

# Addressing Statelessness in Malaysia: New Hope and Remaining Challenges

*By Rodziana Mohamed Razali*

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## Addressing Statelessness in Malaysia: New Hope and Remaining Challenges

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### Author biography

Dr. Rodziana Mohamed Razali has researched statelessness since 2013 and recently completed her PhD at the National University of Malaysia. Her thesis is entitled “Protection against Statelessness at Birth: International and Domestic Legal Frameworks of ASEAN Member States with a Special Case Study on Kota Kinabalu, Sabah”. She was previously in the Malaysian Judicial and Legal Service before leaving for her Masters of Laws at the University of Melbourne. She is now a lecturer at the Islamic Science University of Malaysia, an Advocate and Solicitor of the High Court of Malaya (Non-practicing) and a member of Statelessness Network Asia Pacific (SNAP).

### Author email

[rodziana@usim.edu.my](mailto:rodziana@usim.edu.my)

### Key words

Malaysia—citizenship—identification—legal safeguards—statelessness

### Abstract

In Asia and the Pacific, Malaysia is listed as one of the countries which have large populations of stateless persons (over 10,000).<sup>1</sup> In taking stock of Malaysia’s performance to date in relation to UNHCR’s goal of ending statelessness in 2024, in particular through Action 1 (Resolving Major Situations of Statelessness); Action 2 (Ensure that No Child is Born Stateless); and Action 10 (Improve Quantitative and Qualitative Data on Stateless Persons), this paper looks at some of the recent progress made and opportunities on the horizon for actions to address statelessness within its borders. Alongside this, it highlights the remaining intractable hurdles and other emerging challenges, calling in the end for all stakeholders to tap into different ways of engagement, advocacy and strategies in overcoming them.

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<sup>1</sup> Institute on Statelessness and Inclusion, *The World’s Stateless*, Wolf Legal Publishers 2014, p 78; Institute on Statelessness and Inclusion, *The World’s Stateless CHILDREN*, Wolf Legal Publishers 2017, p.59



## 1. Introduction

The Chairperson of the UN Committee on the Rights of the Child has acknowledged Malaysia as one of the countries which have shown significant reduction in the number of stateless persons in their territories, attributing this to the positive impact of UNHCR's #Ibelong Campaign.<sup>2</sup> According to UNHCR, the initiatives of a local NGO—the Development of Human Resources in Rural Areas (DHARRA)—has helped reduce the estimated number of stateless persons in Malaysia from 40,000 in 2009, to 12,368 persons as of September 2017.<sup>3</sup> Nonetheless, obstacles as fundamental as getting official recognition of the existence of stateless persons and the related complexity in mapping their presence especially in East Malaysia,<sup>4</sup> remain the delicate challenges for actions to prevent and resolve statelessness in Malaysia.

With the exception of the group of stateless persons of Indian origin, whose statelessness and lack of (identity) documentation was recently pointed out in a policy document issued by the Government,<sup>5</sup> other diverse categories of persons affected by statelessness, or rather at risk of statelessness are by and large perceived as irregular migrants and/or non-citizens. These categories include undocumented stateless refugees and asylum seekers and their children, people of undetermined nationality in the context of mixed migration and the maritime community of *Sama Dilaut* or *Bajau Laut* in Sabah, together with innocent children denied citizenship by operation of law due to being born outside of wedlock. Despite having a strong *jus soli* safeguard<sup>6</sup> against statelessness for children born on its territory who would otherwise be stateless,<sup>7</sup> there are a number of cases which so far have unfolded a rather narrow prospect of its practical utility in averting childhood statelessness.

## 2. Official Recognition of Statelessness and Its Identification

In Malaysia, the existence of statelessness is frequently publicly refuted, making it a non-issue in the eyes of the government.<sup>8</sup> In other instances, some sections of the government make inconsistent

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<sup>2</sup> Institute on Statelessness and Inclusion, *The World's Stateless CHILDREN*, Wolf Legal Publishers 2017, p 138

<sup>3</sup> UNHCR, 'Ending Statelessness in Malaysia', <http://www.unhcr.org/en-my/ending-statelessness-in-malaysia.html> accessed 10 November 2017

<sup>4</sup> *Ibid.*

<sup>5</sup> Prime Minister's Office, 'Malaysian Indian Blueprint Blueprint', <http://mib.my> accessed 5 September 2017, p 117

