

Education without Citizenship and its Importance to Literacy: A Comparative Analysis of Stateless Children's Rights in Malaysia and Indonesia

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ABSTRACT

The right to education is universally recognized as a fundamental human right under international frameworks such as the *Convention on the Rights of the Child (CRC)*. Yet, for stateless children in Southeast Asia, this right remains precarious. This study examines how Malaysia and Indonesia interpret and implement the educational rights of stateless children, highlighting the gap between international obligations and domestic practices. Guided by an interpretivist paradigm, the research employed qualitative content analysis of approximately legal documents, policy frameworks, NGO reports, and scholarly articles. Findings reveal five recurring themes: rights acknowledged in principle but restricted in practice; documentation as the primary barrier to school access; the central role of NGOs and community-based schools as de facto providers; experiences of discrimination within formal and informal education; and divergent national approaches shaped by centralized versus decentralized governance. The study advances theoretical debates by conceptualizing statelessness as a distinct axis of social exclusion, demonstrating how legal identity intersects with human rights and non-discrimination principles. Practically, the research underscores the need for inclusive education policies, recognition of NGO-led initiatives, and regional cooperation through ASEAN. By offering a comparative perspective, this article provides original insights for scholars, policymakers, and practitioners concerned with education and child rights.

Keywords: stateless children, right to education, Malaysia, Indonesia, human rights, social exclusion, non-discrimination

INTRODUCTION

Statelessness, often described as the condition of being without nationality, is a persistent global phenomenon with far-reaching consequences on human rights, particularly for children (Goris, Harrington & Köhn, 2009; Siegelberg, 2020). Across regions, children without nationality are among the most vulnerable groups, facing structural exclusion from education, healthcare, and legal protection (Batchelor, 1998; Blitz & Lynch, 2011). In Southeast Asia, the plight of stateless children has become especially pressing in recent years due to increased cross-border migration, displacement, and complex nationality laws (Razali et al, 2015; Nurmawati, 2022). Among the fundamental rights at stake, access to education stands out as both a legal entitlement and a moral imperative. Education is not merely a pathway for personal development but also a key instrument for social integration, empowerment, and the breaking of intergenerational cycles of poverty and marginalization (Kamaruddin, Ahmad & Sulaiman, 2005; Arshad, Ajis & Mutalib, 2022). Yet, for stateless children in Malaysia and Indonesia, education remains an elusive promise.

Global frameworks such as the Convention on the Rights of the Child (CRC) 1989 and the Universal Declaration of Human Rights (UDHR) 1948 emphasize education as a universal right that applies to every

child, regardless of nationality (Stephanie, 2020; Failin et al., 2022). Despite these international obligations, the reality on the ground reflects systemic exclusions. Malaysia, while a signatory to the CRC, has not ratified the 1951 Refugee Convention or its 1967 Protocol, leaving asylum seekers and stateless groups without comprehensive protection (Dina, 2014; Rodziana et al., 2015). Indonesia, similarly, has not ratified the 1951 Convention, though it has domesticated CRC principles through its child protection laws (Ni Luh et al., 2023; Jaelani, 2023). Consequently, both nations struggle to reconcile their international commitments with domestic legal structures, leading to inconsistencies in the recognition and protection of the right to education for stateless children. This tension is further complicated by bureaucratic restrictions, lack of documentation, and socio-economic challenges that undermine inclusive educational policies (SUHAKAM, 2024; Ko & Cooray, 2024).

Scholarly engagement with the issue of statelessness in education has increased in the past two decades, reflecting growing concerns over inequality and exclusion in the Global South. In Malaysia, studies have highlighted how children from marginalized groups, particularly the Bajau Laut, Rohingya refugees, and undocumented migrants face systemic barriers to enrolling in government schools (Nadzirah & Khalim, 2019; Abadi & Al-Kautsar, 2021; Tharani et al., 2023). Many rely on alternative education centers supported by non-governmental organizations (NGOs) and international agencies such as UNICEF and UNHCR, yet these institutions often lack formal recognition and sustainable funding (Muyamin, 2019; Arshad, Ajis & Mutalib, 2022). In Indonesia, research shows a similar pattern, where refugee and undocumented children are granted limited access to state schools through temporary policy mechanisms, but remain excluded from certification processes and long-term educational pathways (Pudjiastuti & Putera, 2022; Prabaningtyas et al., 2023). Local initiatives such as the Refugee Learning Centre in Cisarua illustrate grassroots resilience but also expose the fragility of education provision when dependent on external aid (Renatha Ayu, 2022). Collectively, these studies underline the paradox of rights recognized in principle but denied in practice.

