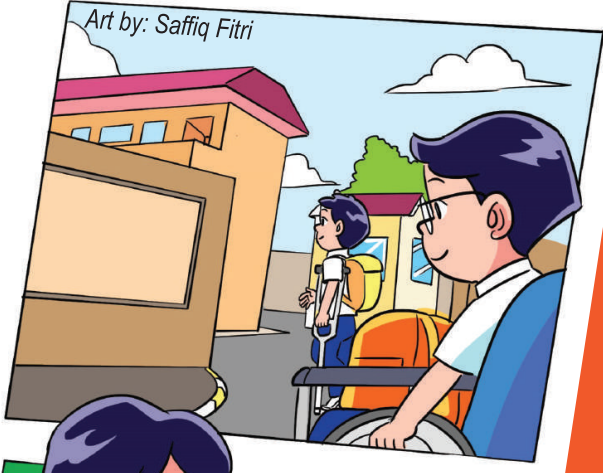
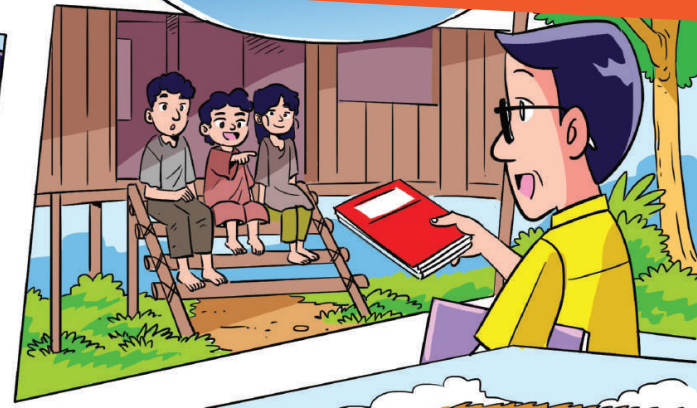


EDUCATION FOR ALL



REALISING THE RIGHT TO EDUCATION FOR REFUGEE AND STATELESS CHILDREN IN MALAYSIA



Funded by
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EXECUTIVE SUMMARY

Education transforms lives, paving the way to better futures and livelihood opportunities. In times of crisis, including long-term displacement, education can play a life-saving and life-sustaining role. Unfortunately, in Malaysia, refugee and stateless children remain excluded from formal education in public schools and are thus hindered from reaching their full potential.

This policy brief is the result of a roundtable discussion organised by the Human Rights Commission of Malaysia (SUHAKAM), in collaboration with the United Nations High Commissioner for Refugees (UNHCR Malaysia), International Rescue Committee (IRC) and the Asia Displacement Solutions Platform (ADSP), funded by the European Union Humanitarian Aid (ECHO) on **Realising the Right to Education for Refugee and Stateless Children in Kuala Lumpur**, on 10 May 2023. Recognising education as a fundamental right, this policy brief explores the gaps and challenges to educational access among refugee and stateless children in Malaysia. Some of these challenges include financial barriers, limited funding, lack of documentation, insufficient infrastructure, legal barriers and parental involvement. This policy brief incorporates the main points that were discussed during the roundtable discussion, as well as secondary research.

This brief ultimately recommends a multi-dimensional approach encompassing policy reforms, resource mobilisation, capacity building, and stakeholder collaboration.

GLOSSARY

TERM

DEFINITION

Alternative Learning Centres (ALC)

Alternative Learning Centres means schools/centres for children, without disabilities or special needs, who are not enrolled in the regular schools.

Asylum seeker

A general term for any person who is seeking international protection. In some countries, it is a legal term referring to a person who has applied for refugee status or a complementary international protection status and has not yet received a final decision on their claim. It can also refer to a person who has not yet submitted an application but may intend to do so, or may need international protection. Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee is initially an asylum seeker. However, an asylum-seeker may not be sent back to their country of origin until their asylum claim has been examined in a fair procedure, and is entitled to certain minimum standards of treatment pending determination of their status.

Community Learning Centre (CLC):

Community Learning Centre (CLC) is an integrated approach. It is a local place of learning outside the formal education system. In the context of this policy brief, the centre caters to Indonesian migrant documented and undocumented workers in the plantation sector in the state of Sabah, Malaysia.

Child Act 2001¹

An Act to consolidate and amend the laws relating to the care, protection and rehabilitation of children and to provide for matters connected therewith and incidental thereto.

Comprehensive Plan of Action (CPA) for Indochinese Refugees

The CPA was drafted in Kuala Lumpur in 1989 and adopted at an international conference in Geneva in June of that same year. The CPA was conceptualised in response to the influx of refugees into Malaysia (and the region more broadly) from Cambodia and Vietnam in the 1970s and 1980s.

Convention on the Rights of the Child (CRC)²

(Adopted 1989; entered into force 1990): Convention setting forth a full spectrum of civil, cultural, economic, social and political rights for children. Since its adoption, it has been ratified more quickly and by more governments than any other human rights instrument. The Convention is also the only international human rights treaty that expressly gives non-governmental organisations (NGOs) a role in monitoring its implementation (under Article 45a).

Double-shift schooling

"Double-shift schooling" refers to an educational practice in which a school operates in two separate shifts during the same day to accommodate a larger number of students. This approach is often adopted in regions or countries where there is a significant demand for education but limited resources, such as classroom space, teachers, and facilities.

Education Act 1996³

The Education Act 1996 [Act 550] is a law in Malaysia that governs the provision of education in the country. It provides the legal framework for the establishment, administration, and management of educational institutions, as well as the regulation of education policies and practices.

Federal Constitution⁴

The Federal Constitution of Malaysia (Malay: Perlembagaan Persekutuan Malaysia), which came into force in 1957 as the Constitution of the Federation of Malaya and was amended in 1963 to form the Constitution of Malaysia, is the supreme law of Malaysia and contains a total of 183 articles.

Formal education

Formal education can be defined as a structured and organised system of learning that takes place within established institutions, such as schools, colleges, and universities. It follows a predetermined curriculum, employs trained educators, and often leads to the awarding of recognised qualifications or credentials upon successful completion.

Government to Government (G2G) Agreement

Government-to-government agreements are formal agreements made between two or more sovereign states or governments.

Human Rights

The basic rights and freedoms that every person has, no matter who they are, what they believe, or how they live. Human rights are built on underlying principles of universality, equality and non-discrimination, and are enshrined in international human rights law, rules of customary international law, national laws and other standards that define them and help to guarantee their full enjoyment.

Immigration Act 1959/63⁵

The Immigration Act 1959/1963 governs the admission into and departure from Malaysia, entry permits, procedures on arrival in Malaysia, removal from Malaysia, offences and special provisions for Sabah and Sarawak.

¹ <https://www.ilo.org/dyn/hallex/bocals/ELECTRONIC/65516/117928/F/1090734281/MY/S65516.pdf>

² <https://www.unhcr.org/refugees/article/4e7e7e7e.html>

³ <https://www.ilo.org/dyn/hallex/bocals/ELECTRONIC/65631/112655/F/54190934/MY/S65631%202016.pdf>

⁴ https://www.jac.gov.my/spk/images/stories/10_akta/perlembagaan_persekutuan_federal_constitution.pdf

