

# **Joint Submission to the Human Rights Council**

# **Universal Periodic Review**

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**Brunei Darussalam**

**Equality Now  
Global Campaign for Equal Nationality Rights  
Institute on Statelessness and Inclusion  
Nationality For All  
Statelessness and Dignified Citizenship Coalition - Asia Pacific**

**April 8, 2024**

**Joint Submission**  
**to the Human Rights Council**  
at the 47th Session  
of the Universal Periodic Review.

## **BRUNEI DARUSSALAM**

### **Introduction**

1. Equality Now, the Global Campaign for Equal Nationality Rights, the Institute on Statelessness and Inclusion, Nationality for All and the Statelessness and Dignified Citizenship Coalition Asia Pacific make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Brunei Darussalam.
2. This submission focuses on:
  - I. Gender Discrimination in the Brunei Nationality Act and Women’s Equal Rights;
  - II. Racial Discrimination in the Brunei Nationality Act.
3. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our network of individuals and organizations in every region. Ending sexual violence, ending sexual exploitation, ending harmful practices and achieving legal equality are the main areas of Equality Now’s work. Equality Now is the author of ‘[The State We’re In: Ending Sexism in Nationality Laws – 2022 Edition](#) – Update for a Disrupted World’. [Contact Details: Equality Now, PO Box 560, Dartford DA1 9WP, United Kingdom. Email ID: [ukinfo@equalitynow.org](mailto:ukinfo@equalitynow.org) Website: [www.equalitynow.org](http://www.equalitynow.org).]
4. The Global Campaign for Equal Nationality Rights (GCENR) mobilizes international action for the removal of gender-discriminatory provisions from all nationality laws, through its coalition of over twenty national, regional and international organizations and activists, including steering committee members Equality Now, Equal Rights Trust, Institute on Statelessness and Inclusion, Women’s Learning Partnership and Women’s Refugee Commission. [Contact Details: Global Campaign for Equal Nationality Rights, c/o Women’s Refugee Commission, 15 West 37<sup>th</sup> Street, NY, 10018, USA. Email: [gcnr@wrcommission.org](mailto:gcnr@wrcommission.org), Website: [www.equalnationalityrights.org](http://www.equalnationalityrights.org).]
5. The Institute on Statelessness and Inclusion (ISI) is the first and the only human rights NGO dedicated to promoting the right to a nationality and the rights of stateless people globally. ISI works with its partners globally to counter discrimination and intolerance and promote inclusive societies by realising and protecting everyone’s right to a

nationality through its movement, knowledge and advocacy programmes. [Contact details: Institute on Statelessness and Inclusion, Address: Stationsplein 45, 3013 AK Rotterdam, Netherlands, Contact person: Stefania Tantimonaco, Email: [stefania.tantimonaco@institutesi.org](mailto:stefania.tantimonaco@institutesi.org), Website: [www.institutesi.org](http://www.institutesi.org)]

6. Nationality For All (NFA) is a regional organization that works to promote the rights of all people affected by statelessness in the Asia-Pacific region, including the right to a nationality, through strategic and long-term partnerships. NFA's work includes partnership building, knowledge building, coalition building, and advocacy, to foster a more cohesive, collaborative, and therefore more sustainable approach to addressing statelessness in the region. [Contact Details: Nationality For All, 40 Island Parade, Banksia Beach QLD 4507, Australia. Email ID: [info@nationalityforall.org](mailto:info@nationalityforall.org). Website: <https://nationalityforall.org/contact-us/>]
7. Statelessness and Dignified Citizenship Coalition - Asia Pacific (SDCC-AP) is a newly formed regional coalition of civil society organizations and activists working together to address statelessness and ensure the right to nationality for all in the Asia Pacific region. SDCC's work includes advocacy, research, and capacity building.

