

BOOK REVIEW

*SAFEGUARDING AGAINST STATELESSNESS AT BIRTH:
INTERNATIONAL LAW AND DOMESTIC
FRAMEWORKS OF ASEAN MEMBER STATES* BY
RODZIANA MOHAMED RAZALI (SPRINGER 2023). 262
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Are children adequately protected by law against statelessness at birth, and to what extent? This is the core question of Rodziana Mohamed Razali's in-depth legal analysis into the international and domestic law of the Association of Southeast Asian Nations ('ASEAN'). The ASEAN has 10 Member States: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.¹ This book provides a sweeping, detailed and ambitious summary of this region's legal framework as well as the historical underpinning of the legal protection from statelessness. It is done in a clear and easily digestible way. For anyone wanting an introduction to the international regime and the various, distinct nationality laws and practices in the ASEAN region, this is a must read.

The United Nations High Commissioner for Refugees ('UNHCR') reported in 2015 that a child is born stateless every 10 minutes, which translates to 70,000 children a year — an estimate described as conservative given the known stateless population.² The global recognition of the need to protect children from statelessness is found in international legal instruments that enshrine the right to nationality, such as the 1948 *Universal Declaration of Human Rights*, the 1976 *International Covenant on Civil and Political Rights* and the 1990 *Convention on the Rights of the Child* among others.³ Scholars have also long advocated for the

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¹ Association of Southeast Asian Nations ('ASEAN'), 'ASEAN Member States', ASEAN Main Portal (Web Page, 2025) <<https://asean.org/expo-2025-osaka/asean-member-states/>>, archived at <perma.cc/R2MK-KTRF>.

² United Nations High Commissioner for Refugees, *I Am Here, I Belong: The Urgent Need To End Childhood Statelessness* (Report, November 2015) 1.

³ *Universal Declaration of Human Rights*, GA Res 217A (III), UN Doc A/810 (10 December 1948) art 15; *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 24(3); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 7.

protection of children through legal identity and citizenship.⁴ Moreover, the consequences of statelessness at birth are widely documented and include health disparities,⁵ abuse, violence, lack of education and child labour.⁶ As Sripapha Petcharamesree writes, ‘whilst national policy and legislation of the ASEAN Member States... indicate a positive trend towards a more open policy, both on birth registration and civil registration, legal invisibility still deprives some groups from basic fundamental rights’, a circumstance which drives some to migrate and generates forced displacement.⁷

It is important to confine the analysis to the temporal location of birth as the site when most children become stateless. Razali’s book notes that while children could become stateless later in life, it is the act of being born that does or does not trigger legal proceedings to acquire citizenship.⁸ Statelessness from birth is a common phenomenon anchored to the location of one’s birth and the jurisdiction, laws and practices of that place.⁹ As a result, the book’s focus on this formative time presents an important research site as determinations made at birth affect a person’s chances at life. Understanding the occurrence of statelessness at birth is crucial, as the United Nations Children’s Fund (‘UNICEF’) finds that an estimated 150 million (or one out of every five) children under five years old worldwide have not been registered at birth.¹⁰ Indeed, scholarly preoccupation with tying automatic citizenship to birth has led to rich discussions of how to strengthen or realise the obligation to confer citizenship at birth.¹¹

The work of Razali as a local researcher in Malaysia provides a positive outlook on how the right to citizenship can be bolstered and further implemented. This is particularly so within a region where few states are signatories to the major human rights conventions, and which often formulate reservations on provisions that set standards on how citizenship should be conferred.¹² Some might argue that a rights-based framework may not provide a panacea for addressing statelessness.¹³ However, Razali remains undeterred by the fact that few ASEAN states have acceded to or ratified many human rights treaties. In her analysis, Razali points out that many ASEAN Member States have incorporated international standards

⁴ See, eg, Jacqueline Bhabha (ed), *Children without a State: A Global Human Rights Challenge* (MIT 2011); Douglas Hodgson, ‘The International Legal Protection of the Child’s Right to a Legal Identity and the Problem of Statelessness’ (1993) 7(2) *International Journal of Law, Policy and the Family* 255.

⁵ Proloy Barua, ‘Investigation into Health Disparities Among Stateless Children in Tak Province, Thailand’ (PhD Thesis, Narusuan University, 2019).

⁶ Palapan Kampan and Adam R Tanielian, ‘Securing the Future of the Community: Child Protection in ASEAN’ (2014) 10(11) *Asian Social Science* 172, 172–8.

⁷ Sripapha Petcharamesree, ‘Birth Registration, Legal Identity and Impacts on Migration in ASEAN’ in Sripapha Petcharamesree and Mark P Capaldi (eds), *Migration in Southeast Asia* (Springer 2023).

⁸ Rodziana Mohamed Razali, *Safeguarding Against Statelessness At Birth: International Law and Domestic Frameworks of ASEAN Member States* (Springer 2023) 13.

⁹ *ibid* 33–41.

