

SEAP

STATELESSNESS ENCYCLOPEDIA ASIA PACIFIC
(SHORTENED VERSION)



Comprehensive Mapping of
Statelessness in the **Asia Pacific**



NATIONALITY FOR ALL
Advancing the right to a nationality in the Asia-Pacific region

SEAP

STATELESSNESS ENCYCLOPEDIA ASIA PACIFIC
(SHORTENED VERSION)

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List of Acronyms

APRRN	Asia Pacific Refugee Rights Network	OSJI	Open Society Justice Initiative
ASEAN	Association of Southeast Asian Nations	PNG	Papua New Guinea
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	RSN	Refugee Solidarity Network
CRC	Convention on the Rights of the Child	RoS	Resolution of Status (Australia)
CSO	Civil Society Organization	SDCC	Statelessness and Dignified Citizenship Coalition Asia Pacific
CSPR	Coalition for the Rights of Refugees and Stateless Persons	SEAP	Statelessness Encyclopedia Asia Pacific
CRVS	Civil Registration and Vital Statistics	SHEV	Safe Haven Enterprise Visas (Australia)
DHRRA	Development of Human Resources for Rural Areas	SNAP	Statelessness Network Asia Pacific
DSWD	Department of Social Welfare and Development (the Philippines)	SDP	Statelessness Determination Procedure
HRWG	Human Rights Working Group Indonesia	TPV	Temporary Protection Visas (Australia)
ICCPR	International Covenant on Civil and Political Rights	UN	United Nations
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	UNDP	United Nations Development Programme
ICESCR	International Covenant on Economic, Social and Cultural Rights	UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
ICJ	International Court of Justice	UNHCR	United Nations High Commissioner for Refugees
IDP	Internally Displaced Person	UNICEF	United Nations International Children's Emergency Fund
IRC	International Review Committee (Taiwan)	UPR	Universal Periodic Review
ISI	Institute on Statelessness and Inclusion	US	United States
MoU	Memoranda of Understanding	USSR	Union of Soviet Socialist Republics
NFA	Nationality For All	WPM	Women Peace Makers
NHRI	National Human Rights Institution		
NIA	National Immigration Agency (Taiwan)		
NGO	Non-governmental Organization		

Table of Contents

Executive Summary	6-7
Introduction	8-17
Regional	19-35
Central Asia	37-43
East Asia.....	45-51
Pacific	53-61
South Asia	63-72
Southeast Asia.....	75-85
Stakeholders	86-87
Concluding Remarks	88
Endnotes	89-118

List of Table and Figures

Tables

Table 1.....	24
Table 2.....	27
Table 3.....	28
Table 4.....	34
Table 5.....	38
Table 6.....	40
Table 7.....	41
Table 8.....	47
Table 9.....	48
Table 10	56
Table 11	57
Table 12	66
Table 13	67
Table 14	78
Table 15	79

Figures

Figure 1.....	43
Figure 2.....	50
Figure 3.....	60
Figure 4.....	67
Figure 5.....	71
Figure 6.....	82
Figure 7.....	85

Executive Summary

Originally undertaken as an early organizational development and strategic planning project for Nationality for All (NFA), it was determined that the compiled information on statelessness in the Asia-Pacific should be made public and accessible, leading to the creation of the first edition of SEAP. As a continuation of the first edition, SEAP II is the culmination of over three years of research and consultations conducted by NFA on the ongoing issue of statelessness in the Asia-Pacific region. Expanding from the first edition published in May 2022, which included a regional overview of the Asia-Pacific and sub-regional overviews for East Asia, South Asia, Southeast Asia and the Pacific, the second edition contributes an additional overview of the Central Asia sub-region and 45 Country Factsheets for every country in the region.

The lack of available and reliable data and statistics on statelessness in the Asia-Pacific was the main driving factor for producing this report. The Asia-Pacific hosts the largest population of stateless individuals in the world. Without accurate figures on the number of people affected by statelessness, effectively addressing statelessness and advocating for solutions remain monumental tasks that few organizations in the Asia-Pacific have committed to. NFA, being the only regional organization addressing statelessness in the Asia-Pacific, our hope is to continue to invest in SEAP Report as a foundational resource for other stakeholders across the region to build from.

Citizenship laws of the Asia-Pacific are largely characterized by a *jus sanguinis* structure, meaning citizenship is acquired via descent, with only 15 of

the 45 states in the region with a *jus soli* provision or limited *jus soli* provisions which stipulate citizenship by birth.¹ Ethnic minority groups across the Asia-Pacific, but largely within South and Southeast Asia, are at risk of statelessness due to discriminatory applications of citizenship laws, administrative barriers to gaining documentation and social exclusion. Gender discrimination in nationality laws has also played a fundamental role in creating statelessness in the region. Access to naturalization for stateless persons in the Asia-Pacific is fairly limited, with only six states providing a simplified and/or expedited naturalization process for stateless persons.²

The vast majority of the stateless population in the Asia-Pacific is within South and Southeast Asia. The region contains three of the five largest hosting countries globally, with Bangladesh, Myanmar, and Thailand combined reporting over 2.1 million stateless people in 2022.³ This represents a significant portion of UNHCR's estimate of 5.1 million stateless people globally.⁴ Lack of reporting of statistical data in the region can be evidenced by the fact that nearly half of the states in the region (21 of 45) either did not report to UNHCR or reported zero stateless persons in 2022.⁵

Of the reported stateless population in the Asia-Pacific just over 1 million are stateless refugees.⁶

Lack of reporting of statistical data in the region can be evidenced by the fact that nearly half of the states in the region (21 of 45) either did not report to UNHCR or reported zero stateless persons in 2022.

Almost the entire reported population of stateless refugees are members of the Rohingya community from Myanmar, with the vast majority (almost 1 million) hosted in South Asian countries. Bangladesh is by far the largest host country for stateless refugees, with over 950,000 Rohingya refugees within their borders.⁷ However, the true scale of the Rohingya population within South Asia likely far exceeds reported figures.

Regarding legal safeguards against childhood statelessness, the laws of 14 States in the region provide no explicit protection for founding children to gain citizenship. There are also 14 States that provide no legislative protection to children born to stateless parents in their territories.

Citizenship stripping has been known to cause statelessness largely in East Asia, South Asia and Southeast Asia. Administrative barriers to accessing citizenship have also rendered a vast number of populations stateless or with uncertain nationality statuses even in states across the Asia-Pacific where citizenship laws provide protection. Administrative barriers to nationality appear to be less prevalent in

Treaty ratification is varied and inconsistent across the Asia-Pacific. Only seven of the 45 countries in the Asia-Pacific have accessioned to the Convention relating to the Status of Stateless Persons ('1954 Convention'), five of the 45 states to the Convention on the Reduction of Stateless Persons ('1961 Convention'), and only four have accessioned to both treaties.

Central Asia and the Pacific compared to areas such as East Asia where household registration plays a vital evidentiary role for citizenship, or South and Southeast Asia where exclusion from civil registration has been used as a tool of ethnic discrimination.⁸ On climate change and statelessness, the Pacific faces some of the greatest risks and has seen the greatest attention regarding the threat of climate-induced statelessness.

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The scale of funding and resources available to organizations working to prevent and end statelessness are not proportionate to the scale of the problem and presents a major barrier for organizations working on the issue. Statelessness is far-reaching and pervasive, adversely impacting all aspects of life for individuals and communities, including their children, across the region. This report endeavors to invite further research and financial investment to support organizations working with individuals and communities experiencing statelessness. Further, it is our hope that this research will bring greater awareness to the ways in which statelessness significantly impacts peoples' lives and limits their access to fundamental rights.

Introduction

Statelessness Encyclopedia Asia Pacific (SEAP) Second Edition is the culmination of over three years of research and consultations commenced by Nationality for All (NFA). The first edition of SEAP originated from an internal research project undertaken by NFA in the process of early organizational development and strategic planning, which was later decided to be made public and accessible. Building upon the first edition, this second edition has expanded to cover all subregions in the Asia-Pacific as well as provide detailed country factsheets for each country in the region. This edition is designed to be published in four different versions. This report is the shortened version, which incorporates takeaways from the five subregions of Asia Pacific and an expanded thematic scope to include a detailed analysis of different ways of citizenship acquisition, treaty body analyses, statelessness pledges by different States, legal safeguards for the children to prevent them from statelessness, among others. A second version is the detailed report that includes the country factsheets covering all countries in the region. The next intended step for the report is to be published in the form of a compendium, which would incorporate detailed versions with all factsheets, segregated by different subregions as five separate reports (SEAP East Asia Report; SEAP Central Asia Report; SEAP Southeast Asia Report; SEAP South Asia Report and SEAP The Pacific Report). Finally, NFA aims to convert this report version into a book, which would also include complete information about the subregions and would also cover all factsheets in the region. NFA's objectives for this shorter version of SEAP remain as follows:

- ◆ Provide an overview of the statelessness situation in the Asia Pacific region.

- ◆ Generate more attention and advocacy on the issue of statelessness in the region.
- ◆ Identify areas of collaboration among stakeholders and areas of further research on the issue.

Background

NFA was formed from the work undertaken by the Statelessness Network Asia Pacific (SNAP) over four years to build a regional civil society movement on addressing statelessness in the region. In October 2020, SNAP transitioned from a project hosted by the Malaysian NGO, Development of Human Resources for Rural Areas (DHRRA) Malaysia, to an organization registered in Australia under the new name of Nationality for All (NFA). A key element of the decision to transition from SNAP to NFA was to shift from a network into an organization operating from a partnership-based model. We recognized that this organizational transition required a period of reflection and recalibration of NFA's position and role in the region. To do this, we acknowledged that we needed a stronger understanding of the statelessness problem, the actors involved, the communities affected, and the available data and information on the issue. Working in partnerships rather than a network model requires greater trust and collaboration between NFA and its partner organizations. By switching to the partnership model, NFA continued to develop a greater understanding of stakeholders to collaborate with and identify areas where these partnerships would have the greatest impact.

Realizing the need for a safe space to convene, collaborate and learn from each other, NFA has

been facilitating the formation of a regional coalition on statelessness composed of civil society organizations working on statelessness in the Asia Pacific region. Learning from the experience of SNAP and trying to emulate the success of the European Network on Statelessness (ENS), we conducted a risk assessment process, formed an Advisory Committee, and then organized two in-person consultations with interested stakeholders. We decided to form a strong blueprint for the coalition and take collective and forward looking decisions to form the coalition. The name of the Coalition was adopted in July, 2023 as 'Statelessness and Dignified Citizenship Coalition - Asia Pacific' (SDCC - AP), which will be launched during the World Conference on Statelessness, 2024.

At the 2023 Global Refugee Forum (GRF), NFA made several pledges pertaining to the prevention of statelessness. GRF is a space for "stakeholders to share good practices and pledge financial support, technical expertise and policy changes to support comprehensive responses for refugees and ultimately the objectives of the Global Compact of Refugees".⁹ Recognizing the importance of fair and meaningful participation of stateless activists and changemakers in addressing statelessness, NFA pledged to strengthen organizations in the Asia Pacific region that are led by stateless persons or persons affected by statelessness. NFA also pledged to support the newly formed regional network SDCC- AP and to center the interests of affected persons in this new Coalition.

Rationale and Assumptions

Across the statelessness sector the issue of the lack of accurate statistics and information is prominent, serving as both the rationale behind the research undertaken in this report as well as the assumption that not all existing data used in the research may be accurate. In numerous

NFA's pledges include:

- ◆ Support four affected or stateless persons-led organizations in the Asia Pacific region to strengthen their institutional capacities including fundraising and project management.
- ◆ Create an accessible online knowledge hub on statelessness in the Asia Pacific.
- ◆ Become a member of the UNHCR-led Global Alliance to End Statelessness and actively participate in the Working Groups and activities of the Alliance.
- ◆ Promote the participation of the Global Alliance amongst the Asia Pacific civil society and governmental organizations.
- ◆ Play an active role in forming and operationalizing the Global Movement Against Statelessness.

Adding to these pledges, NFA also joined the following multi-stakeholder pledges made at the event:

- ◆ Multistakeholder Pledge: Ending Statelessness | The Global Compact on Refugees | UNHCR
- ◆ Multistakeholder Pledge: Advancing Localisation in Displacement and Statelessness Responses | The Global Compact on Refugees | UNHCR

consultations and meetings held by NFA between 2020–23, the issue of a lack of data was raised by both NGOs and UN bodies as a key concern. UNHCR has recognized this issue noting that their own estimate of 5.1 million stateless people globally is likely far below the true figure.¹⁰ On this, UNHCR has noted that:

Yet, the global figure remains an undercount as data on stateless populations or those of undetermined nationality is missing or incomplete for many countries, including some with known stateless populations. The lack of reliable quantitative data continues to pose challenges to effectively address statelessness and advocate for solutions.¹¹

The Institute on Statelessness and Inclusion (ISI) estimates that there are at least 15 million stateless people globally.¹² From our discussions and consultations, some of the key causes of this lack of statistical reporting on statelessness seem to be government hesitance and inaction to recognize stateless communities as well as practical difficulties of access and engaging with stateless communities. This means that gathering a clear picture of how many people are affected by statelessness and where they are located is in itself a very difficult process. This report aims to build knowledge and shed light on the Asia-Pacific which despite underreporting, reports the highest number of stateless people in the world. This report also acknowledges the existing initiatives to end statelessness and how heavily under-resourced they are. Through the continuation of this report in compendium and book versions, we hope to generate more attention and resources for such initiatives.

Methodology and Timeline

The research that underpinned the first edition of SEAP commenced in late 2020. Additional research for the second edition of SEAP commenced after the publication of SEAP First Edition in May 2023. Through the original internal regional mapping project for the First Edition and the continuation of research through SEAP Second Edition, we aimed to:

- ◆ Provide an overview of the statelessness situation in the Asia Pacific region.
- ◆ Gain a broad understanding of the legal and administrative frameworks as they apply to citizenship regimes of all countries across the Asia-Pacific region, and to begin to see the disjunct between these regimes on paper and in practice.
- ◆ Generate more attention to the statelessness problem in the region.
- ◆ Strengthen relationships with, and gather a database of, key stakeholders at national,

regional and international levels, building on the network members of SNAP but ensuring that we expand beyond our members to include new organizations, especially those that were previously overlooked.

- ◆ Identify good practices from which we could learn the needs of organizations working on the issue and the gaps in the current work being undertaken.
- ◆ Identify specific countries and contexts where NFA could focus on considering the scale of the problem in the region and the limited capacity of NFA.
- ◆ Identify areas of collaboration among stakeholders and areas of further research on the issue.

Both qualitative and quantitative data were gathered through a combination of desk research, consultations and bilateral meetings.

Desk Research

Commenced in December 2020, desk research was undertaken drawing on pre-existing research, reports and national mapping projects with the aim to review and summarize national and regional situations of statelessness. This included mapping relevant communities and stakeholders and conducting a broad analysis of legal and administrative frameworks. Through desk research, NFA developed sub-regional reports that formed the basis for SEAP. This research resumed in 2022 to transform the abundance of research collected into an accessible publication. After the First Edition was published, desk research resumed in October 2023 for the Second Edition.

Survey and consultations

In November 2020, NFA launched a survey on 'Advancing Rights and Protections for Stateless Populations, Refugees, and Communities with

Precarious Legal Status' drafted in collaboration with Open Society Justice Initiative (OSJI) and Refugee Solidarity Network (RSN). The survey aimed to gather information and connect to stakeholders across the region. We received 47 unique responses to the survey from respondents working across 14 different countries or regions including: Afghanistan, Australia, Bangladesh, Cambodia, India, Indonesia, Malaysia, Myanmar, Nepal, Pakistan, Philippines, and Thailand. Following the survey, NFA coordinated four separate consultations in collaboration with OSJI and RSN. While each consultation had a specific thematic focus, all were part of a broader examination of good practice in the region within the framework of "Advancing Rights and Protections for Stateless Populations, Refugees, and Communities with Precarious Legal Status".

Bilateral Meeting and development of partnerships

Throughout 2021, NFA conducted bilateral consultations with potential partner organizations, who were identified through the regional consultation series, former SNAP members or recommended by current contacts. NFA met with over 30 potential partners based in a number of countries across the Asia-Pacific region including Bangladesh, Cambodia, India, Indonesia, Malaysia, Nepal, Pakistan, and Thailand. In addition, NFA collaborated on the COVID-19 CESF Impact report "Together We Can: The Covid-19 Impact on Stateless People & A Roadmap for Change".

From the data gathered through this process, in the second half of 2021, sub-regional summaries covering Australia, Asia, East Asia, Melanesia, Micronesia, Polynesia and South and Southeast Asia were drafted.

Through these summaries we aimed to gather and analyse the available literature and reports

regarding stateless communities and populations across the Asia-Pacific region. This research compared the official population numbers provided by states to UNHCR against other publicly available data of population numbers. Once the data collected throughout 2020 and 2021 was determined to be written into an accessible report, the desk research for the First Edition began in 2022. After being published in May 2023, the additional research for the Second Edition began in October 2023.

In 2023, NFA partnered with law firms, lawyers, and other researchers in several countries throughout the region, including Shardul Amarchand Mangaldas (India), Hogan Lovells (Singapore, Australia, Indonesia, Vietnam), Herbert Smith Freehills (Malaysia), C&G Law (Philippines), and Linklaters (China, Hong Kong, Japan). Other partnerships include activists and researchers namely Ali Johar, Padmini Baruah, Christoph Sperfeldt, and Liao Xin-yi (Taiwan Association for Human Rights). These partnerships provided pro bono assistance in producing and reviewing information included in the report, which contributed to the culmination of the second edition of SEAP.

Scope and Limitations of the study

The lack of information and data in the Asia-Pacific region inhibits accurate estimates of stateless populations in each country, sub-region, as well as the region as a whole. This report utilizes only reported population numbers through the end of 2022, included in the most updated version of UNHCR's Global Trends publication. The reported population numbers for 2023 are expected to be published in June of 2024. With the aim of this report being knowledge production, the information included is not meant to provide

legal advice. While included where possible, detailed information about the implementation of countries' legislation is scarce due to NFA's limited partners and collaborators in the region and the fact that not all country-specific data mentioned in this report has been verified by country stakeholders. Additionally, while this report has endeavored to compile the most recent legislation on citizenship for every country in the region, English translated versions of legislative documents were utilized, which may have led to discrepancies due to the potential for inaccurate translations.

The study covers:

- ◆ A comprehensive analysis of the legal frameworks of every country in the region, specifically;
 - ▶ identifying the method of acquisition of citizenship,
 - ▶ naturalization and dual citizenship requirements,
 - ▶ discriminatory elements, and
 - ▶ legal safeguards for foundlings and children born to stateless parents.
- ◆ An analysis of treaty ratification by each state is included in this report, including reservations by states to relevant articles concerning access to nationality and non-discrimination in nationality rights. Specifically, the treaty ratification summary covers the treaties and protocols regarding statelessness and refugees being
 - ▶ *Convention relating to the Status of Stateless Persons* ('1954 Statelessness Convention'),¹³
 - ▶ *Convention on the Reduction of Statelessness* ('1961 Statelessness Convention'), and¹⁴
 - ▶ *Convention relating to the Status of Refugees*¹⁵ and the *Protocol relating to the Status of Refugees*¹⁶ ('Refugee Convention and Protocol').
- ◆ The analysis will also cover the key human rights treaties being:

- ▶ *International Covenant on Economic, Social and Cultural Rights* (ICESCR)¹⁷
- ▶ *International Covenant on Civil and Political Rights* (ICCPR),¹⁸
- ▶ *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD),¹⁹
- ▶ *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW),²⁰
- ▶ *Convention on the Rights of the Child* (CRC).²¹
- ◆ Further, the summary compiles recent concluding observations of the relevant treaty bodies, relevant information from Universal Periodic Reviews, as well as recent pledges made by countries and CSOs relating to statelessness.
- ◆ Subregional overviews also discuss the link between birth registration and citizenship for every country.
 - ▶ The concept of birth registration in this report has been used as a cause of statelessness, while recognizing that the lack of birth registration is also a result of the existing administrative barriers.
- ◆ The report also includes a section on stakeholders, segregated by each sub-region.

Structure of SEAP

The Second Edition of SEAP includes three substantive elements: a regional overview, five sub-regional overviews (with sub-regions termed as Central Asia, East Asia, the Pacific, South Asia and Southeast Asia), and 45 country factsheets for every country in the Asia-Pacific. The shortened print version consists primarily of regional and sub-regional overviews and analysis, while the electronic version consists of the compiled version, inclusive of the country factsheets above mentioned.

Each element is comprised of four sections being:

- A. Laws
- B. Population
- C. Causes of Statelessness
- D. Stakeholders

Laws

This section contains two elements: first, an overview of the citizenship laws of each region, sub-region and country, and second, the treaty ratification rates of each region, sub-region and country.

Citizenship laws are classified based on the means of acquisition being *jus sanguinis* (citizenship by descent/blood), *jus soli* (citizenship by birth/territory) or a combination of the two. The report makes a distinction between *jus soli* and *jus sanguinis* modes of acquisition but recognizes the overlap between the two principles. For example, states where citizenship is gained via descent and the place of an individual's birth has no impact on their citizenship are categorized as solely operating through *jus sanguinis*. Whereas, for states where descent functions as the means of acquisition but there is distinction made in the law between children born within or outside of the country, we have noted that *jus sanguinis* remains the predominant form of acquisition but that *jus soli* factors do apply. This approach is followed as, in practice, a strict distinction can be difficult to attain between the two modes of acquisition. The citizenship laws pertaining to naturalization and dual citizenship are also identified in this section with a focus on whether the process of naturalization or acquisition of dual citizenship may result in statelessness.

Secondly, treaty ratification of each state is included for the eight treaties mentioned above being:

1. 1954 Statelessness Convention²²
2. 1961 Statelessness Convention²³

3. Refugee Convention and Protocol²⁴
4. ICESCR²⁵
5. ICCPR²⁶
6. ICERD²⁷
7. CEDAW²⁸
8. CRC.²⁹

The 1954 Stateless Convention and the Refugee Convention and Protocol contain relevant definitions of "stateless person" and "refugee" (including stateless refugees), which are accepted definitions under international law (discussed further below). Both the 1954 and 1961 Stateless Conventions place obligations onto states to provide protections for stateless persons and protections against statelessness.

The relevant human rights treaties are noted for two key reasons: first, for the explicit protections provided regarding the right to gain and transmit nationality without discrimination; and second, as the human rights protections within each treaty largely apply to all persons in the territory of the state, without distinction as to citizenship status. Reservations to relevant articles concerning citizenship in each of the covered human rights treaties (number four to eight above) have been noted. Countries which have signed, but not ratified a treaty body are denoted with an asterisk. The relevant articles providing protection of nationality include:

ICCPR, Article 24(2)-(3):

- (2) Every child shall be registered immediately after birth and shall have a name
- (3) Every child has the right to acquire a nationality

ICERD, Article 5(d)(iii):

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race,

colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (d) Other civil rights, in particular: (iii) The right to nationality;

CEDAW, Article 9:

- (1) States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
- (2) States Parties shall grant women equal rights with men with respect to the nationality of their children.

CRC, Article 7:

- (1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
- (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

In each Country Factsheet, the layout of treaty ratification extends to include recent concluding observations pertaining to statelessness, relevant Universal Periodic Review information, and pledges undertaken by the country, if available.

Concluding Observations

In each Country Factsheet, the layout of treaty ratification extends to include recent concluding observations pertaining to statelessness, relevant Universal Periodic Review information, and pledges undertaken by the country, if available.

Concluding Observations

Concluding observations act as a method of monitoring and evaluation of State parties (countries who have ratified the UN treaty body) on the implementation of the rights included in UN treaty bodies. By ratifying a UN treaty, State parties are required to submit periodic reports on the State's progress in fulfilling the rights outlined by the treaty body. Periodic reports on the progress of the State's fulfillment of included rights can also be submitted by CSOs or any other non-state actor. From both the State government's report and any reports submitted by non-state actors, the UN Committee makes recommendations for the State to fulfil their commitments to the protected rights in the treaty body. While the CRC does not have a follow-up procedure for concluding observations, the ICCPR, ICERD, ICESCR, and CEDAW do. In the follow-up procedure, the State party must respond on how it has been fulfilling the recommendations made by the UN Committee. The Special Rapporteur, who is appointed to monitor specific human rights, will then submit a letter to the State party stating whether or not they are satisfied with the State party's response to the provided recommendations.