## **Previous UPR of Brunei under the First, Second, and Third Cycle**

8. Brunei was previously reviewed during the 6th, 19th and 33rd Sessions of the UPR, in 2009, 2014 and 2019 respectively.
9. During the 19th Session, Brunei received a recommendation from Argentina to "amend the legislation on nationality in order to establish equality between men and women regarding the transmission of nationality to their children";<sup>1</sup> from France to allow "women from Brunei Darussalam to transmit their nationality to their children";<sup>2</sup> from Mexico to "[a]dopt reforms allowing women the transmission of citizenship as a measure in favor of gender equality and the reduction of cases of statelessness";<sup>3</sup> and from Iran to "[f]acilitate the integration and naturalization of stateless persons who are permanent residents."<sup>4</sup> Brunei noted the recommendations from Argentina and France, and supported the recommendations from Mexico and Iran.
10. During the 33rd Session, Brunei received a recommendation from Spain to "[r]atify the various international conventions on statelessness with a view to regularizing the situation of persons without a nationality";<sup>5</sup> from Portugal to eliminate discriminatory legal provisions against women related to the transmission of nationality to children;<sup>6</sup> from France to allow "Brunei women to transmit their nationality to their children" and to remove "reservations to Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women";<sup>7</sup> and from Germany and Argentina to "Allow women

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<sup>1</sup> Argentina (Rec. 113.53). The recommendation was noted by Brunei.

<sup>2</sup> France (Rec. 113.125). The recommendation was noted by Brunei.

<sup>3</sup> Mexico (Rec. 113.79). The recommendation was supported by Brunei.

<sup>4</sup> Iran (Rec. 113.80). The recommendation was supported by Brunei.

<sup>5</sup> Spain (Rec. 121.26). The recommendation was noted by Brunei.

<sup>6</sup> Portugal (Rec. 121.30). The recommendation was noted by Brunei.

<sup>7</sup> France (Rec. 121.181). The recommendation was noted by Brunei.

to enjoy equal rights by conferring citizenship to their children and spouses.”<sup>8</sup> Brunei noted all of these recommendations.

## Brunei’s International obligations

11. As a member State of the UN, Brunei’s international obligations include upholding the UN Charter which calls for ‘universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion’.<sup>9</sup> It is also obligated to follow rights and freedoms as established in the UDHR, many of which today have achieved the status of customary international law.<sup>10</sup>
12. Brunei has international obligations to protect the right to a nationality, without discrimination including on the basis of sex, and protect the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include, among others, the Convention of the Rights of the Child (see Articles 2, 3, 7 and 8), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (see Article 9), the Convention on the Rights of Persons with Disabilities (CRPD) (see Article 18).<sup>11</sup> Furthermore, the right to a nationality is protected under Article 15 of the Universal Declaration on Human Rights.
13. In spite of these obligations, Brunei maintains reservations to CEDAW, Article 9 and to the CRPD for provisions that may be “contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam,” as interpreted by the state.<sup>12</sup> These reservations are against the object and purpose of the treaties, and place Brunei in contravention of international human rights law.
14. Additionally, Brunei has not ratified other core international human rights’ treaties which present further obligations with regards to the right to nationality. These include: International Covenant on Civil and Political Rights (see Article 24.3), the International Convention on the Elimination of All Forms of Racial Discrimination (see Article 5(d)(iii)), the International Covenant on Economic, Social and Cultural Rights (see Article 2.2 and Article 3), or the International Convention for the Protection of All persons from Enforced Disappearance (see Article 25).<sup>13</sup> It has also not ratified either of the international conventions on statelessness which includes The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

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<sup>8</sup> Germany (Rec. 121.173); Argentina (Rec. 121.180). The recommendations were noted by Brunei.

<sup>9</sup> Charter of the United Nations, Art 55(c)

<sup>10</sup> Draft Articles on Diplomatic Protection with commentaries’ (2006) II(2) Yearbook of the International Law Commission 49.

<sup>11</sup> *Multilateral Treaties Deposited with the Secretary General*, United Nations Treaty Collection, <https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=en> (last visited April 2, 2024).

<sup>12</sup> *Convention on the Elimination of All Forms of Discrimination Against Women*, United Nations Treaty Collection, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en#EndDec) (last visited April 2, 2024); *Convention on the Rights of Persons with Disabilities*, United Nations Treaty Collection, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en#EndDec) (last visited April 2, 2024).

<sup>13</sup> *Multilateral Treaties Deposited with the Secretary General*, United Nations Treaty Collection, <https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=en> (last visited April 2, 2024).

