugees. This study evaluates how UNHCR policies shape refugee lives, particularly in light of developments up to 2025, including the Tracking Refugees Information System (TRIS) and Malaysia's suspension of UNHCR access to detention facilities. Grounded in realism, sovereignty, and securitization theory, the paper employs a critical analysis of state-centric migration control versus humanitarian imperatives. Methodologically, the study relies on desk research, synthesizing UNHCR reports, NGO documentation, and regional policy papers. The main argument advanced is that while UNHCR remains essential for survival, its policies are structurally constrained by state sovereignty, leaving refugees in a state of "permanent temporariness". The findings underscore the need for Malaysia to adopt asylum legislation and for ASEAN to develop regional protection standards.

Keywords: UNHCR, Malaysia, Refugee Protection, Securitization, ASEAN

Introduction:

Malaysia presents a paradoxical case within global refugee governance. Despite not being a party to the 1951 Refugee Convention or its 1967 Protocol, the country has become one of the largest refugee-hosting states in Southeast Asia, accommodating over 200,000 registered refugees and asylum-seekers, primarily from Myanmar, including the Rohingya (UNHCR, 2025). Unlike neighboring states that have gradually integrated aspects of asylum protection into national frameworks, Malaysia continues to categorize refugees under the Immigration Act 1959/63 as "illegal immigrants", exposing them to detention, deportation, and systemic precarity (Loganathan et al., 2022). In this legal vacuum, the United Nations High Commissioner for Refugees (UNHCR) has taken on the critical role of conducting refugee status determination, issuing identity documents, and providing limited access to essential services. The prominence of UNHCR in Malaysia, nevertheless, provokes debates on sovereignty, humanitarian duty, and governance. Researchers contend that UNHCR

frequently acts as a “surrogate state” where governments decline to establish asylum systems, delivering protection yet simultaneously allowing state withdrawal of responsibility (Barnett, 2011). This situation is especially visible in Malaysia, where authorities permit UNHCR’s operations while enforcing rigid border controls and unclear policy approaches. These circumstances underscore the ongoing conflict between national sovereignty and humanitarian obligations, a concern that continues to shape international relations theory (Nah, 2019).

Between 2020 and 2025, unfolding developments have deepened this delicate equilibrium. Malaysia’s rollout of the Tracking Refugees Information System (TRIS) and the MyRC documentation card signals an effort by authorities to reclaim authority over refugee data, carrying profound consequences for surveillance, securitization, and the impartiality of humanitarian governance. At the same time, UNHCR has encountered mounting operational barriers, including its curtailed entry into immigration detention facilities since 2019, reducing its ability to oversee violations and uphold safeguards. (HRW, 2024). These restrictions underline the securitization of refugees in Malaysia, whereby they are framed as threats to public order, national security, and social cohesion rather than as rights-bearing individuals. (Mahalingam, 2022)

At the regional level, Malaysia’s upcoming chairmanship of the Association of Southeast Asian Nations (ASEAN) in 2025 positions refugee governance within broader debates on regional diplomacy, security, and human rights. While ASEAN has traditionally upheld the principle of non-interference, scholars note that regional cooperation on refugee issues has slowly evolved. (Kneebone et al., 2025). Malaysia’s leadership role thus presents both an opportunity and a challenge: the potential to push for regional refugee protection standards, but also the risk of reinforcing minimalist, security-focused responses. At the same time, the resilience of refugees themselves is reshaping the protection landscape. Community-led

initiatives, including informal schools, healthcare projects, and livelihood networks, have emerged as essential mechanisms of survival in the absence of state support (Refugees, 2025). These grassroots practices highlight not only refugee agency but also the structural inadequacies of existing governance arrangements. They resonate with human security perspectives, which shift focus from the preservation of state sovereignty to the safeguarding of individual dignity, rights, and survival.

The goal of this research is to critically assess the role of UNHCR in shaping refugee protection in Malaysia, particularly in light of recent digital developments up to 2025. The analysis asks: “To what extent do UNHCR’s policies alleviate refugee precarity in Malaysia, and how are these policies constrained by state sovereignty and securitization practices?”