Universal Periodic Review

The Universal Periodic Review (UPR) is also a monitoring and evaluation process on the implementation of human rights, but extends to cover all countries and all human rights. Every country is reviewed approximately every 4.5 years. Before the review, reports are submitted by the State, the UN, and non-state actors which include evaluation of the State's progress in fulfilling human rights as well as recommendations for improvement. The review is then held in Geneva, where an interactive dialogue is held regarding the reports submitted where other States may make recommendations to the State under review. The State under review may either accept or note the recommendations provided by other States. After the review, the Working

Group on the Universal Periodic Review then submits a concluding report. States are expected to implement the recommendations provided in the UPR before the next session.

Pledges

At the 2023 Global Refugee Forum (GRF) and the High-Level Segment on Statelessness in 2019, several countries in the region made pledges towards the prevention, reduction, and elimination of statelessness. Any pledges regarding statelessness are included in the Country Factsheets along with, where possible, an analysis of the extent to which that country has fulfilled the pledges made.

Population

Data and sources

Qualitative and quantitative data have been gathered and included on populations affected by statelessness across the region. Quantitative data was drawn from the "official" population number provided by states to UNHCR published in the annual *Global Trends on Forced Displacement Report* ('Global Trends'). This edition includes Global Trends data from 2022, published in June 2023. Other publicly available data of estimated or reported population numbers were also included. Sources utilized include independent reports, census counts, media releases and statements from governments, media reporting and academic reports.

Qualitative data was gathered from sources including UN reports, media reporting, academic articles, independent reports and the above-mentioned consultations, regional stakeholders/ researchers and bilateral meetings.

Definitions and terminology

This report categorizes population groups into five defined groups being:

1. Stateless persons

2. Persons at risk of statelessness
3. Undetermined nationality
4. Stateless refugees
5. Other population of note

The following definitions were adopted in this report.

Stateless person: a person "who is not considered a national by any State under the operation of its Law"³⁰ *Convention relating to the Status of Stateless Persons*, Article 1.

Person at risk of statelessness: as a term without a single definition under international law, "at risk of statelessness" there are a number of interpretations of this term. This report adopts a broad definition of the term, focusing on persons and populations who lack relevant identity documents including birth registration, confirmation of citizenship or identity card (or a combination of these) that undermines their ability to meet requirements to prove their citizenship.³¹

Undetermined Nationality: there is no absolute consensus on the definition of undetermined nationality under international law either. UNHCR has previously utilized the term "as an umbrella expression for the classification of the nationality status as 'unknown', 'undetermined' or 'under investigation'. The term also covers cases where States do not classify a person as 'stateless', but rather use a specific term based on their domestic law."³²

There also exist a few additional definitions for persons of "undetermined nationality" including:

- ◆ UNHCR's working definition of persons of undetermined nationality being "a person who lacks proof of possession of any nationality and who at the same time has or is perceived as having links to a State other than the one he/she is living in."³³

- ◆ The Expert Group on Refugee, Internally Displaced Persons and Statelessness Statistics state that “Persons of Undetermined Nationality’ are people who lack proof of citizenship but who may possess an entitlement to nationality, and if so, could be assisted to obtain proof of citizenship by the relevant authorities. Those in the Undetermined Nationality category must lack proof of citizenship and have links to more than one country, that are real or perceived to be real by authorities, because of their place of birth, marriage, habitual residence, or descent from earlier generations who have migrated.”³⁴

Broadly, undetermined nationality is utilized in this report as a term covering groups possessing a nationality status classified as “unknown” or the like, as well as groups that lack proof of citizenship but may have the entitlement to nationality under the law. While there are a number of similarities between this definition and that of “persons at risk of statelessness” a key distinguishing factor is the relevant community’s possession of perceived links to another state (including historic links).

Stateless Refugees: Article 1 of the 1951 Stateless Convention states that “any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion... who not having a nationality and being outside of the country of his former habitual residence... is unable or, owing to such fear, is unwilling to return to it.” Who is also “not considered a national by any state under the operation of its law”.³⁵

Other Populations of Note: this categorisation is utilized for groups that have formally been stateless, or of undetermined nationality whose citizenship status has been resolved yet still experience the impacts of their former status.

Causes of statelessness

The causes of statelessness globally and across the Asia-Pacific vary greatly. Several key causes have previously been identified by ISI and other stakeholders. For this report the following five identified causes were utilized as a means of categorization and differentiation. In some instances, there is a noted overlap between the causes or the presence of multiple causes that can compound or extend individual experiences of statelessness. Where this is the case, categories may be combined, or the impacts of multiple causes noted.

Discriminatory nationality laws

Discrimination towards specific gender, ethnic, racial, religious or other identities is a key cause of statelessness.³⁶ Discriminatory nationality laws violate international law protecting the right to nationality without discrimination and can also lead to greater discrimination due to an individual’s stateless status. In the case of gender discriminatory laws for example, it can cause inter-generational statelessness if women cannot confer nationality to their children on the same basis as men.

Lack of legal safeguards against childhood statelessness

Safeguards against childhood statelessness include citizenship provisions that provide immediate or easy access to citizenship for

foundlings and children born to stateless parents. Without such provisions, children who are denied the right to nationality at birth do not have legal pathways to be granted citizenship in the future and are vulnerable to the possibility of intergenerational statelessness.

Citizenship stripping

Citizenship stripping, or deprivation of nationality, are both used interchangeably to describe situations where the withdrawal of citizenship is initiated by the authorities of the State leading to statelessness.³⁷ It is an extreme measure facilitated variously and cumulatively by legislative measures, administrative means, policy decisions and institutional practices at the national level in multiple countries.³⁸ Citizenship deprivation can occur at time of state succession or independence as well as a punitive measure as a contemporary form of “banishment”.

Statelessness and climate change

This risk of statelessness from “disappearing states” impacted by climate-induced sea level rise currently remains a hypothetical question, with most experts agreeing that this scenario will not inevitably lead to statelessness. Before any states “disappear”, the impacts of relocation and an increase in displacement on communities and individual’s nationality status will need to be faced.³⁹ It is this climate-induced displacement across borders rather than the “disappearance” of islands that poses the greatest risk of statelessness in the future and that is examined in this report.

Administrative barriers

Administrative barriers, including improper and non-implementation of laws across regions,

can result in procedural hurdles in accessing or proving nationality, and in the most extreme cases, statelessness. The relationship between birth registration and statelessness, discussed in the administrative barriers section where relevant, can be complex. Birth registration functions as a prerequisite for proving one’s identity and citizenship – including place of birth and parentage – and a lack of birth registration can lead to statelessness.⁴⁰ However, one is not to presume that merely because a country has high rates of birth registration would automatically signify low rates of statelessness as birth registration alone does not equate to citizenship in many states. While this report includes a lack of birth registration as a cause of statelessness, each subregional section includes information on the link between birth registration and citizenship acquisition for each country.

Stakeholders

During the mapping process, we also identified civil society organizations and individuals that are working on statelessness in the region. These include national, sub-regional and regional organizations. Some of the organizations are led by affected persons while some of them are led by persons with learned experiences of statelessness and work closely with persons with lived experience of statelessness. Some of the individuals are freelance researchers, academics and even stateless activists. For this version of the report, we have not categorized the stakeholders. We have only divided them into organizations and individuals which you can find in the Annex of the report. In the next version of the report, we plan to highlight the work of the affected persons led organizations.

Regional Overview

Sub-regions Covered: East Asia, Central Asia, Pacific, South Asia, Southeast Asia

Laws

Citizenship Law

***Jus sanguinis* and/or *jus soli* provisions**

All citizenship laws in the Asia-Pacific region operate through the principle of *jus sanguinis*, meaning that citizenship is derived via descent. The laws of 14 of the 45 countries in the region additionally contain *jus soli*, or 'birthright citizenship' provisions which grant citizenship on the basis of birth on their territory (with differing limitations). Across Asia, Bangladesh, Cambodia, Indonesia, Pakistan, Malaysia, North Korea, Thailand, South Korea, Taiwan, and Viet Nam's citizenship laws include at least one *jus soli* provision.⁴¹ In the Pacific, Fiji, Kiribati, Marshall Islands, and Tuvalu have limited provisions for *jus soli* citizenship.⁴²

Of the 45 States in the region, *jus sanguinis* provisions in 22 States (Bangladesh, Cambodia, Fiji, Indonesia, Japan, Kyrgyzstan, the Maldives, the Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, the Philippines, Taiwan⁴³, Thailand, Timor-Leste, Solomon Islands, South Korea, Tonga, Tuvalu, Uzbekistan, and Vanuatu) provide that children born to a citizen parent gain citizenship, with no distinction based upon the location of their birth.⁴⁴

In 21 States (Afghanistan, Australia, Brunei, China, Hong Kong, India, Kazakhstan, Kiribati, Laos, Malaysia, Mongolia, Nepal, New Zealand, North Korea, Samoa, Singapore, Sri Lanka, Tajikistan, Turkmenistan, Pakistan and Vietnam) children can gain nationality where a parent is a citizen of the relevant country, however, a distinction is made between children born within or outside of the territory.⁴⁵ For these countries, while *jus sanguinis* is the predominant means of transfer of nationality, *jus soli* factors come into play.

The laws of two States (Bhutan and Myanmar) provide that citizenship may be transferred to children born within or outside

of the State only if both parents are considered citizens or, in the case of Myanmar, “nationals”.⁴⁶

Brunei, Myanmar, and Palau contain restrictions in their citizenship laws based on ethnicity.⁴⁷ The laws of the Maldives and India contain provisions that limit access to citizenship based on religious grounds.⁴⁸

The laws of five States (Brunei, Kiribati, Malaysia, Singapore and Nepal) contain provisions that inhibit the ability of women to confer nationality to their children on the same grounds as men.⁴⁹ Additionally, the citizenship laws of the Maldives may contain gender discriminatory provisions, however, limited information is available on the same.⁵⁰ The laws of nine States (Bangladesh, Brunei, Kiribati, Malaysia, Nepal, Pakistan, the Philippines (for naturalized women only), Singapore and Thailand) limit the ability of married women to confer their nationality onto foreign spouses on the same basis as men.⁵¹ Solomon Islands also contains some gender discriminatory provisions as foreign women are required to gain the consent of their husband in order to apply for citizenship and women who have jointly adopted a child cannot apply for citizenship for their child (the father must do so).⁵²

The laws of five States (Brunei, Kiribati, Malaysia, Singapore and Nepal) contain provisions that inhibit the ability of women to confer nationality to their children on the same grounds as men.

The laws of nine States (Bangladesh, Brunei, Kiribati, Malaysia, Nepal, Pakistan, the Philippines (for naturalized women only), Singapore and Thailand) limit the ability of married women to confer their nationality onto foreign spouses on the same basis as men.

Naturalized citizenship

Stateless persons are ineligible for naturalized citizenship in 7 States of the Asia-Pacific (Fiji⁵³,

India⁵⁴, Myanmar⁵⁵, Nepal⁵⁶, Palau⁵⁷, South Korea⁵⁸, and Tonga⁵⁹). Due to certain requirements that are unlikely for stateless persons to be able to meet in China and Hong Kong (must provide copy of passport in application⁶⁰), New Zealand (being able to indefinitely reside in the country⁶¹), and Kiribati (cannot be liable for deportation⁶²), stateless persons are unlikely to be eligible for naturalization in these countries. In Sri Lanka, stateless persons have limited access to naturalization as only those who are descendents of a citizen, have married a citizen, or have provided a distinguished service to the country are eligible for naturalization.⁶³

Stateless persons may be eligible for the standard naturalization procedure in 26 of the 45 States in the region (Afghanistan, Bangladesh, Bhutan, Brunei, Cambodia, Indonesia, Kazakhstan, Laos, Malaysia, the Maldives, Marshall Islands, Micronesia, Mongolia, Pakistan, Papua New Guinea, Nauru, North Korea, Samoa, Solomon Islands, Singapore, Taiwan, Thailand, Timor-Leste, Turkmenistan, Tuvalu, and Vanuatu) if they meet the application requirements. However, significant barriers to meeting the application requirements exist for stateless persons in Kazakhstan (must provide documentary proof of absence or termination of citizenship of another State)⁶⁴ and Solomon Islands (extensive documentation required⁶⁵) and Brunei (extremely long waits to hear of decisions)⁶⁶. While stateless persons are not eligible for the standard naturalization process in Japan, a separate naturalization process is available for ‘aliens’.⁶⁷

Only 6 States in the Asia-Pacific (Australia, Kyrgyzstan, the Philippines, Tajikistan, Uzbekistan and Viet Nam) provide a simplified and/or expedited procedure of naturalization for stateless persons. An expedited process is available to stateless persons in Tajikistan, where stateless persons may apply for naturalization at half the required period of permanent residence (two and a half years).⁶⁸ Stateless persons may be eligible to apply for a simplified process in Australia⁶⁹,

Uzbekistan (only for stateless persons who are direct descendents of an Uzbek citizen)⁷⁰, and Viet Nam⁷¹. In Viet Nam, the requirement of all identity documents for those who do not have such documentation is waived for stateless persons who had resided in the country for at least 20 years by 2009.⁷² In order to be eligible for the simplified process in Australia, the only requirement is that the stateless person is not and has never been entitled to citizenship of another country.⁷³ Kyrgyzstan⁷⁴ and the Philippines⁷⁵ provide both a simplified and expedited process of naturalization to stateless persons. In Kyrgyzstan, the simplified process available to certain categories of stateless persons removes some of the requirements of the standard process as well as reduces the required period of residency to one year or less.⁷⁶ The Philippines has a similar progressive process available for stateless persons who have resided in the Philippines for at least 10 years, are financially stable, of good moral character, and can speak and write in one of the principal Philippine languages.⁷⁷

Only 6 States in the Asia-Pacific (Australia, Kyrgyzstan, the Philippines, Tajikistan, Uzbekistan and Viet Nam) provide a simplified and/or expedited procedure of naturalization for stateless persons.

Dual citizenship

Dual citizenship is permitted in 10 of the 45 countries of the Asia-Pacific, including Australia, Cambodia, Fiji, the Maldives, Nauru, New Zealand, Palau, Solomon Islands, Timor-Leste and Vanuatu.⁷⁸ In 22 States (Afghanistan, Bhutan, Brunei, China, Hong Kong, India, Indonesia, Japan, Kazakhstan, Kiribati, Kyrgyzstan, Malaysia, Marshall Islands, Myanmar, Mongolia, Nepal, North Korea, Singapore, Tajikistan, Turkmenistan, Tuvalu, and Uzbekistan), dual citizenship is generally not recognized.⁷⁹

Dual citizenship is only permitted under certain circumstances in 13 States, including Bangladesh, Laos, Micronesia, Pakistan, Papua New Guinea, the

Philippines, Samoa, South Korea, Sri Lanka, Taiwan, Thailand, Tonga, and Viet Nam. In Bangladesh⁸⁰, Pakistan⁸¹, and Micronesia⁸², dual citizenship is permitted only with certain approved countries. Dual citizenship is permitted in Papua New Guinea by submission of an application⁸³, and in Sri Lanka by making a declaration⁸⁴. In Laos, the Philippines, South Korea, Thailand, and Viet Nam, dual citizenship is only permitted for certain groups. Only those of the Lao race who acquire citizenship by request are able to maintain dual citizenship in Laos.⁸⁵ In the Philippines, dual citizenship is only permitted for natural-born citizens who have earlier lost their Philippine citizenship by reason of acquisition of foreign citizenship.⁸⁶ In Vietnam, only those who are a spouse, natural parent or natural offspring of Vietnamese citizens, have made meritorious contributions to Viet Nam’s development and defense, or have outstanding talents that will be useful for Viet Nam are eligible to keep their prior citizenship after being granted naturalized citizenship.⁸⁷ Taiwan allows dual nationality only for foreign nationals who have made “special contributions to Taiwanese society” and are “high-level foreign professionals” in certain fields.⁸⁸ Finally, South Korea permits dual citizenship for children born to South Korean parents outside the territory of Korea, marriage migrants, naturalized foreigners of outstanding talent and those who previously held Korean citizenship.⁸⁹

Samoa and Tonga do not provide provisions stipulating dual citizenship in citizenship legislation. Brunei’s citizenship legislation notably contains gender discriminatory provisions relating to dual citizenship, as women who acquire a foreign citizenship through marriage will cease to

Brunei’s citizenship legislation notably contains gender discriminatory provisions relating to dual citizenship, as women who acquire a foreign citizenship through marriage will cease to be Brunei citizens.

be Brunei citizens.⁹⁰ However, the same provision does not exist with regards to Bruneian men.

Where States do not allow citizenship, the process of renunciation of citizenship upon acquisition of another one (whether it be a foreign citizen applying in the country (naturalization) or a citizen of the country applying in a foreign country) may result in statelessness if there is an absence of protective legislation. For example, the laws of 10 States in the region have renunciation processes which may cause statelessness for certain individuals, including Bhutan, Kiribati, Japan, Laos, Marshall Islands, Micronesia, Mongolia, Nepal, Solomon Islands, and Tajikistan⁹¹. In Bhutan⁹², Laos⁹³, Japan⁹⁴, Micronesia⁹⁵, the Marshall Islands⁹⁶, Mongolia⁹⁷, Nepal⁹⁸, and Tajikistan⁹⁹, naturalization applicants must endure an indefinite period of statelessness throughout the application process as they must renounce prior citizenship before making the application. Applicants must renounce their prior citizenship not only before the application process, but before accruing the required years of residence to be eligible for naturalization in Kiribati and Solomon Islands (for foreign spouses). For applicants to Kiribati, this means enduring 10 years of statelessness before hearing of the application's decision.¹⁰⁰ Similarly, in order for foreign women spouses of a Solomon Islands citizen to gain citizenship, they must renounce any prior citizenship and be a resident for two years before they can apply for Solomon Islands citizenship.¹⁰¹

Where States require renunciation of citizenship upon acquisition of another citizenship, it is important to include procedural and legislative safeguards that prevent statelessness. Article 7(1)(a) of the 1961 Convention on the Reduction of Statelessness states that State parties which allow renunciation of citizenship must ensure that “such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality”.¹⁰² 4 States in

the Asia-Pacific (Kyrgyzstan¹⁰³, South Korea¹⁰⁴, Tuvalu¹⁰⁵, and Uzbekistan¹⁰⁶) do have some legal safeguards regarding the process of renunciation. However, in Uzbekistan these safeguards are only for descendants of an Uzbek citizen, who will receive a letter of guarantee of citizenship for one year during which they must renounce prior citizenship.¹⁰⁷

Treaty ratification status

Treaty ratification is varied and inconsistent across the Asia-Pacific. Only 7 of the 45 countries in the Asia-Pacific (Australia, Fiji, Hong Kong, Kiribati, the Philippines, South Korea, and Turkmenistan) have accessioned to the Convention relating to the Status of Stateless Persons ('1954 Convention'),¹⁰⁸ five of the 45 States (Australia, Kiribati, New Zealand, the Philippines, and Turkmenistan)¹⁰⁹ to the Convention on the Reduction of Stateless Persons ('1961 Convention'), and four to both treaties (Australia, Kiribati, the Philippines, and Turkmenistan). The region sees a slightly higher rate of accession to the 1951 Convention relating to the Status of Refugees ('Refugee Convention'), with 19 countries (Afghanistan, Australia, Cambodia, China, Fiji, Japan, Kazakhstan, Kyrgyzstan, Nauru, New Zealand, Papua New Guinea, the Philippines, Samoa, Solomon Islands, South Korea, Tajikistan, Timor-Leste, Turkmenistan and Tuvalu) in the region having accessioned to the treaty and its 1967 Refugee Convention Protocol.¹¹⁰

The key human rights treaties generally see a higher rate of ratification across the region than the Statelessness and Refugee Conventions. There is universal accession to the CRC (45 of 45 States), with Malaysia retaining a reservation with respect to Article 7 which provides the right to a nationality.¹¹¹ Near universal accession to the CEDAW (43 of 45 States, Palau and Tonga being the two notable exceptions) exist in the region, with three States (Brunei, Malaysia, and South Korea) maintaining a reservation to article 9(2)

which provides women with equal rights regarding the nationality of their children.¹¹²

Over two-thirds of the States have accessioned to the other relevant human rights treaties and covenants. 32 of 45 States are party to the ICCPR (Afghanistan, Australia, Bangladesh, Cambodia, Fiji, India, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Laos, Maldives, Marshall Islands, Mongolia, Nepal, New Zealand, North Korea, Pakistan, Papua New Guinea, the Philippines, Samoa, South Korea, Sri Lanka, Tajikistan, Thailand, Timor-Leste, Turkmenistan, Uzbekistan, Vanuatu and Vietnam).¹¹³

33 of 45 States are party to the ICESCR (Afghanistan, Australia, Bangladesh, Cambodia, China, Fiji, India, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Laos, Maldives, Marshall Islands, Mongolia, Myanmar, Nepal, New Zealand, North Korea, Pakistan, Papua New Guinea, the Philippines, Solomon Islands, South Korea, Sri Lanka, Tajikistan, Thailand, Timor-Leste, Turkmenistan, Uzbekistan and Vietnam).¹¹⁴

33 States are also party to the ICERD (Afghanistan, Australia, Bangladesh, Cambodia, China, Fiji, India, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Laos, Maldives, Marshall Islands, Mongolia, Nepal, New Zealand, Pakistan, Papua New Guinea, the Philippines, Singapore, Solomon Islands, South Korea, Sri Lanka, Tajikistan, Thailand, Timor-Leste, Tonga, Turkmenistan, Uzbekistan, and Vietnam).¹¹⁵

The variance between levels of ratification is notable. Three States (Australia, the Philippines, and Turkmenistan) are parties to all relevant conventions and three have ratified almost all the treaties (Fiji, New Zealand, and South Korea). In contrast, Bhutan, Brunei, Malaysia, Micronesia, Palau and Tonga can be seen to have the lowest levels of ratification. Palau has the lowest level of treaty accession of any State in the Asia-Pacific, being party only to the CRC. Malaysia, while a

party to two conventions (the CRC and CEDAW) has reservations to the relevant articles that protect the right to nationality. Brunei, similarly, is a party to only two conventions (CRC and CEDAW) and retains reservations to one of those two conventions (CEDAW).