15. In 2014, the Committee on the Elimination of Discrimination against Women noted with concern that “a Bruneian woman who is married to a foreign national is required to submit an application under the Nationality Act in order to transmit her Bruneian citizenship to her children, while the children of a Bruneian father and a non-Bruneian mother automatically acquire such nationality.”<sup>14</sup> It further expresses concern that the foreign husband of a Bruneian woman and the foreign wife of a Bruneian man do not enjoy equal status when applying for permanent residence status.”<sup>15</sup> The Committee encouraged Brunei to “withdraw its reservation to Article 9(2) of the Convention” and to “amend its Nationality Act with a view to bringing it into full compliance with the Convention.”<sup>16</sup> Finally, the Committee noted concern regarding the “situation of women who face multiple and intersecting forms of discrimination, in particular...stateless women.”<sup>17</sup> It urged Brunei to adopt temporary special measures for such women, adopt targeted policies to “promote the integration of such groups of women into society,” and enhance women’s awareness of their rights.<sup>18</sup>
16. The Committee on the Rights of the Child has also noted with concern that, “according to the Brunei Nationality Act, children of Bruneian women married to foreign nationals may be accorded Brunei nationality only upon application, while the children of Bruneian fathers are granted Brunei citizenship automatically.”<sup>19</sup> While the Committee welcomed measures taken to naturalize a number of stateless children between 2009 and 2012,” the Committee asked that Brunei “strengthen measures to naturalize stateless children,” “conduct awareness raising campaigns among parents and guardians of stateless children,” and amend the “Brunei Nationality Act and other relevant legislation related to nationality to ensure that Bruneian women can transfer nationality automatically to their children.”<sup>20</sup> Additionally, the Committee urged that Brunei “provide birth registration and access to basic rights, such as health and education, to all stateless children on the State party’s territory” and “consider acceding to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.”<sup>21</sup>

## The Brunei Nationality Law

17. Citizenship of Brunei, as provided for under the *Brunei Nationality Act*, operates through the principle of *jus sanguinis* (‘citizenship by descent’) and contains both racial and gender discriminatory elements.<sup>22</sup>

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<sup>14</sup> Concluding observations on the combined initial and second periodic reports of Brunei Darussalam, CEDAW/C/BRN/CO/1-2 ¶ 28, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBRN%2FCO%2F1-2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBRN%2FCO%2F1-2&Lang=en) (2014).

<sup>15</sup> *Id.*, ¶ 28.

<sup>16</sup> *Id.*, ¶ 29.

<sup>17</sup> *Id.*, ¶ 36.

<sup>18</sup> *Id.*, ¶ 11, 37.

<sup>19</sup> Concluding observations on the combined second and third periodic reports of Brunei Darussalam, CRC/C/BRN/CO/2-3 ¶ 33, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FBRN%2FCO%2F2-3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FBRN%2FCO%2F2-3&Lang=en) (2016).

<sup>20</sup> *Id.*, ¶ 34.

<sup>21</sup> *Id.*, ¶ 63, 64.

<sup>22</sup> *Brunei Nationality Act* (2011).

18. Under the *Brunei Nationality Law* children born within or outside of Brunei automatically acquire citizenship on proscribed grounds including and limited to:

- I. Children born in Brunei who “are commonly accepted as belonging to one of seven ‘indigenous groups of the Malay race’” are automatically considered citizens of Brunei if their father or both parents are citizens of Brunei.<sup>23</sup>
- II. Children born outside of Brunei to a father who was born in Brunei and belonged to one of the seven Indigenous groups are considered citizens.<sup>24</sup>
- III. Children who have both a father and mother born in Brunei who are members of one of an additional 15 ethnic groups “considered to be Indigenous’ to Brunei are considered citizens of Brunei whether they were born in or outside of the country.<sup>25</sup>

19. It is to be noted that while the jus soli citizenship can be obtained by children through either the father or both parents being citizens, the role of the latter in the provision becomes insignificant here, due to the inability of women to pass on citizenship to their children. Persons who are ineligible for citizenship by descent may be able to apply to become citizens of Brunei through registration or naturalization, however the *Brunei Nationality Act* imposes extremely onerous requirements, which in implementation are also discriminatory. For example, in order to be eligible for naturalization, a person must have legally resided in Brunei for twenty of the twenty-five years prior to application as well as continuously for the two years immediately prior to the application.<sup>26</sup> The applicant additionally must pass a test showing proficiency in the Malay language and be considered of good character among other requirements.<sup>27</sup> While applications for registration of nationality have a slightly shorter residence requirement of twelve of the previous fifteen years, additional requirements remain as onerous.<sup>28</sup>

