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## THE NEED FOR A LEGAL DEFINITION OF STATELESS CHILDREN IN MALAYSIAN NATIONAL LAW AND POLICY: THE PERSPECTIVE FROM INTERNATIONAL HUMAN RIGHTS LAW

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### INTRODUCTION

Millions of people worldwide remain stateless with various breakdowns in many regions (UN, 2018). As of 2019, the United Nations High Commissioner for Refugees (hereinafter UNHCR) estimated a total of 3.9 million stateless people in the world (UNHCR, Malaysia, 2019). According to the United Nations (UN, 2018), approximately 50 percent of the 10 million stateless people of the world are residing in Asia, with at least 1 million of them being Rohingya Muslims from Myanmar. Amongst the member states of the Association of South East Asian Nations (ASEAN), countries like Thailand, Indonesia and Malaysia continuously face challenges pertaining to statelessness and stateless children. They usually come from neighbouring countries like Bangladesh and Myanmar (SUHAKAM, 2018). This article

therefore, will examine the challenges of these statelessness and stateless children in Malaysia from a legal perspective; particularly on the definitions, categories of stateless children and the importance for the country to have national laws and policies pertaining to these issues.

## **METHODOLOGY**

This research has adopted a qualitative legal research method to examine several legislations, Parliamentary Hansards, research journals, reports from government, Non-Governmental Organisations (NGO) and the United Nations that were related to the issue of stateless children, particularly in Malaysia. In addition, several interviews with selected government department officials were conducted to support the research findings. The laws and policies related to the definitions and relevant aspects pertaining to stateless children were analysed with reference to the Convention on the Rights of the Children 1989 (hereinafter CRC 1989), the 1954 Convention Relating to the Status of Stateless Person (hereinafter the 1954 Convention) and the 1961 Convention on Reduction to Statelessness (hereinafter the 1961 Convention).

## **BACKGROUND**

### **A Brief Background on Statelessness**

Statelessness arises due to the migration and non-migration of people. A child who does not have a nationality or lost his/her nationality due to some reasons and has been living in his/her 'own' country for his/her entire life, falls into a non-migration situation (1954 Convention) and is known as an unaccompanied migrant child (IOM, 2020). Even if the child crosses borders to another country for some reasons, he/she continues to be stateless upon migration.

There are numerous reasons that can account for how children come to be regarded as stateless, for instance the migratory issue which often happens in the ASEAN region. The geographical and economic pull factors of many countries such as those often linked to Malaysia,

have attracted many migrants from different countries within the ASEAN and Asia Pacific regions and make them head for its shores. According to the recommendations of the Universal Periodic Review (UPR)<sup>1</sup>, 75 percent of statelessness during the 1<sup>st</sup> and 2<sup>nd</sup> Cycles<sup>2</sup> were due to discriminatory national laws in many states. Such discrimination varied and often were related to matters on race, ethnicity, gender, religion or disability, absence of birth registration, civil documentation of stateless people and children, the lack or absence of provision within the national laws for stateless children to acquire a nationality and state succession<sup>3</sup> that could lead to statelessness. Researchers have identified that foundlings in the absence of birth or identification documentation, led to children becoming stateless (Bloom et al., 2017). Moreover, a child born to stateless parents due to a dispute of nationality laws and arbitrary deprivation, or denial of nationality with inadequate or no systematic regulation on nationality in matters of state succession, would automatically become stateless (Bloom et al., 2017).

The impact of statelessness has detrimental effects on children, families, and society at large. Stateless persons are without nationality from any country and will not be able to access the human rights and privileges of citizens rendered by any state. Hence, the stateless children and people were often marginalized, and suffered in poverty that led to forced displacement (Wass L.V, Ricalde, M. J. V, 2017). A child or person who is stateless within his/her country of origin due to no citizenship will often be perceived and regarded as a foreigner

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<sup>1</sup> Note: “The Universal Periodic Review (UPR) is a process undertaken by the Human Rights Council to review the human rights records of all UN Member States to ensure equal treatment for every country. This mechanism is aimed at improving the human rights situation in all countries and address human rights violations wherever they occur. All UN member States declare their respective actions in improving the human rights situations in their countries and to fulfil their human rights obligations through this mechanism.” United Nations Human Rights Council website. <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>. Retrieved date: 30.7.2019.

<sup>2</sup> The UPR is set up in 4.5-year in three cycles of UPR Working Group sessions annually with 14 States reviewed in each session. The sessions are held to enable continuous review of States’ human rights records. United Nations. Universal Periodic Review. <https://unsdg.un.org/2030-agenda/strengthening-international-human-rights/universal-periodic-review>. Retrieved date: 17.3.2021.

<sup>3</sup> Wass Laura, Verbeek, Ileen & Cickera, Amal. (2017). *Booklet- Statelessness & Human Rights–The Universal Periodic Review*, Institute on Statelessness and Inclusion (ISI). Retrieved date: 25.7.2018.

by that country as well as other countries. This phenomenon has been referred to as ‘de jure statelessness’ (Wass L.V, Ricalde, M.J.V, 2017).

### **Statelessness within the Malaysian Context**

Ironically, the main causes of statelessness in Malaysia could be due to several reasons. They included issues such as the lack of or absence of birth registration and documents for the children, or the parents could not produce a valid marriage certificate. The children born from undocumented, illegal, irregular migrants or stateless refugees, foundlings or abandoned children also faced the risk of statelessness (Razali et al., 2015). The issue of stateless children in Malaysia has been pointed out in several research articles, particularly the meaning and definition of stateless children (Mazura & Nor Hafizah, 2018, Lumayag, 2016, Razali, et al., 2015).

At present, in Malaysia, there is no specific policy or law that provides a legal definition for stateless children or people in this country. Civil society, NGOs and government authorities face challenges to identify stateless children or people in this country, and this state of affairs has hindered the ability of the government in effectively addressing the issue of stateless children. As such, it is essential for the government authorities, NGOs and civil society to understand the meaning of stateless children within the context of international law and human rights law. A clear understanding of stateless children is important for governments and NGOs, particularly in formulating conclusive, clear definitions and policies related to them. The findings of the present study are aimed at providing the needed support to address the foregoing sketch of the background issues.

## **ANALYSIS**

### **A. The Definition, Categorization and Data on Stateless Children**

#### *(i) Definition*

Article 1, the Convention on the Rights of the Child (CRC) 1989 gives a clear definition of who is considered a ‘child’:

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

A stateless person is not considered a national by any state under the operation of its law, as defined under Article 1 of the 1954 Convention and is thus, someone without any nationality or citizenship. In the situation of being stateless, a person who resides in whichever country has no protection from the state for not having a nationality of any state. In other words, a stateless person does not belong to any country as he/she has no nationality.

In the present paper, reference was made to Article 1 of the CRC 1989 and Article 1 of the 1954 Convention, as well as research by several authors pertaining to stateless children in Malaysia. According to a research conducted by Mazura and Nor Hafizah (2018), it was pointed out that stateless children were those who were below 18 years old and without citizenship or membership of any country.