¹⁰ UNICEF ‘Birth Registration’, *UNICEF Data: Monitoring the situation of children and women* (Web Page, 2025) <<https://data.unicef.org/topic/child-protection/birth-registration/>>, archived at <perma.cc/Y32D-GNKE>.

¹¹ See, eg, William Thomas Worster, ‘Customary International Law Requiring States to Grant Nationality to Stateless Children Born in Their Territory (2022) 4(1) *Statelessness & Citizenship Review* 113; Michael Sullivan, ‘Protecting Minorities from De Facto Statelessness: Birthright Citizenship in the United States (2022) 4(1) *Statelessness & Citizenship Review* 66.

¹² Razali (n 8) 142.

¹³ Jamie Chai Yun Liew, *Ghost Citizens: Decolonial Apparitions of Stateless, Foreign and Wayward Figures in Law* (Fernwood Publishing 2024) 16.

in their domestic nationality laws to varying degrees.¹⁴ In this regard, Razali provides a hopeful map by which states may extend the reach of such standards.

However, Razali rightly reveals the gaps in implementation with regards to how civil registration is undertaken, how the administration of citizenship is conferred, how some legal regimes are discriminatory and, in some cases, gaps in nationality laws themselves.¹⁵ Indeed, as Amanda Cheong attests in her research:

Maintaining civil registers, issuing identity cards, and carrying out censuses are more than mundane bureaucratic tasks: They discipline humans into political subjects and legitimise their stratification into hierarchies of membership and entitlement.¹⁶

Cheong argues that the ‘omission’ of stateless persons from citizenship is an intentional political action by the State to keep unwanted populations from making claims for rights, resources and membership.¹⁷ Further, Razali confirms scholarship that finds related rights are affected, such as the right to education in the ASEAN region.¹⁸

Chapter 2 of the book provides a foundational overview of the legal framework that provides protection against statelessness.¹⁹ Razali is comprehensive, outlining the applicable definitions, principles, norms, as well as both textual and soft law practices. In Chapter 3, the book dives into protection against statelessness at birth.²⁰ Razali gives a historical summary of the emergence of the right to nationality and its connection with birth and therefore birth registration.

Chapters 4, 5 and 6 provide a spotlight on the ASEAN Member States. In Chapter 4, Razali not only provides a snapshot of the state of the law in the region, but also identifies the overarching themes or rationales that underpin the framework, including the social contexts in which gender and racial discrimination as well as ethnic persecution intersect with citizenship conferral.²¹ As Razali highlights, exclusion based on race and the construction of the foreign person is important to understand in this postcolonial context.²² Chapter 5 provides an assessment or evaluation of the domestic nationality laws of ASEAN Member States.²³ Razali categorises legal safeguards as strong, partial or minimal,²⁴ providing a comprehensive table outlining the countries and their respective safeguards at the end of the chapter. This table is not only useful in understanding the variety of ways in which children can be protected from statelessness, but it is an invaluable tool for policy makers and ASEAN Member States in considering reform or pilot projects. Razali also in Chapter 5 gently nudges states to recognise

¹⁴ Razali (n 8) 142.

¹⁵ See, eg, Mary Anne K Baltazar, Ayesah Uy Abubakar and Wan Shawaluddin Wan Hassan, ‘Children At-Risk of Statelessness and their Constraints to Citizenship’ (Working Paper, SHAPE SEA Research Project, June 2019).

¹⁶ Amanda R Cheong, ‘Theorising Omission: State Strategies for Withholding Official Recognition of Personhood’ (2023) 41(4) *Sociological Theory* 377, 377–8.

¹⁷ *ibid* 379.

¹⁸ Kanageswary Selvakumaran, Tie Fatt Hee and Jal Zabdi Mohd Tusoff, ‘A Legal Perspective on the Right to Education for Stateless Children in Selected ASEAN Countries’ (2020) 28(1) *Pertanika Journals Social Sciences & Humanities* 361.

¹⁹ Razali (n 8) 17–44.

²⁰ *ibid* 45–111.

²¹ *ibid* 113–42.

²² *ibid* 123–6. See also Liew (n 13) 11–3.

²³ Razali (n 8) 143–76.

²⁴ *ibid* 166.

their weaknesses, to identify the gaps in their laws and practices, and to move from providing weak safeguards to generating different approaches. Chapter 6 focuses on birth registration and provides an overview of the opportunities and limitations in each ASEAN Member State's system.²⁵ Razali again creates a table of reference that is useful to understanding the strengths and weaknesses of each state's approach and offers much fodder for reform or inspiration for experimentation.