## Gender Discrimination in the Nationality Law of Brunei

20. Brunei is one of twenty-four countries that deny women the right to confer nationality on their children on an equal basis with men.<sup>29</sup> As is detailed in Equality Now’s report, *The State We’re In: Ending Sexism in Nationality Laws - 2022 Edition - Update for a Disrupted World*,<sup>30</sup> in the Brunei Nationality Act of 1961, citizenship is automatically conferred to children born to male citizens, but not to those of female citizens.<sup>31</sup> While

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<sup>23</sup> *Brunei Nationality Act* (2011) s 4(1)(a). The seven indigenous Malay groups include the following: Belait, Bisayah, Brunei, Dusun, Kedayan, Murut or Tutong

<sup>24</sup> *Brunei Nationality Act* (2011) s 4(1)(c).

<sup>25</sup> *Brunei Nationality Act* (2011) s 4(1)(c).

<sup>26</sup> *Brunei Nationality Act* (2011) s 8(1).

<sup>27</sup> *Brunei Nationality Act* (2011) s 8(1).

<sup>28</sup> *Brunei Nationality Act* (2011) s 6.

<sup>29</sup> Our Hands Extended, European Network on Statelessness, <https://www.statelessness.eu/updates/blog/our-hands-extended-international-calls-end-gender-discrimination-nationality-laws> (Nov. 3, 2023).

<sup>30</sup> *The State We’re In: Ending Sexism in Nationality Laws - 2022 Edition - Update for a Disrupted World*, Equality Now, <https://equalitynow.org/resource/state/> (2022).

<sup>31</sup> *Brunei Nationality Act*, 1 January, 1962, <https://www.refworld.org/legal/legislation/natlegbod/1962/en/74769>.

the female citizen may register to request citizenship for a child born to a foreign father, citizenship is only granted at the discretion of the state, even if the child will remain stateless as a result. This denies both the mother's equal nationality rights and the child's right to acquire a nationality and applies to children born both inside and outside of Brunei, to married and unmarried mothers.

21. In addition, the Nationality Act does not allow female citizens to confer nationality to their foreign spouse.<sup>32</sup> However, a foreign woman married to a male citizen can acquire Brunei Darussalam citizenship through naturalization.

## The Impact of Gender Discriminatory Nationality Laws

22. Gender discrimination in Brunei's nationality law results in wide-ranging human rights violations and hardships faced by women and their families. Gender discrimination in the nationality law jeopardizes family unity, and undermines affected persons' equal access to education, healthcare, formal employment, financial services, inheritance, property rights, and freedom of movement. When a woman is exposed to the risk of statelessness due to abandonment by a foreign husband, she also faces difficulties in obtaining maintenance for her children and to provide for their needs.
23. In addition to women's inability to confer nationality on children on an equal basis with men, Section 5(6) of the Nationality Act, pertaining to women's acquisition of nationality, further undermines the rights of women and girls.<sup>33</sup> By allowing the conferral of citizenship to foreign women and girls "whether or not she is of full capacity," Section 5(6) exposes girls to risk of child marriage.
24. Gender discrimination in nationality laws is a leading cause of statelessness globally.<sup>34</sup> The Brunei nationality law includes gender discriminatory provisions that contribute to statelessness. While there is no reliable statistical information on the scope or extent of statelessness in the country, as cited above, it is estimated that the number of stateless persons in Brunei is in the tens of thousands.<sup>35</sup>
25. The denial of equal nationality rights leads to both the denial of proof of legal identity and the denial of the right to a nationality. Furthermore, discrimination in Brunei's nationality laws inhibits women's ability, in practice, to freely choose a spouse, in violation of CEDAW Article 16. This further entrenches traditional stereotypes regarding the primacy of male legal identity and contributes to women's inequality within the

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Access to nationality for women and girls essential for achieving gender equality and development: UN Expert, Special Procedures, <https://www.ohchr.org/en/press-releases/2023/10/access-nationality-women-and-girls-essential-achieving-gender-equality-and#:~:text=In%20a%20report%20presented%20to,underexplored%20and%20underappreciated%2C%20she%20said> (Oct. 3, 2023).