⁵ <https://www.imi.gov.my/index.php/pelantikan/immigration-act-1959-63-act-159>

Jus Sanguinis	Jus Sanguinis, means the principle of determining a person's citizenship through one or both of their parents' citizenship. It means the "right of blood" and is also referred to as the principle of descent.
Legal framework	A "legal framework" refers to a structured and organised system of laws, regulations, rules, principles, and institutions that collectively govern various aspects of a society. It provides the foundation upon which a country's legal system operates, guiding the interactions and behaviours of individuals, organisations, and governments within that society. A legal framework sets out the structure for how laws are created, interpreted, enforced, and adjudicated.
Orang Asli	Orang Asli is a Malay term that means "original people". It is used to refer to the indigenous ethnic groups of Peninsular Malaysia, who are among the oldest inhabitants of the region, along with the natives of Sabah and Sarawak in Sabah and Sarawak.
Refugee	The 1951 Refugee Convention defines a refugee as: "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.
Reservation	A declaration made by a State by which it purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that State. A reservation may enable a State to participate in a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply. Reservations cannot be contrary to the object and purpose of the treaty. Furthermore, a treaty may prohibit reservations or only allow for certain reservations to be made.
Stateless	Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons defines a stateless person as 'a person who is not considered as a national by any State under the operation of its law'.
Statelessness in situ	A working definition for <i>in situ</i> statelessness who are in their 'own country', meaning a country with which they have significant and stable ties through birth, long-term residence.
Surat Pekeliling Ikhtisas No 1/2009 (Circular Letter No 1/2009)	The 'Surat Pekeliling Ikhtisas: Bil: 1/2009: Kemasukan Kanak-Kanak Warganegara Malaysia Tanpa Dokumen Ke Sekolah' dated 11 March 2009, is a circular issued by the Office of Director-General of Education Malaysia stated that acceptance of undocumented individuals can be admitted to the government or government - aided schools provided that: - 1) either one of the child's parent is a Malaysian citizen, and 2) there is a confirmation letter issued by the Village Chief to certify that the child is indeed a Malaysian citizen.
Surat Siaran Kementerian Pendidikan Malaysia Bil (3) Tahun 2018	The 'Surat Siaran Kementerian Pendidikan Malaysia Bil (3) Tahun 2018' is a second circular issued by the Ministry of Education in 2018 stating the acceptance of certain categories of undocumented children can be admitted into government schools. This circular applies to a non-citizen child adopted by Malaysian citizens or child of a Malaysian father and a non-Malaysian mother born out of wedlock, or a non-citizen child whose parents are also non-citizens given that the parents are either foreign embassy staff, working at a government agency with valid work permit, permanent residents in Malaysia or foreign children sent to continue education in Malaysia as part of a government exchange programme.
Syrian Migrants Temporary Relocation Programme (PPSMS)	The Syrian Migrants Temporary Relocation Programme (PPSMS) is a programme initiated by the Malaysian government in 2015 to host 3000 Syrian refugees on a humanitarian basis for three years, as pledged during the United Nations General Assembly (UNGA) in October 2015. The programme aims to provide temporary shelter, education, health care, and employment opportunities for Syrian refugees who have fled the civil war in their country.
Undocumented children	It includes both Malaysian and non-Malaysian children. The common feature is the absence of birth certificates or other legal identity documents. The undocumented children may have been born in Malaysia or may have come from other countries at some point of their life.
Zero Reject Policy	The Zero Reject Policy is a policy introduced by the Ministry of Education in Malaysia in December 2018 to enhance the implementation of the Education for All Policy in Malaysia.
1951 Convention Relating to the Status of Refugees and Its 1967 Protocol⁶	The 1951 Refugee Convention and its 1967 Protocol are the key legal documents that form the basis of the work of the United Nations High Commissioner for Refugees (UNHCR). They have 149 State parties to either or both, and they define the term 'refugee' and outline the rights of refugees and the legal obligations of States to protect them.
1954 Convention relating to the Status of Stateless Persons⁷	The 1954 Convention provides the definition of a "stateless person" and the foundation of the international legal framework to address statelessness.
1961 Convention on the Reduction of Statelessness⁸	The 1961 Convention is the leading international instrument that sets rules for the conferral and non-withdrawal of citizenship to prevent statelessness.

6 <https://www.unhcr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>

7 https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

8 https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

BACKGROUND

The plight of refugee⁹ and stateless¹⁰ children in Malaysia are a humanitarian concern that requires immediate attention. In 1975, the United Nations High Commissioner for Refugees (UNHCR) began its operations in Malaysia in response to the arrival of Vietnamese refugees by boat. Since this time, Malaysia with the assistance of UNHCR have provided temporary and ad hoc asylum to persons fleeing persecution, despite Malaysia not having a formal refugee framework in place. As of the end of June 2023, there were **181,560** refugees and asylum-seekers registered with the UNHCR in Malaysia¹¹ including **49,220** children.



Furthermore, the issue of statelessness has often been featured in tandem with refugee issues¹². To briefly explain within the international legal context, a 'stateless person' is an individual who is not recognised as a national by any state under the operation of its laws¹³. Adding on, the absence of a legal policy framework for addressing the situation of refugees in Malaysia impedes the full protection and enjoyment of their rights. Consequently, the country hosts many refugee and stateless children who face formidable challenges in accessing fundamental rights such as education, healthcare, and legal protection.

In the past, the Comprehensive Plan of Action (CPA) facilitated large-scale third-country resettlement. The CPA was drafted in Kuala Lumpur in 1989 and adopted at an international conference in Geneva in June of that same year. The CPA was conceptualised in response to the influx of refugees into Malaysia (and the region more broadly) from Cambodia and Vietnam in the 1970s and 1980s. Subsequently, Malaysia's most comprehensive refugee management response was implemented during its role in the international CPA for Indochinese Refugees.

In the 1990s, former Prime Minister Tun Dr Mahathir Mohammad provided temporary legal stay to Bosnian refugees during the Bosnia and Herzegovina conflict under the Temporary Protection Programme. Referred to as "guests" rather than refugees, they did not require a visa to enter Malaysia¹⁴. The prime minister was forthright in his criticism of the Serbian government, making it clear that all refugees on Malaysian territory would not be required to return until it was safe¹⁵. On 1 October 2015, the former Prime Minister of Malaysia, Najib Razak, during the 70th session of the United Nations General Assembly (UNGA), pledged to accept 3,000 Syrians in Malaysia on a humanitarian basis within three years, starting in 2015 under the Syrian Migrants Temporary Relocation Programme in Malaysia or formally known as Program Penempatan Sementara Migran Syria (PPSMS)¹⁶.

Furthermore, in March 2017, Malaysia piloted a project to allow 300 Rohingya refugees to work legally within the plantation and manufacturing sectors¹⁷. The aim of this project is to provide the right of employment and foster self-reliance among refugees, while ensuring their greater protection through a mutually beneficial approach that meets the labour demand of Malaysia¹⁸.

⁹ Refugees are people who have fled war, violence, conflict or persecution and have crossed an international border to find safety in another country. They are defined in international and regional instruments as well as in the Statute of the Office of the United Nations High Commissioner for Refugees approved by the United Nations General Assembly. Available at: <https://www.unhcr.org/what-refugee> and <https://www.unhcr.org/what-we-do/publications/state-office-united-nations-high-commissioner-refugees>.
¹⁰ "Pekelir adalah individu yang telah melarikan diri dari peperangan, keganasan, konflik atau penganiayaan yang telah menyebarkan ancaman antarabangsa untuk mendapatkan perlindungan di negara lain." Diteliskan dalam instrumen antarabangsa dan serantau serta Statut Pejabat Pesuruhjaya Tinggi Pertubuhan Bangsa-Bangsa Bersatu bagi Pelarian yang diluluskan oleh Perhimpunan Agung Pertubuhan Bangsa-Bangsa Bersatu. Diambil daripada: <https://www.unhcr.org/what-refugee> and <https://www.unhcr.org/what-we-do/publications/state-office-united-nations-high-commissioner-refugees>.
¹¹ Article 1 (f) of the 1954 Convention relating to the Status of Stateless Persons defines a stateless person as 'a person who is not considered as a national by any State under the operation of its law'.
¹² Adheli (1) Kewarganegaraan 1954 mengenai Status Orang Tidak Bernegara menaikan orang tidak bernegara sebagai 'individu yang tidak dianggap sebagai rakyat atau warganegara di bawah operasi undang-undang di mana-mana negara'.
¹³ United Nations High Commissioner for Refugees Malaysia, 'Figures at a Glance in Malaysia'. Available at: <https://www.unhcr.org/en-my/figures-at-a-glance-in-malaysia.html>.
¹⁴ United Nations High Commissioner for Refugees Malaysia, 'Figures at a Glance in Malaysia'. diakses dari: <https://www.unhcr.org/en-my/figures-at-a-glance-in-malaysia.html>.
¹⁵ T. J. Durasingam. (2016). Chronology of Policies Affecting Potentially Stateless Persons and Refugees in Malaysia https://files.institutefor.org/WP2016_07.pdf
¹⁶ Ibid.
¹⁷ Kartic, H. (2014). One-way ticket to Kuala Lumpur: Bosnian Muslims in Malaysia in the early 1990s. *Indonesia and the Malay World* 42(124), 400-417.
¹⁸ Muzi-Asen, K. (2018). (Re)negotiating Refugee Protection in Malaysia: Implications for Future Policy in Refugee Management. *Reducing Root Causes of Forced Displacement and Managing Migration*, 8-9. https://www.idos-research.de/uploads/media/DP_29.2018_01.pdf
¹⁹ Nazri, A.S., Khalid, K.A.T., Sulaiman, N. & Dohan, N. (2021). 'An Analysis Of Syrian Migrants' Temporary Relocation Programme in Malaysia'. *International Social Sciences Studies Journal*, (e-ISSN:2587-1587) Vol.7, Issue:91 pp:1456-1467
²⁰ Yi, L. (2016, November 24). Malaysia in a pilot scheme to allow Rohingya refugees to work. *Reuters*. <https://www.reuters.com/article/us-malaysia-refugees-rohingya-idUSKBN13J1F1>
²¹ Malaysian government explores letting Rohingya work in agriculture sector. (2017, January 12). *Today Online*. <https://www.todayonline.com/world/sia/malaysian-government-explores-letting-rohingya-work-agriculture-sector>

POLICY FOR REFUGEE AND STATELESS PERSONS IN MALAYSIA: AN OVERVIEW

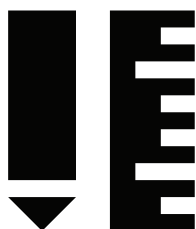
Malaysia has yet to ratify the 1951 Refugee Convention and its 1967 Protocol. As for stateless persons, Malaysia is not a state party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness¹⁹. The 1954 Convention relating to the Status of Stateless Persons ensures that stateless individuals are guaranteed minimum standards of treatment regarding a number of fundamental rights. These include, but are not limited to, the right to housing, public assistance, employment, and education.