Despite the breadth of existing research, significant gaps remain in understanding the comparative dynamics of Malaysia and Indonesia. Much of the scholarship on Malaysia has focused on legal interpretations of constitutional rights, the role of NGOs, and specific case studies of refugee children (Razali, Nordin & Duraisingam, 2015; Ko & Cooray, 2024; Arshad, Ajis & Mutalib, 2022). Meanwhile, Indonesian studies often emphasize administrative measures, presidential decrees, and the interplay between humanitarian commitments and resource limitations (Nugroho et al., 2021; Ni Luh et al., 2023). Few works have systematically compared both contexts, even though the two countries share historical, cultural, and political linkages, as well as common challenges in dealing with undocumented populations. This absence of comparative analysis leaves critical questions unanswered: How do Malaysia and Indonesia differ in implementing children's right to education? What structural similarities underpin their barriers? And how might insights from one context inform reforms in the other? Addressing these questions is vital for moving beyond fragmented accounts toward a more integrated understanding of stateless children's educational rights in Southeast Asia.

The research problem at the heart of this study is the tension between international commitments and domestic realities in guaranteeing the right to education for stateless children. On one hand, Malaysia and Indonesia publicly affirm the universality of children's rights through their ratification of the CRC; on the other, their education systems remain largely inaccessible to non-citizens without documentation (Mazura & Nor Hafizah, 2018; SUHAKAM, 2024). This inconsistency has severe implications: it entrenches social exclusion, denies children the opportunity to develop their potential, and risks reproducing cycles of marginalization within already vulnerable communities (Rahman et al., 2018; Simbolon, 2025). At a practical level, children left outside the education system are more likely to face child labour, early marriage, and social stigmatization, compounding existing inequities. From an academic perspective, insufficient attention has been given to how these legal and policy contradictions shape the lived realities of children across different national contexts. This study thus seeks to fill the gap by offering a comparative, qualitative analysis of Malaysia and Indonesia, grounded in a human rights framework.

Furthermore, the current body of literature lacks sustained attention to the principle of non-discrimination as it relates to education for stateless children. While some scholars have discussed exclusion broadly (Hamidah, 2021; Sarita & Komal, 2023), there is limited empirical exploration of how policies either reinforce or mitigate

discriminatory practices in Southeast Asian contexts. Similarly, while NGOs and community learning centres are frequently acknowledged, there is insufficient critical engagement with their sustainability, legitimacy, and long-term role within national education systems (Arshad, Ajis & Mutalib, 2022; Thien, 2024). These gaps hinder both theoretical advancement and policy innovation. Without comparative evidence, policymakers lack concrete models for reform, and scholars risk reproducing siloed accounts of statelessness in education that overlook regional interdependencies.

Against this backdrop, this study makes three key contributions. First, it offers a comparative analysis of Malaysia and Indonesia, addressing the current lack of cross-national scholarship on the right to education for stateless children in Southeast Asia. Second, it integrates a qualitative content analysis of legal, policy, and institutional documents with critical human rights theory, thereby advancing an interdisciplinary approach that bridges law, education, and social policy. Third, it foregrounds the voices of stateless children indirectly through the examination of NGO and UN reports, highlighting the lived consequences of policy exclusions. Collectively, these contributions are significant not only for academic debates but also for practical policymaking, as both countries grapple with balancing sovereignty concerns with human rights commitments.

In conclusion, this article argues that the denial of education to stateless children in Malaysia and Indonesia reflects broader structural contradictions between international human rights law and domestic legal-political frameworks. By systematically analyzing these dynamics, the study contributes new knowledge to the fields of comparative education, human rights, and Southeast Asian studies. For academics, it enriches theoretical debates on non-discrimination and the right to education; for practitioners, it offers concrete insights into policy design, NGO engagement, and cross-border cooperation. The intended audience includes scholars of education and law, policymakers, NGO practitioners, and international organizations concerned with child rights and migration. Situated within contemporary debates on inclusivity and human rights, this study underscores the urgency of reimagining education systems that leave no child behind, regardless of nationality or legal status.