<sup>35</sup> 2022 Country Reports on Human Rights Practices: Brunei, U.S. Department of State, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/brunei/#:~:text=Most%20stateless%20residents%20were%20native,wives%20of%20Malay%20Muslim%20men> (2022).

family and society at large.<sup>36</sup> Further entrenchment of such stereotypes is in breach of Brunei's obligations under CEDAW Article 5(a).

26. Discrimination against Bruneian women in the nationality law further contributes to gender-based violence, as recognized in CEDAW General Comment No. 19. Affected women are denied family stability, and their children are denied citizenship, stable residency, the right to equal education and healthcare, and social services. This amounts to a form of legally-sanctioned gender-based violence, depriving Bruneian women and their children of equal protection under the law.<sup>37</sup> Furthermore, when a woman's nationality or that of her children is dependent upon an abusive spouse, it increases obstacles to extracting herself and her children from domestic violence. By contributing to women's unequal status in society, gender discrimination in Brunei's nationality law contributes to a root cause of gender-based violence in the country.

27. In its National Report during its third UPR Review, Brunei states that it "has a policy of single nationality and does not recognize dual nationality," before detailing its specific nationality laws that are gender discriminatory.<sup>38</sup> This suggests that Brunei believes its policy to be a valid reason for maintaining such discriminatory laws. This justification is clearly in violation of international human rights law. States' requirement to uphold the principle of nondiscrimination in nationality laws does not preclude them from banning dual nationality. As other states have demonstrated, citizens should have the equal right to confer nationality on their child (and spouse), with children of binational parents having the ability to choose which nationality to retain at the age of majority. Furthermore, as the vast majority of states uphold women's right to confer nationality on their children, children of male citizens of Brunei and foreign mothers would acquire their mother's nationality in addition to that of their father's, which has not been raised by the government as a reason for denying the right of male citizens to confer nationality on their children. In fact when children of male citizens of Brunei are born abroad and automatically acquire nationality according to *jus soli* in their country of birth, the state permits such persons to select their preferred nationality at the age of majority.<sup>39</sup>

## Racial Discrimination in the Nationality Law of Brunei

28. As outlined above, race plays a central role in the operation and conception of citizenship in Brunei. In their submission to Brunei's 3rd Cycle review as part of the 33rd Session in 2019 UNHCR contended that race functions as 'the primary criterion by which nationality is acquired by operation of law, contributing to the creation of conditions for

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<sup>36</sup> CEDAW Quick Reference Guide: Statelessness and Human Rights Treaties, Global Campaign for Equal Nationality Rights – UNHCR (2017), <http://equalnationalityrights.org/images/zdocs/CEDAW-Quick-Reference-Guide.pdf>.

<sup>37</sup> See Comm. on the Elimination of All Forms of Discrimination against Women, General Recommendation No. 19, Violence against Women, Paragraph 1, 4, 6, 7-e and f, and 8 (11<sup>th</sup> session, 1992)

<sup>38</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/33/BRN/1 ¶ 57 (2019), <https://documents.un.org/doc/undoc/gen/g19/048/81/pdf/g1904881.pdf?token=qUomHOj3jATtLYFA95&fe=true>.

<sup>39</sup> See: [https://www.multiplecitizenship.com/wscl/ws\\_BRUNEI\\_and\\_DARUSSALAM.html](https://www.multiplecitizenship.com/wscl/ws_BRUNEI_and_DARUSSALAM.html)



statelessness in Brunei.<sup>40</sup> However, the country's gender discriminatory, patrilineal nationality framework further demonstrates the dual and compounding discriminatory nature of the nationality law, in contravention with international law.

29. The following are a few reasons for Brunei's sizeable stateless population:

- i) Racial discrimination against Ethnic Chinese, who possess intergenerational links to Brunei, and other indigenous groups, being embedded in law as well as practice.
- ii) Inability of residents to provide the necessary documentation to prove their legal residency in Brunei Darussalam.

iii) Arduous Malay language requirements which present a barrier for the stateless population who do not hold access to formal education. Considering the dialectic's difference in the standard of colloquial speak of Malay and the one taught in schools, stateless persons are often not versed with the language requirements required to pass the citizenship test.

iv) Administrative barriers, such as birth registration of certain indigenous groups, increases the limited access to basic services as well as is a catalyst for intergenerational statelessness.