An important provision of the 1954 Convention is that stateless people have a right to identification, and travel documents. The 1961 Convention on the Reduction of Statelessness creates measures to prevent statelessness at birth and later in life and a global framework to guarantee every person's right to nationality²⁰.

The exact number of stateless persons in Malaysia is unknown, as there are no official statistics. Hence, this makes it difficult to measure the scope and impact of statelessness in the country. However, in 2016 the former Home Minister of Malaysia, Dato' Seri Ahmad Zahid Hamidi, estimated 290,000 stateless children in the country²¹. Stateless persons are often treated as foreigners and face many changes in accessing basic human rights services, similar to refugees.

Furthermore, the Immigration Act 1959/63²² makes no distinction between refugees, asylum-seekers, stateless persons and undocumented migrants. As a result, no legal or administrative framework is in place to safeguard stateless persons, refugees and asylum seekers within Malaysian territory, depriving them of access to fundamental freedoms including freedom of movement, access to legal employment, formal education and affordable healthcare.

Refugee and stateless children encounter significant hurdles in accessing formal education in Malaysia, including legal barriers. Notably, the government circular that regulates the admission of both undocumented children with one Malaysian parent and non-Malaysian children to national schools (Surat Pekeliling Ikhtisas No 1/2009²³ and Surat Siaran Kementerian Pendidikan Malaysia Bil (3) Tahun 2018²⁴) do not apply to refugee and asylum-seeking children. Article 12(1) of the Federal Constitution states that without prejudice to the generality of Article 8²⁵ (all persons are equal before the law and entitled to the law's equal protection), there should be no discrimination against any citizen on the grounds only of religion, race, descent or place of birth which is:



- a) *in the administration of any educational institution maintained by a public authority, and the admission of pupils or students or the payment of fees; or*
- b) *in providing out of the funds of a public authority financial aid for pupils or students' maintenance or education in any educational institution (whether maintained by a public authority and whether within or outside the Federation).²⁶*

19 UNHCR submission on Malaysia 17th UPR session. (n.d.). *Refworld*. Retrieved May 28, 2023, from <https://www.refworld.org/pdfid/513f9a0e2.pdf>

20 *Ibid*

21 Norfaudin, A. (2020, March 27). Malaysia's stateless children. *The ASEAN Post*. <https://theaseanpost.com/article/malaysia-stateless-children>

22 <https://www.ims.gov.my/index.php/pekeliling/immigration-act-1959-63-act-155>

23 The 'Surat Pekeliling Ikhtisas: Bil: 1/2009: Kemasukan Kanak-Kanak Warganegara Malaysia Tanpa Dokumen Ke Sekolah' dated 11 March 2009, issued by the Office of Director-General of Education Malaysia stated that acceptance of undocumented individuals can be admitted to the government or government - aided schools provided that 1) either one of the child's parent is a Malaysian citizen, and 2) there is a confirmation letter issued by the Village Chief to certify that the child is indeed a Malaysian citizen. See Office of Director-General of Education Malaysia. 'Surat Pekeliling Ikhtisas: Bil: 1/2009: Kemasukan Kanak-Kanak Warganegara Malaysia Tanpa Dokumen Ke Sekolah'. *KPIBS-DSPR/201/002/1*. Jil. 2(1), 11 March 2009.

24 This circular applies to a non-citizen child adopted by Malaysian citizens or child of a Malaysian father and a non-Malaysian mother born out of wedlock, or a non-citizen child whose parents are also non-citizens given that the parents are either foreign embassy staff, working at a government agency with valid work permit, permanent residents in Malaysia or foreign children sent to continue education in Malaysia as part of a government exchange. See Jabatan Pendidikan Negeri, Negeri Sembilan Darul Khusus, Ministry of Education Malaysia. 'Surat Siaran Kementerian Pendidikan Malaysia Bilangan 3 Tahun 2018: Permohonan Kemasukan Sekolah Murid Bukan Warganegara'. *JPNs*. SPS.PP600-8 Jil.9(15), [29 January 2018]. Available at: [siran-kpm-bil-3-2018-permohonan-kemasukan-sekolah-murid-bukan-warganegara.pdf](https://www.kem.gov.my/index.php/pekeliling/immigration-act-1959-63-act-155)

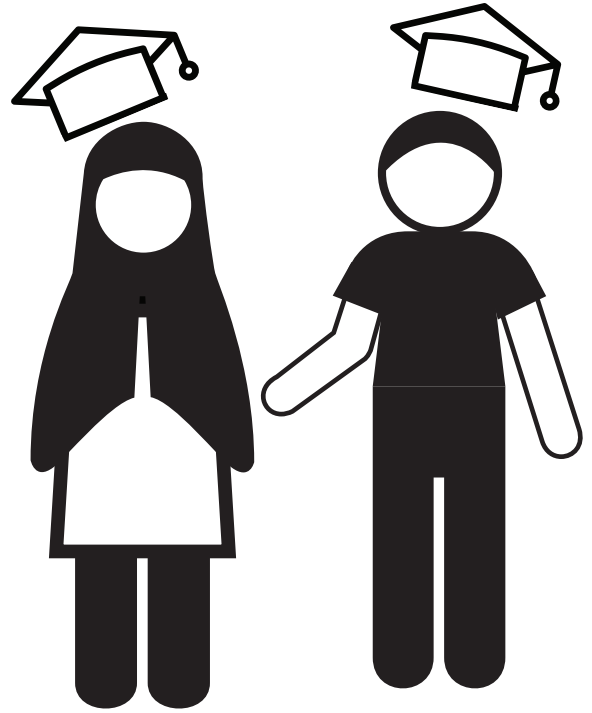
25 Article 8 of Federal Constitution

26 Article 12 of Federal Constitution

By reading Article 12 alongside Article 8, Article 12 puts limitations towards applying Article 8 on matters of educational rights since the provision focuses on Malaysian children²⁷. This provision gives rise to the potential to discriminate against refugee and stateless children of their right to education. Furthermore, the preamble of the Malaysian Education Act 1996 underlines the importance of education in empowering Malaysian society to command knowledge²⁸. The term “Malaysian society” is suggested to refer to those with Malaysian citizenship only, excluding refugees and stateless children from this act²⁹.

The Education Act 1996 states that the Minister must provide primary education for children in Malaysia (Section 27)³⁰ and that primary education is compulsory for all children (Section 29A)³¹. Additionally, it imposes a legal obligation on parents to ensure that their children attend primary school. However, this law only applies to Malaysian citizens, as the term “parents” in Section 29A excludes non-citizens. This means that refugee or stateless children with non-citizen parents are not covered by compulsory education in Malaysia.

Malaysia’s implementation of the Child Act 2001 is an effort to safeguard children’s best interests. This act was passed in Malaysia to ensure the welfare of children, based on the principles stated in the Convention on the Rights of the Child (CRC)³². Despite the preamble of the act’s intent to protect children from discrimination, it does not sufficiently address all children’s access to education³³. Therefore, reading the preamble of the Child Act 2001 with the provisions discussed, Malaysian legislation acknowledges justice and equality to obtain education only for Malaysian citizens³⁴.



In 2019, the Ministry of Education, Malaysia (MoE) implemented the Zero Reject Policy to enhance the implementation of Education for All Policy in Malaysia. The policy aims to ensure that no child is denied access to education, regardless of their special needs or citizenship status. However, in March 2022, the MoE announced the revision of the guideline admission procedures. It clarified that the Zero Reject Policy “does not refer to admission for undocumented children but children with special needs”³⁵.

As a result, refugee and stateless children are only allowed to obtain informal education via alternative learning centres (ALC) and other private learning institutions. There are currently some 150 ALCs in Peninsular Malaysia serving refugees that are recognised by UNHCR³⁶. Of this number, only 28 offer secondary-level education³⁷. In total, these ALCs enrol 34% of school-age refugee children, meaning two out of every three refugee children do not have access to education. In addition, the refugee and stateless children in Malaysia face various difficulties in obtaining identification documents, which deprive them of accessing healthcare and, subsequently of a meaningful childhood³⁸.