Methodology and Scope

This research adopts a desk-based qualitative methodology, drawing primarily on secondary sources to critically assess the role and impact of UNHCR policies on refugee protection in Malaysia, particularly in the context of the TRIS/MyRC digital identification system introduced in 2025. Given the legal ambiguity surrounding refugee status in Malaysia and the securitized nature of migration governance, the use of secondary data offers a practical and ethically sound approach. Sources include UNHCR reports, NGO publications, academic literature, policy briefs, civil society statements, and investigative journalism. These materials provide a multi-scalar understanding of refugee governance, encompassing both institutional policy frameworks and the lived experiences of affected populations as represented in advocacy and documentation efforts.

The scope of the study is limited to developments between 2020 and 2025, allowing for a focused analysis of how recent technological shifts in refugee governance intersect with

longer-standing structural issues, such as the absence of asylum legislation and Malaysia's non-signatory status to the 1951 Refugee Convention. In particular, the study evaluates the impact of TRIS/MyRC on the protection-mandate of UNHCR and how digital infrastructures are reconfiguring the refugee–humanitarian–state triad. By analyzing the implementation and discourse surrounding TRIS, the research aims to identify broader patterns of securitization, humanitarian delegation, and data governance that shape refugee lives.

However, a key limitation of this approach lies in the absence of primary fieldwork. The study does not include direct interviews with refugees, UNHCR officials, or Malaysian authorities. While this is largely due to ethical and logistical constraints, particularly the risk of traumatization and the lack of safe, secure access to refugee communities—it nonetheless restricts the extent to which the research can incorporate first-hand perspectives. This raises epistemological questions regarding representation: whose voices are heard, and through what mediating structures? To address this, the study carefully engages with refugee testimonies and grassroots perspectives available through civil society reports, local community initiatives, and refugee-led documentation projects. While these do not substitute for participatory research, they provide insight into refugee experiences and responses to TRIS/MyRC and UNHCR policy more broadly.

The research also incorporates a degree of ethical reflexivity, recognizing the power dynamics inherent in studying marginalized populations from a distance. As refugee protection increasingly intersects with surveillance, biometrics, and securitized governance, the positioning of the researcher must be critically examined. In representing the concerns of displaced populations without direct collaboration, there is a risk of reinforcing the very exclusions the study seeks to critique. Therefore, efforts have been made to foreground

refugee agency, avoid technocratic abstraction, and remain attentive to the politics of knowledge production in humanitarian contexts.

Ultimately, the methodology chosen allows for a critical and theoretically grounded exploration of how UNHCR policies operate within Malaysia's securitized refugee regime. By triangulating a range of credible and current secondary sources, and by situating the analysis within established frameworks of realism, securitization theory, and human security, the study contributes to the broader literature on refugee governance while acknowledging the methodological constraints and ethical responsibilities inherent in this form of research.

Theoretical Framework

To address this question, the paper applies a theoretical framework that integrates;

- i. Realism
- ii. Securitization Theory
- iii. Human Security

Realist perspectives emphasize Malaysia's prioritization of sovereignty and border control (Orchard, 2014), while securitization theory explains the discursive and political framing of refugees as existential threats (Buzan et al., 1998). In contrast, human security approaches redirect attention to the lived experiences of refugees and the humanitarian obligation to protect (Barnett, 2011). This triangulation provides a robust foundation for analyzing both structural constraints and opportunities for reform. In relation to the existing literature, this study engages with three main strands.

- i. Scholarship on humanitarian governance has examined the ambivalent role of UNHCR in non-signatory states, underscoring how it both mitigates and entrenches protection gaps (Barnett, 2011).

- ii. Research on Malaysia has highlighted the securitization of refugees and their ambiguous legal status within national policy frameworks (Nah, 2019)
- iii. Regional studies point to the limitations of ASEAN's refugee governance, while also identifying spaces for incremental policy innovation (Alva, 2019)

By bringing these literatures into dialogue with recent developments such as TRIS, detention access restrictions, and Malaysia's ASEAN chairmanship, this paper contributes fresh insights into the evolving dynamics of refugee protection in Southeast Asia.