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Population

Reported stateless persons

The Institute on Statelessness and Inclusion (ISI) estimates that there are at least 15 million stateless people globally.¹¹⁶ However, under reporting has been recognised by UNHCR as a major issue noting that their own estimate of 5.1 million stateless people globally is likely far below the true figure stating that:

[T]he global figure remains an undercount as data on stateless populations or those of undetermined nationality is missing or incomplete for many countries, including some with known stateless populations. The lack of reliable quantitative data continues to pose challenges to effectively address statelessness and advocate for solutions.¹¹⁷

Noting these limitations, according to UNHCR's Global Trends Report 2022 (published in June 2023), over half of the world's 5.1 million stateless persons reside in the Asia-Pacific region.¹¹⁸ In 2022, nearly 2.5 million stateless persons were reported to UNHCR by countries in the region.¹¹⁹ Between 2020 and 2021 the number of reported

TABLE 1

Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Afghanistan	⊖	⊖	✓	✓	✓	✓	✓	✓
Australia	✓	✓	✓	✓	✓	✓	✓	✓
Bangladesh	⊖	⊖	⊖	✓	✓	✓	✓	✓
Bhutan	⊖	⊖	⊖	⊖	⊖	⊖*	✓	✓
Brunei Darussalam	⊖	⊖	⊖	⊖	⊖	⊖	✓	✓
Cambodia	⊖	⊖	✓	✓	✓	✓	✓	✓
Democratic People's Republic of Korea	⊖	⊖	⊖	✓	✓	⊖	✓	✓
Federated States of Micronesia	⊖	⊖	⊖	⊖	⊖	⊖	✓	✓
Fiji	✓	⊖	✓	✓	✓	✓	✓	✓
Hong Kong SAR	✓	⊖	⊖	✓	✓	✓	✓	✓
India	⊖	⊖	⊖	✓	✓	✓	✓	✓
Indonesia	⊖	⊖	⊖	✓	✓	✓	✓	✓
Japan	⊖	⊖	✓	✓	✓	✓	✓	✓
Kazakhstan	⊖	⊖	✓	✓	✓	✓	✓	✓
Kiribati	✓	✓	⊖	⊖	⊖	⊖	✓	✓
Kyrgyzstan	⊖	⊖	✓	✓	✓	✓	✓	✓
Lao People's Democratic Republic	⊖	⊖	⊖	✓	✓	✓	✓	✓
Malaysia	⊖	⊖	⊖	⊖	⊖	⊖	✓	✓
Maldives	⊖	⊖	⊖	✓	✓	✓	✓	✓
Marshall Islands	⊖	⊖	⊖	✓	✓	✓	✓	✓
Mongolia	⊖	⊖	⊖	✓	✓	✓	✓	✓
Myanmar	⊖	⊖	⊖	⊖	✓	⊖	✓	✓
Nauru	⊖	⊖	✓	⊖	⊖	⊖	✓	✓
Nepal	⊖	⊖	⊖	✓	✓	✓	✓	✓
New Zealand	⊖	✓	✓	✓	✓	✓	✓	✓
Pakistan	⊖	⊖	⊖	✓	✓	✓	✓	✓
Palau	⊖	⊖	⊖	⊖	⊖	⊖	✓	⊖
Papua New Guinea	⊖	⊖	✓	✓	✓	✓	✓	✓
People's Republic of China	⊖	⊖	✓	⊖*	✓	✓	✓	✓
Philippines	✓	✓	✓	✓	✓	✓	✓	✓
Republic of China (Taiwan)	⊖	⊖	⊖	✓	✓	✓	✓	✓
Republic of Korea	✓	⊖	✓	✓	✓	✓	✓	✓
Samoa	⊖	⊖	✓	✓	⊖	⊖	✓	✓
Singapore	⊖	⊖	⊖	⊖	⊖	✓	✓	✓
Solomon Islands	⊖	⊖	✓	⊖	✓	✓	✓	✓
Sri Lanka	⊖	⊖	⊖	✓	✓	✓	✓	✓
Tajikistan	⊖	⊖	✓	✓	✓	✓	✓	✓
Thailand	⊖	⊖	⊖	✓	✓	✓	✓	✓
Timor-Leste	⊖	⊖	✓	✓	✓	✓	✓	✓

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Tonga	⊖	⊖	⊖	⊖	⊖	✓	✓	⊖
Turkmenistan	✓	✓	✓	✓	✓	✓	✓	✓
Tuvalu	⊖	⊖	✓	⊖	⊖	⊖	✓	✓
Uzbekistan	⊖	⊖	⊖	✓	✓	✓	✓	✓
Vanuatu	⊖	⊖	⊖	✓	⊖	⊖	✓	✓
Viet Nam	⊖	⊖	⊖	✓	✓	✓	✓	✓
TOTAL	6	5	19	32	33	33	45	43

* Signed but not ratified

✓ Signifies that the country is a party to the convention
 ⊖ Signifies that the country is not a party to the convention
 Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

stateless persons in the Asia-Pacific region increased by over 120,000 people and by over 60,000 people between 2021 and 2022.¹²⁰

The dispersion of the stateless population across the region varies widely. The vast majority of the stateless population in the Asia-Pacific is within South and Southeast Asia. Southeast Asia has the largest population of stateless persons with over 1.4 million people affected by statelessness in the sub-region (1,444,363).¹²¹ South Asia has the second biggest population of reported stateless persons accounting for almost 1 million people (974,443).¹²² East Asia (766) and the Pacific (8,320) have markedly smaller registered stateless populations with Central Asia reporting higher figures (46,079).¹²³ Of all the regions, Central Asia saw the biggest decline in reported stateless persons between 2021 and 2022, decreasing by over 10,000 persons.¹²⁴

The Asia-Pacific contains three of the five largest hosting countries globally, with Bangladesh, Myanmar, and Thailand combined reporting over 2.1 million stateless people in 2022.¹²⁵

At the same time, 21 of the 45 countries in the Asia-Pacific either did not report to UNHCR or reported zero stateless persons in 2022 (Afghanistan, Bhutan, China, Federated States of Micronesia, Fiji, Hong Kong, Kiribati, Laos, Maldives, Marshall Islands, New Zealand, North Korea, Palau, Samoa,

Solomon Islands, Taiwan, Timor-Leste, Tonga, Tuvalu, and Vanuatu) with over half of these countries (12 of 21) based within the Pacific.

Notably, Kyrgyzstan was the first country in the world to successfully resolve all known cases of statelessness in the country in July 2019.¹²⁶ Since this time the country has identified new cases, reporting 203 stateless persons to UNHCR at the end of 2022.¹²⁷

Persons at risk of statelessness

Of the reported stateless population, 1.3 million persons are classified as *in situ* stateless persons, populations that have had multi-generational or long-term significant ties to their country of residence, with many having never left their country of birth. The largest population of *in situ* stateless people reside in States across Southeast Asia. This includes 630,000 ethnic Rohingya who remain in Myanmar, 574,219 people in Thailand (largely comprised of members of the 'Hill Tribe' communities), 75,000 persons of Vietnamese ethnicity in Cambodia¹²⁸, a population of 26,811 people in Vietnam (including members of the Hmong community and people of Cambodian heritage) and over 20,000 persons of Chinese heritage in Brunei.¹²⁹

UNHCR has specifically stated that for six countries in the region (Afghanistan, Bhutan,

China, Nepal, Pakistan, and Sri Lanka) they have “information about stateless persons, but no reliable data”.¹³⁰ It is notable that all but one of these countries is situated within South Asia. Within these countries, there are a number of identified stateless populations not included in the UNHCR reporting figures including ethnic Bengalis and long-term Afghan refugees in Pakistan¹³¹ and the Lhostshampa of Bhutan.¹³²

In East Asia and the Pacific, there are no major groups of recognised *in situ* stateless populations.¹³³ In Taiwan, children born to undocumented migrant workers may be at risk of statelessness.¹³⁴

Across Central Asia, the Lyuli/Mugat (also referred to as Luli/Roma and Lyuli/Mughat; recognized in Tajikistan as Roma/Jughi; although the preferred term is Mugat/Mughat) ethnic group experiences low access to social services due to widespread discrimination.¹³⁵ Historically, the Mugat community lived a nomadic lifestyle and never acquired documentation such as birth certificates.¹³⁶ While the community is no longer nomadic, the Mugat are at a much higher risk of statelessness as a result of remaining lack of documentation and discrimination.¹³⁷ Members of the Mugat community represent minorities in Kyrgyzstan, Tajikistan, and Uzbekistan in particular, with limited information about the ethnic group in Kazakhstan and Turkmenistan. An estimated 69,851 members of the Mugat community reside in Uzbekistan.¹³⁸

Stateless Refugees

Of the reported stateless population in the Asia-Pacific just over 1 million are stateless refugees.¹³⁹ Almost the entire reported population of stateless refugees are members of the Rohingya community from Myanmar, with the vast majority hosted in South Asian States. This is reflected by the fact that the entire reported stateless population in South

Asia of almost 1 million persons, are stateless refugees.¹⁴⁰ Bangladesh is by far the largest host country for stateless refugees, with over 950,000 Rohingya refugees within their borders.¹⁴¹

The true scale of the Rohingya population within South Asia likely far exceeds reported figures. Estimates have placed the Rohingya population in India at 40,000 (twice the size of the reported 20,591 people)¹⁴² and as many as 400,000 Rohingya refugees have been estimated to reside in Pakistan (compared to the reported 47).¹⁴³

Southeast Asia hosts the second largest reported Rohingya population, with four countries (Indonesia, Malaysia, Philippines and Thailand) reporting populations to UNHCR in 2021. Malaysia hosts over 100,000 Rohingya refugees, the largest population within Southeast Asia and the second largest reported population of any State in the Asia-Pacific behind Bangladesh, while Indonesia (925), the Philippines (11) and Thailand (321) all reported comparatively small population groups.¹⁴⁴

All the reported stateless population in the Pacific (8,320) are stateless refugees, asylum seekers or, in the case of Australia, persons in immigration detention (8,314).¹⁴⁵ Nauru also reported 6 stateless Rohingya refugees in 2022.¹⁴⁶

As a region, East Asia has a small refugee population compared to the other sub-regions, with Japan being the only country in the subregion to report a stateless refugee population consisting of 9 persons.¹⁴⁷ There are growing numbers of stateless children born to refugees in Hong Kong.¹⁴⁸

Other groups of refugees affected by statelessness include as many as 73,404 Tibetan refugees and more than 92,000 Sri Lankan refugees in India,¹⁴⁹ approximately 1.4 million Afghan refugees in Pakistan,¹⁵⁰ and 6,365 Bhutanese Lhostshampa refugees in Nepal, many of whom are stateless.¹⁵¹

TABLE 2

Country-wise distribution of the reported stateless population

Country	2019 (year start) ¹⁵²	2020 (year end) ¹⁵³	2021 (year end) ¹⁵⁴	2022 (year end) ¹⁵⁵
Afghanistan	-	-	-	-
Australia	-	5,221	7,700	8,314
Bangladesh	854,704	866,457	918,841	952,309
Bhutan	-	-	-	-
Brunei Darussalam	20,863	20,863	20,863	20,863
Cambodia	57,444	57,444	75,000	75,000
Democratic People's Republic of Korea	-	-	-	-
Federated States of Micronesia	-	-	-	-
Fiji	-	-	-	-
Hong Kong SAR	-	-	-	-
India	17,730	18,174	20,154	21,591
Indonesia	582	874	641	925
Japan	709	707	707	508
Kazakhstan	7,690	7,999	7,831	8,569
Kiribati	-	-	-	-
Kyrgyzstan	548	18	600	203
Lao People's Democratic Republic	-	-	-	-
Malaysia	108,332	111,289	112,420	115,169
Maldives	-	-	-	-
Marshall Islands	-	-	-	-
Mongolia	17	-	17	17
Myanmar	600,000	600,000	600,000	630,000
Nauru	-	-	130	6
Nepal	-	-	465	452
New Zealand	-	-	-	-
Pakistan	-	-	47	55
Palau	-	-	-	-
Papua New Guinea	-	-	8	-
People's Republic of China	-	-	-	-
Philippines	383	387	260	267
Republic of China	-	-	-	-
Republic of Korea	197	203	202	241
Samoa	-	-	-	-
Singapore	1,303	1,109	1,109	1,109
Solomon Islands	-	-	-	-
Sri Lanka	-	-	35	36
Tajikistan	4,616	6,385	6,110	5,391
Thailand	475,009	480,695	561,527	574,219
Timor-Leste	-	-	-	-
Tonga	-	-	-	-
Turkmenistan	4,714	3,924	4,280	4,527
Tuvalu	-	-	-	-
Uzbekistan	79,942	69,791	37,993	27,389
Vanuatu	-	-	-	-
Viet Nam	30,581	32,890	35,475	26,811
TOTALS	2,265,364	2,284,430	2,412,415	2,473,971

TABLE 3

Region-wise distribution of the reported stateless population

Country	2019 (year start) ¹⁵⁶	2020 (year end) ¹⁵⁷	2021 (year end) ¹⁵⁸	2022 (year end) ¹⁵⁹
Central Asia	97,510	88,117	56,814	46,079
East Asia	923	910	926	766
Pacific	-	5,221	7,838	8,320
South Asia	872,434	884,631	939,542	974,443
Southeast Asia	1,294,497	1,305,551	1,407,295	1,444,363
TOTALS	2,265,364	2,284,430	2,412,415	2,473,971

Undetermined nationalities

Four States in the Asia-Pacific (Japan, Kiribati, Laos and Vanuatu) have publicly available English-language census data from the last 10 years that categorises foreign residents within the country as having “undetermined” or “unknown” nationality.¹⁶⁰ Most notably in Japan’s 2020 census, the nationality of 131,684 foreigners in Japan was categorised as “stateless and name of country not reported”.¹⁶¹ Smaller populations were recorded in the other three States – Kiribati (8), Laos (375), Vanuatu (27).¹⁶²

Most notably in Japan’s 2020 census, the nationality of 131,684 foreigners in Japan was categorised as “stateless and name of country not reported”.

The citizenship status of several other groups across the Asia-Pacific is unclear or unconfirmed. While reported figures of stateless populations may be low in East Asia, thousands of individuals have undetermined nationalities. China’s 2010 census showed that at least 13 million children lacked household registration (*hukou*) preventing them from accessing the full rights of citizens.¹⁶³ The status of ethnic minority groups in both Japan and Mongolia remains uncertain. As many as 26,312 ethnic Koreans in Japan remain categorised as “citizens of the Korean Peninsula (Korea or Chōsen)”¹⁶⁴ and hold the status of “special permanent residents”.¹⁶⁵ In Mongolia, thousands of ethnic Kazakhs have faced

administrative barriers to reacquiring citizenship, which they lost in the early 1990s.¹⁶⁶

As many as 10-15,000 West Papuan refugees have lived in Papua New Guinea since the last three decades, who due to absence from West Papua have lost their Indonesian citizenship and have been unable to access Papua New Guinean citizenship through naturalization, despite possessing the right to under the law of Papua New Guinea.¹⁶⁷

In South Asia, two major groups in India and Nepal hold uncertain citizenship statuses. In India, the 2019 National Register of Citizens in Assam excluded over 1.9 million Assamese, leaving them labelled as foreigners and the validation of their citizenship at the hands of the foreigners’ tribunals.¹⁶⁸ Between 2017 to 2022, 14,346 individuals have been deported from India with 32,381 individuals being declared as foreigners.¹⁶⁹ Another 123,829 cases remain pending before the tribunals.¹⁷⁰ In Nepal, as many as 6.7 million people lack citizenship certificates.¹⁷¹ The UNHCR has noted that “while these individuals are not all necessarily stateless, UNHCR has been working closely with the Government of Nepal and partners to address this situation.”¹⁷²

In Southeast Asia as many as 810,443 residents of Sabah are non-citizens.¹⁷³ This group represents the largest and most notable population of undetermined nationality within Southeast

Asia as disagreement exists as to whether this population are stateless or should be considered citizens of either the Philippines, Malaysia, or Indonesia.¹⁷⁴

Availability of data

Of the 8 States in the South Asia sub-region, all experience issues with availability of data. Identifying the true status of stateless persons and persons at risk of statelessness is especially difficult in Afghanistan, Bhutan, and the Maldives where no stateless persons have been officially reported. In East Asia, there is a notable lack of reliable data, with the number of officially reported stateless persons in the subregion very low in comparison to the unofficial figures. The lack of available data is also noticed in the Pacific due to the limited connection NFA holds with local CSOs and other stakeholders on the ground. This disconnect between known stateless populations and officially reported figures needs to be remedied through investment in better data collection as the absence of accurate data undermines efforts to bring about positive changes. Central Asia has comparatively higher data availability than other subregions.

Causes of Statelessness

Discriminatory nationality laws

Restrictions on the basis of ethnicity

Ethnic minority groups across the Asia-Pacific – but largely within South and Southeast Asia – are at risk of statelessness due to discriminatory applications of citizenship laws, administrative barriers to gaining documentation and social exclusion. Notable populations include Khmer Krong communities in Cambodia,¹⁷⁵ Hmong in Laos and Vietnam,¹⁷⁶ ethnic minority groups living in border regions of India,¹⁷⁷ Dalit and Madheshi communities in Nepal,¹⁷⁸ the Lyuli/Mughat

community across Central Asia,¹⁷⁹ and the seafaring Sama Bajau in the Philippines, Malaysia and Indonesia.¹⁸⁰

Discriminatory nationality laws have primarily led to statelessness among population groups in South and Southeast Asia. The most conspicuous example of ethnic discrimination in nationality laws can be seen within Southeast Asian nations. Emblematic of this is the citizenship laws of Myanmar that have rendered over a million ethnic Rohingya stateless.¹⁸¹ Population groups outside of Myanmar have also been deeply affected by ethnically discriminatory nationality laws, for example members of nine ethnic groups often referred to as ‘hill-tribe’ or ‘highland’ communities in Thailand have faced intergenerational statelessness due to discriminatory exclusion from citizenship laws.¹⁸² In Brunei, limitations of nationality to certain prescribed ethnic groups, or “indigenous groups of the Malay race” is the primary cause of statelessness among residents of Chinese heritage.¹⁸³ Palau’s citizenship legislation also contains some provisions amounting to ethnic discrimination as only ethnic Palauans are able to apply for naturalization.¹⁸⁴

In South Asia, other ethnic minority groups have been historically impacted by discriminatory nationality laws which have either indirectly excluded population groups or ignored them entirely. This includes Urdu-speaking ‘Bihari’ in Bangladesh¹⁸⁵ and the Mosuli and Jogi (or ‘Magat’) communities in Afghanistan.¹⁸⁶ Statelessness among Muslim and ethnic minority populations in India – including persons excluded by the National Register of Citizens in Assam and Rohingya refugees – is further protracted by their discriminatory exclusion from the *Citizenship Amendment Act 2019*.¹⁸⁷ The Maldives’ citizenship legislation also discriminates on religious grounds, barring non-Muslims from being recognised as citizens of the Maldives.¹⁸⁸ As a result of previous interpretations of Pakistan’s *jus soli* provision,

minority groups labeled as ‘alien’, including Bengali-speaking and ethnic Bihari communities, have also been denied citizenship.¹⁸⁹

Restrictions on the basis of gender

Gender discrimination in nationality laws has also played a fundamental role in creating statelessness in the region. In South Asia, Nepal’s gender discriminatory provisions restrict the ability of women to confer nationality onto their children and may have led to the statelessness of as many as 400–500,000 persons.¹⁹⁰ While the laws of the Maldives also contains some potentially gender discriminatory provisions,¹⁹¹ no statistics are available on the impact of these provisions on populations in the Maldives.¹⁹²

In Southeast Asia, children born outside of Malaysia to Malaysian citizen mothers married to foreign fathers, as well as children born in Malaysia to Malaysian fathers and foreign mothers in an unregistered/unrecognised marriage may have been rendered stateless through gender discriminatory provisions.¹⁹³ While there has been extensive advocacy in recent years for the amendment of these provisions,¹⁹⁴ there are no available figures on the number of children affected.

Additionally, the citizenship law of Singapore contains gender discriminatory provisions which limit the ability of mothers to confer citizenship onto children born in the State “...whose fathers are diplomats or members of foreign forces during times of war”.¹⁹⁵ Some gender discrimination remains in the citizenship legislation of the Philippines, as naturalized alien women who are married to Philippine citizen men may *ipso facto* become a Philippine citizen through marriage; however, Philippine citizen women cannot confer nationality to a foreign spouse on the same basis as men.¹⁹⁶ Women are also limited in their ability to confer nationality onto foreign husbands in Brunei while Brunei men are able to

confer nationality to a foreign spouse.¹⁹⁷ While Thailand’s 2008 amendments to its citizenship law allowed for foreign spouses to apply for Thai citizenship without the requirement of permanent residence¹⁹⁸, the Act still does not allow for full gender equality in the ability to confer citizenship to foreign spouses.¹⁹⁹

None of the citizenship laws of Central or East Asian States have gender, ethnic or religiously discriminatory provisions. In the Pacific, Kiribati and Solomon Islands are the only States that contain gender discriminatory provisions. Children born outside of the territory to mothers with Kiribati citizenship cannot access citizenship automatically.²⁰⁰ Citizenship by descent is limited to children whose fathers are Kiribati citizens.²⁰¹ However, unlike other Pacific Island States, Kiribati has a small overseas population, with approximately 5,000 I-Kiribati’s living in New Zealand and Australia.²⁰² There are no reliable statistics on the number of persons this provision has affected. In Solomon Islands foreign women are required to gain the consent of their husband in order to apply for citizenship and women who have jointly adopted a child cannot apply for citizenship for their child (the father must do so).²⁰³

None of the citizenship laws of Central or East Asian States have gender, ethnic or religiously discriminatory provisions.

Lack of legal safeguards against childhood statelessness

Legal safeguards against childhood statelessness including the protection of foundlings and children born to stateless parents are not universal across the Asia-Pacific region. The citizenship laws of less than half of the States in the region (19 States: Australia, Cambodia, Fiji, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Laos, Mongolia, New Zealand, North Korea, Papua New Guinea,

Philippines, Singapore, South Korea, Taiwan, Turkmenistan, Tuvalu and Vietnam) explicitly provide that foundling children will be considered citizens.²⁰⁴ The citizenship laws of 12 States (Afghanistan, Bangladesh, Kiribati, Malaysia, the Marshall Islands, Nepal, Pakistan, Sri Lanka, Tajikistan, Thailand, Timor-Leste, and Uzbekistan) provide some/limited protection for foundling children under their law.²⁰⁵

Under the laws of 14 States (Bhutan, Brunei, China, Hong Kong, India, Federated States of Micronesia, the Maldives, Myanmar, Nauru, Palau, Samoa, Solomon Islands, Tonga and Vanuatu) there is no explicit protection for foundling children to gain citizenship.

Similarly, less than half of the States (14 States: Australia, Fiji, Indonesia, Japan, Kiribati, Kyrgyzstan, the Marshall Islands, Nauru, New Zealand, North Korea, South Korea, Timor-Leste, Tuvalu, and Uzbekistan) provide citizenship to children born on their territories who would otherwise be stateless.²⁰⁶ There is also limited protection provided under the laws of 17 States (Afghanistan, Bangladesh, Cambodia, China, Hong Kong, Kazakhstan, Laos, Malaysia, Mongolia, Pakistan, Papua New Guinea, Taiwan, Tajikistan, Thailand, Turkmenistan, Samoa and Vietnam) to stateless persons born on the territory.²⁰⁷ However, there is no protection under the laws of the remaining 14 States (Bhutan, Brunei, India, the Maldives, Federated States of Micronesia, Myanmar, Nepal, Palau, the Philippines, Singapore, Solomon Islands, Sri Lanka, Tonga and Vanuatu).