Refugee children are often victims of their circumstances as they were forced to flee to host country due to war or persecution in their home country. On the other hand, statelessness in-situ among children is often the result of the framing and implementation of nationality laws³⁹. A working definition for in situ statelessness is stateless persons “who are in their ‘own country’, meaning a country with which they have significant and stable ties through birth, long-term residence⁴⁰.” These are individuals, among whom are children, who were born and have resided in the country their entire lives but are unable to obtain citizenship because they may lack necessary documentation⁴¹.



Malaysia in collaboration with the Independent Permanent Human Rights Commission (IPHRC) of the Organisation of Islamic Cooperation (OIC) held its 8th International Seminar on the subject of ‘Islamic Perspectives on Protection of Refugees: Rights and Access to Education’ in Kuala Lumpur. As the final document of the symposium, the OIC recommended the adoption by the IPHRC of the **“Kuala Lumpur Declaration on Refugee Rights and Access to Education”**⁴², which calls for refugee children to be included in the national education systems of OIC Member States.

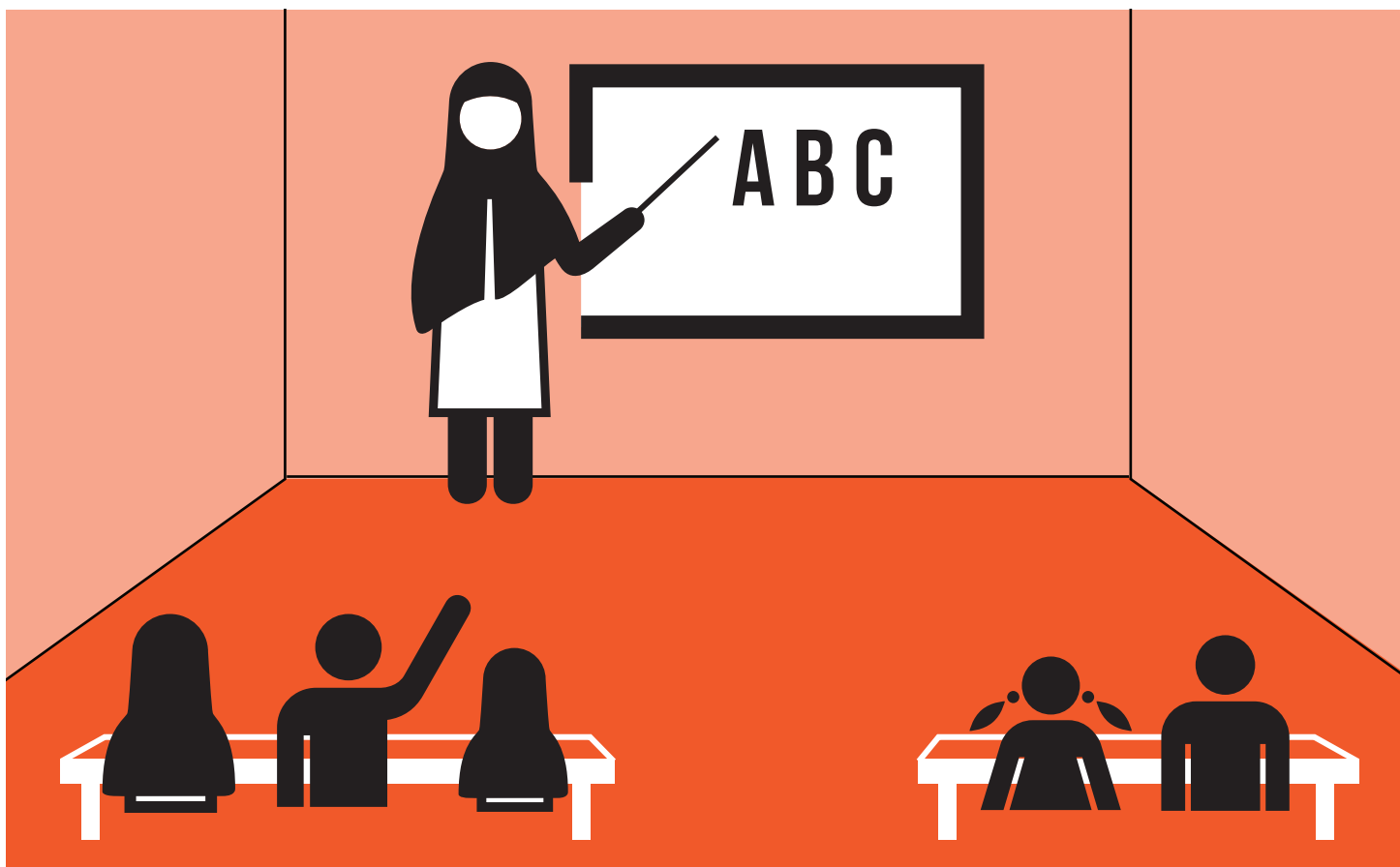
27 Rahmat, N. E., Randawar, D. K., Jayabalan, S., Razak, M. U. A., & Azmi, I. I. (2021). Revisiting the Laws and Policies Related to Educational Rights of Stateless Children in Malaysia. *International Journal of Academic Research in Progressive Education and Development*, 10(3), 1174–1184
 28 Malaysian Education Act 1996
 29 Akta Pendidikan Malaysia 1996
 30 Rahmat, N. E., Randawar, D. K., Jayabalan, S., Razak, M. U. A., & Azmi, I. I. (2021). Revisiting the Laws and Policies Related to Educational Rights of Stateless Children in Malaysia. *International Journal of Academic Research in Progressive Education and Development*, 10(3), 1174–1184
 31 Section 27 Malaysian Education Act 1996
 32 Section 27 Akta Pendidikan Malaysia 1996
 33 Section 29A Malaysian Education Act 1996
 34 Section 27 Akta Pendidikan Malaysia 1996
 35 United Nations High Commissioner for Refugees. Education: Refugee Malaysia. <https://refugees.malaysia.org/support/education>
 36 Ibid
 37 Ibid
 38 United Nations High Commissioner for Refugees. (2015, November). *I am here, I belong: The Urgent Need to End Childhood Statelessness*. UNHCR: Division of International Protection. https://www.unhcr.org/belong/wp-content/uploads/2015/10-StatelessReport_ENG16.pdf
 39 United Nations High Commissioner for Refugees. (2014). *Handbook on protection of stateless persons: Under the 1954 Convention Relating to the Status of Stateless Persons*. <https://www.refworld.org/docid/53b67b9a.html>
 40 Ouyas, Gabor. (2012). Statelessness in the EU Framework for international protection. *European Journal of Migration and Law*, 14. https://www.statelessness.eu/sites/default/files/attach/ment/research/Ouyas_Statelessness%20in%20the%20EU%20Framework%20for%20international%20Protection_2012.p
 41 Nungsaar, M., and Fong, N. (2023). Human Rights and Statelessness in Peninsular Malaysia. *SUHAKAM - The Human Rights Commission of Malaysia*.
 42 OIC calls for global action to ensure access to education for refugees. (2022, October 12). *ARAB NEWS*. https://www.arabnews.jp/en/saudi-arabia/article_82163/

Moreover, it is important Malaysia takes into consideration the best practices of neighbouring countries such as Thailand when granting the right to education for refugee and stateless children in Malaysia. In Thailand, the government adopted the “Education for All” policy that allows all children, including non-Thai youngsters, free universal education in public schools. This “Education for All” policy introduced in 2005 has also benefited refugee children. Thailand hosts an estimated of 95,000 refugees, including 36% of whom are children⁴³. There are over 145,000 migrant and refugee children enrolled in government schools⁴⁴. Although the exact number of stateless persons globally is unknown, Thailand is estimated to have the fourth largest population of stateless persons, while Malaysia is ranked 16th⁴⁵. To expand on its achievements in lowering the vulnerability of stateless persons, Thailand undertakes to consider further changes to its Nationality Act and incorporate better access to birth registration and personal documentation services, including late birth registration⁴⁶.

Thailand’s Civil Registration Act 2008 provides that every child born in the country, regardless of their parents’ status, will be given an official birth certificate⁴⁷. This would allow stateless persons to remain in the country and access basic necessities such as education and healthcare⁴⁸. In Thailand, regardless of their legal status, every child has the right to education⁴⁹. Many progressive measures have been taken and put into effect by the Thai government. Children in Thailand who lack legal status have access to education at all levels according to the Royal Thai Government Cabinet Resolution for Unregistered Persons in 2005⁵⁰. Stateless children may enrol in education programmes at every level in public and private institutions, and upon completion, academic credentials are awarded⁵¹.