Notably, the issue of stateless children in Malaysia was recorded in the contents of the Hansards (Merriam Webster, 2020), the official published reports of debates in the Parliament of Malaysia. For the purpose of this article, 16 Hansards from the House of Representatives (from 2009 to 2019, Table 1) and five Hansards from the House of Senate (from 2016 to 2019, Table 2) pertaining to issues of stateless children in Malaysia were traced and analysed. The records in the Hansards and reports reflected the concerns of Malaysian lawmakers, particularly on the socio- economy<sup>4</sup> of the country and welfare matters of stateless children in relation to their citizenship<sup>5</sup> and education<sup>6</sup>.

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<sup>4</sup> Please refer to Appendix 1: List of Hansard from the House of Representatives – 2009 to 2019. *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Kedua* . DR.12.11.2018 Bil.34. P.57. <http://www.parlimen.gov.my/files/hindex/pdf/DR-12032018.pdf#page=105&zoom=70&search=stateless%20children>>.

<sup>5</sup> Please refer to Appendix 1: List of Hansard from the House of Representatives – 2009 to 2019. *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Kedua Mesyuarat Pertama* . DR. 18.3.2019, Bil.5. Pp. 43-44. <http://www.parlimen.gov.my/files/hindex/pdf/DR-18032019.pdf#page=59&zoom=70&search=stateless%20children>>.

<sup>6</sup> Please refer to Appendix 1: List of Hansard from the House of Representatives – 2009 to 2019. *Dewan Rakyat Pelimen Ketiga Belas Penggal Kelima Mesyuarat*

This review of the Hansard records revealed that in the absence of a legal definition for stateless children in Malaysia and to this day, there has been no specific law or policy related to stateless children. Therefore, it would seem that the existence of stateless children in the country was not recognized by the government.

As a consequence of this state of affairs, several human rights issues related to stateless children, especially on their rights to education and citizenship could not be addressed fairly in accordance with the law.

*(ii) Categorization*

Based on the analysis carried out on the Hansards and reports, there seemed to be no clear demarcation of the categorization and definition of the different migrant populations in Malaysia, i.e. the refugees, asylum seekers and stateless people, as well as the migrants living in civil society in Malaysia.

According to Lumayag (2016), the term ‘undocumented children’ referred “to the children who neither hold any form of documentation to prove that they are legal citizens of Malaysia nor have any documentation as a foreign national” (p.193). These children seldom or have never travelled outside their existing geographical location, including to their parents’ home country. The author has stated that the difficulty faced in Malaysia was that there was no precise data on stateless children. In Malaysia, stateless children had no documentation to prove their identity or citizenship. Hence, they were often referred to as undocumented children (Lumayag, 2016, p.193). Therefore, the term ‘undocumented children’ in this article is used interchangeably to refer to stateless children in Malaysia.

For the purpose of this article, further research and interviews were conducted with several respondents from selected government departments, such as the Ministry of Home Affairs (MOHA), the Department of Social Welfare (JKM), the National Security Council (MKN), the Attorney General’s Chambers (AGC), and Ministry of Education (MOE).

The following are some of the statements and responses given by

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*Ketiga.DR 8.11.2018 Bil.44. Pg. 28. <http://www.parlimen.gov.my/files/hindex/pdf/DR-08112017.pdf#page=44&zoom=70&search=stateless%20children>.*

several government officers who were interviewed: “so far there is no legal definition for stateless children in Malaysia”; “The stateless children are also referred to as undocumented children, *Anak gelandangan* or even refugee children”; and “Till to date, there is no specific law or policy to define, identify or categorize the stateless children in Malaysia”.

The findings of the interviews had verified that the undocumented children encompassed stateless children, refugee children, street children, migrant children, street children, asylum seeker children and even local children who were born in Malaysia (from either one Malaysian citizen or both parents being Malaysians, who have citizenship /no citizenship issues). These stateless children have been categorized into the following groups:

- a. Children who were stateless, refugees, undocumented or asylum seekers not accompanied (by parents or guardians). Parents of these children were often refugees or stateless (for example, Rohingyas), or either one of the parents was a Malaysian and the other was a stateless person (UNHCR, 2010).
- b. Children who were born to parents of whom either one was a non-Malaysian. The non-Malaysian parent was often an illegal or legal migrant. The parents might or might not possess a birth registration document of their child or their own marriage registration document, which could render the child at risk of being regarded as stateless. Many stateless children in Malaysia, particularly in the state of Sabah, fell into this category, where one parent was a foreigner (of Indonesia/Philippines origin) and the other was a Malaysian (Allerton, 2014, pp.26-34). However, in most cases, both parents were foreigners with no birth documents or citizenship (Allerton, 2014, pp.26-34).
- c. Children who were abandoned, the foundlings, were usually categorized as stateless children due to the absence of information about their biological parents (and their origin) (Chen, 2003, pp.119-135 & UNHCR, 2012, p.7).

In addition to the abovementioned situation, the research findings of Allerton (2014) and Lumayag (2016) have established that there was no clear identification or categorization of stateless children in Malaysia, particularly in Sabah. Allerton (2014) and Lumayag (2016)

have identified groups of stateless children (who were actually migrant children) in Sabah, as follows:

- a. Children born to migrant parents of Filipino origin (they did not hold a Malaysian identity card or a Filipino passport) who were without any proper documentation. These migrant parents either refuse or withhold their Filipino passport or came to Sabah illegally (Lumayag, 2016. pp.198-199 & Allerton, 2014. p.4).
- b. Children who belonged to second-generation immigrants whose parents originally held an IMM 13<sup>7</sup> visa and claimed refugee status were often a common problem in Sabah because their parents did not renew their visitor pass card. The IMM13 visa is a visitor pass issued by the Department of Immigration, Malaysia according to Regulation 11, Immigration Regulations 1963 (*Peruntukan Peraturan 11 Peraturan-Peraturan Imigresen 1963*) (Afzan Abd Kahar, 2012). The research findings of Lumayag (2016, p.198) and Allerton (2014, p.4) established that many immigrants upon acquiring the IMM 13 status deemed it as permanent. Therefore, they did not bother to renew it. The children born of parents who were either of Indonesian or Filipino descendants and had the IMM13 'refugee' cards would remain in Sabah or wilfully stay on in Sabah.
- c. Children who were undocumented and were left behind in Sabah when their parents (migrants without documentation or travel documents) were repatriated to the southern Philippines, often remained stateless. Some parents feared authorities would leave their children unattended, without a guardian or proper custody during frequent raids. In some instances, undocumented stateless children did not go to schools as they worked in the fish cage farming industry in Sandakan. In instances when they were arrested by the Sandakan police and sent to prison before their deportation, the parents were left with no choice but to bring along their children to the prison. After the deportation of their parents, most of the children would return to work to earn

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<sup>7</sup> The IMM13 is a document issued by the Ministry of Home Affairs, Malaysia to the Filipino refugees (and illegal immigrants) who have a special permission to stay in Malaysia according to the terms and conditions laid out by the Ministry.



- their livelihood despite the possibilities of raids and the threat of also being deported themselves (Lumayag, 2016. p.199).
- d. Some of these children were left to fend for themselves due to the absence of their guardians or parents, and upon their detention for various offences, incarcerated pending trial, or eventually repatriated to the southern Philippines (Lumayag, 2016, pp.199).
  - e. The Sama Dilaut (who are also known as the Bajau Laut) undocumented children have remained in poverty. These children were descendants of refugees who had fled from southern Philippines in the 1970s due to the Islamic insurgency. They settled in Sabah as undocumented non-citizens without having their data in the national statistics and were rendered invisible for external developmental aid. Such invisibility has prevented the Sama Dilaut children from benefiting from the welfare aid provided by the State and Federal Government, despite the *agenda's mandate* to address inequality and poverty, both in the region and globally (Lumayag, 2016 & Allerton, 2014).