Myanmar is the only State in the region that explicitly provides differentiated categories of citizenship (outside of naturalized/non-naturalized citizenship distinctions).²⁰⁸

Differential treatment between persons classified as citizens by descent or citizens by birth, including limitations of citizens by descent to pass on citizenship to children exist in four States (Nepal, New Zealand, Samoa, and Singapore) in the region.²⁰⁹

Citizenship stripping

Citizenship stripping by States has wide ranging impacts across the Asia-Pacific region. In East Asia, following the end of the Second World War, and Japan’s colonial rule over the Korean peninsula approximately 52,000 ethnic Koreans were stripped of Japanese citizenship.²¹⁰ In 2021, more than 26,000 persons and their descendants have not had their citizenship status resolved.²¹¹

In both Taiwan and South Korea, foreign spouses whose marriage is determined to be a ‘sham’ or ‘fraudulent’ have been stripped of their citizenship and rendered stateless (as both States have required the renunciation of one’s former nationality prior to gaining the nationality of their spouse).²¹² This has had implications for Southeast Asian States as the majority of marriage migrants in East Asia originate from Vietnam, and have returned to Vietnam stateless following relationship breakdowns.²¹³

While not a common issue in most States of Central Asia, citizens of Uzbekistan may have their citizenship stripped for failing to register with the permanent consulate register within seven years without valid reasons while living abroad.²¹⁴ The right to appeal is guaranteed in Uzbekistan.²¹⁵

In Southeast Asia (with implications in the Pacific), prior to amendment in 2006, under the citizenship laws of Indonesia persons residing outside of the territory for more than 5 years without registration were stripped of their Indonesian citizenship.²¹⁶ This law is estimated to have affected an estimated 10–15,000 West

Papuans in Papua New Guinea and at least 6,000 Indonesian migrants in the Philippines.²¹⁷ While steps have been taken to resolve statelessness among these population groups, especially in the Philippines, thousands may remain stateless.²¹⁸

Within South Asia, members of ethnic Nepali communities known as ‘Lhotshampas’ living in the south of the country were stripped of their Bhutanese citizenship in the late 1980s and expelled from the country with as many as 100,000 refugees arriving in Nepal during the 1990s.²¹⁹ Within India, the final National Register of citizenship published in 2019 excluded 1.9 million residents from the list – essentially stripping them of their citizenship. Persons excluded from the National Register of Citizens must in turn apply to the government or foreigners’ tribunal to have their citizenship status verified, with those unable to verify their status as citizens rendered stateless.²²⁰ In Sri Lanka, Hill Country Tamils were indirectly stripped of their citizenship at Sri Lanka’s independence in 1948.²²¹

Administrative barriers

Administrative barriers to accessing citizenship have rendered a vast number of populations stateless or with uncertain nationality statuses even in States across the Asia-Pacific where citizenship laws provide protection. In East Asia, the central role played by household registration in verifying one’s citizenship and realising the associated rights cannot be overstated. The impact of these systems on the realisation of citizenship is specifically notable in China, Japan and South Korea among children of migrants, ethnic minority groups and those of uncertain nationalities.²²²

Notably, within South Asia, administrative practice and policy have led to the citizenship laws of Bangladesh shifting in application from *jus soli* to *jus sanguinis* in their application.²²³ This ‘paradigmatic policy shift’²²⁴ has compounded intergenerational statelessness among

children born in the country, especially among the estimated 75,000 children of Rohingya refugees.²²⁵ Similar lack of implementation of *jus soli* provisions has been seen in Pakistan where children born in the country to foreigners do not automatically acquire Pakistani citizenship.²²⁶

In Southeast Asia, in the past decades the provision and withdrawal of civil registration documents has been complex, discriminatory and a key component of the persecution of the Rohingya population in Myanmar.²²⁷ Ethnic minority groups in Brunei, Cambodia, the Philippines and Vietnam have also faced barriers to gaining civil registration and citizenship, with such barriers leading to protracted and intergenerational statelessness.²²⁸

Administrative barriers to nationality appear to be less prevalent in Central Asia and the Pacific compared to areas such as East Asia where household registration plays a vital evidentiary role for citizenship, or South and Southeast Asia where exclusion from civil registration has been used as a tool of ethnic discrimination.²²⁹

Birth registration

In South Asia, discriminatory administrative and practical barriers have fundamentally limited the ability of women and minority groups in Afghanistan and Nepal to gain identity documentation and to confirm their status as citizens.²³⁰ Barriers to ethnic minority groups accessing birth registration and documentation have deeply affected populations in India and Pakistan.²³¹ In the case of the ethnic Bengali population in Pakistan, such barriers have embedded statelessness for hundreds of thousands of people across generations.²³²

The denial of civil registration documents and arbitrary and discriminatory applications of policy have played a key role in causing and compounding statelessness in Southeast Asia. For example, low birth registration rates and barriers to birth

registration especially among children of migrant workers and communities living in poverty have placed as many as 50 million children in Indonesia at risk of statelessness.²³³ Administrative and practical barriers to accessing birth registration have placed as many as 130,000 Sama Bajau (or ‘Bajut Laut’) community members – who reside in the Philippines, Malaysia and Indonesia – at risk of statelessness.²³⁴

For example, low birth registration rates and barriers to birth registration especially among children of migrant workers and communities living in poverty have placed as many as 50 million children in Indonesia at risk of statelessness.

Low rates of birth registration across several countries in the Pacific – notably Papua New Guinea (13%), Vanuatu (43%) and Samoa (67%)²³⁵ – place some isolated and minority groups at risk of statelessness.

While Central Asia has high rates of birth registration (with all countries reporting in the 90th percentile²³⁶), birth registration is a prerequisite for citizenship in Kazakhstan²³⁷ and Kyrgyzstan²³⁸ and is required to obtain identity documents in Tajikistan²³⁹. Due to this, for the small percentage that remains unregistered in these countries, there is a high risk of statelessness.

While all States in East Asia have high reported rates of birth registration of 100%,²⁴⁰ the central role played by household registration systems in evidencing citizenship places children of irregular migrants at risk of statelessness.²⁴¹

Requirement of birth registration for citizenship acquisition

Birth registration can help to prevent statelessness as it provides a legal record of a child’s birthplace, parentage, and other key elements which determine citizenship. At the same time, a birth

certificate obtained from birth registration does not necessarily certify citizenship in all countries. Therefore, it is important to note the link between a birth certificate and citizenship certification in countries across the region to determine the risk of statelessness that may occur from incomplete national birth registration.

A birth certificate has been identified as a citizenship certifying document in 25 of the 45 States, including Australia²⁴², Bangladesh²⁴³, Bhutan²⁴⁴, Cambodia²⁴⁵, Fiji²⁴⁶, India²⁴⁷, Indonesia²⁴⁸, Japan²⁴⁹, Kiribati²⁵⁰, Kyrgyzstan²⁵¹, Malaysia²⁵², the Maldives²⁵³, Mongolia²⁵⁴, Myanmar²⁵⁵, Nauru²⁵⁶, New Zealand²⁵⁷, Pakistan²⁵⁸, the Philippines²⁵⁹, Singapore²⁶⁰, Thailand²⁶¹, Timor-Leste²⁶², Tonga²⁶³, Turkmenistan²⁶⁴, Uzbekistan²⁶⁵, and Viet Nam²⁶⁶. In Turkmenistan²⁶⁷ and Uzbekistan²⁶⁸. A birth certificate certifies citizenship before a passport is issued (and up until a child reaches the age of 16 in Turkmenistan).

Birth registration in China, Hong Kong, and Taiwan is not a required document for acquisition of nationality; however, children would not be able to enjoy full citizenship rights without birth registration as it is a part of the countries’ respective household registration system which determines nationality rights.

While a birth certificate is not explicitly listed as a document that proves citizenship in the Maldives, it is directly linked to citizenship acquisition as a child’s unique Maldivian identity number is issued upon birth registration.²⁶⁹ Birth registration in China, Hong Kong, and Taiwan is not a required document for acquisition of nationality; however, children would not be able to enjoy full citizenship rights without birth registration as it is a part of the countries’ respective household registration system which determines nationality rights.²⁷⁰ While Tajikistan’s citizenship legislation does not specifically state which documents are required to certify citizenship, a birth certificate is required in order to obtain identity documents, including a passport.²⁷¹

TABLE 4

Birth registration rates across the Asia Pacific

Country	Year Reported	Birth Registration Rate (%)
Afghanistan	2015	42% ²⁷²
Australia	2020	100% ^{273**}
Bangladesh	2022	58% ²⁷⁴
Bhutan	2022	88% ²⁷⁵
Brunei Darussalam	2020	100% ²⁷⁶
Cambodia	2022	92% ²⁷⁷
Democratic People's Republic of Korea	*	*
Federated States of Micronesia	2015	70% ²⁷⁸
Fiji	2021	86% ²⁷⁹
Hong Kong SAR	2022	90-99% ²⁸⁰
India	2021	89% ²⁸¹
Indonesia	2022	81% ²⁸²
Japan	2022	100% ²⁸³
Kazakhstan	2020	90-99% ²⁸⁴
Kiribati	2019	92% ²⁸⁵
Kyrgyzstan	2018	98.9% ²⁸⁶
Lao People's Democratic Republic	2017	73% ²⁸⁷
Malaysia	2018	90-99% ²⁸⁸
Maldives	2017	99% ²⁸⁹
Marshall Islands	2017	84% ²⁹⁰
Mongolia	2021	100% ²⁹¹
Myanmar	2016	81% ²⁹²
Nauru	2013	96% ²⁹³
Nepal	2019	77% ²⁹⁴
New Zealand	2021	100% ²⁹⁵
Pakistan	2018	42% ²⁹⁶
Palau	2014	100% ²⁹⁷
Papua New Guinea	2018	13% ²⁹⁸
People's Republic of China	*	*
Philippines	2017	92% ²⁹⁹
Republic of China		
Republic of Korea	2022	100% ³⁰⁰
Samoa	2020	67% ³⁰¹
Singapore	2021	100% ³⁰²
Solomon Islands	2007	80% ³⁰³
Sri Lanka	2009	≥90% ³⁰⁴
Tajikistan	2017	95.8% ³⁰⁵
Thailand	2019	100% ³⁰⁶
Timor-Leste	2016	60% ³⁰⁷
Tonga	2019	98% ³⁰⁸
Turkmenistan	2019	99.9% ³⁰⁹
Tuvalu	2020	87% ³¹⁰
Uzbekistan	2022	100% ³¹¹
Vanuatu	2013	43% ³¹²
Viet Nam	2021	98% ³¹³

* No reported rates available.

**Aboriginal and Torres Strait Islander peoples' birth registration rate was reported at only 77.2% in the same year.³¹⁴

A citizenship certificate certifies citizenship in 5 States, including Nepal³¹⁵, Papua New Guinea³¹⁶, Samoa³¹⁷, Solomon Islands³¹⁸, and Sri Lanka³¹⁹. In Afghanistan, the Tazkera, the principal Afghan identity document, proves Afghan citizenship.³²⁰ Similarly, a National ID is the main citizenship certifying document in Kazakhstan; however, to obtain a National ID, one must at least submit their birth certificate and ID of one of their parents.³²¹

In 9 States of the region (Brunei, Laos, Marshall Islands, Micronesia, North Korea, Palau, South Korea, Tuvalu, and Vanuatu), there is insufficient data to determine the link between birth registration and citizenship and no explicit mention of citizenship certifying documents in the States' citizenship legislation. However, in Vanuatu, lack of birth registration or a birth certificate can mean that a person does not have the documentation they need to determine their citizenship eligibility.³²²

Statelessness and climate change

As a region, the Pacific faces some of the greatest risks and has seen the greatest attention regarding the threat of climate-induced statelessness. Kiribati, the Marshall Islands and Tuvalu as low-lying States are expected to be impacted to the greatest extent from climate-induced sea-level rise.³²³ The risk of statelessness from 'disappearing States' currently remains a hypothetical question, with most experts agreeing that this scenario will not inevitably lead to statelessness.³²⁴ Before any States 'disappear', the impacts of relocation and an individual's nationality status will need to be faced.³²⁵ It is this displacement across borders rather than the 'disappearance' of islands that poses the greatest risk of statelessness in the future. Less attention has been paid to the potential impacts of climate change on other regions in the Asia-Pacific.³²⁶



Sub-Regional Overview: Central Asia

Countries Covered: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

Laws

Citizenship Law

Jus sanguinis and *jus soli* provisions

While there are many strong legal safeguards in national legislation across Central Asia, not all legislations align with the Statelessness Conventions' guidelines to eliminate the risk of statelessness. The citizenship legislation of all countries in Central Asia operate through a mixed *jus sanguinis* and *jus soli* structure.³²⁷ In Kyrgyzstan children born to one citizen parent will be a citizen regardless of birthplace.³²⁸ In Uzbekistan, to confer citizenship to a child born to one citizen parent and one foreign citizen parent - regardless of birthplace - the Uzbek citizen parent must request citizenship for their child.³²⁹ While Kazakhstan, Tajikistan and Turkmenistan also only require one citizen parent to confer citizenship there is differential treatment between children born within or outside of the country. Children born outside of Kazakhstan, Tajikistan, and Turkmenistan must have at least one parent with permanent residence to be a citizen.³³⁰ In all countries of Central Asia, a child born to two citizen parents will be a citizen regardless of birthplace.³³¹

*The citizenship legislation of all countries in Central Asia operate through a mixed *jus sanguinis* and *jus soli* structure.*

In Kyrgyzstan, as a result of 2023 amendments to citizenship laws, *jus soli* provisions provide automatic citizenship for children born to a stateless parent or parents.³³² In Turkmenistan, children born to two stateless parents will only be a citizen if one parent has been habitually residing in the country.³³³ For children born to stateless parents in both Kazakhstan and Tajikistan, to access citizenship both parents must have permanent residence.³³⁴ There are no extra conditions placed on children born to two

stateless persons in Uzbekistan, resulting in automatic citizenship at birth for these children.³³⁵ However, children born to one stateless parent and one foreign parent will not be a citizen in Uzbekistan.³³⁶ In Kazakhstan and Turkmenistan, a child born to one stateless parent and one citizen parent will be a citizen regardless of birthplace.³³⁷ Further, children born to two foreign citizens in Kyrgyzstan and Turkmenistan will be a citizen if not guaranteed citizenship elsewhere.³³⁸

The definitions of a stateless person in the national citizenship legislation of Kazakhstan, Turkmenistan, and Uzbekistan do not align with the definition provided by the 1954 Convention, which determines status of a potential stateless person by referring to national legislation on citizenship of the country the person has or had ties with.³³⁹ All but Tajikistan and Kyrgyzstan define stateless persons in such a way that places the

burden of proof on the stateless person to prove their lack of nationality. Tajikistan's *Constitution* defines a stateless person as “a person who is not considered a citizen of any state in accordance with its legislation,” which is in line with the definition included in the 1954 Convention relating to the Status of Stateless Persons.³⁴⁰ Kyrgyzstan's 2023 amendments to citizenship laws changed its definition to remove the burden of proof and bring the definition in line with the 1954 Convention.³⁴¹

Naturalized citizenship

For all countries in Central Asia, permanent residence in the country is required for five years prior to submitting an application for naturalization.³⁴² There is a simplified or expedited

Uzbekistan only allows this simplified process for stateless persons who are direct descendents of an Uzbek citizen

process of naturalization available for stateless persons in Kyrgyzstan, Tajikistan and Uzbekistan; however, Uzbekistan only allows this simplified process for stateless persons who are direct descendents of an Uzbek citizen.³⁶⁷ In Tajikistan, stateless persons may apply for naturalization at half the required period of permanent residence (two and a half years).³⁶⁸ In Kyrgyzstan, an expedited and simplified naturalization process is accessible for stateless persons and refugees.³⁶⁹ There is no simplified or expedited procedure available to stateless persons in Kazakhstan or Turkmenistan. For stateless persons in both Kazakhstan and Kyrgyzstan, the documentation required to apply for naturalization may be a barrier.³⁷⁰

In Tajikistan, stateless persons may apply for naturalization at half the required period of permanent residence (two and a half years)

In Kazakhstan, stateless persons must provide documentary proof of absence or termination of citizenship of another State in order to gain permanent residence status (a prerequisite for naturalization) and many forms of such documentation are not accepted by the Republic.³⁷¹ Kyrgyzstan also requires extensive documentation to prove stateless status and attain permanent residence status before applying for naturalization.³⁷²

Article 32 of the 1954 Convention relating to the Status of Stateless Persons stipulates that such a process should be expedited for stateless persons to “reduce as far as possible the charges and costs of such proceedings”.³⁷³ UNHCR recommends that in order to expedite the process and align with the 1954 Convention, the requirement of permanent residence should be removed from the process of naturalization for stateless persons.³⁷⁴

Kyrgyzstan, the naturalization process is expedited and a simplified process is accessible for stateless persons and refugees

In Kazakhstan, stateless persons must provide documentary proof of absence or termination of citizenship of another state in order to gain permanent residence status (a prerequisite for naturalization) and many forms of such documentation are not accepted by the Republic

Dual citizenship

Dual citizenship is generally not permitted in any country of Central Asia.³⁷⁵ In Tajikistan, a person applying for citizenship must first renounce their prior citizenship, leaving people in this process at risk of statelessness.³⁷⁶ There are no provisions stipulating the process of renunciation in the citizenship legislation of Kazakhstan or Turkmenistan. Uzbekistan and Kyrgyzstan provide some safeguards against statelessness in the process of renunciation of prior citizenship in order to gain new citizenship.³⁷⁷ However, in Uzbekistan these safeguards are only for descendents of an Uzbek citizen, who will receive a letter of guarantee of citizenship for one year during which they must renounce prior citizenship.³⁷⁸ This ensures that they do not become stateless in between the process of renunciation and acceptance of citizenship to Uzbekistan. These same protections are not applied for foreign citizens in Uzbekistan.³⁷⁹ Article 7(1)(a) of the 1961 Convention on the Reduction of Statelessness states that State parties which allow renunciation of citizenship must ensure that “such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality”.³⁸⁰

Uzbekistan and Kyrgyzstan provide some safeguards against statelessness in the process of renunciation of prior citizenship in order to gain new citizenship. In Uzbekistan these safeguards are only for descendents of an Uzbek citizen, who will receive a letter of guarantee of citizenship for one year during which they must renounce prior citizenship. These same protections are not applied for foreign citizens in Uzbekistan.

TABLE 5

Conditions to acquiring citizenship by children in the Central Asian Countries

Conditions	Kazakhstan	Kyrgyzstan	Tajikistan	Uzbekistan	Turkmenistan
Child born in the territory to one citizen parent & one stateless parent	✔ ³⁴³	✔ ³⁴⁴ also applies to children born in this scenario outside the country	✔ ³⁴⁵	✔ ³⁴⁶	✔ ³⁴⁷
Children born to stateless parent(s)	parents must have permanent residence ³⁴⁸	✔ ³⁴⁹	parents must have permanent residence ³⁵⁰	✔ ³⁵¹	one parent must be habitually resident ³⁵²
Children born in the territory to two foreign citizen parents (where they would otherwise be stateless)	✘ ³⁵³	✔ ³⁵⁴	⚠	✔ ³⁵⁵	✔ if not granted citizenship elsewhere ³⁵⁶
Children born to one stateless parent, one foreign parent	⚠	✔ ³⁵⁷	✔ only if born in the territory ³⁵⁸	✘ ³⁵⁹	✔ only if born in the territory ³⁶⁰
Foundlings	✔ ³⁶¹	✔ ³⁶²	✔ but may have to go through application process ³⁶³	✔ ³⁶⁴	✔ ³⁶⁵
Children who would otherwise be stateless	⚠	⚠	⚠	⚠	✔ ³⁶⁶

✔ Existing provision which provides automatic citizenship to children in this case

✘ Existing provision which stipulates that children in this case will not gain citizenship

⚠ No existing provisions applying to children in this case (may be at risk?)

TABLE 6

Status of Accession of International Human Rights Treaties in Central Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Kazakhstan	–	–	✓	✓	✓	✓	✓	✓
Kyrgyzstan	–	–	✓	✓	✓	✓	✓	✓
Tajikistan	–	–	✓	✓	✓	✓	✓	✓
Turkmenistan	✓	✓	✓	✓	✓	✓	✓	✓
Uzbekistan	–	–	–	✓	✓	✓	✓	✓
Total	1	1	4	5	5	5	5	5

✓ Signifies that the country is a party to the convention
 – Signifies that the country is not a party to the convention
 Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

Treaty ratification status

All countries in Central Asia have ratified the ICCPR, ICESCR, ICERD, CRC, and CEDAW. Uzbekistan is the only country in Central Asia that has yet to ratify the 1951 Refugee Convention and its 1967 Protocol. Turkmenistan has the highest ratification rate in the sub-region and is the only country in the sub-region to ratify both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Despite the fact that Uzbekistan and Kyrgyzstan have not yet ratified the Conventions on statelessness, much of their legislation already aligns with the Conventions, including the right to citizenship protected in the citizenship laws of both countries.³⁸¹ Two States in Central Asia, Kyrgyzstan and Tajikistan, are parties to the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases (‘Minsk Convention’), which includes provisions binding State parties to ensure the right to a nationality, the right to change nationality, and freedom from arbitrary deprivation of nationality.³⁸² However, only four States globally have ratified this Convention thus far.

Population

With the dissolution of the USSR, 280 million people became stateless, 60 million of whom resided in territories that are now recognized as

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.³⁸³ While many people have since been able to resolve their status, some are still left stateless due to gaps in legislation of the new successor States.³⁸⁴ New cases of statelessness have also arisen due to legislation gaps.³⁸⁵ In the UNHCR Global Action Plan to End Statelessness, the requirement for cooperation in the Central Asia sub-region as well as among all States affected by state succession was expressed.³⁸⁶

Reported stateless persons

Combined, Central Asian countries reported just over 46,000 stateless persons to UNHCR in 2022.³⁸⁷ Since the beginning of 2019, the stateless population in this sub-regional has incrementally declined with a total reduction of 51,431 persons. Much of this reduction in population is due to a notable decrease in the stateless population of Uzbekistan. Kazakhstan and Tajikistan have seen general upward trends in reported stateless persons, while the reported stateless populations in Kyrgyzstan and Turkmenistan have fluctuated since 2019.

Notably, Kyrgyzstan was the first country to successfully resolve all known cases of statelessness in the country in July 2019.³⁸⁸ Since this time the country has identified new cases, reporting 203 stateless persons to UNHCR at the end of 2022.³⁸⁹

TABLE 7

Reported Stateless Population in Central Asia

Country	2019 (year start) ³⁹⁰	2020 (year end) ³⁹¹	2021 (year end) ³⁹²	2022 (year end) ³⁹³
Kazakhstan	7,690	7,999	7,831	8,569
Kyrgyzstan	548 (0 at year end)	18	600	203
Tajikistan	4,616	6,385	6,110	5,391
Turkmenistan	4,714	3,924	4,280	4,527
Uzbekistan	79,942	69,791	37,993	27,389
TOTALS	97,510	88,117	56,814	46,079

Source: UNHCR, Global Trends: Forced Displacement from 2019-2022.

Persons at risk of statelessness

Across Central Asia, the Lyuli/Mugat (also referred to as Luli/Roma and Lyuli/Mughat; recognized in Tajikistan as Roma/Jughi; although the preferred term is Mugat/Mughat) ethnic group experiences low access to social services due to widespread discrimination.³⁹⁴ Historically, the Mugat community lived a nomadic lifestyle and never acquired documentation such as birth certificates.³⁹⁵ While the community is no longer nomadic, the Mugat are at a much higher risk of statelessness as a result of remaining lack of documentation and discrimination.³⁹⁶ The community tends to be “confined to a low level education, informal employment, temporary housing and unaffordable medical services” and many face barriers in obtaining identity documents.³⁹⁷ Members of the Mugat community represent minorities in Kyrgyzstan, Tajikistan, and Uzbekistan in particular, with limited information about the ethnic group in Kazakhstan and Turkmenistan. An estimated 69,851 members of the Mugat community reside in Uzbekistan.³⁹⁸

Across Central Asia, the Lyuli/Mugat (also referred to as Luli/Roma and Lyuli/Mughat; recognized in Tajikistan as Roma/Jughi; although the preferred term is Mugat/Mughat) ethnic group experiences low access to social services due to widespread discrimination

The community tends to be “confined to a low level education, informal employment, temporary housing and unaffordable medical services” and many face barriers in obtaining identity documents

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

In Kazakhstan, Tajikistan and Turkmenistan, additional conditions that require parents of stateless children to be permanent residents creates gaps in protection against statelessness.³⁹⁹ The requirement of written consent or joint application in cases where one parent has a foreign nationality fails to prevent statelessness in the event of disagreement or inaction from parents in Kazakhstan and Uzbekistan.⁴⁰⁰

The requirement of written consent or joint application in cases where one parent has a foreign nationality fails to prevent statelessness in the event of disagreement or inaction from parents in Kazakhstan and Uzbekistan.

All but Tajikistan and Kyrgyzstan define stateless persons in such a way that places the burden of proof on the stateless person to prove their lack of nationality.