The main argument advanced is that while UNHCR remains vital for the survival and recognition of refugees in Malaysia, its effectiveness is severely constrained by state sovereignty and securitization. The TRIS/ MyRC initiative exemplifies how humanitarian policies are increasingly subordinated to state surveillance, embedding refugees in a system of "permanent temporariness". The upcoming ASEAN chairmanship offers a potential platform for policy innovation, yet the principle of non-interference is likely to limit transformative outcomes. Ultimately, the paper contends that sustainable refugee protection in Malaysia requires both national asylum legislation and stronger regional frameworks, supported by international responsibility-sharing. The paper aims to situate itself against existing refugee studies, humanitarian governance literature, Malaysian scholarship, and ASEAN-focused research. The goal is not to produce a mechanical literature review but to critically weave scholarship into the argument, showing what is already known, where the gaps are, and how this paper adds value in 2025.

The securitization of refugees in Malaysia, as highlighted by Alice Nah, is a central feature of the country's migration governance and contributes directly to the precarious legal and social position of asylum-seekers (Nah, 2019). Despite Malaysia's role as a host to over 200,000 refugees and asylum seekers, the state continues to legally categorize them as "illegal

immigrants” under the Immigration Act 1959/63. Nah argues that this legal ambiguity is not accidental, but part of a broader strategy of governance through insecurity, where the absence of legal status renders refugees both visible and vulnerable to state power (Nah, 2019). In view of this thought-processing, the idea of securitization is not just about it being a rhetorical device rather, it is a set of institutionalized practices, including raids, detention, and denial of basic human rights, that aim to so-called “discipline” refugee mobility and discourage settlement.

This trend reflects a broader regional and global trend in which refugees are seen as security threats instead of individuals with inherent rights. Bureaucratic and political rhetoric legitimize these measures, showing refugees as burdens or dangers to societal stability. Malaysia's refugee framework is designed as a tool of entrenched structural violence, and securitization persistently compromises the humanitarian imperative of protection (Hoffstaedter, 2024).

In these circumstances, it is a significantly challenging situation for the Association of Southeast Asian Nations, ASEAN, to address the task of protecting the rights of the refugees while adhering its obligatory compliance to respecting the principles of national sovereignty, non-interference and consensus-driven policymaking. Owing to these impediments and the obligatory duty of ASEAN to respect and value these state norms, ASEAN has not been able to harness collective action in order to respond to refugee emergencies at the international level, such as the Rohingya crisis (Shivakoti, 2017). Protection of ASEAN as an institution focuses on the management of migration and refugees as a population instead of ensuring the protection of the basic rights. It is significant to note that the Member States of ASEAN are not obligatory to formulate and adhere to a formal asylum framework or a binding refugee policy. These member states are not legally questioned by the organization in regards with to

humanitarian crisis when it comes to refugees. Nevertheless, opportunities for incremental progress exist, including utilizing existing ASEAN entities and platforms to integrate refugee protection into broader humanitarian and migration governance strategies (Fornale, 2016). Furthermore, civil society coalitions and parliamentary advocacy are increasingly shaping debates and promoting refugee-inclusive reforms at both national and regional levels.

Literature Review

The study of refugee protection in Malaysia must be situated within intersecting debates in refugee studies, humanitarian governance, and regional security. Malaysia has long stood as a paradoxical case in global refugee politics: while hosting a sizable refugee and asylum-seeking population, it remains a non-signatory to the 1951 Refugee Convention and its 1967 Protocol. This legal posture has created a regulatory vacuum in which refugees are rendered structurally invisible under national law; classified as “illegal migrants” and denied formal rights to work, education, or legal residence. As Hoffstaedter and Jalil (2024) argue, this has produced a “governance void” in which international humanitarian actors, most notably UNHCR, assume core state functions without the legal or political authority to institutionalize long-term solutions (Jalil, 2024). The literature on humanitarian governance is essential to understanding the implications of this void. Barnett (2011) conceptualizes UNHCR’s role in such contexts as that of a “surrogate state,” wherein humanitarian actors temporarily assume responsibilities abdicated by host governments (Barnett, 2011). This substitution, however, is double-edged: while ensuring basic protection and services, it simultaneously entrenches a humanitarian logic that prioritizes immediate survival over structural reform. Barnett (2011) cautions that this arrangement not only legitimizes state disengagement but also reproduces a regime of exception in which refugee rights are conditional, revocable, and dependent on external actors rather than codified in domestic law (Barnett, 2011).