In Sabah, the children of the Filipino and Indonesian descendants, as well as the Sama Dilaut were frequently known as the children of other 'irregular' and vulnerable groups, which included undocumented migrants, people of refugee descent, and 'street children'. These children also became a target for the authorities during raids and security operations by the Immigration authorities (Lumayag, 2016, pp.198-199 & Allerton, 2014, p.4).

In contrast, there has been many children in Peninsular Malaysia at risk of statelessness because their parents did not have a marriage registration certificate, or a birth certificate of their child. A child with one parent who is a Malaysian citizen, but has no birth registration is also often at risk of statelessness. Although parent(s) could pursue efforts to acquire documentation from the relevant authorities, they often failed to do so due to ignorance, fear of legal repercussions or lack of awareness of the importance of birth documentation (Lumayag, 2016, p.199).

In addition, Malaysia and several other countries seem to overlook the differences between stateless and refugee children. Currently,

stateless and refugee children are not differentiated clearly in legal terms.<sup>8</sup>

Unlike other research that have discussed stateless children in a general manner, Lumayang (2017, pp.192-210) and Allerton (2014, pp. 26-34) have highlighted that the stateless children were undocumented and at times have been classified as part of the refugee population. In light of the above mentioned reasons and in the absence of policies and laws to explain the definition of stateless children or people, there seem to be some misunderstanding among the government officials. Problems pertaining to the actual meaning of stateless children, the differences and overlap between stateless and refugee children<sup>9</sup> remain.

The following were some of the statements and responses that were given by several officers and NGOs who were interviewed:

“So far there is no stateless children are often known as refugee children or undocumented children in Malaysia”.

“We do not have any specific or clear definition of stateless children, so usually we identify the refugee or any undocumented child as stateless, they are almost the same”.

Based on the interviews with the respondents from selected government departments and NGOs, it seemed to suggest that the understanding of the meaning of stateless children seemed vague among even the major stakeholders concerned with the issue at hand.

### *(iii) Overlaps Between the Meaning of Stateless and Refugee Children*

There is often a lack of understanding on the meaning of refugees, asylum seekers and stateless children among members of civil society,

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<sup>8</sup> Malaysia is not a member of the 1961 Convention on the Reduction of Statelessness, 1954 Convention Relating to the Status of Stateless Persons and the 1951 Convention Relating to the Status Refugees (UNHCR, 2013).

<sup>9</sup> Research findings *via* personal communication (written and telephone conversations) with officials from the National Registration Department (NRD) and Ministry of Home Affairs (MOHA) & Research findings *via* interviews with the selected government officials from the Attorney General’s Chambers (AGC), Ministry of Education (MOE), National Security Council (Majlis Keselamatan Negara, MKN) (Sabah), Social Welfare Departments (Jabatan Kebajikan Masyarakat, (JKM) (Sabah and Putrajaya).

government officials and even some NGOs. This basic problem has become a challenge in determining the differences between stateless and refugee children.

In Malaysia, at present there is in domestic policy or law, no identification procedure for stateless children. In addition, stateless children are often grouped or regarded as belonging to the category of undocumented refugees, or even as children seeking asylum in Malaysia. As such the government officials and NGOs who are responsible or involved in matters pertaining to stateless children will face considerable difficulties, and are usually unable to help these stateless children in an effective way so as to render the necessary assistance. The government officials are also not able to identify or make contact with the stateless children for census purposes.

Notably, there are some overlaps in the meaning between a refugee and a stateless person. This is especially the case, in the context of children, in relation to arbitrary deprivation of nationality, such as the Rohingyas (who are stateless and seek refuge in Malaysia). Malaysia, being a non-signatory to the 1951 Convention Relating to the Status of Refugees, the 1954 Convention and 1961 Convention does not have any policy or legislation to clearly define the categories of refugees, asylum seekers and stateless people or children.

Many countries like the United Kingdom, Georgia within the European region and the Philippines within ASEAN are signatories to the Refugee Convention and conventions on statelessness. These countries do have provisions in their national laws or policies with regard to stateless people or children within their national context. However, several non-signatory countries within the ASEAN region, including Malaysia, remain less concerned about the conventions and the importance of having national laws or policies, despite the global attention towards issues on statelessness and refugees.

The analyses of some case laws and judicial opinions of several courts from Canada, the United Kingdom and USA have indicated that there were overlaps in the meanings of statelessness and refugee law (Fullerton, 2015, pp.876-899). The analyses established that many states tended to overlook the overlaps between a refugee and

a stateless person. A stateless person might also be a refugee if he / she has fled his/her country due to the fear of persecution and not being considered as a citizen by any state<sup>10</sup>. The UNHCR's statistics on statelessness revealed that the it has taken into account the non-refugee stateless population, but not the stateless people who were also refugees. However, this must be noted in light of the *de facto* concept, which may vary according to the situation of statelessness in different countries. The two concepts, refugee status and statelessness are linked to each other.

In a few instances, a refugee could also be a stateless person if that person met the definition under Article 1 of the 1951 Refugee Convention and the definition of Article 1 of the 1954 Convention Relating to the Status of Stateless Persons (UNESCO Report, 2018). A stateless person might have remained within a particular host state without crossing the international border. Other stateless persons or children in some countries with national laws might have protection under the respective international refugee laws of that said country instead of stateless conventions, provided the state was a signatory member country to the 1951 Refugee Convention, or the 1954 Convention Relating to the Status of Stateless Persons. However, to date in Malaysia, there has been no specific law and policy to ensure legal protection for stateless children.

#### *(iv) Lack of Accurate Data and Statistics on Stateless Children*

There is no accurate data to identify the number of stateless people and children in Malaysia that will enable the government to have any reliable record about stateless children or people residing within the country. Despite that, sources have indicated that there were more than 290,000 stateless children as of November 2016, and the number rose in 2018 to approximately 12,350 stateless persons residing in Peninsular Malaysia and 450,000 in Sabah (*SUHAKAM* report, 2018). According to the UNHCR, such statistics revealed that statelessness was certainly a widespread problem. It was further discovered that in 2019, there were approximately 80,000 Filipino Muslim refugees in the Sabah, and this was inclusive of an estimated 10,000 children known to be stateless (NST, February 13, 2019).

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<sup>10</sup> Article 1 of the 1951 Refugee Convention

According to the United Nation Refugee Agency (UNHCR, 2020) there were approximately 3.9 million stateless people around the world and a global figure of 10 million has often been cited<sup>11</sup>. In 2017, one third out of the 10 million stateless people were children (UNHCR, 2017). Although the exact numbers of stateless children in Malaysia was unknown (Kumar, 2016), reports indicated that there were approximately 290,437 persons who were below 18 years old living in Malaysia, and they did not own any citizenship (Mazura & Nor Hafizah, 2018, p.36). In 2017, it was estimated by researchers that approximately 15,394 children born in Malaysia between 2012 and January 2017 did not have Malaysian citizenship due to various reasons (Nik Imran Abdullah, 2016). Research also revealed that in Malaysia, the number of stateless babies born daily was close to 8 (Nik Imran Abdullah, 2016).