<sup>6</sup> A safeguard against statelessness refers to the right to a nationality provided in a state's nationality legal framework for every child who would otherwise be stateless - due to his/her inability to acquire a nationality by descent or place of birth. A child who would otherwise be stateless includes someone born to parents who are stateless or who are not able to confer nationality upon the child, due to factors like gender discrimination in nationality laws. Foundlings or children who are abandoned and whose parents' identity are unknown are commonly safeguarded against statelessness through a legal provision that confers nationality via the presumption that the child was born in the state in which he/she is found to parent(s) who hold the state's nationality. Some safeguards are conditional and may not be fully inclusive. For instance, the right to a nationality may be subject to the condition that the parents are stateless and hold a certain legal residence status. For further discussion, see Institute on Statelessness and Inclusion, *The World's Stateless CHILDREN*, Wolf Legal Publishers 2017, Chapter 11

<sup>7</sup>Section 1(e) of the 2<sup>nd</sup> Schedule of the Federal Constitution (to be read with Article 14(1)(b) of the Federal Constitution) stipulates "every person born within the Federation who is not a citizen of any other country is a citizen of Malaysia by operation of law". Not only the mode of conferral of nationality prescribed is *ex lege* or automatic, the safeguard is also subject to no further requirement under the law.

<sup>8</sup> Catherine Allerton, 'Contested statelessness in Sabah, Malaysia: Irregularity and the Politics of Recognition' (2017) 15(3) *Journal of Immigrant and Refugee Studies* 250-268; Malaysian 13th Parliament, House of Representative, Third Term, First Meeting, No. 10, 24 March 2015; N.A., 'No Stateless people' *Daily Express* (Sabah, 20 April 2015) <<http://www.dailyexpress.com.my/news.cfm?NewsID=99073>> accessed 30 August 2017

statements about stateless persons in Malaysia.<sup>9</sup> Despite this and the country's reservation to the right to a nationality under Article 7(1) of the 1989 Convention on the Rights of the Child (CRC) and its non-ratification of the 1966 International Convention on Civil and Political Rights (ICCPR)—which houses the similar right under Article 24(2)—the official treatment of the issue has reached a new milestone early this year.

In April 2017, the Government launched the Malaysian Indian Blueprint, in which statelessness was officially acknowledged to be on the country's national policy agenda targeting the affected Indian population of Tamil descent in West Malaysia.<sup>10</sup> In light of the will to improve the socio-economic status of this group—through educational fulfilment and social inclusion of the community in the country—the Blueprint manifests the Government's high priority on resolving statelessness and documentation issues faced by this population within a five-year timeframe.<sup>11</sup> This significant development was brought about by outreach programs which facilitated registration and citizenship application—organised by a Special Implementation Taskforce.<sup>12</sup> The Blueprint in turn prompted a major registration campaign beginning in June 2017, known as Mega MyDaftar. The campaign resulted in more than 2,000 applications submitted for registration by persons of Indian descent wishing to resolve their lack of documentary proof of citizenship and legal status.<sup>13</sup>

For many years, data on stateless persons captured by UNHCR's statistics have largely concentrated on the situation/populations in West Malaysia. While populations of stateless Indians of Tamil descent in several of the states in West Malaysia have been mapped and registered—and are hence in a favourable position to profit from the said policy roadmap for better inclusivity—baseline figures and demographic profiles of people 'at risk' of statelessness in the East Malaysian state of Sabah continue to be unavailable to date.<sup>14</sup> On this note, Sabah is home to tens of thousands of persons without a legal identity including an established nationality draws a contrasting demographic picture. As of 2010, the state hosted 27.7% (889,779) non-citizens compared to 72.3% (2,316,963) Malaysians.<sup>15</sup> Sabah represents an intergenerational case of stateless persons and persons of undetermined nationality, due to widespread lack of access to birth registration and other forms of valid identity proof, among other issues.<sup>16</sup> Irregularity and lack of documentation reinforce the challenges in understanding and defining statelessness. Furthermore, lack of recognition and identification of statelessness in the face

<sup>9</sup> See for instance Azhar Ramly, 'All stateless children in Kedah now allowed to enroll in govt school', New Straits Times (4 January 2017) <<https://www.nst.com.my/news/2017/01/201897/all-stateless-children-kedah-now-allowed-enrol-govt-schools>> accessed 5 September 2017

<sup>10</sup> See Prime Minister's Office, 'Malaysian Indian Blueprint Blueprint', <<http://mib.my>> accessed 5 September 2017