Chimni, in his 2000 seminal article, “Globalization, Humanitarianism and the Erosion of Refugee Protection,” offers a foundational critique of the structural underpinnings of the international refugee regime (Chimni, 2000). He argues that humanitarianism, far from being a neutral or benevolent force, has increasingly aligned with the interests of powerful states under conditions of neoliberal globalization (Chimni, 2000). In this context, UNHCR is not merely a humanitarian actor but a vehicle through which hegemonic states externalize border control and manage the mobility of displaced populations in the Global South. Chimni (2000) contends that this instrumentalization of humanitarianism leads to the gradual erosion of refugee rights: temporary protection replaces durable solutions, legal entitlements give way to discretionary aid, and the norm of asylum is increasingly subordinated to national security concerns (Chimni, 2000). His analysis challenges liberal portrayals of UNHCR as a purely protective institution, exposing how its operations can sustain exclusionary practices through a facade of care.

This framework is highly relevant to the Malaysian context, where UNHCR’s activities, though lifesaving, risk reinforcing a status quo in which refugees remain outside formal legal protection, governed instead through precarious, extra-legal arrangements. Chimni’s (2000) structural critique thus provides a powerful lens for interrogating the complicity of humanitarian actors in maintaining a system that is more managerial and temporary rather than transformative. In this way, UNHCR’s operational pragmatism often aligns with the strategic interests of host states and donor governments, leading to a form of “refugee management” rather than protection. In this framework, ad hoc arrangements, such as refugee cards or informal labor access—are not transitional mechanisms toward legal reform but become institutionalized substitutes for it. As such, UNHCR’s presence, rather than challenging the absence of a legal asylum system, may inadvertently stabilize it by normalizing extralegal governance.

Betts and Orchard (2014) further conceptualize this as the “implementation gap” between international refugee norms and state practice, emphasizing that non-compliance is not merely a failure of enforcement but reflects deliberate political choices by states to manage mobility on their own terms (Orchard, 2014). In the Malaysian context, UNHCR occupies an ambivalent space: it is tolerated by the state, but lacks legal enforcement power, operating instead through negotiated access and bureaucratic discretion. This dynamic reflects what Barnett (2011) terms the “empire of humanity”; a global order where humanitarian actors exercise soft power but remain subordinate to sovereign authority.

While this scholarship has advanced the literary understanding of the structural limitations and political compromises inherent in UNHCR’s operations, it has yet to fully engage with how new technologies of refugee governance are transforming these dynamics. The roll-out of the TRIS/MyRC biometric registration system in Malaysia in 2025 introduces a new layer of complexity. Biometric technologies, promoted in the name of efficiency, security, and fraud prevention, represent a convergence of humanitarian governance with logics of surveillance and state securitization. Yet, their implications for refugee autonomy, protection, and rights remain under-theorized in Southeast Asian contexts. The basic aim behind this paper is to contribute to the literature by interrogating how digital infrastructures of refugee management both enable and constrain humanitarian action. It asks:

“To what extent do these technologies mitigate the limitations of the existing ad hoc system, and to what extent do they reinforce patterns of exclusion, control, and state disengagement?”

By critically analyzing the TRIS/MyRC system within Malaysia’s unique refugee governance landscape, this study addresses a significant gap in the literature and expands our understanding of how humanitarianism is being reshaped by digital securitization in the Global South.