In addition to this, the annual report by the Human Rights Commission of Malaysia (SUHAKAM) (Annual report Year 2018) has indicated that there was no precise statistics on stateless children or people in Malaysia. Children born as a result of illicit affairs and unregistered marriages were estimated to be the main cause of foundlings and undocumented children. Records from SUHAKAM indicated that about 68 percent (381) of the complaints made to the Sabah SUHAKAM Office in 2017 were related to statelessness (SUHAKAM, Komnas HAM & CHRP, 2018).

This research has revealed that there were several government departments such as the National Statistic Department (NSD), the National Registration Department (NRD), the Malaysian Immigration Department and the Ministry of Home Affairs of Malaysia (MOHA), which did not have any data, records, exact statistics or analysis of stateless children or people in Malaysia. In the absence of a national database about stateless children, there was no information on stateless children in the website of any government department that could be made available or accessible to students, researchers, civil society and NGOs (Lumayag, 2016, p.198).

As there was no clear categorization and information on the breakdown of stateless children or people, as opposed to other types of migrants,

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<sup>11</sup> UNHCR.(2020) Petra Nahmias.(January 21, 2020). *Better statistics to help end statelessness*.<https://www.unhcr.org/blogs/better-statistics-to-help-end-statelessness/>>. Retrieved date: 9.4.2021.

such as refugees and asylum seekers, the differences between stateless and refugee children were often not taken into serious consideration by the authorities and civil society (Allerton, 2014 & Lumayag, 2016). As such the government could not identify the stateless population in civil society, or take the necessary action effectively to prevent or reduce statelessness.

*(v) No Law and Policy regarding Stateless Children or People*

This research finding has established that there was no specific law and policy on stateless children or statelessness in Malaysia. Based on the interviews with several respondents from selected government departments, such as the Attorney General's Chambers (AGC), Ministry of Education (MOE), National Security Council (MKN, Sabah) and Social Welfare Department (Putrajaya and Sabah), it was concluded there was an absence of any specific set of law/legislation regarding the stateless person/child. This *non liquet* or lacuna in the law has created a vague understanding or interpretation of the definition of stateless person, refugee or asylum seeker in Malaysia.

However, the issue of stateless children has always been continuously highlighted in the media<sup>12</sup>, NGO reports (SUARAM, 2017, p.108-112) and even in the Hansards. The House of Representatives (known as the *Dewan Rakyat*) and the Senate (known as the *Dewan Negara*) have consistently debated various aspects that were related to statelessness in Malaysia. A search of the related Hansards from the year 2000 until 2019 was made and the records compiled and analysed. The focus was on the issue of stateless children, especially with regard to the absence of specific laws or policies to address matters pertaining to citizenship and the right to education for stateless children in Malaysia.

The following are the summary of the findings from the analysis of the related Hansards, which have been included in Appendixes 1 and 2:

- a. At least sixteen (16) Hansards (Appendix 1 - The House of Representatives Hansards - 2009 to 2019) and five (5) Hansards

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<sup>12</sup> Malaysia Kini Online News. (February 3, 2021). *Some Stateless Children Still Denied Access To Government School – MP*. <https://www.malaysiakini.com/news/561464>>. Retrieved date: 9.3.2021.

(Appendix 2 - The House of Senate Hansards - 2016 to 2019) debated the issue of stateless children at the Senate.

- b. Based on the Hansard record in 2019, there were more than 200,000 undocumented stateless children in Sabah<sup>13</sup>, but the figure of stateless children in the Peninsular was not mentioned.
- c. The analysis of the 2019 Hansard established that there seemed to be no specific and clear policy/law in relation to stateless people or children in Malaysia, and the available data had been inconsistent. Also, there was no formal data on stateless children within the government departments that was accessible to the public or researchers.
- d. The rights of stateless children, particularly the right to education or citizenship had been continuously contested in Parliament, but with no effective legal or policy intervention to duly address the issue.
- e. In Malaysia, the legal definition for stateless children or people is not specifically mentioned in any Malaysian legislation, or policy that is publicly accessible. This is evident as Malaysia is not a signatory of the Convention Relating to the Status of Refugees<sup>14</sup>, 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The international definition as is found in Article 1 of the 1954 Convention Relating to the Status of Stateless Persons has not been incorporated or mentioned in any national law.

Hence, to date there is no legal recognition, clear procedure or policy to aid the government to address the issue of stateless children effectively in Malaysia.

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<sup>13</sup> Hansard from the House of Representative. Reference No.DR. 18.3.2019 Bil.5. P.56.Debate by *Datuk Wong Tien Fatt @ Wong Nyuk Foh from Sandakan, Sabah as of 18.3.2019*. [ *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Kedua Mesyuarat Pertama*]. <<http://www.parlimen.gov.my/files/hindex/pdf/DR-18032019.pdf#page=59&zoom=70&search=stateless%20children>>. Retrieved date: 11.4.2019.

<sup>14</sup> Maheran, M. (2015). *Right to Education for Irregular Migrant Children in Malaysia; A Comparative Analysis*. *Pertanika J. Soc. Sci. & Hum.* 23 (S): p.86. <[http://www.pertanika.upm.edu.my/Pertanika%20PAPERS/JSSH%20Vol.%2023%20\(S\)%20Nov.%202015/08%20JSSH%20Vol%2023%20\(S\)%20Nov%202015\\_pg85-96.pdf](http://www.pertanika.upm.edu.my/Pertanika%20PAPERS/JSSH%20Vol.%2023%20(S)%20Nov.%202015/08%20JSSH%20Vol%2023%20(S)%20Nov%202015_pg85-96.pdf)>. Retrieved date: 20.3.2016.

## **B. The International Conventions Related to Human Rights of Children (Including Stateless Children)**

The compliance with international conventions and human rights laws are fundamental for legal accountability for states. The protection of human rights for stateless children (and children globally) is propounded through various conventions such as the Convention on the Rights of the Child (CRC) 1989, the 1954 Convention, the Universal Declaration on Human Rights 1948 (UDHR), the International Covenant on Civil and Political Rights 1966 (ICCPR), the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) and the UNESCO's Convention against Discrimination in Education 1960. The following list provide some brief information about the declarations and conventions related to the protection of human rights for children:

### *(i) Convention on the Rights of the Child 1989 (CRC)*

All children are entitled to human rights, protection, fundamental freedom, dignity and equality under international human rights law and these rights are enshrined in the Convention on the Rights of the Child 1989. The CRC 1989 is the most widely-ratified international human rights treaty that provides basic rights and protection to all children. By virtue of Article 2 of CRC 1989, states shall respect and ensure the rights outlined in the convention to each child within their jurisdiction without discrimination of any kind. Meanwhile, Article 3 of the CRC 1989 clearly states that in all instances the best interests of the child shall be a primary consideration of every state and its associates (Office of the United Nations High Commissioner for Human Rights 1989) (OHCHR)<sup>15</sup>. Hence, signatory member states to the CRC 1989 are to ensure human rights and protection for all children within their states.