Pledges

Kazakhstan made two pledges at the 2023 Global Refugee Forum to “establish relevant legislative safeguards to reduce statelessness in Kazakhstan within 2024-2025” and “reducing the number of stateless persons through naturalization in 2024”.⁴⁰¹

At the High-Level Segment on Statelessness in October 2019, all countries in Central Asia other than Uzbekistan made pledges related to the reduction of statelessness.⁴⁰² At the event, Kazakhstan pledged to improve birth registration access by amending national legislation.⁴⁰³ Kyrgyzstan made pledges to regulate the statelessness determination process, ensure all children have a birth certificate and align birth registration legislation with international standards, and “study the experience of other State parties to the 1954 and 1961 Conventions on Statelessness”.⁴⁰⁴ Tajikistan also pledged to consider legalization of persons illegally residing in Tajikistan, ensure universal birth registration by reforming the Civil Registration System, improve statistics on statelessness by identifying persons at risk of statelessness, stateless persons

and persons with undetermined nationality, and consider ratifying the statelessness conventions.⁴⁰⁵ Further, Turkmenistan pledged to implement a widespread registration campaign and improve statistics, resolve all cases on statelessness, and redefine the definition of the status of stateless persons, and end the risk of statelessness for children of undocumented parents.⁴⁰⁶

UNHCR commended Kyrgyzstan for its 2023 amendments to citizenship legislation which show action towards fulfilling the pledges made by the country in 2019.⁴⁰⁷ Further, new legislation passed in 2021 brought birth registration legislation in line with international standards.⁴⁰⁸ Outside of Kyrgyzstan, almost none of the 2019 pledges have been fulfilled. A new Amnesty Law and reform in the Civil Registration system has been implemented in Tajikistan⁴⁰⁹ and some improvements in birth registration have occurred in Turkmenistan.⁴¹⁰ Turkmenistan also made a pledge to resolve all existing cases of statelessness by 2024. However, with a high number of stateless persons reported to UNHCR in 2022, fulfilling this pledge seems unlikely.⁴¹¹

Foundling children in Kazakhstan, Kyrgyzstan, and Turkmenistan will be citizens at birth.⁴¹² Uzbekistan will grant citizenship to foundling children only if their parents are ‘unknown’⁴¹³, while in Tajikistan, foundlings are guaranteed citizenship but may have to go through an application process in order to acquire it.⁴¹⁴

Citizenship stripping

In Kazakhstan and Kyrgyzstan, citizenship may be stripped on the grounds of being involved in terrorist crime.⁴¹⁵ While individuals in Kazakhstan are able to file appeals to reinstate their citizenship,⁴¹⁶ there are currently no laws in Kazakhstan preventing those who are stripped of their citizenship from becoming stateless.⁴¹⁷

There is a six month window where an individual stripped of citizenship in Kyrgyzstan can appeal the decision.⁴¹⁸ Citizens of Uzbekistan may have their citizenship stripped for failing to register with the permanent consulate register within seven years without valid reasons while living abroad.⁴¹⁹ The right to appeal is guaranteed in Uzbekistan.⁴²⁰ Turkmenistan’s citizenship law

In Kazakhstan and Kyrgyzstan, citizenship may be stripped on the grounds of being involved in terrorist crime

Citizens of Uzbekistan may have their citizenship stripped for failing to register with the permanent consulate register within seven years without valid reasons while living abroad

protects citizens from being deprived of their citizenship in any circumstances.⁴²¹

Administrative barriers

While birth registration rates are high in Central Asia, Uzbekistan is the only country in the sub-region to achieve a 100% birth registration rate.⁴²² The remaining countries in Central Asia are not far behind with birth registration rates in the high 90th percentile (Kazakhstan: 99.7%⁴²³; Kyrgyzstan: 98.9%⁴²⁴; Tajikistan: 94%⁴²⁵; Turkmenistan: 99.6%⁴²⁶). Birth registration is a prerequisite for citizenship in Kazakhstan⁴²⁷ and Kyrgyzstan⁴²⁸ and is required to obtain identity documents in Tajikistan⁴²⁹. Due to gaps in legislation and implementation in Kazakhstan, birth registration for children born to undocumented parents at times has resulted in non-compliant documents being issued and left children at risk of statelessness.⁴³⁰ In Kyrgyzstan, a new law came into force in June 2023 ensuring all children are registered at birth regardless of the legal status of their parents and providing birth registration access for children who have already been born to stateless or undocumented parents.⁴³¹

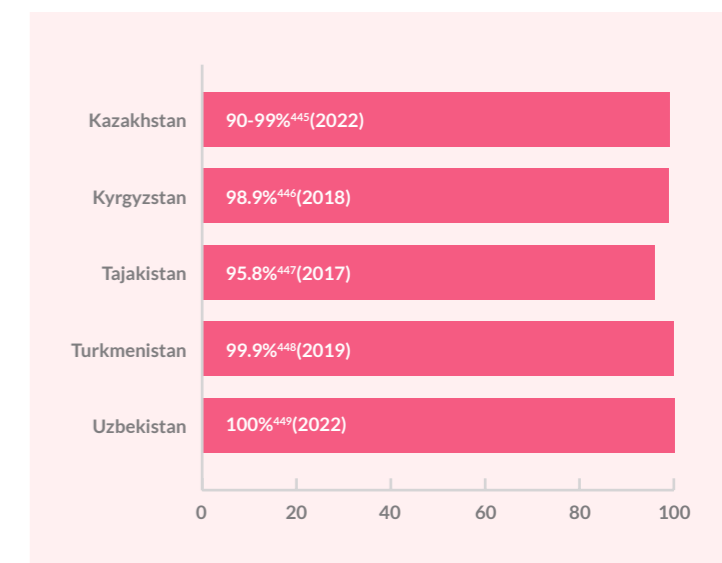
Parents who lack identity documents may have difficulty registering their child’s birth in practice in Tajikistan.⁴³² However, Tajikistan has made significant improvements in birth registration with its new electronic system launched and amendments to the *Civil Registration Law* in 2019.⁴³³ The changes waive the requisite fee when a birth is registered in the first 3 months, making it more accessible for rural and poor women and families.⁴³⁴ Turkmenistan also enacted a new law which ensures universal birth registration, which aims to prevent childhood statelessness.⁴³⁵ Prior to this law, children born to undocumented parents, stateless parents, or parents with undetermined nationality had low access to birth registration due to lack of documentation.⁴³⁶

Requirement of birth registration for citizenship acquisition

Passports as well as birth certificates certify citizenship in Kyrgyzstan⁴³⁷, Turkmenistan⁴³⁸, and Uzbekistan⁴³⁹. In Turkmenistan⁴⁴⁰ and Uzbekistan⁴⁴¹, a birth certificate certifies citizenship before a passport is issued (and up until a child reaches the age of 16 in Turkmenistan). While Tajikistan’s citizenship legislation does not specifically state which documents are required to certify citizenship, a birth certificate is required in order to obtain identity documents, including a passport.⁴⁴² Tajikistan’s *Constitutional Law* only provides that the “document confirming nationality of the Republic of Tajikistan is an official document that indicates nationality of a person.”⁴⁴³ A National ID is the main citizenship certifying document in Kazakhstan; however, to obtain a National ID, one must at least submit their birth certificate and ID of one of their parents.⁴⁴⁴

FIGURE 1

Birth registration rates of countries in Central Asia



Source: Birth and Death Registration Completeness” (UN Statistics Division, April 2023); Data Warehouse,” UNICEF DATA, https://data.unicef.org/resources/data_explorer/unicef_f/

Sub-Regional Overview: East Asia

Countries Covered: People's Republic of China (China), Hong Kong SAR, Japan, Mongolia, Democratic People's Republic of Korea (North Korea), Republic of China (Taiwan), Republic of Korea (South Korea)

Laws

Citizenship Law

Jus sanguinis and/or *jus soli* provisions

All the nationality laws in East Asia operate through a *jus sanguinis* structure, with Taiwan, North Korea, and South Korea additionally utilizing a limited *jus soli* structure.⁴⁵⁰ In three States (Japan, South Korea, and Taiwan⁴⁵¹) children born to a national parent or parents will be considered a citizen with no distinction made between children born within or outside of the country.⁴⁵² The citizenship laws of three States (China and Hong Kong, Mongolia and North Korea) provide some differential treatment between children born within or outside of the country.⁴⁵³ It is important to note that China's *Nationality Law* has applied to Hong Kong since 1997.⁴⁵⁴ In both Mongolia and North Korea, a child must be born to two citizen parents in order to be a citizen.⁴⁵⁵ Children will also become citizens in China and Hong Kong if born in the territory to one citizen parent⁴⁵⁶ or outside of the territory to one citizen parent as long as both parents have not settled abroad.⁴⁵⁷ For the acquisition of citizenship for children born to one citizen and one foreign citizen in Mongolia, a written agreement from the parents is required.⁴⁵⁸

All the nationality laws in East Asia operate through a jus sanguinis structure, with Taiwan, North Korea, and South Korea additionally utilizing a limited jus soli structure.

The extra condition of citizenship by acknowledgement is present in the citizenship laws of Japan and South Korea.⁴⁵⁹ Children born to one South Korean citizen and one foreign citizen may gain citizenship by acknowledgement by the citizen parent.⁴⁶⁰ While Japan does not require Japanese women who

have had a child out of wedlock with a foreign man to acknowledge the birth of their child due to legislation automatically certifying their relationship, Japanese men who have had a child with a foreign women out of wedlock do have to make an acknowledgement of his relationship with the child in order for the child to gain citizenship by descent.⁴⁶¹

The application of the citizenship laws in East Asia is further complicated by household registration systems which simultaneously operate. The impact of these systems on the realization of citizenship is specifically notable in China, Japan, and Taiwan.⁴⁶² In China and Taiwan, nationals are afforded different rights based on whether they do or do not hold 'Household Registration'.⁴⁶³ Only those who hold a 'Household Registration' have access to complete residential and voting rights in Taiwan.⁴⁶⁴ This extra administrative layer complicates the task of mapping laws within these countries as citizenship laws form only a component of a larger web of laws and policies that impact an individual's ability to gain and prove their citizenship.

The application of the citizenship laws in East Asia is further complicated by household registration systems which simultaneously operate.

East Asia is the only sub-region in the Asia-Pacific without discriminatory provisions present in the citizenship laws of any State.

Naturalized citizenship

No country in East Asia, except Taiwan provides a simplified or expedited naturalization process for stateless persons. In the *Enforcement Rules of the Nationality Act* of Taiwan, a stateless person is defined as "a person who is not recognized

East Asia is the only sub-region in the Asia-Pacific without discriminatory provisions present in the citizenship laws of any State.

as the citizen of any country according to the laws of that country".⁴⁶⁵ This aligns with the 1954 Statelessness Convention, which defines a stateless person as someone "who is not considered as a national by any State under operation of its law", which notably does not place the burden of proof on the stateless person.⁴⁶⁶ Stateless persons are explicitly eligible to apply for naturalization in Mongolia, North Korea, and Taiwan and may be eligible in China if they meet the relevant requirements and in Japan if they meet the requirements for the separate naturalization process for aliens.⁴⁶⁷ Provisions for naturalization in China's *Nationality Law* also apply to Hong Kong, with foreign nationals or stateless persons able to apply for naturalization.⁴⁶⁸ Additionally, Hong Kong utilizes the concept of "right of abode", which only permanent residents enjoy, providing them with various rights, including the rights to land and stay in Hong Kong⁴⁶⁹, as well as the rights to stand for election in accordance with law⁴⁷⁰. Anyone found to be residing in Hong Kong without permanent residence may be deported from Hong Kong.⁴⁷¹ Non-chinese citizens are eligible if they have legally entered Hong Kong, ordinarily resided in Hong Kong for at least seven continuous years, and have "taken Hong Kong as their permanent place of residence" or are under 21 years of age and were born in Hong Kong to at least one permanent resident.⁴⁷²

No country in East Asia, except Taiwan provides a simplified or expedited naturalization process for stateless persons.

In South Korea's citizenship law, only 'foreigners' are mentioned to be eligible for naturalization.⁴⁷³ While North Korea states that stateless persons are eligible for naturalization, its legislation provides no details on the process of naturalization.⁴⁷⁴ Countries which have permanent residence requirements for naturalization, including Japan, Mongolia, and South Korea, all require five years residence prior to application for naturalization.⁴⁷⁵

In China, the requirement to show a copy of the applicant's passport in the application may act as a barrier to stateless persons who are unlikely to have passports.⁴⁷⁶ Article 32 of the 1954 Convention relating to the Status of Stateless Persons stipulates that naturalization should be expedited for stateless persons to "reduce as far as possible the charges and costs of such proceedings".⁴⁷⁷

In South Korea's citizenship law, only 'foreigners' are mentioned to be eligible for naturalization.

Dual citizenship

Dual citizenship is generally not recognized in any of the countries in East Asia.⁴⁷⁸ However, South Korea and Taiwan do allow for dual citizenship only in exceptional cases. Taiwan allows dual nationality only for foreign nationals who have made "special contributions to Taiwanese society" and are "high-level foreign professionals" in certain fields.⁴⁷⁹ In South Korea, children born to South Korean parents outside the territory of Korea, marriage migrants, naturalized foreigners of outstanding talent and those who previously held Korean citizenship are eligible to maintain dual citizenship.⁴⁸⁰ In Japan and Mongolia, foreign citizens applying for naturalization must first renounce their foreign citizenship, leaving them in an indefinite period of statelessness throughout

the application process.⁴⁸¹ In Mongolia, a lack of legal safeguards around renunciation of nationality,⁴⁸² and the bar on dual nationality⁴⁸³ has left many ethnic Kazakhs stateless.⁴⁸⁴ South Korea's legislation provides some protection against this in stipulating that foreign citizens must renounce prior citizenship within one year of receiving South Korean citizenship.⁴⁸⁵ Taiwan similarly requires that foreign citizens who are not eligible to keep dual citizenship provide a certificate of loss of previous nationality within one year of being approved for naturalization in Taiwan.⁴⁸⁶ If they fail to do so, their naturalized citizenship will be revoked.⁴⁸⁷ The renunciation process is not explained in China, Hong Kong, or North Korea. Article 7(1)(a) of the 1961 Convention on the Reduction of Statelessness states that State parties which allow renunciation of citizenship must ensure that "such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality".⁴⁸⁸

Treaty ratification status

South Korea and Hong Kong are the only States in the region party to either of the Stateless Conventions, having ratified the 1954 Convention relating to the Status of Stateless Persons.⁴⁸⁹

TABLE 8

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Democratic People's Republic of Korea	⊖	⊖	⊖	⊕	⊕	⊖	⊕	⊕
Hong Kong SAR	⊕	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Japan	⊖	⊖	⊕	⊕	⊕	⊕	⊕	⊕
Mongolia	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Republic of Korea	⊕	⊖	⊕	⊕	⊕	⊕	⊕	⊕
Total	2	0	3	6	7	6	7	7

⊕ Signifies that the country is a party to the convention
 ⊖ Signifies that the country is not a party to the convention
 Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

TABLE 9**Reported stateless population in East Asia**

Country	2019 (year start) ⁴⁹⁰	2020 (year end) ⁴⁹¹	2021 (year end) ⁴⁹²	2022 (year end) ⁴⁹³
Democratic People's Republic of Korea	-	-	-	-
Hong Kong SAR	-	-	-	-
Japan	709	707	707	508
Mongolia	17	-	17	17
People's Republic of China	-	-	-	-
Republic of China (Taiwan)	-	-	-	-
Republic of Korea	197	203	202	241
TOTALS	923	910	926	766

Source: UNHCR, Global Trends: Forced Displacement from 2019-2022

Three States, China, Japan and South Korea are all contracting States to the Refugee Convention and its 1967 Protocol.⁴⁹⁴ All countries in East Asia are party to ICESCR, CEDAW and CRC.⁴⁹⁵

Despite ratification of CEDAW, South Korea retains a reservation against Article 9 which provides for the equal right to acquire, change or retain nationality for women and the equal right to pass nationality onto their children.⁴⁹⁶ The ICCPR is ratified by all states except China while North Korea is the only country which has not ratified ICERD. In 1997, North Korea attempted to withdraw from the ICCPR; however, this act was rejected by the Secretary-General due to the Covenant's lack of withdrawal provision.⁴⁹⁷

Population

Reported stateless persons

Countries in East Asia collectively reported a stateless population of 766 people to UNHCR in 2022, a decrease of 160 people from reported numbers in 2021.⁴⁹⁸ Before 2021, the reported population stayed generally the same since 2019.⁴⁹⁹ Mongolia has consistently reported 17 stateless persons to the UNHCR since 2019, excluding that the country did not report any

stateless persons in 2020.⁵⁰⁰ Three of the seven countries in the region reported small populations – Japan (508), Mongolia (17) and South Korea (241) – while China and Hong Kong reported zero persons and North Korea and Taiwan were not included in the report.⁵⁰¹ While Hong Kong, like China, has not reported a stateless population to UNHCR for the past five years, the region did report one stateless person in 2015.⁵⁰² Despite the low figures reported by South Korea to UNHCR, a recent mapping report found that as many 10,032 stateless persons could be residing within South Korea.⁵⁰³ UNHCR has specifically noted China as a country in which they have information regarding stateless people but no reliable data.⁵⁰⁴ There is also a lack of reliable data in Mongolia and South Korea.⁵⁰⁵ While no UNHCR estimates exist for Taiwan, sources state that there could be as many as 10,000 stateless children in the country.⁵⁰⁶

Persons at risk of statelessness

With official birth registration statistics for Taiwan unknown, all States in East Asia have high reported rates of birth registration between

Countries in East Asia collectively reported a stateless population of 766 people to UNHCR in 2022, a decrease of 160 people from reported numbers in 2021.

90-100%.⁵⁰⁷ However, the impact of household registration systems prevalent in East Asia and administrative policies complicates the picture, especially for children of irregular migrants. China, South Korea and to a lesser extent Japan have notable issues of children of irregular migrants and trafficked persons being unable or unwilling to access birth registration. For example, there may be as many as 30,000 children born in China to North Korean mothers who had been trafficked into China,⁵⁰⁸ and 20,000 children of irregular migrants in South Korea who remain unregistered and at risk of statelessness.⁵⁰⁹ Further, due to systemic discrimination, particularly the denial of the right to a passport⁵¹⁰ and freedom of movement, Uyghurs, Kazakhs, Uzbeks, and other ethnic Muslim minorities in China are also at risk of statelessness.⁵¹¹ As Taiwan hosts a large population of undocumented migrant workers, children born to migrant workers in Taiwan may be stateless as a result of lack of documentation.⁵¹² In Japan, Zainichi Koreans⁵¹³ and children of Indochinese refugees from Thailand⁵¹⁴ are also at risk of statelessness.

Stateless Refugees

As a subregion, East Asia has a small refugee population compared to the other subregions of the Asia-Pacific. Japan reported 9 stateless refugees to the UNHCR in 2022.⁵¹⁵ A newspaper article in 2016 highlighted that there are growing numbers of stateless children born to refugees in Hong Kong.⁵¹⁶ Many such refugees lack identification documents, which further contributes to intergenerational statelessness.⁵¹⁷

Undetermined nationalities

While reported figures of stateless populations may be low in East Asia, thousands of individuals remain with undetermined nationalities. China's 2010 census showed that at least 13 million children lacked household registration (*hukou*)

preventing them from accessing the full rights of citizens.⁵¹⁸ In Japan's 2020 census the nationalities of 131,684 foreigners in Japan were categorized as "stateless and name of country not reported".⁵¹⁹ Japan is the only country in East Asia with English-language and publicly accessible census statistics that include a stateless/undetermined citizenship status of foreigners.⁵²⁰

The status of ethnic minority groups in both Japan and Mongolia remains uncertain. As many as 26,312 ethnic Koreans in Japan remain categorized as "citizens of the Korean Peninsula (Korea or Chōsen)"⁵²¹ and hold the status of "special permanent residents".⁵²² In Mongolia, thousands of ethnic Kazakhs have faced administrative barriers to reacquiring citizenship, which they lost in the early 1990s.⁵²³

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Protections exist in the nationality laws of all seven countries in East Asia which provide an automatic grant of citizenship to children born to stateless parents.⁵²⁴ In Mongolia, they can access Mongolian citizenship after reaching 16 years of age.⁵²⁵ Foundlings have the right to citizenship at birth in Japan, Mongolia, North Korea, South Korea, and Taiwan.⁵²⁶ No protection is provided for foundlings under the citizenship law of China or Hong Kong. Prior to the dissolution of China's one child policy the country had over 500,000 registered orphans,⁵²⁷ in 2021, this figure had reduced to 190,000.⁵²⁸ Further, there is a lack of safeguards in Mongolia for children born outside of the territory from becoming stateless

Protections exist in the nationality laws of all seven countries in East Asia which provide an automatic grant of citizenship to children born to stateless parents.

in the event that the parents fail to provide the required written agreement in order to gain citizenship. Article 1 of the 1961 Convention on the Reduction of Statelessness states that State parties “shall grant nationality to a person born in its territory who would otherwise be stateless” either “by birth, by operation of law, or upon and application”.⁵²⁹

Citizenship stripping

After World War II, there were massive amounts of people who were displaced across East Asia.⁵³⁰ After Japan was defeated at the end of the war, ethnic Koreans and Taiwanese residing in Japan went from being colonial subjects to foreigners.⁵³¹ As a result, approximately 52,000 ethnic Koreans were stripped of Japanese citizenship.⁵³² Ethnic Koreans in Japan were unable to return home to Korea due to division and political danger in Korea.⁵³³ Around 250,000 people who were in this scenario chose not to apply for South Korean citizenship and remained stateless as they were also unable to obtain Japanese citizenship.⁵³⁴ In 2021, more than 26,000 persons and their descendants have not had their citizenship status resolved.⁵³⁵

After Japan was defeated at the end of the war, ethnic Koreans and Taiwanese residing in Japan went from being colonial subjects to foreigners. As a result, approximately 52,000 ethnic Koreans were stripped of Japanese citizenship.

In both Taiwan and South Korea, foreign spouses whose marriage is determined to be a ‘sham’ or ‘fraudulent’ have been stripped of their citizenship and rendered stateless (as both States have required the renunciation of one’s former nationality prior to gaining the nationality of their spouse).⁵³⁶

In China, if a citizen is convicted of a criminal offense, they can lose Chinese citizenship and be

deported.⁵³⁷ Further, if in Taiwan it is found that the marriage of a foreign spouse and citizen is fraudulent, the government has the power to strip citizenship from foreign spouses, leaving them stateless.⁵³⁸

Administrative barriers

While protection may exist in the citizenship laws of most States, administrative barriers to accessing citizenship and the application of the citizenship laws in East Asia is fundamentally complicated by household registration systems which simultaneously operate. The central role played by household registration in verifying one’s citizenship and realizing the associated rights cannot be overstated. The impact of these

systems on the realization of citizenship is specifically notable in China, Japan and South Korea among children of migrants, ethnic minority groups and those of uncertain nationalities.⁵⁴³ In China, there are major barriers for children of undocumented parents to register their birth for this reason.⁵⁴⁴

Birth registration in China is low for adopted children, migrant children and girls, children who exceed the “sanctioned” family size, and those affected by the *hukou* system.⁵⁴⁵ Further, there is a need to ensure ethnic Kazakh childrens’ births are registered in Mongolia.⁵⁴⁶ Despite South Korea reporting a 100% birth registration rate⁵⁴⁷, there

Birth registration in China is low for adopted children, migrant children and girls, children who exceed the “sanctioned” family size, and those affected by the hukou system.

is limited to no access to birth registration for children born to foreign parents, undocumented parents, and stateless parents, placing these children at risk of statelessness.⁵⁴⁸

Requirement of birth registration for citizenship acquisition

In both Japan⁵⁴⁹ and Mongolia⁵⁵⁰, a birth certificate is evidence of citizenship. There was a lack of sufficient data to determine documents which prove citizenship in South Korea and North Korea. Birth registration in China, Hong Kong, and Taiwan is not a required document for acquisition of nationality; however, children would not be able to enjoy full citizenship rights without birth registration as it is a part of the respective household registration systems which determine nationality rights.⁵⁵¹

FIGURE 2
Birth registration rates of the countries in East Asia



* No reported rates available.
Source: “Birth and Death Registration Completeness” (UN Statistics Division, April 2023); Data Warehouse, UNICEF DATA, https://data.unicef.org/resources/data_explorer/unicef/



Braveheart Foundation

Sub-Regional Overview: The Pacific

Countries Covered: Australia, the Federated States of Micronesia (Micronesia), Fiji, Kiribati, the Marshall Islands, Nauru, New Zealand, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Laws

Citizenship Law

Jus sanguinis and/or *jus soli* provisions

It is important to note from the outset of this chapter that for most of human history within the Pacific, conceptions of borders, nationhood and States were much less defined and travel between islands was commonplace and largely free. As the Tongan scholar Epeli Hau'ofa wrote:

*The world of our ancestors was a large sea full of places to explore, to make their homes in, to breed generations of seafarers like themselves. ... Theirs was a large world in which peoples and cultures moved and mingled unhindered by boundaries of the kind erected much later by imperial powers. From one island to another they sailed to trade and to marry, thereby expanding social networks for greater flow of wealth.*⁵⁵²

The structure and operation of citizenship laws across the Pacific today are varied and fundamentally shaped by colonial legacies.⁵⁵³ The citizenship laws of 10 States (the Federated States of Micronesia, Fiji, the Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Vanuatu) all operate through *jus sanguinis* provisions with children born either within or outside of the States automatically considered citizens if one of their parents is a citizen of the relevant State.⁵⁵⁴

There are similarities in the laws of Papua New Guinea, Solomon Islands and Vanuatu who all gained independence from colonial powers between 1975 and 1980 and drafted new constitutions containing citizenship provisions. Vanuatu, Nauru, and Solomon Islands amended their citizenship laws to remove gender

discriminatory provisions in 2014, 2017, and 2018 respectively.⁵⁵⁵ The citizenship laws of four States (Australia, Kiribati, New Zealand and Samoa) also operate broadly through *jus sanguinis* structures with some variance between citizens born in and outside of the territories.⁵⁵⁶

Vanuatu, Nauru, and Solomon Islands amended their citizenship laws to remove gender discriminatory provisions in 2014, 2017, and 2018 respectively.