It should be noted that Thailand’s Ministry of Education has mandated that all children have the right to at least twelve years of free, high-quality primary education, with the first nine years being compulsory as stipulated in Thailand’s National Education Act 1999⁵². Additionally, the Thai government implemented a policy where schools were reimbursed the tuition fee for each migrant child based on a specified and equal rate to a Thai child⁵³. Thailand has also established Migrant Learning Centres (MLCs) where migrant parents can send their children to receive education⁵⁴. Furthermore, the Equitable Education Fund (EEF) was established to reduce education inequalities through research, teacher development, and direct financial support for vulnerable children, regardless of legal status or nationality⁵⁵.

43. United Nations Children’s Fund (UNICEF). (2019, June 22). Education Knows No Border: A Collection of Good Practices and Lessons Learned on Migrant Education in Thailand. <https://www.unicef.org/thailandmedia/3696/file/Education%20knows%20no%20border%20-%20report.pdf>
44. *Ibid*
45. Worcester, W. T. (2019). The obligation to grant nationality to stateless children under customary international law. *Michigan State International Law Review*, vol 27(3), 469.
46. Rahmat, N. E., Randawar, D. K., Jayabalan, S., Razak, M. U. A., & Azmi, I. I. (2021). Revisiting the Laws and Policies Related to Educational Rights of Stateless Children in Malaysia. *International Journal of Academic Research in Progressive Education and Development*, 10(3), 1174–1184.
47. Thailand Annual Human Rights Report, 2010. <https://2009-2017.state.gov/jinrh/annual/2010hrnp/154403.htm>
48. Rahmat, N. E., Randawar, D. K., Jayabalan, S., Razak, M. U. A., & Azmi, I. I. (2021). Revisiting the Laws and Policies Related to Educational Rights of Stateless Children in Malaysia. *International Journal of Academic Research in Progressive Education and Development*, 10(3), 1174–1184.
49. UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific. (2013-2015). <https://unesdoc.unesco.org/Query?Corporate%20%22UNESCO%20Office%20Bangkok%20and%20Regional%20Bureau%20for%20Education%20in%20Asia%20and%20the%20Pacific%22&sf=st>
50. *Ibid*
51. Rahmat, N. E., Randawar, D. K., Jayabalan, S., Razak, M. U. A., & Azmi, I. I. (2021). Revisiting the Laws and Policies Related to Educational Rights of Stateless Children in Malaysia. *International Journal of Academic Research in Progressive Education and Development*, 10(3), 1174–1184.
52. Tuangratnanon, T. (2019, February 1). Education Policy for Migrant Children in Thailand and How it Really Happens: A Case Study of Ranong Province, Thailand. *International Journal of Environment Research and Public Health*. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC338250/pdf/jerph-16-00430.pdf>
53. *Ibid*
54. *Ibid*
55. Equitable Education Fund (EEF) Brochure. https://www.eef.or.th/wp-content/uploads/2019/07/eeef_brochureEng.pdf



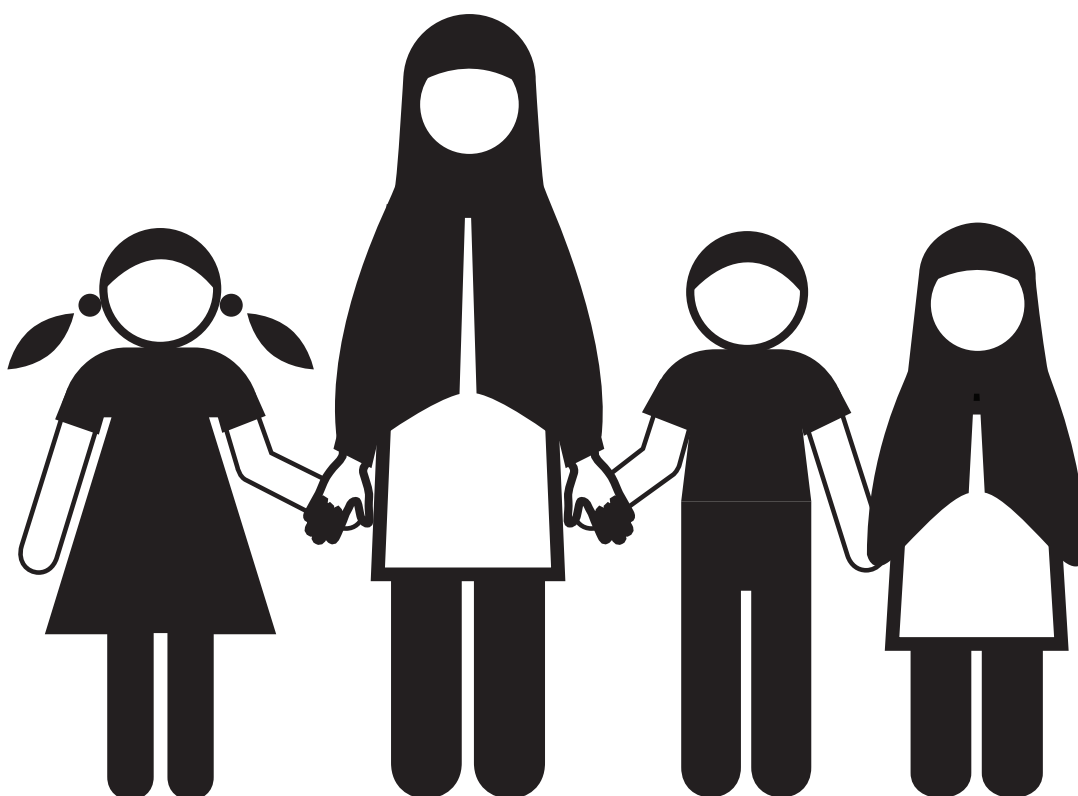
ROUNDTABLE DISCUSSION

The roundtable discussion was attended by members of the civil service from the Ministry of Women, Family and Community Development, Ministry of Foreign Affairs, Immigration Department of Malaysia, Ministry of Education, Malaysian National Security Council, Ministry of Community Development and People's Wellbeing of Sabah and Department of Social Welfare, and practitioners from relevant national and international organisations.

The roundtable had the following objectives; (a) to exchange ideas with relevant governmental agencies on how to improve access to education among refugee and stateless children, (b) to lay the foundation for developing a roadmap towards the inclusion of refugee and stateless children in the national education system, recognising how this would contribute to the sustainability of the socioeconomic system in Malaysia and Southeast Asia, and (c) to identify and highlight avenues for enhanced inter-agency cooperation in addressing the barriers to the realisation of the right to education of refugees and stateless children.



In addition to comprehensive presentations made by experts, roundtable participants analysed ongoing national initiatives related to the protection of refugee and stateless children, especially related to their access to education; identified challenges and gaps and suggested way forward on possible integration and alternatives. This **“Policy Brief on Realising the Right to Education for Refugee and Stateless Children”** is the outcome of the roundtable stakeholder discussion, that the Secretariat held. The brief reflects the in-depth discussions and concrete recommendations that emerged from the roundtable.



d) LACK OF DOCUMENTATION

The absence of official documents, such as birth certificates or identification cards, hinders children from enrolling in formal education institutions. The complex and bureaucratic processes involved in obtaining valid identification can be overwhelming and burdensome for some refugee and stateless families, exacerbating their marginalisation and hindering their integration into society.



Allowing refugees in public schools doesn't deplete local resources; it can enhance them, as evidenced by Pakistan's compassionate approach to granting Afghan refugees access to schools, which has improved social cohesion between refugees and their host communities⁷¹. The Refugee Affected and Hosting Area (RAHA) education interventions aim to direct vital investments into Pakistan's national education system with a view to improving its absorption capacity and quality of services, which benefits both refugee and Pakistani children alike⁷².

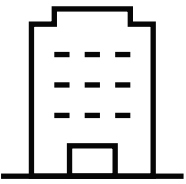
Looking back to the Malaysian context, in Sabah, the situation remains complex, and the stateless population is increasing without a tangible solution in sight⁷³. Addressing the lack of documentation for refugee and stateless children to access education requires a multifaceted approach that tackles both political and societal challenges. Furthermore, awareness amongst Malaysians on the importance and urgency of documentation to access basic human rights remains an important issue to be addressed.