### *(ii) 1954 Convention Relating to the Status of Stateless Persons*

By virtue of Article 1 of the 1954 Convention Relating to the Status of Stateless Persons (hereinafter known as the 1954 Convention),

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<sup>15</sup> Kate Englund. (2011). *Protecting the Human Rights of Unaccompanied Immigrant Minors*. Advocate's Forum. University of Chicago. <https://crownschool.uchicago.edu/protecting-human-rights-unaccompanied-immigrant-minors>>.



the term “stateless person” means a person who is not considered as a national by any State under the operation of its law and as such, children who are stateless are also subjected to have human rights and protection under the said convention. The 1954 Convention has established the minimum standards of treatment for stateless people in respect to several rights as citizens pertaining to freedom of religion and education of their children. It also provides other rights, but not limited to, the right of employment, the housing stateless persons are to enjoy, at a minimum, the same treatment as other non-nationals<sup>16</sup> for the stateless people and children. In addition, the 1954 Convention guarantees stateless people and children a right to identity, travel documents and administrative assistance.

(iii) *1961 Convention on the Reduction of Statelessness*

The 1961 Convention on the Reduction of Statelessness (hereafter known as the 1961 Convention) has two important provisions pertaining to children, namely Article 1 and Article 2. By virtue of Article 1 of the 1961 Convention, “a contracting state shall grant its nationality to all stateless children born in their state subject to certain conditions, automatically or upon application”. In addition, Article 2 allows granting of nationality to foundlings or children who are found abandoned in their state.<sup>17</sup>

The 1961 Convention is intended to be a safeguard against statelessness, particularly in the prevention of statelessness at birth by requiring States to grant citizenship to children born on their territory, or born to their nationals abroad, who would otherwise be stateless. The Convention further requires States to either grant nationality to children automatically at birth or subsequently upon application. The 1961 Convention also prohibits the withdrawal of citizenship from States’ nationals, either through loss, renunciation, or deprivation of nationality, which would result in statelessness. Such a prohibition is a form of protection for children from becoming stateless<sup>18</sup>.

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<sup>16</sup> 1954 Convention Relating to the Status of Stateless Persons. UNHCR. <https://reliefweb.int/report/world/text-1954-convention-relating-status-stateless-persons-enmy>. Retrieved date: 16.4.2021.

<sup>17</sup> Subodh Asthana. (February 3, 2020). *Statelessness under International Law: All you want to know*. Retrieved from: <[https://blog.ipleaders.in/statelessness/#1954\\_Convention\\_relating\\_to\\_Status\\_of\\_Stateless\\_Persons](https://blog.ipleaders.in/statelessness/#1954_Convention_relating_to_Status_of_Stateless_Persons)>

<sup>18</sup> 1961 Convention Retrieved from: [https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf)

(iv) *The Universal Declaration on Human Rights 1948 (UDHR)*

Article 1, of the Universal Declaration of Human Rights 1948 (hereinafter known as UDHR 1948) establishes the universal human rights to all human beings as being born free and equal in dignity and rights. Despite not being part of the binding international law, the UDHR is accepted globally by all states on the fundamental principles of human rights regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status, and all human beings are to be treated equally and with respect. Subsequent to the UDHR, the United Nations adopted many legally binding international human rights treaties and agreements, including the CRC 1989, the 1954 Convention and the 1961 Convention. These treaties and agreements outline fundamental protection for human rights of the stateless people and children, and also impose legal obligations on the signatory member States.

(v) *The International Covenant on Civil and Political Rights 1966 (ICCPR)*

The International Covenant on Civil and Political Rights 1966 (hereinafter known as the ICCPR) does not guarantee a right to nationality for all humans, but only for children as propounded by Article 24(3). By virtue of Article 24(1) of the ICCPR 1966, “*Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State*”. In addition, Article 24(2) of the ICCPR requires immediate registration upon the birth of a child and that child shall have a name. Therefore, signatory member States of the ICCPR are required to adopt every appropriate measure to ensure that every child born within the respective states, regardless of the background and circumstances, be given nationality<sup>19</sup>.

(vi) *The International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966*

The International Covenant on Economic, Social and Cultural Rights 1966 (hereinafter known as the ICESCR) was adopted by the United

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<sup>19</sup> Santhosh Persaud (2006) (UNHCR). *New Issues in Refugee Research. Research Paper No. 132 Protecting refugees and asylum seekers under the International Covenant on Civil and Political Rights*. <https://www.unhcr.org/4552f0d82.pdf> > . Retrieved date: 16.4.2021

Nations General Assembly<sup>20</sup> to protect the right to respect human rights and to take steps to create an environment in which rights can be fully achieved. By virtue of Article 10 (1) of the ICESCR, the state parties to the covenant recognise that the widest possible protection and assistance should be accorded to the family, including for the care and education of dependent children. In addition, Article 10 (3) of the ICESCR 1966 mandates states to protect children and young persons from economic and social exploitation, as well as exploitation via the employment of child labour. Therefore, a signatory member country to the ICESCR 1966 is responsible to protect stateless children within its jurisdiction.

(vii) *The Convention against Discrimination in Education 1960 (CADE)*

The UDHR asserts the principle of non-discrimination and proclaims that every person has the right to education via the UNESCO's Convention against Discrimination in Education 1960 (hereafter cited as the CADE 1960), which recognizes and respects the diversity of national educational systems. The CADE proscribes any form of discrimination in education, promotes equality of opportunity and treatment for all in education<sup>21</sup>. Article 3 of the CADE requires State parties to undertake the obligation in pursuance of eliminating and preventing discrimination pertaining to education to all persons and children. By virtue of Article 4 of the CADE, State parties undertake a legal obligation to promote equality of opportunity and treatment in the matter of education for all children. As such the declaration seeks to protect human rights in the context of education and protection from discrimination for stateless children within the state parties that ratify the CADE 1960.

Based on research findings and official reports by the United Nations, many countries seem to have the definition of stateless children within the interpretation of the national laws of these countries, and according

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<sup>20</sup> Karina Weller. ( January 7, 2019). *What is the International Covenant on Economic, Social and Cultural Rights?*  
<https://eachother.org.uk/what-is-the-international-covenant-on-economic-social-and-cultural-rights/>>. Retrieved date: 18.4.2021

<sup>21</sup> UNESCO. *Legal instruments –UNESCO. Convention Against Discrimination in Education 1960.* [http://portal.unesco.org/en/ev.php-URL\\_ID=12949%26URL\\_DO=DO\\_TOPIC%26URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949%26URL_DO=DO_TOPIC%26URL_SECTION=201.html)>. Retrieved date: 14.3.2021.

to its domestic law (or municipal law), depending on whether the state is a signatory party to the Conventions related to statelessness. Several countries like the United Kingdom and Georgia, have formulated policies or laws pertaining to stateless people or children within its national framework, regardless of being a signatory member to the 1954 Convention and the 1961 Convention relating to statelessness.

The United Kingdom caters for laws, policies and guidelines, both in piecemeal and consolidated forms, in addressing the stateless people and children. The Immigration Rules Part 14: Stateless Persons, specifically provide guidelines within the Immigration Law regarding stateless people in the United Kingdom. In addition, the Rule 14 Immigration Registration as a British Overseas Territories citizen (BOTC) by people who would otherwise be stateless, version 1.0 (2017), and the Asylum Policy Instruction Statelessness and Applications for Leave to Remain, version 2.0 (2016) are policies and guidance to address issues of stateless people and children.