30. The limitation of nationality to certain prescribed ethnic groups, or "indigenous groups of the Malay race" is the primary cause of statelessness in Brunei.<sup>41</sup> The ethnic Chinese form the most significant non-Malay minority group in Brunei Darussalam and are expected to represent a considerable portion of the stateless population in the country. Most of the population impacted by statelessness hold regularized permanent residence in Brunei and hold identity certificates that provide limited rights to travel, access education, and health care. Despite the regularized status, such persons are still denied citizenship.<sup>42</sup> UNHCR and other UN human rights bodies have called on Brunei to amend the racially discriminatory provisions with retroactive effect.<sup>43</sup>

## Impact of Racial Discriminatory Nationality Laws

31. Stateless persons in Brunei can seek citizenship through naturalization where certain residence standards are met, and a Malay language and cultural test is passed.<sup>44</sup> However, there are reports that persons who have met the requirements and passed the relevant tests still have not been granted citizenship 5 to 10 years after completing the requirements, pointing at administrative barriers to accessing citizenship through this process.<sup>45</sup> Applicants who have previously taken this test for citizenship elaborate

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<sup>40</sup> UNHCR, 'Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Brunei Darussalam' (October 2018) 3-4.

<sup>41</sup> US Department of State 'Brunei 2021 Human Rights Report' (April 2022) 18.

<sup>42</sup> US Department of State ' Brunei 2021 Human Rights Report' (April 2022) 12

<sup>43</sup> UNHCR, 'Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Home Rights' Compilation Report Universal Periodic Review: Brunei Darussalam' (October 2018)

<https://documents.un.org/doc/undoc/gen/g19/057/53/pdf/g1905753.pdf?token=ySK1aTZ39ks8T0x9th&fe=true> (para 59)

<sup>44</sup> US Department of State 2021 Human Rights Report (April 2022) 12

<sup>45</sup> US Department of State 2021 Human Rights Report (April 2022) 12

that it has historically been marred by racial discrimination due to the deliberate inefficiency and extreme lack of transparency by government personnel in charge of overseeing and administering this process. Those permitted to take the test have remained uncertain whether they have passed or failed the examination, leaving them in a state of limbo. It is only over the past year that government officials have started to process to clear the backlog of citizenship exams and applications that have spanned for more than a decade. However, the pervasive uncertainty and the dearth of information accessible to individuals undergoing this process continue to exacerbate the challenges they face.

32. The status of stateless individuals as permanent residents in Brunei does not allow them to hold passports, restricts freedom of movement and excludes them from accessing fully subsidized healthcare or higher education. Among other restrictions, their status also prohibits them from owning property, land or a business. While most of the affected population in Brunei hold the International Certificate for Identity which provides them the ability to travel internationally (depending on countries which recognize the certificate), the certificate also specifically outlines the rights which the holders are not applicable for— one being, the protection of the State of Brunei internationally. It states that the “issuance of the card does not entitle the holder to the protection of the Brunei Darussalam Representatives in foreign countries, nor does it convey, by itself, exemption from any of the regulations concerning aliens living in or traveling in and out of Brunei”.<sup>46</sup> Certificate holders also face other barriers as this document is not recognized as a valid travel document by several countries (notably Spain, Belgium, Italy, the Netherlands and Croatia)<sup>47</sup> and viewed with much skepticism by immigration officials.<sup>48</sup>
33. It is observed that administrative barriers in access to civil registration, in particular, birth registration, are faced by the indigenous community in Brunei. This is despite the fact that the Birth and Death Registration Act (2013) obligates universal birth registration for all children born in the territory of Brunei.<sup>49</sup> Further, Brunei has also reported a 100% birth registration rate to UNICEF as of 2020.<sup>50</sup> However, indigenous groups, including the Dusun and Iban, experience significant barriers to birth registration, placing them at risk of statelessness. Predominantly located in rural regions of Brunei, their access to registration remains limited, despite the government's efforts to improve access.

## Statelessness in Brunei

34. In 2023, Brunei reported 20,863 stateless persons to UNHCR.<sup>51</sup> The scale of statelessness in Brunei is especially notable, with the reported stateless population making up almost

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<sup>46</sup> Notes on Certificate of Identity, note 2

<sup>47</sup><https://web.archive.org/web/20130629015823/http://www.exteriores.gob.es/Consulados/LONDRE/S/en/Consulado/Pages/CheckPassport.aspx>

<sup>48</sup> Alana Tolman, Brunei's stateless left in a state of confusion (8 April 2016) New Mandala <<http://www.newmandala.org/bruneisstateless-left-in-a-state-of-confusion/>>

<sup>49</sup> Birth and Deaths Registration Act (2013) s 12 (Brunei).

