



F28 Age Assessment Policies and Procedures for Undocumented Minors in Malaysia

Mohd Yusmiadil P. Mohd Yusof, MSc, Koning Albertlaan 216/001, Gent 9000, BELGIUM*

After attending this presentation, attendees will be informed on how age assessment procedures are taking place in Malaysia and the way they have been implemented according to Malaysian policies for undocumented minors.

This presentation will impact the forensic science community by providing a better understanding of Malaysian policies toward assessing the age of undocumented minors in regard to particular age groups, the incorporation of Islamic law (Sharia), the international bodies' involvement, and the role of local United Nations High Commissioner for Refugees (UNHCR). The issues between forensic and refugee-related matters pertaining to age assessment will be bridged and developed via interdisciplinary communication and collaboration.

Age assessment is particularly important to estimate the individual age and thus to render into which group the individual belongs. The particular age group varies and being 18 years of age remains the significant transitional year prior to becoming the age of majority. Consequently, according to the Islamic Family Law (Federal Territories) Act 1984 (Act 303) the minimum age for marriage is eighteen for men and sixteen for women. Life imprisonment is an alternative sentence for all crimes where the death penalty cannot be applied against children. In principle, children under 14 years of age cannot be sentenced to life imprisonment. However, this clause is voided if they are associated with people who possess firearms or explosives which are linked to terrorist acts. It is illegal for children under the age of 14 to work, but they are permitted to contribute to family business.

Malaysia is not a party to many of the key international human rights instruments. Malaysia is neither a party to the 1951 Convention relating to the Status of Refugees nor to the 1967 Protocol relating to the Status of Refugees. As a result, by law Malaysia does not provide any specific formal protection to people who have fled their own country due to a fear of persecution on conventional grounds. However, Malaysia has, on humanitarian grounds, given temporary shelter to refugees until they can be repatriated to their homeland or sent to a third country for resettlement.

Due to this policy, all immigrants and asylum seekers are placed under the same flag and the responsibility for age assessment is given to the UNHCR local office. Malaysia, as well as the rest of the Southeast Asian countries except the Philippines, distinguishes only two main categories of migrants; namely, documented or "legal" migrants and undocumented or "illegal" migrants. The first category includes people who enter (and are allowed to stay) in Malaysia and who hold passports, visas, work permits and other valid documents, as required by the immigration legislation. The UNHCR has its own regulation on age assessment based on several international guidelines. The criminally charged undocumented minors face another hurdle in which they will be reprimanded and referred to government-operated dental clinics for dental and skeletal age assessment.

In conclusion, age assessment performed by a health care provider or independent agency in Malaysia shows a variety of approach adopted from various policies and procedures. Standard operating procedure is a key answer to control the multiple avenues that may lead to age-assessment imprecision.

Age Assessment, Refugee, Undocumented Minors