As for Georgia, the state enacted a specific law and policy on stateless people known as the Law of Georgia on the Legal Status of Aliens and Stateless Persons 2014. The said law serves to protect the rights of the stateless children in Georgia.

The United Kingdom<sup>22</sup> and Georgia<sup>23</sup> are signatory member countries to the 1954 Convention and 1961 Convention. As such the domestic laws of the said countries incorporated the provisions of the 1954 Convention and the 1961 Convention into their respective domestic laws to address the issues of statelessness within their nations. However, many states still do not have legislations and policies for the stateless population within their regions, leaving the stateless children in a precarious position.

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<sup>22</sup> The UK ratified the 1954 Convention on 16.4.1959. United Nations Treaty Collection. [https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-3&chapter=5&Temp=mtdsg2&clang=\\_en](https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en) Retrieved date: 9.3.2021.

<sup>23</sup> Georgia acceded to the 1954 Convention on 23.12.2011. United Nations Treaty Collection. [https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-3&chapter=5&Temp=mtdsg2&clang=\\_en](https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en) Retrieved date: 9.3.2021.

## DISCUSSION

### **The Absence of Law and Policy Pertaining to Stateless People and Children in Malaysia**

This article has amply illustrated that in Malaysia the interpretation of stateless children and stateless people seemed to be obscure and vague. Malaysia does not have any specific law on stateless children. However, the judiciary in Malaysia has referred to the provisions in the Federal Constitution (hereinafter cited as FC), particularly Article 14 (1) (b), Article 15A, and Part II of the Second Schedule of the FC in cases involving children who are at risk of statelessness or being undocumented are at risk of being perpetually stateless.

#### *Article 14: Citizenship by Operation of Law*

*14. (1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:*

- (a) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and*
- (b) every person born on or after Malaysia Day, and having any of the qualifications specified in Part II of the Second Schedule.*

The application of Article 14 of the FC can assist stateless children if their representatives seek application for citizenship. However, this is subject to the National Registration Department (NRD), which will exercise its discretion to approve and recognize the rights of children to citizenship by operation of law under the FC. As such, stateless children often rely on the Malaysian court process for the recognition of their rights to Malaysian citizenship<sup>24</sup>. Article 14(1) (a) and (b) read with the 2nd Schedule Part 1(a) and (b) of the FC will provide the right to citizenship by operation of law.

In Malaysia, in the absence of proof of legal marriage in the country, a child born to a Malaysian father will not be able to acquire automatic

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<sup>24</sup> SUHAKAM. (2021). *Stateless Children*. <https://suhakam.org.my/portfolio/stateless-children/>. Retrieved date: 14.3.2021.

citizenship. Article 14 (1)(b) and Part II of the Second Schedule have to be read together with the Interpretation in Part 3 of the Second Schedule of the FC, which states *inter alia* the following;

*17. For the purposes of Part III of this Constitution references to a person's father or to his parent, or to one of his parents, are in relation to a person who is illegitimate to be construed as references to his mother, and accordingly Section 19 of this schedule shall not apply to such a-person.*

By virtue of the above article, a person is a citizen if at the time of birth, at least one of the parents of the child is a citizen or a permanent resident in Malaysia. Alternatively, in the event the child is deemed 'illegitimate' or born outside of legal marriage in Malaysia, the child is subjected by law to follow the citizenship of the mother. The irony is, if the parents of the child later legally marry in Malaysia, the younger siblings of the child will be entitled to citizenship as opposed to the child born or who was born before the legal marriage of his/her parents. Thus, children born to Malaysian fathers or mothers who were not married at the time of their birth, often face the risk of statelessness <sup>25</sup>.

In addition to Article 14(1)(b), Article 15A of the FC is often sought by applicants who seek citizenship.

*Article 15A: Special Power to Register Children*

*15A. Subject to Article 18, the Federal Government may, in such special circumstances as it thinks fit, cause any person under the age of twenty-one years to be registered as a citizen.*

Article 15A of the FC provides special powers to the Federal Government, where it can register anyone below the age of 21 as a

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<sup>25</sup> Mary Anne K. Baltazar, Ayesah Uy Abubakar, Wan Shawaluddin Wan Hassan (June 2019). *Children At-Risk of Statelessness and their Constraints to Citizenship* Working Paper.Pp.17-18. [http://shapesea.com/wp-content/uploads/2019/07/5-Mary.Academic-Paper.edited.FINAL\\_.pdf](http://shapesea.com/wp-content/uploads/2019/07/5-Mary.Academic-Paper.edited.FINAL_.pdf)>.

citizen in “special circumstances as it thinks fit”<sup>26</sup>, especially in the case of adoption, or children born before the registration of marriage by their parents.

Article 15A of the FC is a powerful provision as it allows minors to obtain citizenship at the discretion of the Home Minister, which does not assure any right to stateless children<sup>27</sup>. While debates may continue about the procedures of the application, in the end, it relies on the interpretation of “special circumstances” by the minister<sup>28</sup>.

Although the application of Articles 14 and 15A are limited and not expressly available for all stateless children in Malaysia, the said Articles have benefitted several stateless children based on the best interest of the child involving citizenship as established in a prominent case in 2018, *Madhuvita Janjara Augustin (Suing Through Next of Friend Margaret Louisa Tan) v Augustin A/L Lourdsamy & Ors* [2018] 1MLJ.

The appellant, Madhuvita Janjara Augustin was a minor, aged 11. Her application before the High Court for amongst others, an order that she be re-registered by the 3rd respondent, the Registrar of Births and Deaths, with the status of a “Malaysian citizen” was brought on her behalf by her mother, her next friend. There were no objections to her other orders, that she is the lawful child of the 1st respondent, her father; that appropriate DNA tests was conducted to verify her blood ties with the 1st respondent and her mother. Those orders were consequently granted without event. However, her application that she was entitled to be declared a Malaysian citizen was objected to by the respondents and consequently, dismissed by the High Court. Upon

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<sup>26</sup> Ida Lim. (2019 March 27). Malay Mail Online. *Why Malaysia-Born Illegitimate Children with Foreign Mothers Are Stateless*. <https://www.malaymail.com/news/malaysia/2019/03/27/why-malaysia-born-illegitimate-children-with-foreign-mothers-are-stateless/1736828>>. Retrieved date: 30.4.2019.

<sup>27</sup> Ida Lim. (March 20, 2017). *What lies ahead for a stateless child in Malaysia?* <https://www.malaymail.com/news/malaysia/2017/03/20/what-lies-ahead-for-a-stateless-child-in-malaysia/1338637>> . Retrieved date: 19.3.2021.

<sup>28</sup> *Living in limbo: In Malaysia, adopted children are not guaranteed citizenship*. (June 2, 2020). <https://www.thestar.com.my/opinion/letters/2020/06/02/living-in-limbo-in-malaysia-adopted-children-are-not-guaranteed-citizenship>>. Retrieved date: 18.3.2021.

full consideration, the Court of Appeal Judges unanimously allowed her appeal and granted the order sought. The case highlighted the interpretation and application of Article 14 (1) (b) read with Part II Section (1) para (a) of the Second Schedule of the FC, which led to the decision to grant citizenship in favour of the child at her best interest in a purposive approach.