UNHCR's Operational Role in Malaysia

In Malaysia's legal and political landscape, where the state remains a non-signatory to the 1951 Refugee Convention and has no formal asylum framework, the United Nations High Commissioner for Refugees (UNHCR) performs essential protection functions, yet inevitably operates under major structural constraints. UNHCR effectively adopts the role of a non-state surrogate protector (Nah, 2019), managing refugee status determination (RSD), documentation issuance, aid coordination, and advocacy despite lacking legal authority within the Malaysian context. UNHCR's identification of refugees and the provision of identity documentation offer a de facto protective buffer. Registration with UNHCR grants refugees limited access to humanitarian services and positions them for resettlement, though it confers no formal legal standing; a precarious shield contingent on the goodwill of authorities. This fragile protection is evident in the frequent dismissal or destruction of UNHCR cards during immigration raids, with detainees recounting how authorities often disregard the card's legitimacy and proceed with arrests regardless (Berita, 2025)

A significant erosion of UNHCR's ability to perform its protection mandate has emerged in recent years, notably through declining access to immigration detention centers. Since August 2019, UNHCR has been denied entry to such facilities, barring it from identifying refugees among detainees or monitoring conditions of confinement; many of which are characterized by overcrowding, abuse, and minimal oversight. According to a recent report published by Human Rights Watch (2025), "The Malaysian government is detaining about 16,000 migrants, refugees, and asylum seekers in immigration detention centers. Detainees spend months or years in overcrowded, unhygienic conditions, routinely subjected to physical and psychological abuse, without judicial oversight and at risk of indefinite detention. Inadequate medical care and malnutrition is widespread in these facilities. From January to June, there were 20 reported deaths in Malaysia's immigration detention centers (HRW, 2025)."

The government's denial of access to immigration detention centers, including the Baitul Mahabbah centers for children, has significantly impaired UNHCR's ability to carry out its core functions. This exclusion not only undermines UNHCR's role as a safeguard for refugees and asylum seekers but also renders it susceptible to political removal or marginalization. The conditions within these detention centers are characterized by arbitrary and indefinite detention, unsanitary environments, and abuse, highlighting the critical need for independent monitoring and oversight.

Regional Diplomacy and Malaysia's ASEAN Chairmanship

ASEAN's refugee governance remains fundamentally impeded by its core foundation value of non-interference, which stymies holistic protection mechanisms across the regional administrative and policy. As observed in surveys of Southeast Asia's normative regime, Southeast Asian states, including Malaysia, have consistently refrained from endorsing international asylum standards, emphasizing national sovereignty over refugee rights. This posture has rendered ASEAN one of the world's weakest regions in formal refugee protection frameworks (Moretti, 2023). Despite the existence of the non-binding Bangkok Principles (1966/2001), the region's lone normative act on refugee treatment, ASEAN has yet to translate them into enforceable policies or mechanisms.

Malaysia's chairmanship in 2025 thus presents a strategic opportunity, albeit fraught with institutional limitations. Analysts note that under Malaysia's leadership, ASEAN could capitalize on this moment to strengthen regional humanitarian responses, particularly regarding the Rohingya crisis, through bolstering the AHA Centre and promoting frameworks for coordinated regional resettlement (Rusli, 2025). Civil society and refugee-focused advocacy groups, meanwhile, have pressed for concrete policy innovations, such as drafting a regional refugee protection policy in alignment with ASEAN Vision 2045, and establishing an

ASEAN Special Committee on Refugees (APHR, 2024). However, ASEAN's consensus-based diplomacy and limited enforcement capacity remain significant barriers. Political pluralism among members, combined with institutional inertia, often derails any shift from symbolic posturing toward substantive action. This tension is underscored by observers' skepticism that Malaysia's leadership will lead to meaningful reforms rather than diplomatic rhetoric.

CASE STUDY: Digital Infrastructures of Refugee Governance: TRIS, MyRC, and the Reconfiguration of Protection in Malaysia

The introduction of the Tracking Refugees Information System (TRIS) and the MyRC (Malaysian Refugee Card) biometric documentation system in 2025 marks a significant inflection point in Malaysia's refugee governance regime. While presented officially as a step towards improving refugee protection through formalized identification and access to services, these digital infrastructures also deepen the logics of surveillance, control, and securitization that have long characterized the state's approach to irregular migration. It is significant to critically interrogate the dual nature of TRIS/MyRC; framed as both a tool of humanitarian coordination and a mechanism of digital surveillance, and this digital turn significantly reshapes the operational space of the UNHCR, reconfigures the refugee-state-humanitarian nexus, and raises profound ethical and political implications for refugee protection in a securitized, non-signatory state.