LITERATURE REVIEW

Human Rights and the Right to Education

Human rights are widely recognized as inherent entitlements belonging to every individual without distinction of race, nationality, or status (Ashri, 2018). Rooted in the *Universal Declaration of Human Rights (UDHR)* 1948, these rights embody principles of equality, non-discrimination, and dignity. Within Southeast Asia, states including Malaysia and Indonesia reaffirmed these commitments through the *ASEAN Declaration of Human Rights (ADHR)*, emphasizing equal treatment and the right to freedom of opinion, expression, and education (Rohaida & Abdul Rahman, 2017; Mohamed Sadik, 2023). In Malaysia, constitutional protections under Articles 5–13 codify fundamental liberties such as equality (Art. 8) and the right to education (Art. 12) (Mohamed Azam & Nisar, 2014; Muhammad Shazreen, 2023). Parallel provisions exist in Indonesia through the *Undang-Undang Dasar 1945* and *Undang-Undang No. 39 Tahun 1999*, which enshrine the right to education and link it to broader social and cultural development (Murthada & Seri Mughni, 2022; Hadi, 2022).

Education has long been conceptualized as both a basic human right and a cornerstone of development. The *Sustainable Development Goal 4 (SDG4)* explicitly places education at the center of global development, framing it as essential for equity, inclusion, and peace. Scholars argue that education fulfills dual functions: providing individual empowerment and acting as a mechanism of social cohesion (Rohaida Nordin, 2014). Yet, despite the legal and normative frameworks, the universality of the right to education remains contested in practice, especially when filtered through the lens of nationality and legal identity (Rostam et al., 2022; SUHAKAM, 2024).

Rights of the Child

The specific rights of children have been elaborated most comprehensively under the *Convention on the Rights of the Child (CRC)* 1989, ratified by both Malaysia and Indonesia. The CRC provides a legally binding framework affirming children's entitlement to education, protection, and participation (Pathmanathan et al.,

2011; Failin et al., 2022). The CRC not only extends the universality of human rights to children but also emphasizes non-discrimination and the best interests of the child as guiding principles (Aminuddin & Siti, 2012).

Nationally, Malaysia defines a child under the *Child Act 2001* as an individual below 18 years, aligning with CRC standards. In Indonesia, *Undang-Undang No. 35 Tahun 2014* revises earlier child protection laws to reaffirm every child's right to survival, growth, development, and protection regardless of status (Jaelani, 2023). Yet, scholars observe that although legal frameworks exist, implementation is uneven and often limited by bureaucratic and political constraints (Mustaffa & Moharani, 2012; Nalasamy et al., 2011). For children without nationality, these protections are weakened by their ambiguous legal status, leaving them outside the reach of many formal protections (Nurhakim, 2022).

Statelessness: Definitions and Categories

Statelessness has been defined in Article 1 of the *1954 Convention Relating to the Status of Stateless Persons* as the condition in which an individual is "not considered as a national by any State under the operation of its law" (Michelle & Helene, 2016). Scholars distinguish between *de jure statelessness* (absence of legal nationality under national law) and *de facto statelessness* (where individuals formally possess nationality but lack effective protection from their state) (Carol, 1998; Tucker, 2013; Lewkowicz & Metelska-Szaniawska, 2021). The consequences of both forms are profound, often resulting in exclusion from essential services including healthcare, employment, and education (Brad & Maureen, 2011).

In Malaysia, the Development of Human Resources in Rural Areas (DHRRA) identifies seven major categories of stateless persons: pre-independence residents, gender-discriminatory nationality laws, abandoned children, adopted children without documentation, the Bajau Laut, Orang Asli, and undocumented migrants/refugees (DHRRA, 2022). Indonesia presents a different but parallel spectrum of statelessness, including Chinese and Arab descendants without documentation, repatriated political exiles, undocumented migrant workers, and displaced minority groups (Nurmawati, 2022; Maskur et al., 2024). Both contexts reveal statelessness as not merely a legal anomaly, but a socially entrenched phenomenon tied to colonial legacies, bureaucratic shortcomings, and contemporary migration dynamics.

Education and Stateless Children

Access to education for stateless children is severely restricted in both Malaysia and Indonesia. In Malaysia, public education is formally guaranteed under the *Education Act 1996*, which mandates compulsory primary schooling. However, its application explicitly references "parents who are citizens," thereby excluding children without nationality (Kamaruddin et al, 2005; SUHAKAM, 2024). Studies demonstrate how this exclusion manifests in Sabah, where large populations of undocumented and stateless children particularly the Bajau Laut are unable to enroll in government schools (Nadzirah & Khalim, 2019; Abadi & Al-Kautsar, 2021). Many depend on informal community-based schools such as those organized by Borneo Komrad or Humana, yet these face funding shortages, unqualified teaching staff, and limited facilities (Muyamin, 2019; Arshad et.al, 2022).

