June 29, 2020

YB Dato’ Seri Hishammuddin Tun Hussein
Minister of Foreign Affairs
Government of Malaysia
Via email: pro.ukk @kln.gov.my

Re: Treatment and Protection of Rohingya People

Dear Minister YB Dato’ Seri Hishammuddin Tun Hussein:

On behalf of the American Bar Association (ABA), the largest voluntary association of lawyers and legal professionals in the world, I thank the Malaysian Government for hosting Rohingya who have suffered gross human rights violations prior to and during 2017 as a result of state-sponsored violence in the Rakhine State of Myanmar. The International Office of Migration estimates that there are approximately 142,000 Rohingya people registered with the United Nations High Commission for Refugees in Malaysia.

The ABA is deeply concerned about recent events concerning the Rohingya people during the COVID 19 pandemic. It has been reported that the Rohingya people continue to flee persecution and conflict in Myanmar, and there are also reports that Rohingya people continue to be smuggled or trafficked from one location to another. Citing health concerns, Malaysia has apparently refused to allow three boats with approximately 200 Rohingya people to dock, and although Malaysia is not a party to the United Nations Refugee Convention, this action would nonetheless violate the principle of non-refoulement, which is part of customary international law.

Malaysia is party to both the United Nations Convention Against Transnational Organized Crime (UNTOC) and its supplementing protocol to “Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.” Therefore, pursuant to Article 25 (“Assistance to and protection of victims”) of the UNTOC and Chapter II (“Protection of victims of trafficking in persons”) of the supplementing protocol, the Malaysian government’s treatment of Rohingya people is subject to its international legal obligation to provide assistance to and protection of victims. Malaysia also is party to the ASEAN Convention against Trafficking in Persons, Especially Women and Children, which imposes a regional obligation on Malaysia to combat trafficking in persons.

The ABA asks the Malaysian government, consistent with Malaysia’s regional and international treaty obligations, to prosecute human traffickers and smugglers who may be exploiting the Rohingya for financial gain, placing them in circumstances where they are left to starve and die at sea.
The ABA appreciates Malaysia's efforts in assisting the Rohingya and asks that Malaysia give the Rohingya who are seeking refuge in Malaysia and those currently in Malaysia full protection as per accepted international human norms and principles.

Sincerely,

Judy Perry Martinez
President, American Bar Association