The official narrative surrounding TRIS and MyRC emphasizes efficiency, transparency, and refugee welfare. Malaysian government sources, in collaboration with selected private contractors and UNHCR liaisons, have argued that biometric identification facilitates better planning for humanitarian aid, prevents identity fraud, and enhances refugee safety through verifiable credentials. Deputy Home Minister Nur Jazlan Mohamed, in an interview in 2017,

while defending Malaysian government's intent behind this digitalization scheme, said; "The government will look into the matter in two dimensions - solving the issues of the existing refugees in Malaysia and preventing more refugees from coming into the country. There is a need to identify the refugees to ensure that the government have their updated and comprehensive database to decide the next course of action like providing basic necessities for their better life" (Jayaraman, 2017).

Such narratives often obscure the underlying power asymmetries that shape the deployment and operation of these technologies. As scholars of critical security studies and surveillance governance have long argued, digital technologies are never politically neutral; they often serve to reinforce state authority and control, particularly when framed through humanitarian discourses that obscure their coercive dimensions (Lattimer, 2013). In Malaysia's case, TRIS and MyRC must be understood as technologies that extend the architecture of "digital bordering" (Hoffstaedter, 2024). These systems allow the state to exert granular control over refugee bodies and movements by producing a centralized, real-time database of refugee identities. While ostensibly developed in cooperation with UNHCR, TRIS is managed by the Malaysian authorities with somewhat obscure data governance protocols, raising serious concerns about consent, data privacy, and the potential misuse of biometric data for policing or deportation purposes. Human Rights Watch (2021) has documented how, in the absence of legal safeguards or independent oversight, the state's digital registry has already been used to profile, monitor, and selectively target Rohingya communities, underlining the securitized rationale that animates the system's implementation (HRW, 2021)

Digital refugee registration systems such as TRIS and MyRC in Malaysia are an emblem of a broader global shift toward what is described as a "massification-to-individuation" logic, wherein border technologies are deployed to control the collective movement of displaced

populations, all the while extracting biometric data to individualize and monitor each and every refugee. Though such systems are often justified under the guise of improving service delivery or ensuring protection, they in fact reinforce securitized logics of migration control, effectively transforming aid mechanisms into surveillance tools. In the case of TRIS/MyRC, this logic is particularly evident in how data is centralized, shared with enforcement agencies, and used to discipline mobility, reproducing what critical scholars have identified as the “protection–control dilemma” where inclusionary promises mask exclusionary practices (Kift, 2018).

The introduction of TRIS has also altered the operational dynamics between UNHCR and the Malaysian state. Previously, UNHCR retained a degree of functional autonomy in refugee registration and status determination, even within a legally ambiguous context. While this arrangement was always politically contingent and susceptible to government pressure, it at least allowed UNHCR to act as a relatively independent arbiter of refugee protection. With TRIS, however, registration functions have been increasingly subsumed into state-controlled processes, with UNHCR relegated to a monitoring or advisory role without substantive control over the data or decisions made.

This development aligns with Michael Barnett’s notion of the “empire of humanity,” in which humanitarian actors are co-opted into the bureaucratic machinery of statecraft, often under conditions not of their choosing (Barnett, 2011). UNHCR’s reliance on negotiated access and the absence of formal legal status in Malaysia renders it highly vulnerable to policy shifts and operational encroachment. As Chimni (2000) warned in his seminal critique, the international refugee regime is increasingly structured by a managerial logic that privileges containment and control over protection and rights (Chimni, 2000). In Malaysia, TRIS exemplifies this logic: it creates a system where humanitarian actors facilitate the very technologies that may

later be used to restrict refugee mobility or legitimize exclusion. Further, the integration of digital biometric systems into refugee governance undermines UNHCR's core mandate of protection. As Duffield (2008) argues, humanitarian interventions in the Global South increasingly function within a security-development nexus, where aid is conditional upon compliance with surveillance and spatial control (Duffield, 2008). In this context, UNHCR's participation in TRIS risks transforming it from a protective actor into a data broker; a conduit for the state's security imperatives, rather than a bulwark against them.