Indonesia's framework similarly ties formal education rights to citizenship. The *Education Law No. 20 of 2003* guarantees education for citizens, leaving stateless and refugee children in a precarious position (Nugroho et al., 2021). Attempts at inclusion, such as the *Presidential Regulation No. 125 of 2016* and the *Ministerial Circular No. 7523/2019*, provide temporary avenues for access but remain constrained by conditions such as proof of UNHCR registration and assurances of non-reliance on state budgets (Ni Luh et al., 2023). While local governments in Makassar and Batam have piloted inclusive models, these remain exceptions rather than norms (Rizka et al., 2023). Grassroots initiatives such as the Cisarua Refugee Learning Centre highlight resilience but reveal systemic dependence on external funding (Renatha Ayu, 2022).

The Principle of Non-Discrimination in Education

Central to both CRC and UDHR is the principle of non-discrimination, which affirms that access to education must not be limited by nationality, gender, or social status (United Nations, 1989). In Malaysia, despite

commitments under the CRC, implementation remains selective, particularly with the introduction of the “Zero Reject Policy” in 2019, which prioritized children with disabilities but limited stateless children’s access to those with potential citizenship claims (Ensinau et al., 2022). Critics argue that this policy reproduces exclusion rather than addressing it (Ko & Cooray, 2024).

In Indonesia, *Undang-Undang No. 39 Tahun 1999* on Human Rights defines discrimination as any direct or indirect restriction based on religion, race, ethnicity, or status. Yet, discriminatory barriers remain in practice, from school registration requirements to exclusion from national examinations (Mohammad Bilutfikal, 2024; Nugroho et al., 2021). Scholars highlight that without structural reform, the promise of non-discrimination remains aspirational rather than realized (Tara et al., 2023; Romalina et al., 2024).

Intersectional Social

Moreover, stateless status is not the only factor that limits access to education. Intersecting social identities including gender, socioeconomic class, ethnicity, and geographic context further intensify the educational inequalities faced by stateless children. As a result, Intersectional dynamics shape the lived experiences of stateless children in both Malaysia and Indonesia.

In Malaysia, Rohingya girls confront dual layers of exclusion legal stateless status compounded by patriarchal gender norms limiting mobility and school attendance (Ferdousi et al., 2022). Also, the problem is that they don't have any legal status, and without legal status, they don't have the right to education, because they don't have identification documents like an identity card, they are unable to take exams in national schools. The country's examination system requires these documents as a requirement for participation (Shima et al., 2025). Meanwhile, stateless Bajau Laut children in Sabah face exclusion driven by intergenerational poverty, linguistic marginalization, and persistent ethnic stigma (Wan Shawaluddin & Diana, 2020; UNICEF Malaysia, 2020). Similarly, in Indonesia, refugee children in Java encounter uncertainty and rejection at the point of enrollment due to ambiguous policy implementation (Ni Luh et al., 2023; UNHCR Indonesia, 2020). Girls from sea-nomad communities in Sulawesi are further disadvantaged, as gendered economic expectations often force early involvement in domestic and informal labour (Nurdin et al., 2021; Abdullah, 2020).

Stateless learners in Malaysia and Indonesia often face severe financial constraints that hinder their ability to pay school fees (Tharani et al., 2023; Nadzarina et al., 2023; Alysa et al., 2023). Their lack of legal status excludes them from government financial support or educational subsidies, making the cost of schooling unaffordable for families who typically survive on irregular and low-income informal work.

Furthermore, Stateless children often face two major layers of barriers when attempting to attend school. First social stigma, they are frequently perceived as “belonging to no nation” or as “illegal immigrants,” which leads to discrimination from the community and peers (Norhafiza et al., 2022; Liza & Zainal, 2022; Falah et al., 2023). This reduces their sense of social acceptance and negatively affects their learning motivation. Second language barriers, many stateless children such as those from the Bajau Laut community in Sabah, Rohingya refugees in Peninsular Malaysia and Stateless in Indonesia speak local dialects or their own ethnic languages (Zen & Manique, 2024; Rina et al., 2023). Their limited proficiency in Bahasa Melayu or Bahasa Indonesia hinders their integration into the formal education system.