As in Sarawak, there is efficient responsibility sharing between the State Education Department of Sarawak National Registration Department, and other government agencies to assist stateless children in registering for schools in the state⁷⁴. There may be possibilities for similar responsibility sharing in the documentation of refugee children, taking advantage of UNHCR registration of the refugee population in Malaysia. Taking a holistic approach is crucial in addressing the lack of documentation for education access⁷⁵. It requires the active involvement of all relevant parties. Additionally, efforts should be made to provide legal pathways for documentation and identification, enabling these children to access education.

e) INSUFFICIENT INFRASTRUCTURE

The Malaysian Government has sustained high levels of investment in education over the 55 years since independence⁷⁶. In 2017, around 90.9% of students were enrolled in some form of preschool education⁷⁷. Primary education had attained an enrolment rate of 97.9% in 2017 compared to 92% in the 1980s⁷⁸. The upper secondary level saw the most significant improvement, with enrolment nearly doubling from 45% to 84.48% in the same year⁷⁹. However, these enrolment rates do not account for refugee and stateless children in Malaysia, meaning there is still a significant number of children not enrolled in schools. Even if refugee children were allowed to enrol in public schools, the availability of seats and the provision of public schools are limited⁸⁰, especially in urban areas where most of them reside. While the rural schools have low enrolment, which makes up to 3,017 schools with less than 150 students each, they are inaccessible for refugees⁸¹. Moreover, the provision of secondary education is more inadequate and challenging, as it entails higher costs, more teachers, and specialised facilities⁸².

The double-shift system is an innovative approach to cope with the infrastructure challenges of accommodating more children, especially in urban settings. In a double-shift school, local children can attend during one part of the day, with refugee and stateless children getting their schooling in the "next shift". Although there may be challenges, double-shift schooling is a promising approach that Malaysia could consider exploring to accommodate refugee and stateless children in the country. One of the primary advantages is the optimal use of infrastructure, reducing the need for additional construction or the establishment of separate schools.



f) LEGAL BARRIERS

Globally, statelessness correlates with the lack of citizenship of an individual. In Malaysia, the laws governing citizenship can be found in Articles 14, 15, 15A, 16 and 16A of the Federal Constitution. Article 14(1)(b) highlights that a person gains citizenship automatically by law if born on or after Malaysia Day⁸³, has at least a parent who is a Malaysian citizen or a permanent resident⁸⁴. Individuals may also gain citizenship through registration under Article 15 of the Federal Constitution.

In addition, the Federal government has the discretion to grant citizenship to anyone who is under the age of 21 as specified under Article 15A⁸⁵. Nevertheless, it is not a guarantee that a stateless child may attain citizenship under Article 15A as the decision is made at the discretion of the Minister of Home Affairs⁸⁶. If the minister were to reject the application, the citizenship application would likewise be subject to revocation, and no justification would be necessary⁸⁷. Hence, obtaining citizenship under the Federal Constitution is a challenging procedure, causing stateless children to lose the opportunity to receive education if their application is unsuccessful until they have passed the age to enrol into school⁸⁸.

In addition, Article 14(1)(b) reflects the jus sanguinis principle on which Malaysian citizenship laws are based, which holds that nationality is a right by blood⁸⁹. Since statelessness affects generations and inevitably prevents many children from enrolling into schools, this has resulted in generational statelessness, especially in Sabah, East Malaysia⁹⁰. Furthermore, the government of Malaysia also maintains its reservations on Article 7 and Article 28(1)(a) of the Convention on the Rights of the Child.

As discussed previously, national laws in Malaysia make no distinction between asylum-seekers, stateless persons, refugees and undocumented migrants. The Malaysian government also does not recognise the UNHCR card as a legitimate document as a form of identification for refugees⁹¹.

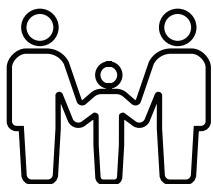


g) INSUFFICIENT PARENTAL INVOLVEMENT

Engaging parents can play an important role in helping undocumented children integrate into the school system. Furthermore, engaging parents and families can help address the need for refugee children bonding and social support⁹². Some countries put in place particular policies to support immigrant and refugee parents. However, a common challenge faced is the apathy among parents that impacts their children's enrolment in schools. Schooling becomes less essential, and expectations for the children's academic achievement may be low when families experience economic and social hardships⁹³.

Parents may not have enough information to assess the return on an investment in their children's education, or they may see the return—sometimes correctly—as too low to justify the cost, perhaps because of the perceived poor quality of the education available to them. They may believe that jobs in the local economy require academic skills or that getting a job depends more on personal connections than on skill⁹⁴. When this happens, parents will withdraw their kids from school because they believe that it is not a good investment to send them to school when they can start working immediately⁹⁵.

In stateless communities, many live day to day, never mind having any savings for essential necessities like food or medical care. Some of them are compelled to beg for money in towns and city centres where they may be seen hanging around near tourist attractions and traffic lights, drawing sympathy from passing drivers and visitors⁹⁶. In 2019, the struggles of a mother, Ms. Asmdia, were addressed in a media article emphasising the lives of stateless children in Sabah. Mr. Suhidin, her husband, is a fisherman and makes only RM500 (US\$119.28) per month, or less than half the RM1,100 (US\$238.40) minimum wage set by the government. In situations when the family's food situation worsens, her two kids spend their afternoons gathering recyclable rubbish from the landfill to sell in Sandakan⁹⁷. This creates a cycle of poverty and marginalisation that deprives children of their right to education and their potential for social and economic development.



71 United Nations High Commissioner for Refugees. (2021). Final Education Factsheet: 10 years of RAHA in Pakistan. <https://www.unhcr.org/wp-content/uploads/sites/103/2021/04/RAHA-Factsheet-Education.pdf>

72 Ibid

73 Marisa, A., & Meh, A. (2023, April 12). Documenting the Undocumented: The Struggle for a Legal Identity. *New Naratif*. <https://newnaratif.com/documenting-the-undocumented/>

74 Step up efforts to help stateless children. *Sarawak minister tells Putrajaya*. (2022, May 21). *Malaysia Today*. <https://www.malaysiatoday.com/news/2022/05/21/step-up-efforts-to-help-stateless-children-sarawak-minister-tells-putrajaya>

75 Point brought up during breakfast room sessions at roundtable discussion

Isu ini telah dibangkitkan oleh peserta semasa sesi berkumpul dalam perbincangan meja bulat.

76 Prime Minister's Office (PMO) (Ed.). (2019). *Executive Summary: Malaysia Education Blueprint (2013-2025) (Preschool to Post-Secondary Education)*. <https://www.pmo.gov.my/wp-content/uploads/2019/07/Malaysia-Education-Blueprint-2013-2025.pdf>

77 Economic Planning Unit. (2018). *Mid-term Review of the Eleventh Malaysia Plan 2018-2020*. Putrajaya: Economic Planning Unit. <https://www.epu.gov.my/reconomic-development/development-plan/mkr/mkr-sem-11-2018-2020>

78 Ibid

79 Ibid

80 United Nations Educational, Scientific and Cultural Organization (UNESCO) (Ed.). (2019). *Enforcing the right to education of refugees: a policy perspective*. Working Papers on Education Policy. [file:///C:/Users/Hp/Downloads/396633eng.pdf](https://www.unhcr.org/refugees/396633eng.pdf)

81 <https://www.malaysiakini.com/news/634945>

82 United Nations High Commissioner for Refugees (UNHCR). (2015, July). *SECONDARY EDUCATION FOR REFUGEE ADOLESCENTS*. Education: Issue Brief 6. <https://www.unhcr.org/media/33084>

83 Alter 19 September 1962.

84 Article 14(1)(b) Federal Constitution of Malaysia

85 Article 15A of the Federal Constitution of Malaysia

86 Liew, J. C. Y. (2019). *Homegrown statelessness in Malaysia and the promise of the principle of genuine and effective links*. *Statelessness and Citizen Review*, 1, 95. <https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/1311>

87 Rostam, N. H., Ahmad, N. H., Marzuki, N. S. A. M., Attas, R. N. M., Rahmat, N. E., & Othman, A. (2022). *A Legal Analysis of Stateless Children and Their Rights to Education in Malaysia: A Comparative Study with Thailand*. *International Journal of Academic Research in Progressive Education and Development*, 11(3), 1711-1726

88 Ibid

89 Article 14(1)(b) Federal Constitution of Malaysia

90 Liew, J. C. Y. (2019). *Homegrown statelessness in Malaysia and the promise of the principle of genuine and effective links*. *Statelessness and Citizen Review*, 1, 95. <https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/1311>

91 WERN, S. (2020, August 4). *Home minister says no idea how UNHCR card works, documentation not recognised by Putrajaya*. *Malay Mail*. <https://www.malaymail.com/news/malaysia/2020/08/04/home-minister-says-no-idea-how-unhcr-card-works-documentation-not-recognised/1891039>

92 Cerina, L. (2019, May 13). *REFUGEE EDUCATION: INTEGRATION MODELS AND PRACTICES IN OECD COUNTRIES*. <https://one.oecd.org/document/EDUI/WKP/2019/11/En/pdf>