While much of the literature focuses on institutional actors, it is equally important to foreground refugee responses to TRIS/MyRC. Emerging reports from civil society organizations such as the Refugee Action Coalition (2025) indicate growing anxiety among refugee communities regarding data collection, fingerprinting, and the opaque use of their personal information. Many refugees, especially Rohingya who have experienced persecution by state authorities both in Myanmar and in host countries, are reluctant to participate in TRIS registration, fearing potential deportation, family tracing by hostile actors, or denial of future resettlement opportunities. Such fears are not unfounded. In 2022, leaked data from a similar biometric system in Bangladesh's Cox's Bazar camp exposed thousands of Rohingya to surveillance by the Myanmar government (International, 2024)

These developments underline the limits of the "beneficiary logic" that often underpins humanitarian technology deployments. As Taylor (2017) argues, the framing of data as a tool for development or protection ignores the uneven power relations and coercive contexts in which data is extracted (Taylor, 2017). In Malaysia, participation in TRIS is not meaningfully voluntary; it is structurally compelled by the threat of exclusion from aid, healthcare, or informal protection. This dynamic erodes the ethical foundation of humanitarian assistance, reducing refugee subjects to data points in a system designed for state legibility rather than

refugee autonomy. Moreover, the language of “inclusion” used to justify TRIS obfuscates the fact that digital inclusion in a securitized regime often translates into deeper forms of marginalization. As Eubanks (2018) demonstrates, the language of 'inclusion' is often misleading: algorithmic welfare systems, what she terms the ‘digital poorhouse’, do not enhance empowerment, but instead lock the poor into regimes of surveillance, moral scrutiny, and conditional inclusion, where compliance becomes a prerequisite for basic services (Eubanks, 2018)

Beyond TRIS: Towards a Rights-Based Digital Governance Framework

Critically assessing TRIS and MyRC reveals the broader structural conditions that delimit refugee protection in Malaysia. The absence of national asylum legislation, the securitized framing of refugees, and the limited autonomy of humanitarian actors together produce a governance regime characterized by “permanent temporariness”. In this context, digital technologies do not resolve the underlying problems of legal precarity or protection gaps; rather, they entrench them in new forms, mediated by databases, biometric scans, and algorithmic decision-making. However, these outcomes are not inevitable. Scholars have proposed alternative models of “human rights-based data governance” that emphasize consent, accountability, and participation in digital humanitarian systems (Weitzberg, 2021). Applying such principles to Malaysia would require fundamental shifts: transparent data-sharing agreements between UNHCR and the state, independent oversight of biometric systems, refugee representation in system design, and robust legal frameworks to prevent data misuse. Without such safeguards, TRIS risks becoming not a bridge to protection but a digital borderland—one that obscures accountability, enables state disengagement, and perpetuates refugee exclusion.

In short, the TRIS/MyRC initiative crystallizes many of the tensions that define refugee governance in Malaysia. It exemplifies how humanitarian tools can be subsumed into state securitization strategies, how digital infrastructures reconfigure the refugee-humanitarian-state triad, and how protection is increasingly mediated through logics of control. While framed as a protective intervention, TRIS ultimately reinforces the “protection-control paradox”, wherein the very technologies meant to safeguard refugees expose them to new vulnerabilities (Jacobsen, 2019). The UNHCR’s involvement in TRIS must therefore be critically scrutinized, not because its intentions are malign, but because its structural position within Malaysia’s sovereignty-based regime leaves it little choice but to compromise. As the leadership of Malaysia assumes a leading role within ASEAN in 2025, there is an urgent need for a rights-based recalibration of refugee policy, one that resists digital securitization as a substitute for legal protection, and instead re-centers refugee dignity, autonomy, and participation in shaping their futures.

Conclusion

The purpose of this paper was to put forth an in-depth critique of the role of UNHCR in establishing a discreet mechanism of refugee protection within the socio-political dynamics of Malaysia, a country where the administrative context is marked by legal ambiguity, rising digital surveillance, and ever-evolving regional diplomacy. The theoretical as well as practical analysis undertaken in this study reveals that while UNHCR has continued to play an indispensable role in refugee survival, through its multiple contributions such as refugee status determination (RSD), documentation, and limited aid coordination, the ratio of its practically viable and impactful operations are quite seriously constrained by Malaysia’s assertion of sovereignty and the persistent absence of a formal asylum framework. The contribution of UNHCR as an effective relief provider for the disabled and disgruntled

refugees across the globe is further questioned and put into suspicion due to socio-political pressures, limited and sometimes, no access to immigration detention facilities, and most importantly, increasing tendency to align with state-centric rationale of control.