METHODOLOGY

This study employed a qualitative research design informed by interpretivist and constructivist paradigms (Fodoup, 2024). Interpretivism assumes that social reality is not singular or objective but rather multiple, fluid, and context-dependent, shaped by the meanings individuals and institutions attach to their lived experiences (Acharya, 2025). Constructivism complements this position by emphasizing that knowledge is co-constructed through human interaction, historical processes, and institutional discourses rather than existing independently of them (Saif & Laszlo, 2020). This philosophical stance was particularly appropriate given the focus of the present study on the right to education of stateless children in Malaysia and Indonesia. The experiences of statelessness and educational exclusion are not uniform; they are mediated by legal frameworks, political practices, and socio-cultural norms. A qualitative approach therefore allowed for a more nuanced understanding of how these rights are recognized, contested, and enacted within specific national contexts.

The methodological orientation of this study was document analysis, a form of qualitative inquiry that systematically examines legal texts, policy frameworks, reports, and academic works to derive meaning and insight (Morgan, 2022; Nicole, 2021). Document analysis was chosen for two reasons. First, it enabled access to authoritative sources, such as constitutions, education acts, ministerial directives, and presidential regulations, which form the legal foundation of children's rights in Malaysia and Indonesia. Second, it facilitated engagement with interpretive accounts produced by scholars, non-governmental organizations (NGOs), and international agencies such as UNICEF, UNHCR, and SUHAKAM, all of which have documented the conditions of stateless children and their struggles in accessing education. This combination of legal documents and critical reports made it possible to triangulate official positions with independent perspectives, thereby enhancing the credibility of the analysis.

Purposive sampling was used to select the documents included in this study. In keeping with the principles of qualitative inquiry, purposive sampling allows the researcher to focus on information-rich sources that directly address the phenomenon of interest (Omid et al., 2024). The corpus of documents comprised four broad categories: legal frameworks and policies enacted by Malaysia and Indonesia, international instruments such as the CRC and UDHR, reports and guidelines produced by NGOs and international bodies, and peer-reviewed academic articles published in the last two decades. Together, these documents provided a comprehensive dataset that reflected governmental, international, and civil society perspectives on the right to education of stateless children. Data collection proceeded systematically. Documents were identified through targeted searches of government gazettes, United Nations treaty databases, NGO portals, and academic databases such as Google scholar and Scopus. Relevance was established by examining abstracts, preambles, or executive summaries, and eligible materials were archived in a citation management system. Each document was categorized by type and country focus, enabling organized comparison across Malaysian and Indonesian contexts. The systematic collection of documents ensured breadth and depth, while the use of multiple types of sources supported triangulation.

The analysis of the collected materials followed a qualitative content analysis approach as outlined by Philipp Mayring (2000). This method was selected because it allows researchers to move beyond surface description to uncover deeper patterns, meanings, and assumptions embedded in texts. The analysis was conducted in four interconnected stages. First, the data were prepared by organizing documents into thematic clusters, such as Malaysian policies, Indonesian regulations, or NGO reports. Second, coding was carried out, with passages labelled for their relevance to key themes such as access to education, legal barriers, discrimination, or the role of NGOs. Coding combined both deductive and inductive strategies: deductive codes were derived from international human rights principles such as non-discrimination, while inductive codes emerged organically from the data. Third, the codes were categorized into broader themes, for instance, "bureaucratic restrictions," "policy contradictions," and "alternative education provision." Finally, these themes were interpreted comparatively to identify both convergences and divergences in how Malaysia and Indonesia approach the education of stateless children. This hybrid strategy allowed the analysis to remain grounded in international frameworks while remaining attentive to local contextual realities.

RESULT & DISCUSSION

The analysis of legal documents, policy frameworks, NGO reports, and scholarly sources revealed five central themes that illuminate how the right to education for stateless children is constructed, contested, and implemented in Malaysia and Indonesia. These themes expose the tension between rights affirmed in international law and exclusions embedded within national systems, highlighting both shared regional challenges and country-specific dynamics.

Legal and Policy Frameworks: Rights in Principle vs. Rights in Practice

Both Malaysia and Indonesia formally recognize the right to education within their legal frameworks, yet their application remains circumscribed by nationality requirements. In Malaysia, Article 12(1) of the *Federal Constitution* guarantees education for citizens "without distinction of religion, race, descent, or place of birth." However, as one analysis observed, "this provision applies only to citizens, excluding refugees and stateless

children from compulsory schooling” (Mazura & Nurhafizah, 2018). Similarly, the *Education Act 1996* mandates compulsory primary education but explicitly limits this obligation to parents who are Malaysian citizens, thereby creating a structural exclusion (SUHAKAM, 2024).