The final chapter ties all the chapters together and provides an aspirational path for the region.²⁶ The book identifies the reasons why some children become stateless at birth, tracing the laws and practices that play a seminal role in lack of citizenship at birth. For example, common issues include children born abroad, foundlings or abandoned children with unknown identities, children born of parents who are not married, or laws that limit citizenship based on race or the citizenship of a parent.²⁷ Razali traces the safeguards in law and labels them as weak, minimal, partial, or strong, pointing towards best practices that may be adopted.²⁸

Overall, this book does an admirable job in providing a deep analysis of the state of the law in the ASEAN region. More importantly, aside from providing contextual understanding of how statelessness occurs in ASEAN Member States, Razali lightly nudges states to consider what can be done better and to borrow or test ideas tried elsewhere. Razali provides a handbook to the types of things that can be done to address statelessness, urging states to be more flexible in their evidentiary requirements, to provide transparent determination processes and to prioritise active and responsive birth registration.²⁹ Razali also encourages more interstate cooperation and harmonisation,³⁰ as well as greater attention paid to marginalised and illiterate populations.³¹ Indeed, this is an idea endorsed by other scholars,³² as Cheong notes that the stateless persons' ineligibility for deportation poses challenges to immigration control.³³ Moreover, Razali provides a practical tool to a seemingly daunting and persistent problem. While the problem may be 'confounding', or seemingly obscure and complex, she contends international instruments already offer 'innovative mechanisms'.³⁴ Further, Razali applauds and urges states to continue to keep statelessness on the human rights agenda at ASEAN bodies and meetings, and to continue to undertake reforms despite the gradual pace of change.³⁵ This global perspective did not prevent Razali from pointing out important details and considerations, such as ensuring migration enforcement does not interfere with birth registration,³⁶ and how evidentiary requirements should be formulated with religious and social values in mind.³⁷ Such nuance is important in the context of ASEAN Member States and how their

²⁵ *ibid* 177–218.

²⁶ *ibid* 219–28.

²⁷ *ibid* 13.

²⁸ *ibid* 166.

²⁹ *ibid* 223.

³⁰ *ibid* 227.

³¹ *ibid* 226.

³² Su Yin Htun, 'ASEAN Cooperation on Ending Statelessness in ASEAN Region' (Working Paper No 042/2020, Asian Law Institute, October 2020).

³³ Amanda R Cheong, 'Deportable to Nowhere: Stateless Children as Challenges to State Logics of Immigration Control' (2022) 30(2) *Positions* 245.

³⁴ Razali (n 8) 219.

³⁵ *ibid* 222.

³⁶ *ibid* 225.

³⁷ *ibid* 227.

reforms could garner greater success in implementation and effect. This is because even though the study in this book involves a region of 10 small yet similar states, there is immense diversity in the linguistic, cultural and religious context that informs their legal frameworks.³⁸ Further from this context, the legal institutions, laws and modes of implementation vary, making a one-size-fits-all solution not feasible.³⁹ Overall, Razali advocates for context-specific solutions rather than a universal approach, encouraging the adoption of best practices that work in other countries while tweaking them for maximum effect in a local environment. One example is Razali's reference to how marriages in some parts of the region take place in religious or cultural institutions, yet these ceremonies may not have the legal legitimacy necessary to proffer proof of marriage.⁴⁰ Razali advocates for a practice to ensure legal and cultural norms work together to prevent the imposition of evidentiary barriers to proving marriage in citizenship applications, citing Indonesia's *Itsbat Nikah* as an example of one permissive approach addressing this issue.⁴¹ The book provides an important message that while there need not be a common approach in the minutiae, there could be an overarching partnership towards a common goal where states assist one another and cooperate in finding appropriate context-specific strategies.⁴²

This book provides a unique contribution to the discussion of statelessness created at birth and the law's role in continually reproducing statelessness. Moreover, Razali provides a hopeful articulation of how states have the tools in place to improve the life chances of children acquiring citizenship at birth — no reinvention of the wheel is required. Instead, Razali has faith in the international legal system, especially in the regional cooperation structures in the ASEAN region that bolster efforts to improve legal and implementation reforms of nationality laws and birth registration. While I have written elsewhere that law reform on its own may not be enough,⁴³ this book has reinvigorated my confidence in the interim use of incremental legal reform to reduce the suffering of children. While we explore more enduring and systemic solutions, law reform through measured change can be done simultaneously and in tandem with larger conversations about whether we need to continue with or explore alternatives to state recognition as a mode of community membership.⁴⁴

This book is easy to read and is important for students, professors and scholars interested in migration, immigration, statelessness, citizenship, law, international governance, administrative law and human rights. The book provides practical ideas and is therefore useful for elected government officials, especially in ASEAN Member States, but also civil servants, policy makers, and those working in think tanks or non-governmental organisations that liaise with government and international organisations on the issue of statelessness and children's rights. The book's thorough discussion makes it a valuable contribution to those outside of the ASEAN region who may want to take up this model to do regional evaluations or assessments of legal measures to address child statelessness, as well as to proffer best practices to test.

38 *ibid.*

39 *ibid.*

40 *ibid.*

41 *ibid.*

42 *ibid* 228.

43 Liew (n 13) 17.

44 *ibid.*

Children are among the most vulnerable people and their futures are determined the moment they gasp for air. Razali rightly provides a spotlight on that moment in time to alert us to how we can shape that child's future if transparent, flexible and attentive processes to register births and confer citizenship are implemented.