<sup>11</sup> Prime Minister's Office, 'Malaysian Indian Blueprint', <<http://mib.my>> accessed 5 September 2017, pp 25 and 116

<sup>12</sup> Ibid. p 119

<sup>13</sup> N.A., 'Claim of 300,000 stateless Indians baseless, says MIC' (Putrajaya, 23 June 2017) <http://www.thestar.com.my/news/nation/2017/06/23/claim-of-300000-stateless-indians-baseless-says-mic/> accessed 8 September 2017

<sup>14</sup> UNHCR, 'Ending Statelessness in Malaysia', <http://www.unhcr.org/en-my/ending-statelessness-in-malaysia.html> accessed 10 November 2017; Institute on Statelessness and Inclusion, *The World's Stateless CHILDREN*, Wolf Legal Publishers 2017, p 65

<sup>15</sup> Population and Housing Census of Malaysia (2010); Economic Planning Unit, Malaysia (2011)

<sup>16</sup> TENAGANITA, *Acting Today for Tomorrow's Generation*, Regional Conference on Stateless/ Undocumented Children in Sabah, Kota Kinabalu, Malaysia, 2005; Catherine Allerton, 'Contested statelessness in Sabah, Malaysia: Irregularity and the Politics of Recognition' (2017) 15(3) *Journal of Immigrant and Refugee Studies* 250-268; Rodziana Mohamed Razali, 'Breaking the Cycle of Childhood Statelessness in Malaysia', First Global Forum on Statelessness, The Hague, the Netherlands, 15-17 September 2014; Rodziana Mohamed Razali, 'Research on 'At Risk Populations' Focusing on Protection against Statelessness at Birth for Children in a Mixed Migratory Context in Sabah, Malaysia', Workshop for Academics: Researching and Teaching Nationality & Statelessness, 27 & 28 September 2016, Park Royal, Kuala Lumpur

of continued political resistance grounded in threats to racial and religious balance, border and security, and possible penetration into electoral roll by foreigners are also challenges.<sup>17</sup> Such populations include the *Sama dilaut or Bajau Laut*, the traditionally migratory people, the majority of whom have settled more permanently in coastal areas of Sabah and are considered to be highly at risk of statelessness. Having no documents and other evidence to prove their nationality for generations and not being accepted as citizens by any country, their circumstances closely fit the definition of a 'stateless person' as defined by the 1954 Convention on the Status of Stateless Persons.<sup>18</sup> For many of them, indefinite detention, chronic poverty, malnutrition, and the social problems of children being excluded from education and becoming victims of insolvent abuse, constitute the overarching account of their everyday life.<sup>19</sup>

A more concerted effort at the national level to understand the profiles of other 'at risk' groups and the reasons for and effects of their lack of nationality has slowly gained traction. In 2016, a collective engagement with the newly identified network of academics and researchers in the area of statelessness in Malaysia took effect for the first time in Kuala Lumpur. Co-convened by UNHCR Malaysia, Universiti Kebangsaan Malaysia (UKM), and Universiti Sains Islam Malaysia (USIM) in September 2016, the participants—comprised mostly of academics working on statelessness from various disciplines—acknowledged the priority of looking into improving the qualitative data of the Bajau Laut community in order to design suitable solutions to end their non-belonging and enduring plights.<sup>20</sup>

Drawing from DHARRA's pioneering accomplishments and with the technical support from UNHCR Malaysia, similar mapping and assistance programmes of those adopted for the Indians of Tamil descent are now being studied in the implementation context of Sabah. Anchored by participatory approaches with relevant stakeholders including affected and neighbouring communities, initial engagements have also been pursued with the country's advocacy network on statelessness, community-based organisations in Sabah, relevant government agencies and academic experts.

### 3. Ensuring No Child is Born Stateless

As with many other countries, statelessness in Malaysia continues to affect foundlings (children born to unknown parents), children separated from parents with no proof of parentage, and children born outside of wedlock. The *jus sanguinis* principle—to which Malaysia adheres—is strictly conditioned on proof of the legality of marriage on the part of the (biological) parents and place of birth of the child. In order to be eligible for automatic citizenship at birth, the child concerned must be born in Malaysia

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<sup>17</sup> Azizah Kassim, 'Filipino refugees in Sabah: State Responses, Public Stereotypes and the Dilemma Over Their Future', (2009) 47 (1) *The Southeast Asian Studies*, p 52-88; Catherine Allerton, 'Statelessness and the Lives of the Children of Migrants in Sabah, East Malaysia' (2014) 19 *Tilburg Law Review* (1-2): p 26-34; Commissioners of Enquiry on Immigrants in Sabah, 'Report of The Commission of Enquiry on Immigrants in Sabah' (2014)