Notably, the FC does not provide any provision for stateless children or people. Hence, the absence of a legal definition or policy regarding stateless children and stateless persons in the Malaysian legislation is a grave disadvantage to the stateless children and the nation.

Based on the research and interviews held with officers from the selected government departments in the Federal Government Administration at Putrajaya and the state of Sabah, it is submitted that (i) there is no official data about stateless children, and (ii) no specific law or policy regarding stateless children to provide the definition of stateless children or identification procedure on stateless children. As a result, the government and researchers could not address effectively the issues of stateless children.

Essentially a positive shift is required to resolve issues and challenges pertaining to stateless children. In light of this, some underlying and fundamental considerations on the following proposals may be useful for the consideration of the Government of Malaysia:

*(I) Advocating Awareness on Statelessness*

Notably, awareness and understanding about statelessness must be available to every level of the community so that the law and policy can be set forth clearly to eradicate or prevent statelessness (UNHCR, 2015). The NGOs and government ought to collaborate more effectively to educate civil servants and civil society about the issue of statelessness (UNHCR, 2014). This will encourage the public to participate and work together with the government towards the prevention and reduction of statelessness (UNHCR, 2014).

The Government and NGOs ought to promote consistently campaigns and roadshows on the importance of having birth registrations for children and new-borns, marriage registration documents for married



couples and National Registration Identification Card (NRIC), especially for people who live in remote areas in Malaysia. This is to ensure that individuals are aware of the importance of having relevant documents in the assurance of citizenship. Such efforts can reduce the risk of statelessness among new-borns or children and ensure their human rights. Furthermore, the new-borns or children will have access to benefits offered by the state, such as the opportunity for formal education in government schools. However, to advocate awareness on statelessness effectively, Malaysia ought to consider having a national legislative framework about stateless children in this country.

## (II) National Legislative Framework

In the absence of specific and proper legislation about stateless children in Malaysia, the welfare<sup>29</sup> of these children is under threat and the protection of their human rights (children's rights)<sup>30</sup> is indeed deemed to be almost unavailable in the national framework. The Parliament of Malaysia, that consists of the Senate (known as the *Dewan Negara*) and the House of Representatives (known as the *Dewan Rakyat*) have raised concern about the welfare<sup>31</sup>, human rights, particularly on citizenship<sup>32</sup> and education of stateless children. Stateless children in Malaysia do not have accessibility to their rights

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29 Hansard Parliament of Malaysia (House of Senate), *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Pertama*. DR.31.7.2018.BIL.10.<http://www.parlimen.gov.my/files/hindex/pdf/DR-31072018.pdf#page=110&zoom=70&search=stateless%20children>>. Retrieved date : 16.2.2019.

30 Hansard Parliament of Malaysia (House of Senate), *Penyata Rasmi Parlimen Dewan Negara Parlimen Ketiga Belas Penggal Kelima Mesyuarat Pertama*. DN 17.4.2017.Bil.2. Page: 53. <http://www.parlimen.gov.my/files/hindex/pdf/DN-17042017.pdf#page=72&zoom=70&search=stateless%20children>>. Retrieved date:16.2.2019.

31 Hansard Parliament of Malaysia (House of Senate), *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Pertama*. DR.31.7.2018.BIL.10.<http://www.parlimen.gov.my/files/hindex/pdf/DR-31072018.pdf#page=110&zoom=70&search=stateless%20children>>. Retrieved date : 16.2.2019.

32 Hansard Parliament of Malaysia (House of Senate), *Penyata Rasmi Palimen Dewan Negara Parlimen Ketiga Belas Penggal Keempat Mesyuarat*, DN 15.6.2016, BIL.14 dated 15.6.2016. Page 7. <http://www.parlimen.gov.my/files/hindex/pdf/DN-15062016.pdf#page=7&zoom=70&search=stateless%20children>>. Retrieved date: 16.2.2019.

as compared to children of citizens and non-citizens in Malaysia. Many stateless children do not have the right to citizenship, health care and education<sup>33</sup>. As such several Members of Parliament have urged for a speedier intervention and enforcement of the law <sup>34</sup> by the government of the day<sup>35</sup> and to take the necessary measures to overcome the issue of stateless children in Malaysia.

In the absence of a clear definition of stateless children in national law and policy, their rights as children cannot be determined and adhered to by the government or NGOs. The rights of children are prescribed as universal human rights that ought to be adhered to by nations, as per the UDHR 1948 and the CRC 1989. The stateless children in Malaysia will continue to be denied their legal rights if their existence is not being acknowledged and their status recognized legally in this country.

## CONCLUSION

There ought to be policies and legal provisions incorporated in the national laws to allow for a systematic identification and definition of stateless children, who otherwise, will remain hidden within the nation. The government may refer to some of the guidelines set by the United Nations and other countries which have established laws and policies pertaining to statelessness. This will ensure that the stateless population is within the legal purview of the nation. Based on these

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<sup>33</sup> Hansard Parliament of Malaysia (House of Senate), *Penyata Rasmi Parlimen Dewan Negara Parlimen Ketiga Belas Penggal Kelima Mesyuarat Pertama*, DN 17.4.2017, BIL.2 dated 17.4.2017. Page 53 <http://www.parlimen.gov.my/files/hindex/pdf/DN-17042017.pdf#page=72&zoom=70&search=stateless%20children>>. Retrieved date: 16.2.2019.

<sup>34</sup> Hansard Parliament of Malaysia (House of Representative), *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Kedua Belas Penggal Kelima Mesyuarat Ketiga*, DR 24.10.2012. BIL. 54, dated 24.10.2012. Page 38. <http://www.parlimen.gov.my/files/hindex/pdf/DR-24102012.pdf#page=54&zoom=70&search=stateless%20children>>. Retrieved date: 16.2.2019.

<sup>35</sup> Hansard Parliament of Malaysia (House of Representative), *Penyata Rasmi Parlimen Dewan Rakyat Parlimen Ketiga Belas Penggal Keempat Mesyuarat Pertama*, DR 14.3.2016. Bil.5 dated 14.3.2016. Page 14. <http://www.parlimen.gov.my/files/hindex/pdf/DR-14032016.pdf#page=102&zoom=70&search=staterless%20children>>. Retrieved date: 16.2.2019.

laws, the government and civil society will have legal guidance and thus, clarity in addressing the issue of stateless children effectively, especially in relation to their basic rights in Malaysia. These policies and laws will also enable the government to assist the stateless children, by protecting their rights and their existence can be recognized legally and protected within the framework of the domestic law and policy.