<sup>50</sup> “Data Warehouse,” UNICEF DATA, [https://data.unicef.org/resources/data\\_explorer/unicef\\_f/](https://data.unicef.org/resources/data_explorer/unicef_f/).

<sup>51</sup> UNHCR, ‘Global Trends: Forced Displacement in 2022’ (June 2023) Table 5 <<https://www.unhcr.org/au/global-trends>>.

5% of the total population of this small country.<sup>52</sup>

35. This population of reported stateless persons has remained relatively stable in size for over a decade and appears to be comprised of persons who have regularized stay and access to identity documents. The most prominent cohort of stateless persons in Brunei are persons of Chinese heritage who are not considered citizens at birth due to racially discriminatory provisions in the Brunei citizenship law (discussed further below).<sup>53</sup> The majority of this population have lived in Brunei for generations and possess regularized permanent residence status in Brunei and identity documents that provide some access to education, healthcare and freedom of movement.<sup>54</sup> However, the status of this population bars them from holding passports, excludes them from accessing fully subsidized healthcare or higher education, and prohibits them from owning property, land or businesses.<sup>55</sup> Other stateless inhabitants in the country encompass members of indigenous tribes, whose territories extend across both Brunei and the neighboring Malaysian state of Sarawak, as well as the foreign spouses of Malay Muslim men.<sup>56</sup>
36. The US Department of State has noted that reported statistics on stateless persons in Brunei are unreliable and likely an underrepresentation.<sup>57</sup> In 2012 they estimated that there could be as many as 150,000 stateless persons in Brunei.<sup>58</sup> There is no available data on unregistered stateless populations in Brunei and the discrepancy between official and estimated figures is of serious concern.
37. The lack of statistical information in itself points to a significant need for the state to prioritize and address the issue of the right to nationality and the rights of stateless persons in the country. This is particularly so, when considering the various legal provisions which undermine the right to nationality, thereby increasing the likelihood of statelessness being generated and perpetuated.

## Recommendations

38. Based on the above information, the co-submitting organizations urge reviewing States to make the following recommendations to Brunei:
- I. Amend the Brunei Nationality 4 of 1961 to ensure that women have equal nationality rights as men, in particular, in relation to the acquisition and retention of their own nationality, and the conferral of their nationality on their children and non-national spouses.
  - II. Withdraw the reservation to Article 9, paragraph 2 of CEDAW to grant women equal rights with men with respect to the nationality of their children and ensure full compliance with the Article.

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<sup>52</sup> Department of Economic Planning and Statistics, 'Population' <<https://deps.mofe.gov.bn/SitePages/Population.aspx>>.

<sup>53</sup> US Department of State, Brunei 2021: Human Rights Report' (April 2022) 12.

<sup>54</sup> Id.

<sup>55</sup> Statelessness Network Asia Pacific, The Brunei Project, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review: Brunei Darussalam' (2019) <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6509&file=EnglishTranslation>.

<sup>56</sup> US Department of State, Brunei 2021: Human Rights Report' (April 2022) 12

<sup>57</sup> US Department of State, Brunei 2021: Human Rights Report' (April 2022) 12.

<sup>58</sup> U.S. Department of State, 2012 Country Report on Human Rights Practices: Brunei Darussalam (19 April 2013), 9 .

- III. Reform all citizenship provisions in law that are racially discriminatory in nature to uphold nondiscrimination with retroactive effect.
- IV. Ratify and fully implement the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, ICCPR, ICESCR, CERD, and the International Convention for the Protection of All persons from Enforced Disappearance.
- V. Provide for unrestricted freedom of information, opinion and expression and foster and support civil society engagement in the issue of statelessness;
- VI. Remove discriminatory barriers to citizenship including the Malay language proficiency test, and ensure that those who lack documentation are not denied citizenship on that basis;
- VII. Ensure that all stateless persons have equal access government-issued identity documentation and to passports;
- VIII. Facilitate universal birth registration by addressing barriers faced by indigenous populations in rural areas including the Dasun and Iban populations.