<sup>18</sup> Under Article 1(1) of the 1954 Convention on the Status of Stateless Persons, a 'stateless person' is "a person who is not considered as a national by any State under the operation of its law". Article 12(4) of 1966 International Convention on Civil and Political Rights further provides, "No one shall be arbitrarily deprived of the right to enter his own country". There were many Bajau Laut who were detained as irregular migrants by the Malaysian authority but could not be returned to any country, including the Philippines. (Interview with an official of the National Security Council (Sabah), Bandar Baru Nilai, Negeri Sembilan. 30 May 2015)

<sup>19</sup> Helen Brunt, 'The Sustainable Development Agenda and Childhood Statelessness' in Institute on Statelessness and Inclusion, *The World's Stateless Children* (Wolf Legal Publishers 2017); Helen Brunt, 'A position paper on "The vulnerability of Bajau Laut (Sama Dilaut) Children in Sabah"' (APRRN, March 2015), [http://www.aprrn.info/1/images/PDF/Bajau\\_Laut\\_position\\_paper\\_FINAL.pdf](http://www.aprrn.info/1/images/PDF/Bajau_Laut_position_paper_FINAL.pdf) accessed 7 September 2017

<sup>20</sup> Workshop for Academics: Researching and Teaching Nationality & Statelessness, 27 & 28 September 2016, Park Royal, Kuala Lumpur, <http://initiativeour.org/wp-content/uploads/2016/10/Statelessness-Workshop-Booklet.pdf> accessed 25 November 2017

to lawfully married parents, to at least one parent who is a Malaysian citizen or holding a permanent residence status. Gender inequality comes into play when a child is born outside Malaysia and when a child is born outside of wedlock. A child born abroad may acquire Malaysian citizenship automatically only if the father is a Malaysian citizen, while an illegitimate child is entirely reliant on his or her mother's citizenship status.

It is important to note that Malaysia's Federal Constitution contains a strong legal safeguard against statelessness, mirroring the highest international standards for protection against statelessness at birth. Every person born in the country who is not born a citizen of any other country and who does not acquire any other citizenship within a year of birth is a citizen of Malaysia by operation of the law.<sup>21</sup> For foundlings, any new-born child found abandoned is taken to be born of a mother permanently resident in Malaysia until the contrary is shown.<sup>22</sup> However, the mechanics of the safeguards do not always prevent statelessness, as demonstrated in the majority of litigated cases involving the above categories of children.

In a 2010 case decided by the High Court, legal adoption by Malaysian parents of a child born in Malaysia to unknown biological parents led to automatic acquisition of Malaysian citizenship by the child. This landmark decision is considered protective of the child's best interest.<sup>23</sup> It rested on the interpretation that the child concerned was a Malaysian citizen by virtue of having at least a parent who is a Malaysian citizen under Article 14(1)(b), Section 1(a) of Part II of the Second Schedule of the Federal Constitution, and that the child was proved to be born in the country after Malaysia Day and not born a citizen of any other country under Section 1(e) of the same Part II of the Second Schedule. When read together with the relevant provisions in the Adoption Act 1952<sup>24</sup> and the child's lawful adoption order, it held to carry the effect of granting citizenship by operation of law to the child.<sup>25</sup> The fact of the unknown biological parents was said to be an irrelevant consideration when the child would be rendered stateless. Apart from the above case, a string of comparable cases decided subsequently yielded decisions based on contrary interpretations. These decisions underscore firstly that the identity and whereabouts of the biological parents must be factored into consideration and secondly, unless citizenship was specifically raised in the Adoption Act 1952, the Act is considered irrelevant or inadequate in extending its effects on the citizenship of an adopted child.<sup>26</sup> If the identity of a child's biological parents is unknown, the immediate consequence is that the child will not be qualified to be a citizen of Malaysia by operation of law.<sup>27</sup>

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<sup>21</sup> Section 1, paragraph (e) of the 2<sup>nd</sup> Schedule of the Federal Constitution (to be read with Article 14(1)(b) of the Federal Constitution) stipulates "every person born within the Federation who is not a citizen of any other country is a citizen of Malaysia by operation of law". Not only the mode of conferral of nationality prescribed is *ex lege* or automatic, the safeguard is also subject to no further requirement under the law.