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## APPENDIX

**Appendix 1: The House of Representatives Hansards – 2009 to 2019 (in descending order), Total : 16 Hansard**

No	Year/date	Title of Hansard (in Malay , as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
1.	26 March 2019	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Kedua Mesyuarat Pertama	DR.26.3.2019, BIL.10	55-63	<a href="https://www.parlimen.gov.my/files/hindex/pdf/DR-26032019.pdf">https://www.parlimen.gov.my/files/hindex/pdf/DR-26032019.pdf</a>
2.	18 March 2019	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Kedua Mesyuarat Pertama	DR. 18.3.2019, Bil.5	43 -44	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-18032019.pdf#page=59&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-18032019.pdf#page=59&amp;zoom=70&amp;search=stateless%20children</a>
3	12 November 2018	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Kedua	DR.12.11.2018 Bil.34	57	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-12112018.pdf#page=78&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-12112018.pdf#page=78&amp;zoom=70&amp;search=stateless%20children</a>
4	8 November 2018	Dewan Rakyat Parlimen Ketiga Belas Penggal Kelima Mesyuarat Ketiga	DR 8.11.2018 Bil.44	28	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-08112017.pdf#page=44&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-08112017.pdf#page=44&amp;zoom=70&amp;search=stateless%20children</a>

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No	Year/date	Title of Hansard (in Malay, as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
5	17 October 2018	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Kedua Bil.23	DR. 17.10.2018	76	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-17102018.pdf#page=128&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-17102018.pdf#page=128&amp;zoom=70&amp;search=stateless%20children</a>
No	Year/date	Title of Hansard (in Malay, as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
6	14 August 2018	Malaysia Dewan Rakyat Aturan Urusan Mesyuarat	AUM DR 14/8/2018 BIL.8	5,11,15	<a href="http://www.parlimen.gov.my/files/opindex/pdf/AUMDR%2014082018%20[Selasa]%201.pdf#page=7&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/opindex/pdf/AUMDR%2014082018%20[Selasa]%201.pdf#page=7&amp;zoom=70&amp;search=stateless%20children</a>
7	31 July 2018	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Pertama Mesyuarat Pertama	DR.31.7.2018 BIL.10	73	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-31072018.pdf#page=110&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-31072018.pdf#page=110&amp;zoom=70&amp;search=stateless%20children</a>
8	19 March 2018	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Ketiga Belas Penggal Keenam Mesyuarat Pertama	DR 19.3.2018 BIL.9	64	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-19032018.pdf#page=96&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-19032018.pdf#page=96&amp;zoom=70&amp;search=stateless%20children</a>

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<b>No</b>	<b>Year/date</b>	<b>Title of Hansard (in Malay, as no translation was available from the Parliament)</b>	<b>Reference</b>	<b>Pages of Hansard</b>	<b>Retrieved From</b>
9	12 March 2018	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Ketiga Belas Penggal Keenam Mesyuarat	DR 12.3.2018 BIL.5	66,67	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-12032018.pdf#page=105&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-12032018.pdf#page=105&amp;zoom=70&amp;search=stateless%20children</a>
10	3 April 2017	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Ketiga Belas Penggal Kelima Mesyuarat Pertama	DR.3.4.2017 BIL.17	87	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-03042017.pdf#page=129&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-03042017.pdf#page=129&amp;zoom=70&amp;search=stateless%20children</a>
11	9 March 2017	Dewan Rakyat Parlimen Ketiga Belas Penggal Kelima Mesyuarat Pertama	DR. 9.3.2017 BIL.4	30	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-09032017.pdf#page=51&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-09032017.pdf#page=51&amp;zoom=70&amp;search=stateless%20children</a>
<b>No</b>	<b>Year/date</b>	<b>Title of Hansard (in Malay, as no translation was available from the Parliament)</b>	<b>Reference</b>	<b>Pages of Hansard</b>	<b>Retrieved From</b>
12	14 March 2016	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Ketiga Belas Penggal Keempat Mesyuarat Pertama	DR 14.3.2016 Bil.5	14	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-14032016.pdf#page=102&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-14032016.pdf#page=102&amp;zoom=70&amp;search=stateless%20children</a>

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No	Year/date	Title of Hansard (in Malay, as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
13	24 October 2012	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Kedua Belas Penggal Kelima Mesyuarat Ketiga	DR 24.10.2012 BIL. 54	38	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-24102012.pdf#page=54&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-24102012.pdf#page=54&amp;zoom=70&amp;search=stateless%20children</a>
14	26 Mac 2012	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Kedua Belas Penggal Kelima Mesyuarat Pertama	DR.26.03.2012 BIL.9	107,108	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-26032012.pdf#page=143&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-26032012.pdf#page=143&amp;zoom=70&amp;search=stateless%20children</a>
15	23 February 2009	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Kedua Belas Penggal Kedua Mesyuarat Pertama	DR 23.2.2009 BIL.5	69	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-23022009.pdf#page=128&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-23022009.pdf#page=128&amp;zoom=70&amp;search=stateless%20children</a>
16	17 April 2006	Penyata Rasmi Parlimen Dewan Rakyat Parlimen Kesebelas Penggal Ketiga Mesyuarat Pertama	DR.17.04.2006 BIL.20	57-59	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DR-17042006.pdf#page=96&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DR-17042006.pdf#page=96&amp;zoom=70&amp;search=stateless%20children</a>

(continued)

**Appendix 2- The House of Senate Hansards- 2016 to 2019, (in descending order), Total: 5 Hansards**

No	Year/date	Title of Hansard (in Malay, as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
1	16 August 2017	Malaysia Dewan Negara Aturan Urusan Mesyuarat	AUM DN 16/8/2017 BIL. 11	5	<a href="http://www.parlimen.gov.my/files/opindex/pdf/AUMDN16082017(RABU).pdf#page=6&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/opindex/pdf/AUMDN16082017(RABU).pdf#page=6&amp;zoom=70&amp;search=stateless%20children</a>
2	17 April 2017	Penyata Rasmi Parlimen Dewan Negara Parlimen Ketiga Belas Penggal Kelima Mesyuarat Pertama	DN 17.4.2017 BIL.2	53	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DN-17042017.pdf#page=72&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DN-17042017.pdf#page=72&amp;zoom=70&amp;search=stateless%20children</a>
3	15 June 2016	Penyata Rasmi Parlimen Dewan Negara Parlimen Ketiga Belas Penggal Keempat Mesyuarat	DN 15.6.2016 BIL. 14	7	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DN-15062016.pdf#page=7&amp;zoom=70&amp;search=stateless%20children">http://www.parlimen.gov.my/files/hindex/pdf/DN-15062016.pdf#page=7&amp;zoom=70&amp;search=stateless%20children</a>

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No	Year/date	Title of Hansard (in Malay, as no translation was available from the Parliament)	Reference	Pages of Hansard	Retrieved From
4	12 July 2012	<i>Penyata Rasmi Parlimen Dewan Negara Parlimen Kedua Belas Penggagal Kelima Mesyuarat Kedua</i>	DN 12.7.2012 BIL. 14	9	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DN-12072012.pdf#page=15&amp;zoom=70&amp;search=statele ss%20children">http://www.parlimen.gov. my/files/hindex/pdf/DN- 12072012.pdf#page=15&amp; zoom=70&amp;search=statele ss%20children</a>
5	21 November 2002	<i>Penyata Rasmi Parlimen Dewan Negara Parlimen Kesepuluh Penggagal Keempat Mesyuarat</i>	DN 21 .11.2002	20	<a href="http://www.parlimen.gov.my/files/hindex/pdf/DN-21112002.pdf#page=17&amp;zoom=70&amp;search=statele ss%20children">http://www.parlimen.gov. my/files/hindex/pdf/DN- 21112002.pdf#page=17&amp; zoom=70&amp;search=statele ss%20children</a>