The implementation of the Tracking Refugees Information System (TRIS) and the MyRC biometric ID program is an indication of the rapidly blurring lines between humanitarian assistance and state monitoring in refugee policy. These tools of digital innovation aimed at cataloging refugees across Malaysia are presented by the Malaysian government as assets meant to increase support and coordination for the distressed refugees, however, when analyzed deeply and statistically, these tools of technological innovation are something beyond mere digital innovations in the realm of refugee rehabilitation and welfare. In fact, these tools are the solidification routes of a systematic pattern of governance in which the state agents lay stress on strict check and balance for the refugee individuals for the purpose of enhanced state security. Inventing and introducing these digital tools for the refugee population is not focused on providing genuine assistance for the refugee families on humanitarian grounds. Rather, refugees are made to pursue and follow patterns of “conditional inclusion,” a situation whereby their access to essential services and state protection depends on their participation in systems of strict digital monitoring and biometric data collection.

The rights of the refugees are compromised at the hands of a hegemonic digital infrastructure that is focused on state surveillance instead of protection of their rights. This dynamic of Protection Control Dilemma exposes the already vulnerable and displaced populations to new forms of vulnerability and insecurity. Therefore, in view of the research conducted in this research paper and the research analysis undertaken so far, following are the major

recommendations which when implemented as core policy shifts can break the pattern of state hegemony and give way to refugee rehabilitation and security.

- i. It is high time that Malaysia moves towards establishing a detailed, practical and comprehensive asylum law that is focused on providing legal recognition, basic human rights, and due process of justice provision for the refugees residing within the territorial bounds of the country. Once the legal identity of refugees in Malaysia is recognized, it would become quite possible for the national and international agencies to provide essential protection and services to the refugees.
- ii. The Association of Southeast Asian Nations, ASEAN, needs to realize its responsibility and work towards developing a structured framework at regional level for the purpose of protection of refugees and ensure that states provide them with at least minimum standards for rights-based resettlement, protection, as well as rehabilitation till they disembark towards their homelands. In this regard, in the special context of Malaysia, the upcoming chairmanship of ASEAN in 2025 by the Malaysian government is a glaring opportunity for the state as well as non-state actors to pursue this initiative and ensure that the overwhelming population of refugees residing within the territorial bounds of Malaysia are catered to with kindness and protection on part of the state.
- iii. The United Nations High Commissioner for Refugees, UNHCR, has a significant role to play in this regard. The agency should implement in-house internal reforms in order to cater to the growing challenges of ethics and morality associated with the concept of digital governance. The incumbents of the agency should focus on pursuing transparent data policies, engaging state agents to develop independent oversight bodies and mechanisms, and making sure that the representatives of displaced refugee

populations are given the opportunity to participate in the decision-making process at the national level.

To conclude the discussion, it must be reaffirmed that in order to secure the rights and basic human needs of the refugee population residing within Malaysia, it is important to indulge in positive affirmative action and persuade the state agencies to focus more on security of the refugees as human beings rather than treating them as threat and a danger to national security. Only when the administrative regime of Malaysia decides to step away from surveillance driven approaches while dealing with the refugee population will the crisis of refugee population begin to be resolved. It is significant to understand that refugees are not just sets of data or numbers on a slide, they are not mere passive recipients of humanitarian aid, in fact, they are individuals who have every right to exist as human beings with equal dignity and protection as their counterparts. It should be a priority for the host country such as Malaysia to ensure the safety and freedom of the refugee population while deciding policy narratives and while designing technological innovations. For a country like Malaysia, for an esteemed regional organization as ASEAN and for a responsible and well-reputed agency as UNHCR, it is significantly high time to rise to the occasion and ensure that the world starts moving from control-oriented models to the idea of refugee governance based on the principles of justice, legal accountability, and participatory inclusion.

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