Indonesia’s *Education Law No. 20 of 2003* mirrors this limitation, stipulating that “every citizen has the right to obtain quality education.” While inclusive in language, its operationalization privileges citizens, leaving non-nationals to rely on ad hoc administrative policies such as the *Presidential Regulation No. 125 of 2016* on refugees. Even the 2019 Ministerial Circular permitting refugee children to access schools was hedged with conditions, such as UNHCR registration and assurances that no financial burden would fall on the state (Nugroho et al., 2021). These legal frameworks highlight what one UNHCR policy brief described as “the paradox of recognition without implementation,” where rights are acknowledged rhetorically but denied substantively through bureaucratic constraints (SUHAKAM, 2024). The divergence between principle and practice emerges as a defining feature of both national contexts.

Bureaucratic and Documentation Barriers

The most pervasive obstacle identified across both contexts was the centrality of documentation in accessing education. Stateless children often lack birth certificates, identity cards, or passports documents that serve as gateways to school enrollment. In Malaysia, cases such as (register-General of Births and Deaths) *v Pang Wee See & Anor* (2017) illustrate how even children adopted by Malaysian citizens were denied nationality due to technicalities, leaving them ineligible for state education (Selvakumaran et al., 2020). The requirement introduced under the “Zero Reject Policy” in 2019 that children present valid passports further entrenched exclusion, as “adopted children without recognized birth parents cannot obtain passports, leaving them permanently outside the education system” (Ko & Cooray, 2024).

In Indonesia, bureaucratic barriers manifest in school registration processes requiring family cards (*kartu keluarga*) and national identity numbers. Refugee children, even with UNHCR cards, frequently face rejection at the point of enrollment, as “local officials remain uncertain whether to interpret the 2019 Circular as binding” (Prabaningtyas et al., 2023). While some districts, such as Makassar, innovated by partnering with the International Organization for Migration (IOM) to fund refugee education, such practices remain uneven and contingent on local political will (Antje, 2017). These bureaucratic hurdles illustrate what scholars term “legal invisibility” (Razali et al., 2015), where children’s identities are erased in administrative processes. The consequence is systemic exclusion: without documents, children remain legally unrecognized and thus educationally excluded.

Alternative Education and NGO Initiatives

In the absence of formal recognition, NGOs and community-based organizations have emerged as central actors in providing educational opportunities. In Malaysia, UNHCR collaborates with over 130 community learning centers, such as the Grace Alternative Learning Centre in Tawau, which in 2024 became the only NGO school officially recognized by the Ministry of Education (Thien, 2024). Similarly, organizations like Borneo Komrad operate informal schools for Bajau Laut children in Semporna, providing basic literacy despite limited resources (Abadi & Al-Kautsar, 2021). Humana Child Aid Society also partners with Indonesian consulates to deliver education in plantation areas, particularly for Indonesian migrant children (Muyamin, 2019).

Indonesia presents comparable patterns. The Cisarua Refugee Learning Centre, established by refugees themselves, has become a model for alternative education, inspiring at least ten similar initiatives nationwide (Renatha Ayu, 2022). While these schools provide essential access, they face precarious funding, lack accreditation, and limited curricular recognition. As one policy paper noted, “certificates issued by such centers cannot be used for formal progression, leaving refugee children in a cycle of temporary schooling without long-term opportunity” (Pudjiastuti & Putera, 2022). These initiatives reflect resilience and grassroots commitment but also reveal structural dependence on external aid. The pattern is one of partial inclusion: education is provided, but without formal recognition, its transformative potential is constrained.

Experiences of Exclusion and Discrimination

Beyond legal and bureaucratic barriers, stateless children frequently encounter social discrimination and stigmatization. In Malaysia, studies of Rohingya students highlight language barriers and social isolation. Teachers reported that “students often lacked confidence to speak in Malay or English, leading to silence in classrooms and withdrawal from peers” (Aida & Napisah, 2021). Such linguistic exclusion compounded structural barriers, with children internalizing feelings of inferiority. Gender norms further intersect with statelessness. Research shows that Rohingya girls in Malaysia are disproportionately denied schooling, as cultural norms prioritize domestic responsibilities or early marriage (Tharani et al., 2023). Similar patterns exist in Indonesia, where female refugee children often face “double exclusion” due to both gender and stateless status (Ni Luh et al., 2023).