<sup>22</sup> Section 19B of Part III of the Federal Constitution.

<sup>23</sup> Raymond Mah, *Citizenship For Adopted Children- A Malaysian Perspective* [2013] 1 MLJ xiii

<sup>24</sup> Section 9(1) of the Adoption Act 1952 vests all rights, duties, obligations and liabilities exercisable by and enforceable against the adopter as though the child was a child born to the adopter in lawful wedlock. Section 25A supports this further by requiring that the word 'adopted', 'adopter', 'adoptive' or similar words not to appear in the birth certificate to avoid adverse psychological effect on an adopted child upon learning of his actual background or status. It was argued that recording the child as a permanent citizen when the adoptive parents are citizens would contravene the purpose of S 25A and against the best interest of the child.

<sup>25</sup> *Lee Chin Pon & Anor v Registrar-General of Births and Deaths, Malaysia* [2010] (unreported)

<sup>26</sup> *Foo Toon Aik (suing on his own behalf and as representative of Foo Shi Wen, Child) v Ketua Pendaftar Kelahiran dan Kematian, Malaysia* [2012] 9 MLJ 573; *Than Siew Beng & Anor v Ketua Pengarah Jabatan Pendaftaran Negara & Ors* [2016] 6 CLJ; *Lim Jen Hsian & Anor v Ketua Pengarah JPN & Ors* [2016] 7 CLJ

<sup>27</sup> See for instance *Chin Kooi Nah (Mendakwa Bagi Diri Sendiri Dan Sebagai Wakil Litigasi Kepada Chin Jia Nee, Kanak-Kanak) v Pendaftar Besar Kelahiran Dan Kematian, Malaysia* [2015] MLJU 1199; *Pendaftar Besar Kelahiran dan Kematian, Malaysia v Pang Wee See & Yee Oii Pah @ Yee Ooi Wah*, Civil Appeal No B-01(A)-74-03/2016



Lawful marriage of a child's biological parents is another deep-seated restriction that curtails the ability of the safeguard to mitigate the (possible) statelessness of a child. The act of adoption by a child's own Malaysian biological father will not set aside the barrier created by the gender-biased citizenship provision that becomes operative once it is proven that there was no lawful marriage between the child's parents at the time of birth.<sup>28</sup> It appears to be immaterial that a child has an estranged non-citizen mother who has separated from the child's Malaysian father, left Malaysia permanently and completely abandoned her child in the care of the Malaysian father/ his family member.<sup>29</sup> This child would still take her/his mother's citizenship according to the law of the mother's country of origin.<sup>30</sup>

The burden of proving statelessness is entirely placed on claimants applying for citizenship for affected children, something that is extremely challenging in itself given the absence of statelessness determination procedures or agreed procedures of discharging such burden to the satisfaction of the law. Several decisions concur that all available legal remedies must be explored before an application for citizenship on the basis of the safeguard can be asserted. One clear remedy is for applicants to firstly submit their applications for citizenship by registration under Article 15A of the Federal Constitution. This provision empowers the Home Minister to exercise his discretion in granting or rejecting applications for citizenship of persons below twenty-one years of age, on the basis of 'special circumstances'. The prospect of acquiring Malaysian citizenship under Article 15A<sup>31</sup> appears to be uncertain, as the phrase 'special circumstances' is not defined anywhere in the law. As there is no fixed timeframe for the application for citizenship to be resolved, the fate of the child concerned therefore hangs in the balance pending the whole application process and court proceedings that may ensue afterwards.

The court jurisprudence unveils that considerable attention has been placed on technical analyses of legal provisions. This is a cause for particular concern as the emerging pattern of the substantial portion of the decisions is one that is seriously uninformed and unguided by human rights principles and considerations, even as elementary as the principle of 'the best interests of the child'. The prevailing position repeatedly asserted by the majority of human rights-related cases is that treaties such as CRC and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to which Malaysia is party have been held to have no force of law for not being enacted into local legislation.<sup>32</sup> Constitutionally, it has been further reiterated that the Federal Constitution does not require the Malaysian courts to have judicial notice of international human rights law, including the Universal Declaration of Human Rights (UDHR) in any of its provisions.<sup>33</sup> There have been cases where Courts have adopted a liberal method of interpretation by making reference to the position