The citizenship laws of four States (Fiji, Kiribati, the Marshall Islands and Tuvalu) operate through a combined *jus soli* and *jus sanguinis* structure.⁵⁵⁷ All children born in Fiji are considered citizens at birth unless one parent is a foreign diplomat and neither parent is a citizen of the relevant State.⁵⁵⁸ Children born in the Marshall Islands are automatically considered citizens if they are not entitled to any other citizenship.⁵⁵⁹ Children born to citizen parents within or outside of Fiji, the Marshall Islands and Tuvalu can also access citizenship through *jus sanguinis* provisions.⁵⁶⁰

The nationality laws of six States (Micronesia, Palau, Samoa, Solomon Islands, Tonga and Vanuatu) have no explicit protection for foundlings born on their territory. The citizenship laws of Australia, Fiji, and New Zealand provide citizenship to foundlings born on their territory.⁵⁶¹ Foundling children in both Australia and New Zealand are also automatically considered citizens.⁵⁶² Fiji also follows the presumption that a foundling shall be considered to have been born within the country and in turn able to access citizenship through the State's *jus soli* provisions.⁵⁶³ While Tuvalu includes a similar provisions providing citizenship access to foundlings through *jus soli* provisions⁵⁶⁴, the child must have a citizen parent in order to gain citizenship by birth.⁵⁶⁵

Three States (Kiribati, Marshall Islands and Papua New Guinea) also provide limited protections for foundlings. The limited *jus soli* provisions in the

The nationality laws of six States (Micronesia, Palau, Samoa, Solomon Islands, Tonga and Vanuatu) have no explicit protection for foundlings born on their territory.

laws of Kiribati and the Marshall Islands, do not explicitly provide that abandoned children are considered to be born in Kiribati or the Marshall Islands, leaving it unclear whether foundling children are able to access citizenship.⁵⁶⁶ The Constitution of Papua New Guinea provides foundlings automatic access to citizenship by descent by deeming them to be the child of a Papua New Guinean citizen.⁵⁶⁷

Five States (Australia, Kiribati, the Marshall Islands, Nauru, and New Zealand) provide citizenship to children born on their territories who would otherwise be stateless.⁵⁶⁸ There is limited protection provided under the laws of Samoa (at the minister's discretion) and Papua New Guinea to stateless persons born on the territory.⁵⁶⁹ There is no protection under the laws of the remaining six States (Micronesia, Palau, Solomon Islands, Tonga and Vanuatu).

Australia is the only country in the Pacific subregion to include a definition of statelessness in its citizenship legislation. However, Australia's definition does not align with the definition included in the 1954 Stateless Convention as children are required to prove that not only are they not a national or citizens of any other country but that they have never been and are not entitled to nationality or citizenship of another country.⁵⁷⁰ The 1954 Convention defines a stateless person as someone "who is not considered as a national by any State under operation of its law", which does not place the burden of proof on the stateless person.⁵⁷¹

Naturalized citizenship

Australia is the only country in the Pacific with a simplified process of naturalization available

to stateless persons born in the country.⁵⁷² The simplified process includes less requirements, making the process more accessible to stateless persons. In order to be eligible for the simplified process in Australia, the only requirement is that the stateless person is not and has never been entitled to citizenship of another country.⁵⁷³ In six States (Fiji, Kiribati, New Zealand, Solomon Islands, Palau, and Tonga), stateless persons are either unlikely to be eligible (in the case of New Zealand and Kiribati) or are entirely ineligible for the standard naturalization procedure.⁵⁷⁴ The Solomons Islands' citizenship application requires a birth certificate, passport, or driver's license and proof of sustainable income, property, investments or economic benefit to Solomon Islands, which may bar stateless persons from being able to apply.⁵⁷⁵ In Palau, only persons of Palauan ancestry are eligible for naturalization.⁵⁷⁶ Further, stateless persons are not included on the list of eligible persons in Fiji.⁵⁷⁷ In New Zealand, the requirement of being able to indefinitely reside in the country in order to apply for naturalization likely bars stateless persons from accessing naturalization.⁵⁷⁸ Due to the requirement of the applicant to submit their passport in the application process, stateless persons are also ineligible for naturalization in Tonga.⁵⁷⁹ In order to get a permanent residence visa in Kiribati (which is required for naturalization), one must be living in Kiribati for a period of seven years and cannot be "liable for deportation", which may be the case for stateless persons in the country.⁵⁸⁰

Australia is the only country in the Pacific with a simplified process of naturalization available to stateless persons born in the country.

Stateless persons may be eligible for the standard naturalization process in Micronesia, the Marshall Islands, Nauru, Papua New Guinea, Samoa, Tuvalu and Vanuatu. While the required length of residence for naturalization varies across States of the Pacific, Nauru notably has the longest

required residence period, requiring applicants to be continuously resident in the country for 20 years prior to application.⁵⁸¹

Dual citizenship

Dual citizenship is permitted in seven States of the Pacific, including Australia, Fiji, Nauru, New Zealand, Palau, Solomon Islands, and Vanuatu.⁵⁸² Three States, Kiribati, Marshall Islands and Tuvalu, prohibit dual citizenship.⁵⁸³ In Micronesia and Papua New Guinea, dual citizenship is generally not permitted, but may be accessed through application in Papua New Guinea.⁵⁸⁴ The provision for dual citizenship in Micronesia is only available to individuals having dual citizenship of the United States.⁵⁸⁵ There are no provisions stipulating dual citizenship in Samoa or Tonga. The requirement to renounce prior citizenship in order to apply for citizenship through naturalization may leave applicants in Kiribati, Marshall Islands, Solomon Islands and Micronesia stateless.⁵⁸⁶ In Micronesia and Marshall Islands, applicants must endure an indefinite period of statelessness throughout the application process as they must renounce prior citizenship before making the application.⁵⁸⁷ Applicants in Kiribati must renounce their prior citizenship before accruing the ten years of permanent residence required for naturalization, forcing them to remain stateless for ten years before applying.⁵⁸⁸ Similarly, in order for foreign women spouses of a Solomon Islands citizen to gain citizenship, they must renounce any prior citizenship and be a resident for two years before they can apply for naturalization with the consent of their husband.⁵⁸⁹ Tuvalu also requires applicants to renounce prior citizenship, however provisions exist to prevent statelessness in this case.⁵⁹⁰ Tuvalu's legislation includes a provision stating that if renouncing citizenship is "impracticable" or prohibited by the other State of citizenship, the applicant can make a declaration of intent to renounce the other State's citizenship upon gaining Tuvalu citizenship.⁵⁹¹

TABLE 10

Status of Accession of International Human Rights Treaties in the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Australia	✓	✓	✓	✓	✓	✓	✓	✓
Federated States of Micronesia	✗	✗	✗	✗	✗	✗	✓	✓
Fiji	✓	✗	✓	✓	✓	✓	✓	✓
Kiribati	✓	✓	✗	✗	✗	✗	✓	✓
Marshall Islands	✗	✗	✗	✓	✓	✓	✓	✓
Nauru	✗	✗	✓	✗	✗	✗	✓	✓
New Zealand	✗	✓	✓	✓	✓	✓	✓	✓
Palau	✗	✗	✗	✗	✗	✗	✓	✗
Papua New Guinea	✗	✗	✓	✓	✓	✓	✓	✓
Samoa	✗	✗	✓	✓	✗	✗	✓	✓
Solomon Islands	✗	✗	✓	✗	✓	✓	✓	✓
Tonga	✗	✗	✗	✗	✗	✓	✓	✗
Tuvalu	✗	✗	✓	✗	✗	✗	✓	✓
Vanuatu	✗	✗	✗	✓	✗	✗	✓	✓
Total	3	3	8	7	6	7	14	12

✓ Signifies that the country is a party to the convention
✗ Signifies that the country is not a party to the convention
 Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

Treaty ratification status

Treaty accession is highly varied across the Pacific. Australia, New Zealand and Fiji have perfect, or near perfect ratification rates. Comparatively Palau has the lowest rates of treaty accession to the relevant treaties of any State in the Asia-Pacific region. Tonga, Tuvalu, Vanuatu, Micronesia, Nauru and Samoa all have below average rates of treaty accession. No countries in the region have formalised statelessness determination procedures.

Population

Reported stateless persons

Only three States in the Pacific reported stateless populations to UNHCR in 2022, with a combined figure totalling 8,329 persons (Australia (8,314), Nauru (6), Papua New Guinea (9)).⁵⁹² Between

2021 and 2022, the stateless population in the Pacific increased by 491 persons⁵⁹³, a much smaller increase than the reported populations between 2020 and 2021, which increased by 2,468 persons.⁵⁹⁴ The increase between 2020 and 2021 resulted entirely from within Australia.⁵⁹⁵ Nauru saw a significant decrease in its reported stateless population, decreasing from 130 in 2021 to only 6 in 2022.⁵⁹⁶ Notably, no States in the Pacific reported a stateless population to UNHCR in 2019. The lack of a comprehensive statelessness identification procedure in Australia and Papua New Guinea contribute to a lack of data on the stateless population in these countries. While New Zealand reported 2,364 refugees and asylum seekers to UNHCR in 2022, it is possible that some of this population may also be stateless, as seen in the case of AL (Myanmar).⁵⁹⁷ However, due to the lack of mapping or statistics in New Zealand on statelessness, this remains uncertain.

TABLE 11

Reported stateless population in the Pacific

Country	2019 (year start) ⁵⁹⁸	2020 (year end) ⁵⁹⁹	2021 (year end) ⁶⁰⁰	2022 (year end) ⁶⁰¹
Australia	-	5,221	7,700	8,314
Federated States of Micronesia	-	-	-	-
Fiji	-	-	-	-
Kiribati	-	-	-	-
Marshall Islands	-	-	-	-
Nauru	-	-	130	6
New Zealand	-	-	-	-
Palau	-	-	-	-
Papua New Guinea	-	-	8	-
Samoa	-	-	-	-
Solomon Islands	-	-	-	-
Tonga	-	-	-	-
Tuvalu	-	-	-	-
Vanuatu	-	-	-	-
TOTALS	-	5,221	7,838	8,320

Source: UNHCR, Global Trends: Forced Displacement from 2019-2022

Pledges to End Statelessness

At the 2023 Global Refugee Forum, Australia made a pledge “to become members of the Global Alliance to End Statelessness (once established) to actively and collaboratively support the vision of a world free from statelessness so that everyone enjoys the right to nationality without discrimination”.⁶⁰²

Two States, Australia and Papua New Guinea, made pledges relating to statelessness at the Ministerial Intergovernmental Event on Refugees and Stateless Persons in 2011.⁶⁰³ Australia pledged to “better identify stateless persons and assess their claims” and “to minimis[e] the incidence of statelessness and to ensur[e] that stateless persons are treated no less favourably than people with an identified nationality”.⁶⁰⁴ Regarding the fulfillment of these pledges, Australia has yet to implement a statelessness determination procedure.⁶⁰⁵ Recently, at the 2023 Global Refugee Forum, Australia made a further

pledge “to become members of the Global Alliance to End Statelessness (once established) to actively and collaboratively support the vision of a world free from statelessness so that everyone enjoys the right to nationality without discrimination”.⁶⁰⁶

Papua New Guinea in 2011 pledged to amend its legislation to be able to remove the reservations made to the Refugee Convention and facilitate access to naturalization of “West Papuan and other refugees by either waiving all fees or introducing a nominal fee only for applications for citizenship by refugees”.⁶⁰⁷ While Papua New Guinea has made progressive strides by removing all reservations on the Refugee Convention regarding refugees sent from Australia, legislative improvement is required for persons in other contexts.⁶⁰⁸ Papua New Guinea has also been successful in reducing the fees required for citizenship applications⁶⁰⁹ and removed the fee entirely for West Papuan refugees.⁶¹⁰

Persons at risk of statelessness

Many Pacific Island States are at risk of “disappearing” or becoming uninhabitable due to climate-induced sea level rises. Extensive research has been undertaken into the impacts of climate change on statehood, citizenship and the risk of statelessness.⁶¹¹ While communities have internally (and in some instances, externally)⁶¹² relocated due to these impacts the fundamental questions regarding loss of nationality and statehood remain largely hypothetical. In Australia, Indigenous and Aboriginal communities are also at risk of statelessness due to marginalization, lack of access to social services, and a lower birth registration rate.⁶¹³

Undetermined nationalities

Kiribati and Vanuatu are the only States in the Pacific to have publicly available census data that captures persons of “undetermined” or “unknown” nationality, with the 2020 Censuses of each country reporting eight and 27 persons respectively.⁶¹⁴

As many as 10-15,000 West Papuan refugees have lived in Papua New Guinea since the last three decades, who due to absence from West Papua have lost their Indonesian citizenship and have been unable to access Papua New Guinean citizenship through naturalization, despite possessing the right to under the law of Papua New Guinea.⁶¹⁵

Stateless Refugees

All the reported stateless population in the Pacific are stateless refugees, asylum seekers or, in the case of Australia, persons in immigration detention. The populations of both Nauru and Papua New Guinea have consisted entirely of Rohingya refugees.⁶¹⁶ While many Pacific Island States are not large refugee-receiving countries

and have been frequently found reporting no or single figure refugee populations, New Zealand reported 2,364 refugees and asylum seekers to UNHCR in 2021.⁶¹⁷ It is possible that some of this refugee population is stateless,⁶¹⁸ however no mapping or statistics are available to confirm this.

Since 2013, Australia has begun utilizing ‘regional processing centres’ in Nauru and Papua New Guinea, to which Australia has forcibly transferred more than 4,000 refugees and asylum seekers that arrived in Australia by boat⁶¹⁹, a process which has been condemned by UN bodies, NGOs, and refugee advocates.⁶²⁰ The last refugee on Nauru as a part of this policy was evacuated in June of 2023.⁶²¹ At least 14 people died as a result of this offshore processing system, half of which were from suicide.⁶²²

While many Pacific Island States are not large refugee-receiving countries and have been frequently found reporting no or single figure refugee populations, New Zealand reported 2,364 refugees and asylum seekers to UNHCR in 2021.

Causes of Statelessness

Discriminatory nationality laws

Kiribati and Solomon Islands are the only two countries in the Pacific which contain gender discriminatory provisions in relation to citizenship acquisition, while Papua New Guinea’s legislation contains gender discriminatory provisions with regard to birth registration. In Kiribati, women do not have equal rights to confer citizenship to their children. Persons born in Kiribati of I-Kiribati descent are automatically entitled to citizenship. Those born in Kiribati and not of I-Kiribati descent are only automatically entitled to citizenship if they do not hold any other citizenship.⁶²³ Citizenship by descent is limited to children whose fathers are Kiribati citizens.⁶²⁴ Children born outside of Kiribati to mothers who are Kiribati citizens are not able

to acquire Kiribati citizenship. Unlike other Pacific Island States (such as Tonga), Kiribati has a small overseas population, with approximately 5,000 I-Kiribati’s living in New Zealand and Australia.⁶²⁵ There are no reliable statistics on the number of persons this provision has affected.

While Solomon Islands did amend some of the gender discriminatory provisions previously included in its legislation, discriminatory provisions remain for foreign women married to a citizen and women who have jointly adopted a child.⁶²⁶ Foreign women married to a citizen must renounce their citizenship to apply for citizenship and can only do so with the consent of their husband.⁶²⁷ The law is further discriminatory against women who have jointly adopted a child. They are denied equal right to confer nationality as the application for citizenship of the child can only be made by the father.⁶²⁸

Papua New Guinea also has gender discriminatory provisions in relation to birth registration, which stipulate that in the case of a child born to foreign parents in the country, only the father can act as a witness to the birth.⁶²⁹ This could result in children born to foreign parents unable to register their birth, potentially placing them at risk of statelessness.

Palau’s citizenship legislation contains ethnic discrimination as only ethnic Palauans are able to apply for naturalization.⁶³⁰ Another country which has discriminatory citizenship legislation is Tonga which stipulates that children born out of wedlock are registered at birth as ‘illegitimate’⁶³¹ and are, as a result, unable to inherit land or title and experience stigma and marginalization.⁶³²

Lack of legal safeguards against childhood statelessness

The nationality laws of seven States (Federated States of Micronesia, Nauru, Palau, Samoa,

Solomon Islands, Tonga and Vanuatu) have no explicit protection for foundlings born on their territory. The citizenship laws of four States (Australia, Fiji, New Zealand and Tuvalu) provide citizenship to foundlings born on their territory. Foundling children in both Australia and New Zealand are also automatically considered citizens.⁶³³ Tuvalu and Fiji provide presumption that a foundling shall be considered to have been born within the country and in turn able to access citizenship through each State’s *jus soli* provisions.⁶³⁴ Three States (Kiribati, Marshall Islands and Papua New Guinea) provide limited protections for foundlings. The limited *jus soli* provisions in the laws of Kiribati and the Marshall Islands while structurally similar to those of Fiji and Tuvalu, do not explicitly provide that abandoned children are considered to be born in Kiribati or the Marshall Islands, as such it is less clear how easily foundling children are able to access citizenship.⁶³⁵ The Constitution of Papua New Guinea provides foundlings automatic access to citizenship by descent by deeming them to be the child of a Papua New Guinean citizen.⁶³⁶

Seven States (Australia, Fiji, Kiribati, the Marshall Islands, Nauru, New Zealand and Tuvalu) provide citizenship to children born on their territories who would otherwise be stateless.⁶³⁷ There is limited protection provided under the laws of Samoa (at the minister discretion) and Papua New Guinea to stateless persons born on the territory.⁶³⁸ There is no protection under the laws of the remaining six States (Federated States of Micronesia, Palau, the Solomon Islands, Tonga and Vanuatu).

Citizenship stripping

Concerns have been expressed by UNHCR and independent NGOs regarding the potential statelessness of West Papuan refugees in Papua New Guinea, who due to absence from West Papua have lost their Indonesian citizenship and have been unable to access Papua New

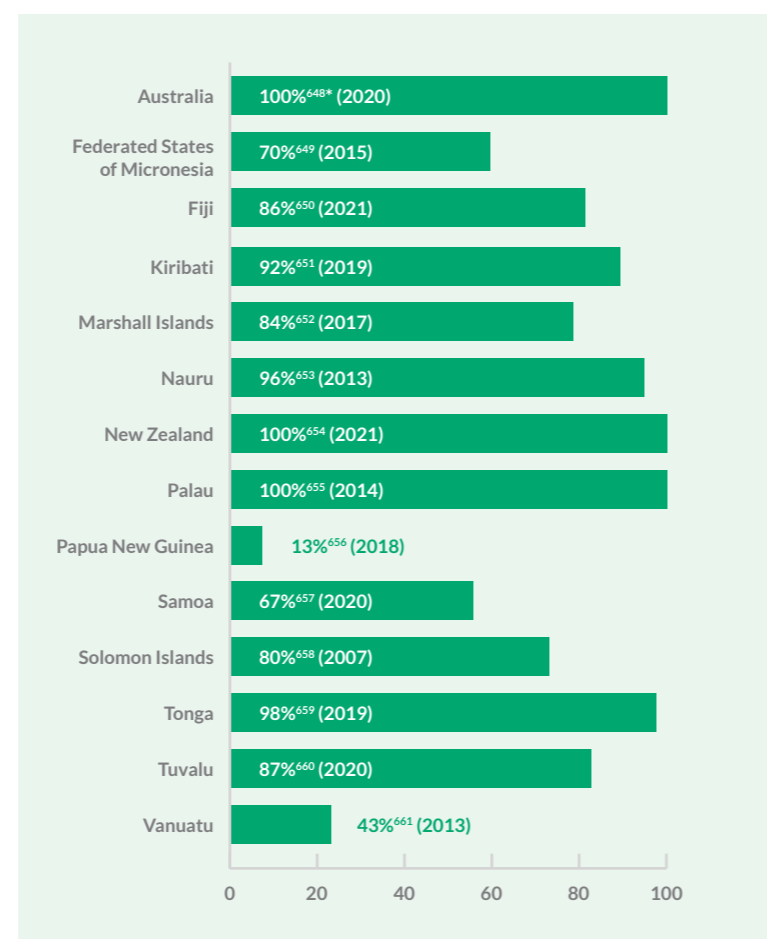
Guinean citizenship through naturalization.⁶³⁹ The Immigration and Citizenship Authority of the country has estimated that there are between 10-15,000 Indonesian Papuans living in the country.⁶⁴⁰ While there have been reports in recent years of some West Papuan refugees accessing citizenship, this does not appear to be universal.⁶⁴¹ In 2021, the US Department of State reported that no Indonesian Papuans had been granted citizenship that year.⁶⁴² In Kiribati, only a person of non-I-Kiribati descent can be stripped of Kiribati citizenship if they breach allegiance to Kiribati, obtain nationality of another country by voluntary act, or, if the Minister deems it necessary for “public good”, leaving stateless persons with no further protections.⁶⁴³ Such a provision is in violation of the 1961 Statelessness Convention as “public good” is not an acceptable reason to deprive a person of citizenship.⁶⁴⁴ Naturalised citizens of Tonga may be deprived of citizenship on very broad grounds (including defamation of the Royal family or any offence which involves dishonesty or fraud) leaving them vulnerable to statelessness.⁶⁴⁵

Administrative barriers

Administrative barriers to nationality appear to be less prevalent in the Pacific region compared to areas such as East Asia where household registration plays a vital evidentiary role for citizenship. This does not mean that administrative barriers are non-existent, for example in Papua New Guinea children of refugee fathers and Papua New Guinean mothers continue to face both legal and administrative barriers to gaining birth certificates and citizenship.⁶⁴⁶ Knowledge on the administrative barriers to citizenship is limited by our lack of country partners across the Pacific and nuisance and contextualised understandings of

the practical applications of laws and policies. The lengthy citizenship application process remains an administrative barrier in Australia, where refugees reported waiting on average 215 days for their application to be processed.⁶⁴⁷

FIGURE 3
Birth registration rates of the countries in the Pacific



* Aboriginal and Torres Strait Islander peoples' birth registration rate was reported at only 77.2% in the same year.⁶⁶²

Source: "Data Warehouse," UNICEF DATA; UN Statistics Division, 'Coverage of Birth and Death Registration' (February 2021)

In several Pacific Islands States, including Fiji⁶⁶³, Marshall Islands⁶⁶⁴, Micronesia⁶⁶⁵, Samoa⁶⁶⁶, Solomon Islands⁶⁶⁷, and Tuvalu⁶⁶⁸, birth registration access tends to be lower in rural areas. Due to stigmatization towards single mothers, children of unwed mothers in Kiribati⁶⁶⁹, Marshall Islands⁶⁷⁰, Samoa⁶⁷¹, Solomon Islands⁶⁷², and Tonga⁶⁷³ tend to either remain unregistered or be registered with inaccurate information regarding the parents. The need for a centralized and streamlined birth registration system has been expressed for Kiribati⁶⁷⁴ and Micronesia⁶⁷⁵ respectively. Late registration fees in four States (Fiji, Kiribati, Solomon Islands, and Tuvalu) present a barrier to birth registration.⁶⁷⁶ In Fiji, wealth of households and maternal age and education level are key factors influencing levels of birth registration among Fijian children.⁶⁷⁷ Further, i-Taukei speaking households also demonstrated notable disparities in birth registration rates compared to other groups.⁶⁷⁸

Requirement of birth registration for citizenship acquisition

A birth certificate can serve as a form of evidence of citizenship in Australia⁶⁷⁹, Fiji⁶⁸⁰, Kiribati⁶⁸¹, Nauru⁶⁸², New Zealand⁶⁸³, and Tonga⁶⁸⁴. Marshall Islands, Micronesia, Palau, Tuvalu, and Vanuatu do not specify whether birth registration is required for citizenship certification. However, in Vanuatu, lack of birth registration or a birth certificate can mean that a person does not have the documentation they need to determine their citizenship eligibility.⁶⁸⁵ In Papua New Guinea⁶⁸⁶, Samoa⁶⁸⁷, and Solomon Islands⁶⁸⁸, a citizenship certificate is needed to prove citizenship.