Discrimination also manifests in subtle forms of administrative neglect. Reports from SUHAKAM (2024) document instances where children were technically admitted to schools but marginalized within classrooms, denied textbooks, or excluded from examinations. These practices, though less visible than outright denial, nonetheless undermine the principle of equality enshrined in the CRC. The recurring theme is that stateless children’s exclusion is not only structural but experiential, embedded in the everyday practices of schools and communities. As one Indonesian refugee parent remarked in a UNHCR field report: “*My child wears the same uniform, but she is never really part of the class*” (UNHCR, cited in Nugroho et al., 2021).

Comparative Insights: Convergences and Divergences

The comparative analysis reveals important similarities and differences between Malaysia and Indonesia. Both countries share a common paradox: they have ratified the CRC and committed to SDG4, yet their national education systems remain citizenship-based, effectively excluding stateless children. In both contexts, documentation functions as the primary barrier, and NGOs emerge as the de facto providers of education. Discrimination, whether bureaucratic or social, perpetuates cycles of exclusion that international frameworks seek to prevent.

However, divergences are also notable. Malaysia’s education policies, such as the Zero Reject Policy, reveal a more formalized but restrictive approach, where inclusion is conditional on potential citizenship claims. Indonesia, by contrast, has adopted temporary administrative solutions such as the 2019 Circular that allow broader, albeit precarious, access. Local governments in Indonesia demonstrate greater autonomy, leading to innovative partnerships, whereas Malaysia’s highly centralized education system leaves little room for such flexibility.

These findings suggest that while both states grapple with the same structural dilemma balancing sovereignty with human rights Indonesia’s decentralized governance has created pockets of innovation, while Malaysia’s centralized approach results in uniform but rigid exclusion. For children, however, the outcome remains similar: partial access, fragile inclusion, and uncertain futures.

DISCUSSION

The findings of this study provide a nuanced understanding of how the right to education for stateless children is simultaneously affirmed and undermined in Malaysia and Indonesia. While both countries have ratified the *Convention on the Rights of the Child (CRC)* and espoused the principle of inclusive education, their legal and policy frameworks remain tethered to citizenship-based criteria. This section discusses these findings in relation to existing scholarship and theory, identifies theoretical contributions, explores practical implications, and outlines limitations and directions for future research.

The first major finding is the paradox between rights recognized in principle and denied in practice. In both Malaysia and Indonesia, education is constitutionally and legally protected but circumscribed by nationality requirements. This echoes the observations of Rostam et al. (2022), who argued that the legal framing of

education in Malaysia inherently excludes non-citizens despite international commitments. The reliance on citizenship as a condition of access positions stateless children as outsiders, even when they are born and raised within the country. In Indonesia, similar tensions emerge, as the *Education Law No. 20 of 2003* promises education to “every citizen,” but leaves refugee and undocumented children dependent on temporary circulars or local government discretion (Nugroho et al., 2021). These findings confirm the argument of Batchelor (1998) and Blitz & Lynch (2011) that statelessness produces structural exclusion, whereby rights guaranteed under international law are curtailed by domestic sovereignty concerns.

A second key finding is the centrality of documentation as a barrier to access. Stateless children, lacking birth certificates, identity cards, or passports, are unable to fulfill bureaucratic requirements for school enrollment. In Malaysia, this is compounded by restrictive interpretations of constitutional provisions, as seen in judicial decisions such as *Pang Wee See* (2017), where legal technicalities trumped the child’s best interests. In Indonesia, the requirement for family cards or national identification similarly excludes refugee children, even those registered with UNHCR. This resonates with Razali et al., (2015), who conceptualize such practices as “legal invisibility,” whereby individuals are erased from the administrative record and thereby denied rights. Theoretically, this reflects social exclusion theory, which emphasizes how institutional mechanisms systematically marginalize groups and reproduce inequality (Rahman et al., 2018).

Third, the findings highlight the role of NGOs and community-based schools as de facto providers of education. In Malaysia, initiatives like Grace Alternative Learning Centre and Borneo Komrad illustrate how civil society fills gaps left by the state (Abadi & Al-Kautsar, 2021; Thien, 2024). In Indonesia, refugee-led centers such as the Cisarua Refugee Learning Centre similarly demonstrate resilience in the face of state inaction (Renatha Ayu, 2022). However, these initiatives are often precarious, lacking accreditation and resources, which limits their sustainability and transformative potential. This reflects Arshad, Ajis & Mutalib’s (2022) critique that NGOs provide essential humanitarian protection but cannot substitute for systemic reform. The presence of such alternatives highlights both the creativity of marginalized communities and the abdication of responsibility by states.