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<sup>28</sup> *Foo Toon Aik (suing on his own behalf and as representative of Foo Shi Wen, Child) v Ketua Pendaftar Kelahiran dan Kematian, Malaysia* [2012] 9 MLJ 573; *Lim Jen Hsian & Anor v Ketua Pengarah JPN & Ors* [2016] 7 CLJ; *Yu Sheng Meng (a child represented by his litigator, Yu Meng Queng) v Ketua Pengarah Pendaftaran Negara & Ors* [2016] 7 MLJ 628

<sup>29</sup> This is reflected in the facts submitted by the applicant in *Lim Jen Hsian & Anor v Ketua Pengarah JPN & Ors* [2016] 7 CLJ. See p 594

<sup>30</sup> See for instance the case of *Lim Jen Hsian & Anor v Ketua Pengarah JPN & Ors* [2016] 7 CLJ

<sup>31</sup> Article 15A of the Federal Constitution reads, "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"

<sup>32</sup> *Merdeka University Berhad v. Government of Malaysia* [1981] 2 MLJ 356; *SIS Forum (Malaysia) v. Dato' Seri Syed Hamid Syed Jaafar Albar (Menteri Dalam Negeri)* [2010] 2 MLJ 377 at p 394 ; *Beatrice AT Fernandez v Sistem Penerbangan Malaysia* [2005] 2 CLJ 713; *Bato Bagi & Ors v. Kerajaan Negeri Sarawak & Another Appeal* [2011] 8 CLJ 766; [2011] 6 MLJ 297

<sup>33</sup> *Than Siew Beng & Anor v Ketua Pengarah Jabatan Pendaftaran Negara & Ors* [2016] 6 CLJ, at p 942; *Lim Jen Hsian & Anor v Ketua Pengarah JPN & Ors* [2016] 7 CLJ, paras 21 & 23

and significance of international law in many important cases.<sup>34</sup> However, in the sensitive area of citizenship, it could be deemed ground-breaking for treaties like CRC to be treated as a persuasive source of judicial interpretation of the related constitutional provisions, for instance, by having regard to the best interests of the child in its Article 3(1) to uphold that every child has to have a nationality and therefore must not be left stateless.<sup>35</sup>

#### 4. Conclusion

Learning from the engagement and advocacy to address statelessness in West Malaysia, it is clear that a sufficient level of political will combined with inclusive strategies and sustained support from all stakeholders especially the Government—the main duty bearer to identify and measure stateless persons—are needed as the basic recipe in realising the goals of the #Ibelong Campaign. A systematic framework of shared responsibility and interstate cooperation targeting access to birth registration and establishment of nationality will be highly desirable in the context of finding effective solutions to the long-standing situations of statelessness and situations placing populations at risk of statelessness in Sabah.

More focused engagement to educate high-level actors among the legislators and judges who may have not been adequately exposed to the human face of statelessness should be developed and pursued. Aside from a consistent push to reform citizenship provisions that contain discriminatory elements, the developing jurisprudential pattern around the safeguard against childhood statelessness needs reshaping. Mindful of the broader perspectives of the underlying social, political and economic reasons behind the laws and policy that could manufacture statelessness and its associated anomalies, a human rights cognitive paradigm must be harnessed and strongly promoted to prevail over austere technical interpretations that thrive within the country's state security and sovereignty framework.

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<sup>34</sup> See some of the cases such as *Sagong Tasi & Ors v Kerajaan Negeri Selangor & Ors* [2002] 2 MLJ 591; *PP v Yuneswaran A/L Ramaraj* [2015] 6 MLJ 47. For more related discussion, see Equal rights Trust, *Confined Spaces: Legal Protections for Rohingya in Bangladesh, Malaysia and Thailand* <[http://www.equalrightstrust.org/ertdocumentbank/Confined%20Spaces\\_0.pdf](http://www.equalrightstrust.org/ertdocumentbank/Confined%20Spaces_0.pdf) in> accessed 28 November 2017, p 88-90

<sup>35</sup> *Lee Chin Pon & Anor v Registrar-General of Births and Deaths, Malaysia* [2010] (unreported); Raymond Mah, *Citizenship For Adopted Children- A Malaysian Perspective* [2013] 1 MLJ xiii; *Navin A/L Moorthy v Ketua Pengarah Pendaftaran Negara, Malaysia & Ors MTKL Saman Pemula No: 24NCvC-2011-12/2013* (Unreported). The judge in Navin's case chose to be guided by Article 7 of the CRC on the right of a child to his legal identity, read with Article 3 on the best interests of the child principle in construing "special circumstances" in Article 15A. See para 36-38.