

**A LEGAL STUDY ON THE RIGHT TO EDUCATION OF STATELESS CHILDREN IN
MALAYSIA**

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ABSTRACT

This paper is a study done on stateless children and their right to education in Malaysia. Statelessness is a very serious issue in the world today and many governments around the world are learning to deal with this issue. The United Nations various bodies, particularly the United Nations High Commissioner for Refugees have been assisting states around the world on this matter and have been extensively campaigning for general awareness on the issue and problems associated with statelessness. According to the Universal Declaration of Human Rights, every child and person deserves the right to a free education. However, many circumstances prevent this from happening. In Malaysia, this is a problem attributed to many minority communities such as the refugees, asylum seekers and the stateless as the state does not legally recognize the existence of any of these communities. Therefore, they cannot enter local public schools and their rights are not protected. How then is this issue dealt with locally? Or is it ignored completely? Does the state have a legal obligation towards these stateless children with respect to the right to education?

This paper will attempt to answer these questions and explore the socio-legal aspects on the subject matter which shall include an analysis of the local and international law, policies and compare it with realities on the ground. Recommendations and suggestions will also be provided to solve this issue with the basic premise of awarding benefit to every party once the right to education is awarded to stateless children in Malaysia.

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CHAPTER ONE: INTRODUCTION

1.1 DEFINITION OF STATELESS CHILDREN

Article 1 of the Convention Relating to the Status of Stateless Persons defines 'stateless person' as a person who is not considered as a national by any State under the operation of its law.¹ Therefore, a person who is stateless is a person who is not considered a citizen of any country.

It is of paramount importance here to note the differences between two types of stateless people. Firstly, being *de jure* stateless which legally means someone that does not have or has not been conferred a nationality. This form of statelessness comes under the definition of stateless in the Convention Relating to the Status of Stateless Persons. The second kind of statelessness is *de facto* which is not covered under the Convention's definition of stateless. *De facto* stateless here basically includes all those who technically have a nationality or the nationality can be traced, but are unable to enjoy national protection and the benefits and rights that come with it.

For the purposes of this paper, both *de jure* and *de facto* statelessness shall be accepted as the definition of stateless.

¹ Convention Relating to the Status of Stateless Persons 1954.