93 Mastime, J. T., Zhang, F. L., Hassamern, J., & Wu, C. Y. 2014. *Parental Economic Hardship and Children's Achievement Orientations: Longitudinal and life course studies*, 5(2), 105-128. doi:10.14310/ijcs.v5i2.271; Kementerian Pendidikan Malaysia, 2016b. *Kajian kebolehtaksanaan kelaz bercantum dan pengajaran pelbagai grad di sekolah berantaram 50 ka bawah*

94 Hillman, A. L. (n.d.). *Economic Issues No. 33 - Educating Children in Poor Countries*. International Monetary Fund. <https://www.imf.org/external/pubs/iss/economic33/>

95 United Nations Children's Fund Malaysia. (2019). *Children Out of School: The Sabah Context*. <https://www.unicef.org/malaysia/media/521/files/Out%20of%20School%20in%20Sabah%202019%20OSCO%20Accessable%20version.pdf>

96 *Can Stateless Communities Find Work in Malaysia?* (2021, March 2). *Wiki Impact*. <https://www.wikiimpact.com/en/stateless-communities-find-work-malaysia/>

97 A. Yusof. (2019). *Living in a sea of trash: Sabah's stateless children face bleak future*. *Channel News Asia*. <https://www.channelnewsasia.com/news/asia/sabah-stateless-children-see-gypsies-bajau-laut-11561194>

RECOMMENDATIONS

To provide refugee and stateless children access to formal education, we propose several recommendations to be considered by government agencies in the long-term, including but not limited to:

IN ORDER TO INCREASE ACCESS FOR REFUGEE AND STATELESS CHILDREN TO FORMAL EDUCATION:

a) **Establish the Special Committee on citizenship status for stateless children at a State level.**

Peninsular Malaysia is encouraged to adopt the Sarawak state government's policy on reviewing applications for stateless children, whereby a Special Committee can be tasked to review citizenship applications under Articles 14, 15, 15A, 16, 19 of the Federal Constitution submitted through the National Registration Department (JPN) in each state. Furthermore, the Special Committee may also assess the merits of citizenship application under relevant provisions based on the existing application guidelines by the Ministry of Home Affairs (MoHA).



b) **Issuance of temporary documentation for stateless children to allow them access to national schools.**

As an example, in Sarawak, the Sarawak Premier Department is in charge of issuing temporary documentation to eligible stateless children applying for citizenship under Article 15A of the Federal Constitution. This temporary document does provide opportunities for refugee and stateless children to access education services provided by the respective state governments. Due to the absence of a Premier Department in Peninsular Malaysia, a designated committee composed of relevant stakeholders can be established under the purview of the Ministry of Home Affairs to issue temporary documentation to stateless children who are applying for citizenship. From a national security perspective, ensuring that all children have access to education aids in identifying and keeping track of individuals residing within Malaysian territory. By enrolling undocumented children in schools, the government can gather essential information and maintain better oversight, contributing to national security efforts.

c) **Review and amend national legislation that prevent refugee and stateless children from accessing formal education.**

Malaysia is encouraged to review and amend the Education Act of 1996 and the Federal Constitution to reflect language comparable to that in Thailand's National Education Act and the 1997 Constitution, which emphasises that every individual has the right to an education. Article 12 of the Malaysian Federal Constitution, which has been previously explored in this policy brief, maybe a contributing factor to the government's reservation of Article 28 of the Convention on the Rights of the Child. Therefore, amending Article 12 of the Federal Constitution to allow all children to access formal education would significantly improve the lives of refugee and stateless children in Malaysia. Addressing legal barriers and providing education to all children aligns with Malaysia's best interest in cultivating an inclusive society that upholds the principle of non-discrimination. By granting equal access to education, regardless of documentation status, Malaysia demonstrates its commitment to basic rights and reinforces the notion that education is a fundamental entitlement for every child. By promoting inclusivity and eradicating barriers, Malaysia can build a more cohesive society that values and respects the rights of all its citizens, especially children.

d) **Government permits public schools and other formal educational institutions to enrol refugee children on the strength of UNHCR identity documents.**

In light of the lack of resources and expertise in handling the registration of refugee children in Malaysia, the government could rely on UNHCR registration of refugee children to enable their access to formal education in the country⁹⁸. Bank Negara Malaysia similarly allows banks to open accounts for refugees on the strength of UNHCR identity documents⁹⁹. As discussed previously, national laws in Malaysia make no distinction between asylum-seekers, stateless persons, refugees and undocumented migrants. The Malaysian government also does not recognise the UNHCR as a legitimate document as a form of identification for refugees¹⁰⁰. Therefore, it is imperative that the government recognises the importance of the identity card issued by UNHCR, to allow refugee children access to basic rights such as education and healthcare¹⁰¹.

⁹⁸ Dhillon, S. (2022, September 9). Government should partner with the UNHCR. *The Malaysian Insight*. <https://www.themalaysianinsight.com/s/400392>

⁹⁹ Bank Negara Malaysia. (2020, September 1). *Guidance on Verification of Individual Customers for Customer Due Diligence Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions, Designated Non-Financial Businesses and Professions and Non-Ba*. https://www.bnrm.gov.my/files/documents/20124/914558/Guidance+on+Verification_01092020.pdf?371be831-66c9-22e-9388-b342de966d37e-1600740272665

¹⁰⁰ WERN, S. (2020, August 4). Home minister says no idea how UNHCR card works, documentation not recognised by Putrajaya. *Malay Mail*. <https://www.malaymail.com/news/malaysia/2020/08/04/home-minister-says-no-idea-how-unhcr-card-works-documentation-not-recognise/1891039>

¹⁰¹ King, S. (2016, March 21). Are refugees in Malaysia a victim of their identity? *Malaysiakini*. <https://www.malaysiakini.com/fetters/534646>

IN ORDER TO FOSTER A MORE INCLUSIVE NATIONAL EDUCATION SYSTEM:

a) Provide early assessment of skills in order for refugee children to overcome interruptions in learning such as the language barrier.

This will help alert educators to potential difficulties, and the specific needs of refugee and stateless children to be identified and assessed as soon as they enter the school system. As an example, in Sweden, early initial assessment is essential in providing language support to immigrant students as it is an important starting point in the language learning process¹⁰². Within two months of starting school, all new arrivals are assessed on their academic knowledge and language skills¹⁰³. In order to test prior knowledge without language barriers, the assessments are offered in the students' mother tongues. If a student shows strong subject-matter understanding, they can then take part in regular instruction in that subject¹⁰⁴.

b) Conduct introductory classes and transition to mainstream classes for refugee children when enrolled in national schools.

The objective is to prepare non-native speaking pupils who may have missed months or years of schooling in order to prepare them for mainstreaming later on. Germany has several models of Willkommensklasse (Welcome Class). Some schools, for instance, have established Welcome classrooms that are entirely distinct from regular classrooms and instruct only in German, while others make every effort to engage new immigrants in subject matter classes with the regular students from the beginning and provide them with complementary German language instruction¹⁰⁵. For school-age pupils in Australia who do not speak Standard Australian English as their first language or dialect, there is a programme called English as an Additional Language or Dialect (EALD or EAL/D). Specific educational institutions or Intensive English Language Centres administer these curricula. EALD education is generally taught within the context of key learning areas in the relevant mainstream curriculum, so that integration into mainstream classes is achieved following completion of the programme¹⁰⁶.

c) Providing tailored training for teachers and school leaders.

State governments are encouraged to provide more training and assistance to educators, teachers, and others working in educational institutions to adapt their approaches and cater to the shifting demands resulting from the arrival of refugees and stateless children into national schools. Teachers should be encouraged to undertake training courses to understand the challenges of caring for refugee and stateless students. As an example, within the framework of UNESCO's Ninth Consultation on the Implementation of the Convention and Recommendation against Discrimination in Education¹⁰⁷, a significant number of nations claimed that training programmes for teachers, educators, and school administrators had been implemented to enhance local competencies and capacities. In Norway, the government seeks to increase local competence by creating a network for municipalities, with a "school box" offering online learning resources and a "teacher tool" allowing school administrators to look for qualified teachers with the expertise they need locally¹⁰⁸.

d) Foster stronger bonds with parents of refugee and stateless children in Malaysia.

This may entail creating meaningful home and family ties, integrating parents in the educational process, translating information into the parents' native tongue, and giving them language instruction¹⁰⁹. Moreover, allowing local refugee teachers to volunteer in national schools can help strengthen the bond between the schools and parents as the teacher is able to empathise better with said parents¹¹⁰. Local refugee teachers possess cultural sensitivity and an awareness of the unique traditions, customs, and values of the refugee and stateless communities. This understanding enables them to establish a welcoming and inclusive environment within the school, ensuring that parents feel respected, valued, and understood. By recognising and appreciating the cultural diversity within the school community, local refugee teachers can foster a sense of belonging for all parents, irrespective of their background.