Finally, the analysis shows that exclusion is not merely structural but experiential. Stateless children encounter discrimination in classrooms, language barriers, and gender-based exclusion. For example, Rohingya girls in Malaysia are disproportionately denied access due to cultural norms (Tharani et al., 2023), while refugee children in Indonesia often feel marginalized even when technically admitted to schools (Rizka et al., 2023). These experiences confirm the concerns of Nicken Sarwo (2018) and Yanto (2023) that principles of non-discrimination remain aspirational unless supported by concrete structural reforms. The findings thus reveal a continuum of exclusion: legal restrictions, bureaucratic hurdles, and everyday discrimination combine to deny stateless children equal access to education.

Theoretical Contributions

This study makes several theoretical contributions. First, it advances understanding of the paradox of recognition without implementation. By systematically comparing Malaysia and Indonesia, the study demonstrates how international human rights frameworks such as the CRC coexist with national laws that effectively negate them. This tension enriches human rights theory by showing how sovereignty functions as a structural barrier to universality in education.

Second, the study extends the application of social exclusion theory to statelessness. While exclusion is often conceptualized in terms of class, ethnicity, or disability, this research illustrates how legal identity itself functions as an axis of exclusion. Statelessness operates not only as a lack of nationality but also as a generator of systemic marginalization across bureaucratic, educational, and social domains.

Third, the study contributes to the principle of non-discrimination in education by demonstrating its uneven application in Southeast Asia. By analyzing how policies like Malaysia’s Zero Reject Policy or Indonesia’s 2019 Circular simultaneously extend and restrict access, the research highlights the limitations of rights-based frameworks when mediated by state discretion. This nuance contributes to conceptual debates on the difference between formal equality and substantive equality in education.

Practical and Policy Implications

The findings carry significant implications for policymakers, educators, and civil society. At the national level, governments must recognize that denying education to stateless children undermines social cohesion and long-term development. Malaysia and Indonesia could revise their education acts to adopt inclusive language aligned with CRC obligations, ensuring that all children, regardless of nationality, have access to primary education. Ministries of education should also establish pathways for the accreditation of NGO and community schools, thus legitimizing existing efforts and providing children with recognized qualifications.

For educators and school administrators, there is a need to foster inclusive pedagogies that address linguistic and cultural barriers. Teacher training should include sensitization to the specific needs of stateless and refugee children, promoting classrooms as spaces of integration rather than exclusion. Community engagement is also crucial. As the experiences of Rohingya girls illustrate, cultural norms can impede schooling; collaboration with parents and religious leaders is necessary to shift attitudes toward girls' education.

Civil society organizations, while constrained, should continue to play a bridging role between international agencies and local communities. Partnerships between NGOs, consulates, and government agencies—as seen in Humana's collaboration with the Indonesian consulate in Sabah—provide useful models of shared responsibility. Regional bodies like ASEAN could also adopt a stronger coordinating role by developing guidelines on the education of stateless children, thereby encouraging harmonization across member states.

CONCLUSION

This study has examined the right to education for stateless children in Malaysia and Indonesia, revealing systemic contradictions between international commitments and domestic practices. The findings demonstrate that while both countries recognize education as a universal right, bureaucratic, legal, and social barriers continue to exclude stateless children. NGOs and community schools provide vital alternatives but lack sustainability and formal recognition, leaving children in precarious educational pathways.

Theoretically, the study contributes to debates on human rights, social exclusion, and non-discrimination by demonstrating how legal identity operates as a structural axis of inequality. Practically, it calls for reforms to national education laws, greater recognition of alternative education providers, and inclusive pedagogical strategies. Despite methodological limitations, the research offers important insights for academics, policymakers, and practitioners. Ultimately, the study underscores the urgency of reimagining education systems that leave no child behind. Statelessness should not equate to educational invisibility. Ensuring access to education for every child is not only a legal obligation but also a moral imperative and a prerequisite for building inclusive, cohesive, and resilient societies in Southeast Asia and beyond.

Future research should prioritize participatory and child-centered methodologies that capture the lived experiences of stateless children directly. In-depth interviews, ethnographic studies, and participatory action research could provide richer insights into how children navigate exclusion and how education impacts their aspirations. Comparative studies across Southeast Asia would also be valuable, examining how different political regimes and cultural contexts shape statelessness. Theoretically, future work could further interrogate the intersection of legal identity, social exclusion, and human rights, exploring how these concepts can be operationalized to produce more inclusive policy frameworks. Finally, longitudinal research on the outcomes of children educated in alternative schools would shed light on the long-term implications of non-recognized education for employment, mobility, and integration.

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