Statelessness and climate change

As a region, the Pacific faces some of the greatest risks and has seen the greatest attention regarding the threat of climate-induced statelessness. There are a number of articles and reports written on the risk of statelessness faced by citizens of low-lying Pacific Island States including Kiribati, the Marshall Islands and Tuvalu due to the impact of climate-induced sea-level rise.⁶⁸⁹ This risk of statelessness from ‘disappearing States’ currently remains a hypothetical question, with most experts agreeing that this scenario will not inevitably lead to statelessness.⁶⁹⁰ Further, before any States ‘disappear’, the impacts of relocation and an increase in displaced populations on communities and individual’s nationality status will need to be faced.⁶⁹¹ It is this displacement across borders rather than the ‘disappearance’ of islands that poses the greatest risk of statelessness in the future.

In Tuvalu, gaps in protective legislation against statelessness exist with regard to naturalized citizens subject to climate-induced displacement. Tuvalu’s legislation on loss of citizenship includes a provision which states that naturalized citizens will lose their citizenship of Tuvalu if they do not continue to comply with the requirements of naturalization, which include remaining financially self-supporting.⁶⁹² In the event of climate-induced displacement, the affected person may not be able to maintain financial self-sufficiency, making naturalized citizens in this scenario potentially vulnerable to deprivation of citizenship. Tuvalu has, however, enacted new legislation in 2023 which redefines the definition of statehood for Tuvalu.⁶⁹³ The Constitution provides that the State’s physical territory will remain the same, regardless of rising sea levels, and establishes the country’s intention for “responding to climate change, which threatens the security and survival of its people and its land”.⁶⁹⁴

Sub-Regional Overview: South Asia

Countries Covered: Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, Sri Lanka

Laws

Citizenship Law

***Jus sanguinis* and/or *jus soli* provisions**

The citizenship laws of six out of eight States (Afghanistan, Bhutan, India, the Maldives, Nepal and Sri Lanka) operate through *jus sanguinis* structures. While the laws of all of these States are underpinned by the same principle of citizenship by descent, there is great variance in the structure of their laws, with many containing complex limitations on the granting of citizenship. The laws of two States (Afghanistan and Bhutan) provide an automatic grant of citizenship where a child is born within or outside of the State to two citizen parents.⁶⁹⁵ While the citizenship law of Afghanistan also provides avenues of acquisition for children born in the country to one citizen parent and for those born outside the country to one citizen parent with mutual consent from the parents, the law of Bhutan does not have any such provisions.⁶⁹⁶ The citizenship laws of two States (India and Sri Lanka) provide some differential treatment between children born within or outside of the country. Indian citizenship also operates through a *jus sanguinis* structure, with children born in India only considered citizens by birth if both parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant.⁶⁹⁷ Children born outside of India to at least one Indian parent are considered citizens by descent so long as their birth is registered, and they are not also considered citizens of another country.⁶⁹⁸ Sri Lankan citizenship is provided through *jus sanguinis* provisions providing for automatic citizenship for children born in Sri Lanka to a Sri Lankan citizen parent.⁶⁹⁹ For children born outside of Sri Lanka to a citizen parent, their birth must be registered for their citizenship to be recognised.⁷⁰⁰

*The citizenship laws of six out of eight States (Afghanistan, Bhutan, India, the Maldives, Nepal and Sri Lanka) operate through *jus sanguinis* structures.*

Two States (Maldives and Nepal) with *jus sanguinis* structures also have discriminatory provisions in their laws that restrict the ability of conferral of nationality onto children. Nepal's citizenship laws contain gender discrimination⁷⁰¹, while the laws of India⁷⁰² and the Maldives⁷⁰³ discriminate on the grounds of religion. The laws of the Maldives also contain some potentially gender discriminatory provisions.⁷⁰⁴ Citizenship law of the Maldives operates through *jus sanguinis* provisions that provide automatic citizenship to a child born to a citizen of the Maldives regardless of their place of birth.⁷⁰⁵

Two States (Maldives and Nepal) with jus sanguinis structures also have discriminatory provisions in their laws that restrict the ability of conferral of nationality onto children.

The Maldives' citizenship legislation also discriminates on religious grounds, barring non-Muslims from being recognised as citizens of the Maldives.⁷⁰⁶ Conversely, India's *Citizenship Amendment Act (2019)* provided a pathway to citizenship for undocumented migrants which explicitly does not apply to Muslims.⁷⁰⁷ The citizenship law of Nepal operates through *jus sanguinis* provisions, which contain gender discriminatory elements. The *Nepal Citizenship (First Amendment) Bill (2079)* removed some, but not all, of the previous gender discriminatory provisions.⁷⁰⁸ Previously, a child born to a single Nepali citizen mother would only gain citizenship by descent when the father is not identified through court order.⁷⁰⁹ The changes provided that children born to single mothers and citizens by birth may obtain Nepali citizenship, however, extra conditions remain for single mothers to confer citizenship to their children that are discriminatory and undignified.⁷¹⁰

Two States (Bangladesh and Pakistan) have combined *jus soli* and *jus sanguinis* structures to their citizenship laws. The laws of Bangladesh

provide for both *jus soli* and *jus sanguinis* citizenship, however in practice, citizenship by birth appears to only be provided when a child is born in Bangladesh to two Bangladeshi citizen parents.⁷¹¹ The *jus sanguinis* provision of the Bangladeshi citizenship law, like the Maldives, provides that a child born either within or outside of Bangladesh to a Bangladeshi citizen by birth automatically acquires citizenship by descent.⁷¹² The citizenship law of Pakistan operates through both *jus sanguinis* and *jus soli* provisions. Pakistan's *jus soli* provisions has previously been interpreted to provide citizenship to all children born on the territory of Pakistan, except those whose fathers have diplomatic immunity, or are enemies or aliens.⁷¹³ However, a Supreme Court decision in 2023⁷¹⁴ and a High Court ruling in 2022⁷¹⁵ both ruled that all children born in Pakistan are entitled to Pakistani citizenship by birth. *Jus sanguinis* provisions provide that a child born outside of Pakistan to a Pakistani citizen by birth automatically acquire Pakistani citizenship, while those born to a citizen by descent must register the birth.⁷¹⁶

The laws of three States (Bangladesh, Nepal and Pakistan) contain gender discriminatory provisions that limit the ability of married women to transfer their nationality to foreign spouses on the same basis as men.⁷¹⁷

None of the countries in South Asia provide a definition of a stateless person in their citizenship legislation. The 1954 Convention defines a stateless person as someone "who is not considered as a national by any State under operation of its law", which notably does not place the burden of proof on the stateless person.⁷¹⁸

None of the countries in South Asia provide a definition of a stateless person in their citizenship legislation.

Naturalized citizenship

Stateless persons may be eligible for the standard naturalization process in Afghanistan⁷¹⁹,

Bangladesh⁷²⁰, Bhutan⁷²¹, Pakistan⁷²², and the Maldives⁷²³. Bhutan's requirements for period of residence prior to application for naturalization are notably strict in comparison to other countries in the sub-region, requiring a residence period of 20 years prior to applying.⁷²⁴ Stateless persons have no access to naturalization in Nepal as the procedure is only open to foreign citizens, or in India due to barring individuals categorized as an 'illegal immigrant'.⁷²⁵ In Sri Lanka, stateless persons have limited access as only stateless persons who are a descendent of a citizen, have married a citizen, or have provided a distinguished service to the country are eligible for naturalization.⁷²⁶

Stateless persons have no access to naturalization in Nepal as the procedure is only open to foreign citizens, or in India due to barring individuals categorized as an 'illegal immigrant'.

Bangladesh is the only country in South Asia which has gender discriminatory provisions relating to naturalization. While a foreign woman married to a Bangladeshi man may apply for citizenship through naturalization⁷²⁷, no such provision exists which allows foreign men married to a Bangladeshi woman to gain citizenship through naturalization.⁷²⁸ India also contains discriminatory naturalization provisions on the basis of religion as only non-Muslim applicants are eligible for the expedited procedure.⁷²⁹

None of the countries in South Asia provide a simplified or expedited procedure of naturalization for stateless persons or refugees. Article 32 of the 1954 Convention relating to the Status of Stateless Persons stipulates that such a process should be expedited for stateless persons to "reduce as far as possible the charges and costs of such proceedings".⁷³⁰

Dual citizenship

Only two States in South Asia, the Maldives and Sri Lanka, allow dual citizenship.⁷³¹ In Sri Lanka, Sri

Lankan citizens are required to make a declaration to the Minister in order to retain their Sri Lankan citizenship upon acquiring another citizenship.⁷³² While generally not permitted in Bangladesh⁷³³ or Pakistan⁷³⁴, both countries offer a list of countries which citizens may have dual citizenship with. Dual citizenship is not recognized in Afghanistan⁷³⁵, Bhutan⁷³⁶, India⁷³⁷, or Nepal⁷³⁸. In both Bhutan⁷³⁹ and Nepal⁷⁴⁰, foreign citizens applying for naturalization in either country must first renounce their prior citizenship, which may place them at risk of statelessness. Article 7(1)(a) of the 1961 Convention on the Reduction of Statelessness states that State parties which allow renunciation of citizenship must ensure that "such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality".⁷⁴¹

Treaty ratification status

No country in South Asia has ratified either Stateless Convention. Only one State (Afghanistan) is a party to the Refugee Convention and its Protocol.⁷⁴² However, there is a high rate of ratification of the key human rights treaties, with all eight States in the region party to the CRC and CEDAW and seven States (excluding Bhutan) to the ICCPR, ICESCR, and ICERD.⁷⁴³ Bhutan has assigned, but not ratified the ICERD. The Maldives notably made reservations to Article 18 of the ICCPR⁷⁴⁴, which ensures the right to freedom of thought, conscience and religion, and Article 14 of the CRC⁷⁴⁵, which protects the same rights for children.

The gender discriminatory legislation of Bangladesh, Nepal, and Pakistan contravene the ICCPR⁷⁴⁶ and CEDAW⁷⁴⁷, which protect gender equality in nationality laws. All three of these States are a party to the ICCPR and CEDAW. Further, India and the Maldives, due to their discriminatory provisions on grounds of religion, are not in full compliance of their obligations to the ICCPR⁷⁴⁸, ICERD⁷⁴⁹, or CRC⁷⁵⁰ as all three treaties protect the right to a nationality.

TABLE 12

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Afghanistan	⊖	⊖	⊕	⊕	⊕	⊕	⊕	⊕
Bangladesh	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Bhutan	⊖	⊖	⊖	⊖	⊖	⊖*	⊕	⊕
India	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Maldives	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Nepal	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Pakistan	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Sri Lanka	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕
Total	0	0	1	7	7	7	8	8

* Signed but not ratified

⊕ Signifies that the country is a party to the convention
 ⊖ Signifies that the country is not a party to the convention

Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

Population

Reported stateless persons

In 2022, States in South Asia reported 974,443 stateless persons to UNHCR representing an increase of over 30,000 persons in the last year.⁷⁵¹ Bangladesh is the largest hosting country both within South Asia and the Asia-Pacific broadly with a population of 952,309 stateless persons.⁷⁵² Afghanistan, Bhutan and the Maldives did not report stateless populations in the past five years of reporting to UNHCR.⁷⁵³ All other States (Bangladesh, India, Nepal, Pakistan and Sri Lanka) only provided statistics covering forcibly displaced (refugee) stateless populations, with no States providing figures on *in situ* stateless populations. UNHCR has noted that, regarding Afghanistan, Bhutan, Nepal, Pakistan and Sri Lanka, 'UNHCR has information about stateless persons but no reliable data'.⁷⁵⁴ Known stateless populations not included in the UNHCR reporting figures include the Lhostshampa of Bhutan,⁷⁵⁵ ethnic Bengalis and long-term Afghan refugees in Pakistan.⁷⁵⁶

In 2022, States in South Asia reported 974,443 stateless persons to UNHCR representing an increase of over 30,000 persons in the last year.

Persons at risk of statelessness

Millions of Afghans have fled Afghanistan due to wars and persecution in the country, with over 6.4 million Afghan refugees, persons in refugee-like situations or asylum-seekers globally at the end of 2022.⁷⁵⁷ Due to loss or denial of identity documents, the children of many Afghan refugees and asylum seekers are at risk of statelessness. Further, a lack of access to identity documentation has rendered potentially millions of women in Afghanistan at risk of statelessness. A 2016 study found that 52% of women in general held no identity documentation, with this rate increasing to 75% among female IDPs.⁷⁵⁸

There are a number of different populations groups in India at risk of statelessness including Tibetan and Sri Lankan refugees, ethnic minority groups living in border regions (including the Chakma, Hjong and Kutchi communities) and former Kashmiri militants.⁷⁵⁹ Ethnic minority groups including Dalit and Madheshi communities in Nepal face issues of accessing citizenship and identity documents and are at risk of statelessness.⁷⁶⁰ The Hazara ethnic minority community in Pakistan has previously faced discrimination in receiving passports.⁷⁶¹ The Gypsy (Roma) community may also

TABLE 13

Reported stateless population in South Asia

Country	2019 (year start) ⁷⁶²	2020 (year end) ⁷⁶³	2021 (year end) ⁷⁶⁴	2022 (year end) ⁷⁶⁵
Afghanistan	-	-	-	-
Bangladesh	854,704	866,457	918,841	952,309
Bhutan	-	-	-	-
India	17,730	18,174	20,154	21,591
Maldives	-	-	-	-
Nepal	-	-	465	452
Pakistan	-	-	47	55
Sri Lanka	-	-	35	36
TOTALS	872,434	884,631	939,542	974,443

Source: UNHCR, Global Trends: Forced Displacement from 2019-2022

be at risk of statelessness in Pakistan due to lack of identity documentation and access to services.⁷⁶⁶

Stateless Refugees

The entire reported stateless population in South Asia are stateless refugees. The UNHCR has noted that the reported populations in India (21,591) and Nepal (452) are stateless Rohingya refugees, this is not explicitly stated for the other countries in the region.⁷⁶⁷ There has been an extensive focus on Rohingya in Bangladesh by UN bodies, academics and NGOs, specifically since their mass displacement in 2017.⁷⁶⁸ Most of the 950,000 Rohingya refugees in Bangladesh reside within refugee camps in Cox's Bazar, facing limited access to health and social services, education and living in conditions that have been condemned by residents, international organisations and NGOs.⁷⁶⁹

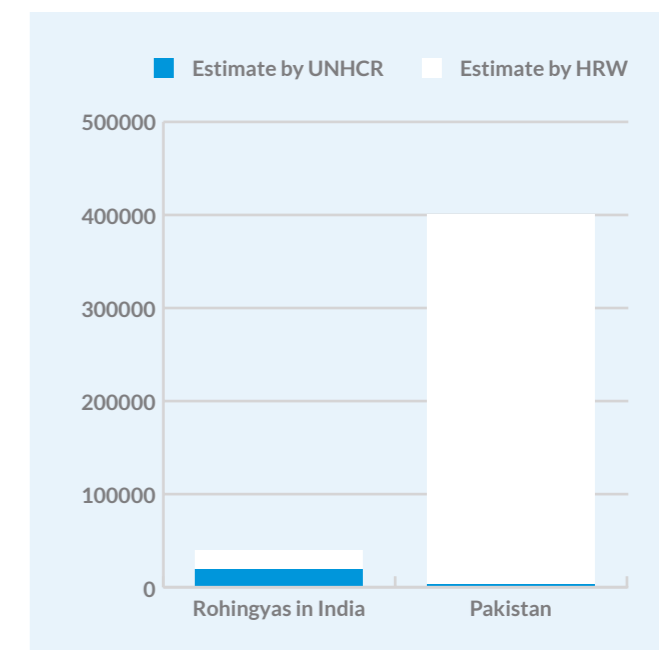
The true scale of the Rohingya refugee population in South Asia is estimated to be thousands higher than reported figures. Human Rights Watch has estimated that Rohingya registered with UNHCR in India in 2021 (20,154) represented only half of the total population of 40,000 Rohingya refugees in India.⁷⁷⁰ A recent statement by a spokesperson

The entire reported stateless population in South Asia are stateless refugees.

for the Pakistani Foreign Office suggested that as many as 400,000 Rohingya refugees may be in Pakistan (compared to the reported 47).⁷⁷¹ Both Rohingya and Afghan refugees in Pakistan have been excluded from efforts to provide Pakistani citizenship to stateless persons.⁷⁷²

FIGURE 4

Estimate of the stateless Rohingya population versus those reported by Human Rights Watch



Source: 'India: Rohingya Deported to Myanmar Face Danger', Human Rights Watch (31 March 2022)

Other groups of refugees affected by statelessness include as many as 73,404 Tibetan refugees and more than 92,000 Sri Lanka refugees in India.⁷⁷³ There are also 6,365 Bhutanese Lhostshampa refugees in Nepal, many of whom are stateless.⁷⁷⁴

Undetermined nationalities

In 2019, India's National Register of Citizens in Assam excluded over 1.9 million Assamese, leaving them labelled as foreigners or 'D voters' and the validation of their citizenship at the hands of the foreigners' tribunals.⁷⁷⁵ In a recent court proceeding, the Central Government informed the Supreme Court of India that between 2017 to 2022, 14,346 individuals have been deported from India with 32,381 individuals being declared as foreigners.⁷⁷⁶ Another 123,829 cases remain pending before the tribunals.⁷⁷⁷

UNHCR has noted that 'various studies estimate that a large number of individuals lack citizenship certificates in Nepal. While these individuals may not all necessarily be stateless, UNHCR has been working closely with the Government of Nepal and partners to address this situation.⁷⁷⁸ In 2016 the Forum for Women, Law and Development projected that by 2021, as many as 6.7 million people would be without citizenship.⁷⁷⁹ In Pakistan, Bengali-speaking and Bihari communities also hold an uncertain status with limited information available on their citizenship status. The community largely consists of persons repatriated to Pakistan following Bangladeshi independence (and their descendants), some of whom hold passports and documentation, yet continue to face discrimination and exclusion.⁷⁸⁰ In the process of digitization of civil registration in Pakistan, Bengali speaking and Bihari individuals were registered as aliens.⁷⁸¹ While registered as 'aliens', they are often denied citizenship under the previous interpretation of Pakistan's *jus soli* provision.⁷⁸²

Other Populations of note

It is important to note two population groups within South Asia who have had their stateless status 'solved' in recent decades yet continue to face discrimination and social exclusion. In Bangladesh, the Urdu-speaking (Bihari) community who have resided in Bangladesh since independence,⁷⁸³ yet were only recognised as citizens from the early 2000's. However, the Urdu-speaking community, with a population size estimated to be 300,000, continues to face discrimination and marginalisation including through the denial of passports, physical isolation in refugee-like camps and denial of services.⁷⁸⁴ The granting of citizenship to the 'Hill Country' (or 'Up-Country') Tamil population in Sri Lanka 2003, who had been deprived of citizenship since 1948 has both been held up as a success story of 'solving' statelessness and analysed for the continuing discrimination faced by the population group despite their citizenship status being resolved.⁷⁸⁵

Causes of Statelessness

Discriminatory nationality laws

As noted above, two States within South Asia have discriminatory provisions in their laws which restrict the ability to confer nationality onto children. The laws of the Maldives containing religious discrimination (and potentially some gender discriminatory provisions)⁷⁸⁶ and the laws of Nepal gender discrimination.⁷⁸⁷ Statelessness among Muslim and ethnic minority populations in India, including persons excluded by the National Register of Citizens in Assam and Rohingya refugees, is further protracted by their discriminatory exclusion from the *Citizenship Amendment Act* (2019). The *Citizenship Amendment Act* provides a pathway to Indian citizenship for 'illegal migrants' in India who belong to Hindu, Christian, Buddhist, Jain, Parsi

and Christian faiths from Afghanistan, Bangladesh and Pakistan. Notably, Muslims are excluded from the amendment, an act labelled by numerous commentators as being discriminatory or on religious grounds.⁷⁸⁸

Despite the 2023 amendment which removed some gender discriminatory aspects of Nepal's citizenship legislation, several groups still face barriers in accessing citizenship. Previously, a child born to a single Nepali citizen mother would only gain citizenship by descent when the father is not identified.⁷⁸⁹ The changes provided that children born to single mothers and citizens by birth may obtain Nepali citizenship, however, extra conditions remain for single mothers to confer citizenship to their children, denying women equal right to confer nationality to their children.⁷⁹⁰ Further, in instances where a child is born to a citizen mother and a foreign father, citizenship can only be acquired through naturalization, even though children born to citizen fathers gain citizenship by descent. As many as 400-500,000 persons are estimated to have been rendered stateless due to these discriminatory provisions.⁷⁹¹

The laws of three States (Bangladesh, Nepal and Pakistan) also contain discriminatory provisions that inhibit the ability of married women to confer nationality onto foreign spouses.⁷⁹²

The laws of three States (Bangladesh, Nepal and Pakistan) also contain discriminatory provisions that inhibit the ability of married women to confer nationality onto foreign spouses.

As previously mentioned, the entire reported stateless population within South Asia comprises stateless refugees, largely Rohingya from Myanmar. As outlined in the Myanmar and Southeast Asia chapters, the statelessness of the Rohingya community is largely caused by ethnic discrimination embedded in the citizenship laws of Myanmar.⁷⁹³

Other ethnic minority groups have been impacted by discriminatory nationality laws which either indirectly excluded population groups or ignored them entirely. Urdu-speaking 'Bihari' communities were excluded from accession to Bangladeshi citizenship until court intervention in 2008 due to discriminatory interpretations of the citizenship law.⁷⁹⁴ Ethnic minority groups including the Mosuli and Jogi (or 'Magat') communities who have lived semi-nomadic existences in Afghanistan from generations have been largely excluded from the operation of citizenship laws due to ethnic discrimination based on their historic connections to neighbouring countries.⁷⁹⁵ Pakistan's *jus soli* provisions on paper provide citizenship to all children born on the territory of Pakistan, except those whose fathers have diplomatic immunity, or are enemy aliens.⁷⁹⁶ However, as a result of the interpretation of 'enemy alien' to be anyone labeled as 'alien', minority groups labeled as alien have largely been denied citizenship.⁷⁹⁷

Ethnic minority groups including the Mosuli and Jogi (or 'Magat') communities who have lived semi-nomadic existences in Afghanistan from generations have been largely excluded from the operation of citizenship laws due to ethnic discrimination based on their historic connections to neighbouring countries.

Lack of legal safeguards against childhood statelessness

The citizenship laws of three countries (Afghanistan, Nepal and Sri Lanka) provide limited protection for foundling children, with no countries providing broad protection for foundling children. In Afghan citizenship law a child found in Afghanistan will be considered a citizen of Afghanistan if documentation of their parent's citizenship is not available.⁷⁹⁸ Similarly, the citizenship laws of Sri Lanka provide that a foundling child of unknown and unascertained parentage will be considered a citizen of Sri Lanka until the contrary can be proven.⁷⁹⁹ The citizenship

law of Nepal provides that foundling children are considered citizens by descent until their father or mother is identified.⁸⁰⁰

The *jus soli* provision that exists in the citizenship laws of two countries (Bangladesh and Pakistan) may provide foundling children access to citizenship, however in-practice, the application of these laws are less generous.⁸⁰¹ Pakistan's *jus soli* provisions on paper provide citizenship to all children born on the territory of Pakistan, except those whose fathers have diplomatic immunity, or are enemy aliens.⁸⁰² However, the children of Afghan refugees who have resided in Pakistan for decades have explicitly been excluded from the operation of these *jus soli* provisions with the High Court of Pakistan explicitly labelling Afghan refugees as foreigner and aliens.⁸⁰³

The citizenship laws of three countries (Bhutan, India and the Maldives) do not address access to citizenship for foundlings.

The citizenship laws of three countries (Bhutan, India and the Maldives) do not address access to citizenship for foundlings.