102 Essomba, M. (2017). "The right to education of children and youngsters from refugee families in Europe". *Intercultural Education*, Vol. 28/2, pp. 206-218. <https://dx.doi.org/10.1080/14675868.2017.1308659>

103 *Ibid.*

104 *Ibid.*

105 Cerna, L. (2019, May 13). REFUGEE EDUCATION: INTEGRATION MODELS AND PRACTICES IN OECD COUNTRIES. <https://inee.oecd.org/document/EDU/WP/2019/11/En.pdf>

106 *Ibid.*

107 United Nations Educational, Scientific and Cultural Organization (UNESCO). 2018 *Ensuring the right to equitable and inclusive quality education: Results of the ninth consultation on the implementation of the UNESCO Convention and Recommendation against Discrimination in Education*.

108 United Nations Educational, Scientific and Cultural Organization (UNESCO) (E4). (2019). *Enforcing the right to education of refugees: a policy perspective. Working Papers on Education Policy*. <https://unesdoc.unesco.org/ark:/48223/pf0000366839>

109 Cerna, L. (2019, May 13). REFUGEE EDUCATION: INTEGRATION MODELS AND PRACTICES IN OECD COUNTRIES. <https://inee.oecd.org/document/EDU/WP/2019/11/En.pdf>

110 United Nations Educational, Scientific and Cultural Organization (UNESCO) (E4). (2019). *Enforcing the right to education of refugees: a policy perspective. Working Papers on Education Policy*. <https://unesdoc.unesco.org/ark:/48223/pf0000366839>

IN ORDER TO PROVIDE PROMPT ASSISTANCE TO EXISTING EDUCATIONAL INITIATIVES IN MALAYSIA, THE GOVERNMENT CAN:

a) **Provide material support in the form of books, uniforms etc to refugee and stateless children.**

These types of support have been demonstrated to boost enrolment and attendance¹¹¹. For example, to make up for the insufficient delivery of books to displaced students, Iraq has taken a number of measures, including providing school supplies, furniture, and free compact discs containing all course material. Additionally, funds are provided to transport these students from their places of residence to schools¹¹².

b) **Improve facilities in alternative learning centres and community-based learning centres for stateless children in Malaysia.**

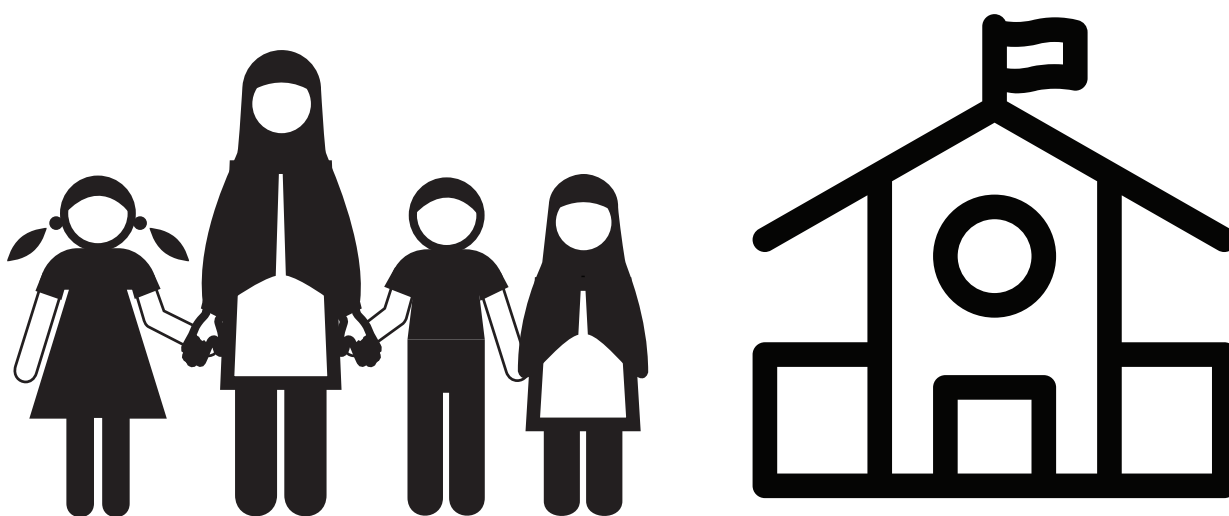
The Government is encouraged to increase cooperation with various bodies to improve resources such as promoting teacher's training, capacity building, and allocating resources for teachers in ALCs. The Ministry of Education (MoE), along with ALC providers, can also collaborate to standardise curriculum based on MoE guidelines, monitoring and quality control. Recognising the lack of qualified teachers, ALCs should be encouraged to take a community-based approach and allow qualified members of the stateless community to take ownership of the operation of the learning centres.

c) **Establish sustainable financing for the education of refugee and stateless children through public-private partnerships, including mobilising global funds for education that could support any inclusive measures in government schools.**

To address the lack of funding, the Government of Malaysia is encouraged to develop multi-stakeholder partnerships to increase funding to strengthen the national education system. For example, Thailand's Equitable Education Fund (EEF) has been an effective model of public-private partnerships for innovative financing and international cooperation for equitable education. The equity-focused public fund's variety of funding sources is one of its main advantages, in addition to offering tax incentives for private in-cash and in-kind contributions. While EEF is negotiating with national regulators to make the processes for resource mobilisation as efficient, quick, and effective as possible, many Thailand-based companies are funding EEF as part of their Corporate Social Responsibility (CSR) programmes. EEF works closely with about 30,000 Thailand schools under the supervision of 30 agencies, primarily the Thailand Ministry of Education, as well as the Ministry of Interior and the Royal Thai Police, among others, namely by providing cash transfers (i.e. providing cash assistance to those who satisfy certain qualifying conditions) to needy students directly through their schools.

d) **Allowing refugee children to use government school premises outside of regular schooling hours to expand the capacity of existing national schools in Malaysia.**

To realise this policy, the concept of double-shift schooling can be adopted by host governments to expand the provision of education in a short period of time. By splitting the local, refugee and stateless students into morning and afternoon shifts, it can be cost-effective through the utilisation of existing facilities. Moreover, the government could potentially enhance school infrastructure and premises through external funding sources too. This innovative system, which allows two separate groups of students to utilise the same school facilities at different times of the day, would optimise resource allocation and maximise the utilisation of existing educational infrastructure. Not only would this alleviate the strain on the Ministry's budget, but it would also create opportunities for collaboration with external organisations, such as NGOs or corporate entities, who could contribute funds towards improving school facilities. Therefore, embracing the concept of double-shift schooling presents a promising pathway to enhance educational resources in Malaysia without placing an undue burden on the Ministry of Education. Despite its challenges, double-shift schooling is a promising approach that Malaysia should consider exploring to accommodate refugee and stateless children in the country. One of the primary advantages is the optimal use of infrastructure, reducing the need for additional construction or the establishment of separate schools.



¹¹¹ Indragalle, C. 2004. *The final evaluation report of emergency educational assistance for the drought-affected and displaced children in elementary-level education in Eritrea project*. Paris: UNESCO Programme of Education for Emergencies and Reconstruction (PEER)

¹¹² United Nations Educational, Scientific and Cultural Organization (UNESCO). 2016. *Ensuring the right to equitable and inclusive quality education: Results of the ninth consultation on the implementation of the UNESCO Convention and Recommendation against Discrimination in Education*. <http://unesdoc.unesco.org/infocentre/005002514251463a.pdf>

CONCLUSION

This paper underscores the importance of reinforcing measures to safeguard the right to education for refugee and stateless children in Malaysia. Although the Malaysian government has started to include undocumented children in the public education system through the establishment of Sekolah Bimbingan Jalinan Kasih, there remains a notable proportion of stateless children residing in Malaysia who have yet to benefit from inclusion policy. Responsibility sharing is another aspect that needs to be emphasised. The responsibility of providing education to refugee and stateless children should not fall solely on the host country or UNHCR. Instead, a collaborative approach involving a spectrum of stakeholders, including international organisations, NGOs and donor countries, is pivotal. By sharing the responsibility, sustainable solutions can be developed, ensuring the long-term education of these children. Moreover, educating refugee and stateless children holds tangible advantages for Malaysia's lasting economic progression. These children possess the potential to mature into productive members of society, enhancing the workforce and potentially addressing labour shortages in various sectors. Noteworthy also is the potential alignment of a more inclusive education system is a window of opportunity for Malaysia to strengthen its commitment to the 2030 Agenda for Sustainable Development (2030 Agenda), as reflected in Malaysia's national blueprint, the 12th Malaysia Plan and as a party to the Convention on the Rights of the Child since February 17, 1995.





Art by: Saffiq Fitri

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