None of the countries in South Asia provide explicit protection for children born to stateless parents. The *jus soli* provisions of two States (Bangladesh and Pakistan) would appear to provide access to citizenship for stateless children, however their application in practice is far less certain.⁸⁰⁴ While there is no specific provision providing for access of citizenship for stateless children at birth in Afghanistan, however under the citizenship laws of the country stateless persons may obtain citizenship at the age of 18.⁸⁰⁵ Bhutanese, Indian, Maldivian, Nepali, and Sri Lankan citizenship laws do not address access to citizenship for children of stateless parents. Article 1 of the 1961 Convention on the Reduction of Statelessness states that State parties “shall grant nationality to a person born in its territory who would otherwise

be stateless” either “by birth, by operation of law, or upon and application.”⁸⁰⁶

Citizenship stripping

In the late 1980's, members of ethnic Nepali communities known as 'Lhotshampas' living in the south of Bhutan were labelled as non-citizens through a census count, stripping them of their Bhutanese citizenship.⁸⁰⁷ In the early 1990's the Bhutanese government began expelling persons from their land and the country with as many as 100,000 refugees arriving in Nepal during the decade.⁸⁰⁸

The history of the National Register of Citizens in Assam is politically complex and driven by ethnic and religious tension spanning back to the period of partition between India and Pakistan. In 2019, the final National Register of citizenship excluded 1.9 million residents from the list, essentially stripping them of their citizenship. Persons excluded from the National Register of Citizens must in turn apply to the government or Foreigners Tribunal to have their citizenship status verified, with those unable to verify their status as citizens rendered stateless.⁸⁰⁹

Historic statelessness among Hill Country Tamils was largely based on the discriminatory implementation of citizenship laws at the time of Sri Lankan independence in 1948 which indirectly excluded Hill Country Tamils from citizenship.⁸¹⁰

Administrative barriers

Administrative and practical barriers, including security concerns, restrictions imposed by male family members and lack of financial means have fundamentally limited the ability of women in Afghanistan to gain identity documentation and to confirm their status as citizens.⁸¹¹ Similarly in Nepal, administrative and policy barriers affect the ability of marginalised groups including

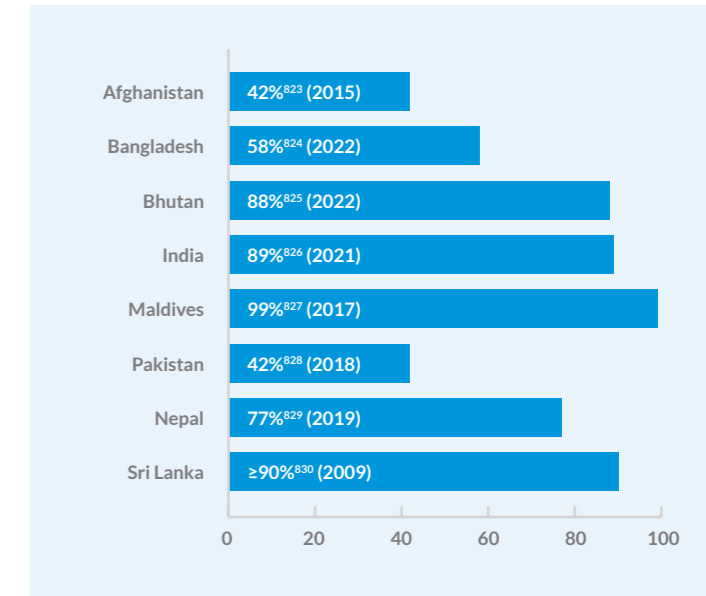
LGBTQIA+ communities and women from accessing citizenship certificates.⁸¹² Children born to citizen mothers in Nepal continue to face a number of administrative barriers in gaining birth registration and citizenship certificates.⁸¹³ The arbitrary levels of discretion applied by authorities, who consist mostly of men, in issuing documentation has often denied women and their children documentation due to discriminatory patriarchal beliefs.⁸¹⁴ Further, the same discriminatory discretion is seen in distribution of birth certificates, causing a lack of birth certificates among marginalized groups which presents another barrier in accessing citizenship.⁸¹⁵

Administrative and policy practice have led to the citizenship laws of Bangladesh shifting in application from *jus soli* to *jus sanguinis* in their application.⁸¹⁶ This 'paradigmatic policy shift'⁸¹⁷ has compounded intergenerational statelessness among children born in the country, especially among Rohingya refugees. In 2020, it was estimated that more than 75,000 Rohingya children have been born in Cox's Bazar since 2017.⁸¹⁸ In April 2022, it was reported that an official count found that on average 95 children were born per day to Rohingya parents in refugee camps,⁸¹⁹ accounting for this, an additional 70,000 stateless Rohingya children may have been born in Bangladesh in the past two years.

In India, barriers to birth registration among Sri Lankan refugee populations and ethnic minority groups including the Kutchi community residing in border regions of the country places these populations at risk of statelessness.⁸²⁰ Discriminatory administrative barriers are largely the cause of statelessness among ethnic Bengali communities in Pakistan. Despite their right to citizenship existing under the written law,⁸²¹ it is estimated that 70–80% of the Bengali population in Pakistan do not have identity documents.⁸²² The position of ethnic Bengalis was worsened

FIGURE 5

Birth registration rates of the countries in South Asia



Source: “Birth and Death Registration Completeness” (UN Statistics Division, April 2023); “Data Warehouse,” UNICEF DATA; “CRVS Case Studies: Bhutan” (UNICEF, September 2023).

through the introduction of digitized ID cards, with the government discriminating and, in some cases, stripping persons of citizenship by labelling Bengali community members as ‘aliens’.⁸³¹

In the Maldives, children born to non-Muslim parents, to parents of unrecognized inter-religious marriages, to one foreign parent and those born as a result of unrecognized child marriages often remain unregistered.⁸³² As a result, they experience denial of education as they are unable to provide identity documentation in order to enroll in school or access government services.⁸³³

Requirement of birth registration for citizenship acquisition

Birth registration is especially linked to citizenship acquisition in Bangladesh⁸³⁴, Bhutan, the Maldives, while India explicitly provides

that a birth certificate is proof of citizenship.⁸³⁵ In India, there have been multiple conflicting court decisions regarding whether an Indian passport may also prove Indian citizenship.⁸³⁶ However, India's *Citizenship Rules* indicate that a birth certificate is a supporting document for many kinds of citizenship, indicating that having a birth certificate would be necessary for obtaining citizenship in most situations.⁸³⁷ Bhutan's citizenship identification document is issued immediately after birth registration in the country.⁸³⁸ While a birth certificate is not explicitly listed as a document that proves citizenship in the Maldives, it is directly linked to citizenship acquisition as a child's unique Maldivian identity number is issued upon birth registration.⁸³⁹ A birth

certificate can also serve as evidence of citizenship in Pakistan⁸⁴⁰ with Computerized National Identity Cards also serving as de-facto proof.⁸⁴¹ In Afghanistan, the Tazkera, the principal Afghan identity document, proves Afghan citizenship.⁸⁴² A citizenship certificate serves as evidence of citizenship in Nepal⁸⁴³ and Sri Lanka⁸⁴⁴.

Statelessness and climate change

With the highest elevation point of the Maldives being 2.4 metres above sea-level, the impacts of climate-induced sea-level rise and in turn the potential risks of statelessness caused by 'disappearing States' has been discussed in detail.⁸⁴⁵



Rohingya Project



Rohingya Human Rights Initiative

Sub-Regional Overview: Southeast Asia

Countries Covered: Brunei Darussalam (Brunei), Cambodia, Indonesia, Lao People's Democratic Republic (Laos), Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste, Viet Nam

Laws

Citizenship Law

Jus sanguinis and/or *jus soli* provisions

The citizenship laws of most States in Southeast Asia operate through a solely *jus sanguinis* structure, with Viet Nam, Malaysia, Indonesia, Thailand and Cambodia's legislation operating through a combined *jus sanguinis* and *jus soli* structure.⁸⁴⁶ While operating through a *jus sanguinis* structure, *jus soli* factors also come into play in Brunei due to the distinction between children born inside or outside of the country.⁸⁴⁷ In Cambodia, Indonesia, the Philippines, Thailand, and Timor-Leste, children born to a citizen parent will gain citizenship regardless of birthplace.⁸⁴⁸ Laos and Singapore have *jus sanguinis* structures that differentiate between persons born within or outside of the country.⁸⁴⁹ Cambodia's *jus soli* provision provides that children born in the country to parents who are both foreigners and were both born and living legally in Cambodia gain Khmer citizenship by birth.⁸⁵⁰ Further, children born in Thailand automatically acquire Thai citizenship under *jus soli* provisions unless they are born to alien parents, one of whom is a temporary resident, residing in Thailand illegally, or a diplomat.⁸⁵¹ In Malaysia, abandoned children and foundlings will gain citizenship by "operation of the law", meaning that the citizenship acquisition is automatic.⁸⁵² Viet Nam's *jus soli* provisions provide citizenship by birth to children born to one citizen parent and one foreigner where the two parents cannot reach an agreement on the citizenship for the child upon birth registration,⁸⁵³ children born to two stateless parents with permanent residence,⁸⁵⁴ children born to a stateless mother with permanent residence where the father is unknown,⁸⁵⁵ and foundling children.⁸⁵⁶

In Indonesia, children born to parents with an unclear citizenship status, newborn children found in Indonesia with unknown parents, and children born in Indonesia when both parents lack citizenship or their existence is unknown can also obtain citizenship by birth.⁸⁵⁷

Of particular note, the citizenship law of Malaysia contains gender discriminatory provisions barring women from transferring their nationality onto their children if they are born outside of the territory of Malaysia.⁸⁵⁸ The citizenship law of Singapore also contains gender discriminatory provisions which limit the ability of mothers to confer citizenship onto children born in the State whose fathers are diplomats or members of foreign forces during times of war.⁸⁵⁹ The laws of five States (Brunei, Malaysia, the Philippines (for naturalized women only), Thailand and Singapore) contain gender discriminatory provisions that limit the ability of married women to confer their nationality onto foreign spouses on the same basis as men.⁸⁶⁰

The laws of five States (Brunei, Malaysia, the Philippines (for naturalized women only), Thailand and Singapore) contain gender discriminatory provisions that limit the ability of married women to confer their nationality onto foreign spouses on the same basis as men.

The interrelation between ethnicity and citizenship is notable in Southeast Asia, specifically in Brunei, Cambodia and Myanmar. Two States (Myanmar and Brunei) have ethnically defined *jus sanguinis* structures.⁸⁶¹ The citizenship laws of Brunei operate largely through *jus sanguinis* structure and contain both racial and gender discriminatory provisions.⁸⁶² Brunei's citizenship laws limit persons who can gain citizenship through the operation of law to persons of certain defined ethnic groups and whose father or both parents (but not mother alone) is a citizen of Brunei.⁸⁶³ Similarly, citizenship of Myanmar is

defined largely upon ethnic ground, and through *jus sanguinis* principles, with citizenship available to those who are considered "nationals" or whose parents both are nationals and members of defined ethnic groups.⁸⁶⁴ Further the citizenship legislation of Myanmar is the only legislation in the Asia-Pacific that explicitly provides for two other categories of citizenship being associate citizenship and naturalised citizenship, which the government may confer on any person 'in the interest of the State'.⁸⁶⁵

Eight States out of eleven States in Southeast Asia (Brunei, Cambodia, Indonesia, Laos, Thailand, Malaysia, Myanmar, and Singapore) do not provide an explicit definition of a stateless person or statelessness in their citizenship legislation. Timor-Leste's citizenship law does include a definition of a stateless person⁸⁶⁶; however, it is not in line with the definition provided by the 1954 Convention relating to the Status of Stateless Persons.⁸⁶⁷ Only two States, the Philippines and Viet Nam, provide a definition of a stateless person which aligns with the definition provided by the 1954 Convention. The 1954 Convention defines a stateless person as someone "who is not considered as a national by any State under operation of its law", which does not place the burden of proof on the stateless person.⁸⁶⁸

Eight States out of eleven States in Southeast Asia (Brunei, Cambodia, Indonesia, Laos, Thailand, Malaysia, Myanmar, and Singapore) do not provide an explicit definition of a stateless person or statelessness in their citizenship legislation.

Naturalized citizenship

While there is no simplified or expedited procedure available to stateless persons in 7 countries (Cambodia, Indonesia, Laos, Malaysia, Singapore, Thailand, and Timor-Leste), they may be eligible to apply for the standard naturalization procedure. In Brunei, stateless persons may also be eligible for the standard naturalization process.

However, reports of extremely long waits to hear of decisions on citizenship (5-10 years) as well as the long required residency period (20-25 years) presents a barrier to accessing citizenship through this process.⁸⁶⁹ In Myanmar, stateless persons are not eligible for any naturalization process as the process is reserved only for people with a citizen parent or who have married a citizen.⁸⁷⁰ In Viet Nam, there is a simplified procedure of naturalization available to stateless persons who had resided in the country for at least 20 years by 2009, which waives the requirement of all identity documents for those who do not have such documentation.⁸⁷¹ The Philippines provides both a simplified and expedited procedure of naturalization for stateless persons and refugees, the *Rule on Facilitated Naturalization of Refugees and Stateless Persons* which is the first of its kind in the world.⁸⁷² According to Article 32 of the 1954 Convention relating to the Status of Stateless Persons, naturalization should be expedited for stateless persons to "reduce as far as possible the charges and costs of such proceedings".⁸⁷³

In Myanmar, stateless persons are not eligible for any naturalization process as the process is reserved only for people with a citizen parent or who have married a citizen.

Dual citizenship

Cambodia and Timor-Leste are the only States in Southeast Asia which allow dual citizenship.⁸⁷⁴ While 5 States (Brunei, Indonesia, Malaysia, Myanmar, and Singapore) prohibit dual citizenship⁸⁷⁵, Laos, Philippines, and Viet Nam permit it only in certain cases.⁸⁷⁶ Dual citizenship is generally recognized for those with *jus soli* citizenship in Thailand, although the law tends to be inconsistently implemented.⁸⁷⁷ Brunei's legislation contains some gender discrimination in this context, as women who acquire foreign citizenship through marriage will cease to be Brunei citizens.⁸⁷⁸ However, the same provision does not exist with regards to Bruneian men.

Foreigners applying for naturalization in Laos may have to endure an indefinite period of temporary statelessness due to the requirement to renounce prior citizenship prior to application.⁸⁷⁹ The renunciation process is not stipulated by legislation in Malaysia or the Philippines. The renunciation processes of all States other than Laos in Southeast Asia, where relevant, do not place persons at risk of statelessness. Article 7(1)(a) of the 1961 Convention on the Reduction of Statelessness states that State parties which allow renunciation of citizenship must ensure that "such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality".⁸⁸⁰

The renunciation processes of all States other than Laos in Southeast Asia, where relevant, do not place persons at risk of statelessness.

Treaty ratification status

There is varied ratification of treaties across Southeast Asia, with some States – including Cambodia, Indonesia, Laos, the Philippines, Thailand, Timor-Leste, and Viet Nam – having very high rates of ratification, while others – Brunei, Malaysia, Myanmar, and Singapore – very low. Three States (Cambodia, the Philippines, and Timor-Leste) are parties to the Refugee Convention and its Protocol.⁸⁸¹

All States are parties to CEDAW and CRC. Brunei and Malaysia notably maintain reservation to Article 9(2) of CEDAW, which provides women with equal rights regarding the nationality of their children.⁸⁸² Malaysia has also retained a reservation in respect to Article 7 of the CRC which provides the right to a nationality.⁸⁸³ This

Malaysia has also retained a reservation in respect to Article 7 of the CRC which provides the right to a nationality. This leaves Malaysia with minimal to no relevant international treaty-based obligations to protect or uphold a person's right to nationality.

TABLE 14

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Brunei Darussalam	–	–	–	–	–	–	✓	✓
Cambodia	–	–	✓	✓	✓	✓	✓	✓
Indonesia	–	–	–	✓	✓	✓	✓	✓
Lao People's Democratic Republic	–	–	–	✓	✓	✓	✓	✓
Malaysia	–	–	–	–	–	–	✓	✓
Myanmar	–	–	–	–	✓	–	✓	✓
Philippines	✓	✓	✓	✓	✓	✓	✓	✓
Singapore	–	–	–	–	–	✓	✓	✓
Thailand	–	–	–	✓	✓	✓	✓	✓
Timor-Leste	–	–	✓	✓	✓	✓	✓	✓
Vietnam	–	–	–	✓	✓	✓	✓	✓
Total	1	1	3	7	8	8	11	11

✓ Signifies that the country is a party to the convention
– Signifies that the country is not a party to the convention
 Stateless 1 - 1954 Convention relating to the Status of Stateless Persons
 Stateless 2 - 1961 Convention on the Reduction of Statelessness

leaves Malaysia with minimal to no relevant international treaty-based obligations to protect or uphold a person's right to nationality.

Eight of the eleven States in the sub-region are parties to ICESCR (Cambodia, Indonesia, Laos, Myanmar, the Philippines, Thailand, Timor-Leste, and Viet Nam) and seven States have acceded to ICCPR (Cambodia, Indonesia, Laos, the Philippines, Thailand, Timor-Leste, and Viet Nam).⁸⁸⁴ Six States (Cambodia, Indonesia, Laos, the Philippines, Thailand, and Viet Nam) are also all parties to ICERD.

The Philippines represents a model for progressive legislation towards the prevention of statelessness in the Southeast Asia subregion. Principally, the Philippines is the only State in Southeast Asia, which is party to either of the Stateless Conventions, having ratified both the 1954 and 1961 Statelessness Conventions.⁸⁸⁵ The country also defines a stateless person as “a person who is not considered as a national by any State under the operation of its law” in its *Rule on Facilitated Naturalization of Refugees and Stateless*

Persons, which is directly aligned with the definition included in the 1954 Convention on the Status of Stateless Persons.⁸⁸⁶ It is also the only country in the entire Asia-Pacific region to have implemented a statelessness determination procedure, which it established in 2012.⁸⁸⁷ The Philippines also notably introduced a National Action Plan to End Statelessness in 2015 based on UNHCR's Global Action Plan to End Statelessness.⁸⁸⁸ Thailand and Viet Nam have also made notable strides towards ending statelessness in their territories. Over the past decade, the Thai government has worked in partnership with UNHCR and NGOs to both expand the rights of non-citizens and to identify and provide access to citizenship for those children entitled to it. Between October 2020 and September 2021, 2,740 stateless persons were granted citizenship.⁸⁸⁹ Because of the exemplary work of the Thai government in identifying stateless persons, the figures of statelessness in Thailand have increased in the last five years from

The Philippines represents a model for progressive legislation towards the prevention of statelessness in the Southeast Asia subregion.

443,862 in 2015 to 574,219 in 2022.⁸⁹⁰ Vietnam too has made significant strides towards ending statelessness by amending laws that provide for a simplified naturalization process as well as an option to reacquire Vietnamese citizenship after renunciation.⁸⁹¹

Population

Reported stateless persons

Based on statistics reported to UNHCR, Southeast Asia as a sub-region hosts the largest number of persons affected by statelessness, collectively reporting over 1.4 million stateless persons.⁸⁹² All countries apart from Laos and Timor-Leste have reported figures on stateless persons in 2022 to UNHCR.⁸⁹³

Most identified stateless populations within Southeast Asia consists of *in situ* ethnic minority groups who have experienced protracted and intergenerational statelessness. Myanmar has the largest reported stateless population, reporting 630,000 stateless persons to UNHCR in 2022.⁸⁹⁴ UNHCR notes that the figure of 630,000 persons

Based on statistics reported to UNHCR, Southeast Asia as a sub-region hosts the largest number of persons affected by statelessness, collectively reporting over 1.4 million stateless persons.

represents the estimate of UNHCR of the number of stateless Rohingyas both in Rakhine state and those that are internally displaced.⁸⁹⁵

Ethnic minority groups in Brunei, Cambodia, Indonesia, the Philippines, Thailand and Viet Nam also face protracted and intergenerational statelessness.⁸⁹⁶ With the largest of these populations including 574,219 people in Thailand (largely comprised of members of the 'Hill Tribe' communities), 75,000 persons of Vietnamese ethnicity in Cambodia, a population of 26,811 people in Viet Nam (including members of the Hmong community and people of Cambodian heritage) and over 20,000 persons of Chinese heritage in Brunei.⁸⁹⁷ The entirety of this reported population in Indonesia consists of stateless Rohingya refugees.⁸⁹⁸ UNHCR also noted that there is a potentially large number of unreported non-displaced stateless persons in Indonesia which there is currently no reliable data on.⁸⁹⁹

TABLE 15

Reported stateless population in Southeast Asia

Country	2019 (year start) ⁹⁰⁰	2020 (year end) ⁹⁰¹	2021 (year end) ⁹⁰²	2022 (year end) ⁹⁰³
Brunei Darussalam	20,863	20,863	20,863	20,863
Cambodia	57,444	57,444	75,000	75,000
Indonesia	582	874	641	925
Lao People's Democratic Republic	–	–	–	–
Malaysia	108,332	111,289	112,420	115,169
Myanmar	600,000	600,000	600,000	630,000
Philippines	383	387	260	267
Singapore	1,303	1,109	1,109	1,109
Thailand	475,009	480,695	561,527	574,219
Timor-Leste	–	–	–	–
Vietnam	30,581	32,890	35,475	26,811
TOTALS	1,294,497	1,305,551	1,407,295	1,444,363

Source: UNHCR, Global Trends: Forced Displacement from 2019-2022

Further, there is a lack of recent reliable statistics on the stateless population in Brunei,⁹⁰⁴ which has no available data on stateless persons without formalised residency.⁹⁰⁵

Persons at risk of statelessness

Overall, higher rates of civil registration (compared to the Pacific) and less reliance on household registrations (compared to East Asia) should lead to a lower number of persons seen to be at risk of statelessness within Southeast Asia. However, there remains a number of identified groups who remain at risk. In Cambodia, Indonesia, Laos and Thailand low rates of birth

registration among certain populations have exposed potentially millions of children to the risk of statelessness,⁹⁰⁶ with children of migrant workers and ethnic minorities left especially vulnerable to statelessness.⁹⁰⁷ Within the Philippines six population groups have been identified as being at risk of statelessness: indigenous sea-faring Sama Bajau, Persons of Indonesian Descent (the status of most of this population group has been resolved in recent years), foundlings, unregistered children who have been forcibly displaced due to armed conflict and persons of Japanese descent (even though most cases have now been resolved or are in the process of getting resolved).⁹⁰⁸ Within

Malaysia multiple populations have also been identified including persons who have resided in Malaysia since pre-independence as well as their descendants (including individuals of Tamil ethnicity), children of mixed-nationality marriages (through the impact of gender discriminatory nationality laws), indigenous persons (including mobile maritime populations and Orang Asli communities), refugees and irregular migrants (and their children) in Sabah East Malaysia, as well as persons lacking documentation and foundling children.⁹⁰⁹

Indonesians of Chinese Origin (due to different historical circumstances and legal complications);

some Indonesians of Chinese origin; Indonesians of Indian Origin (due historical and legal reasons); Indonesian migrant workers (who confront documentation challenges or have their citizenship status questioned); exiled Indonesians (who were forced to leave Indonesia for political or other reasons face difficulties re-establishing their citizenship upon their return); and undocumented Chinese Migrants are all populations affected by statelessness in Indonesia.⁹¹⁰ In Brunei, children born to a Brunei citizen mother,⁹¹¹ indigenous populations including Dusun and Iban populations⁹¹², and foreign wives of citizens as at risk of statelessness.⁹¹³

Pledges to End Statelessness

At the 2023 Global Refugee Forum (GRF), the Commission on Human Rights of the Philippines pledged its commitment to the “protection of stateless persons and persons at risk of statelessness in Sabah, through inter-[National Human Rights Institution (NHRI) Memoranda of Understanding (MoU)] on Statelessness”.⁹¹⁴ The inter-NHRI MoU on Statelessness seeks to improve “policy and operational frameworks to ensure protection of the rights of stateless persons and persons at risk of statelessness in Sabah through cooperation between the National Human Rights Institutions of Malaysia, Indonesia, and the Philippines”.⁹¹⁵ It is also intended to enhance coordination and cooperation between the “Commission on Human Rights of the Philippines, as an independent NHRI, and the Government of the Philippines in addressing issues of statelessness in Sabah with a human rights-based approach”.⁹¹⁶

Thailand also pledged to “resolve statelessness, with priority being given to children born in

Thailand” as part of the 2023 GRF.⁹¹⁷ The government set out its objectives for resolving statelessness as:

1. “Developing, within two years, a national action plan on the reduction of statelessness and the management of forcibly displaced persons in Thailand, with priority given to stateless children, and through collaboration between government agencies, private sector, and civil society”;
2. “Enhancing effectiveness of the systems to facilitate access by stateless persons to civil registration services, with a view to expediting the process for children born in Thailand and the elderly”;
3. “Reviewing existing laws and regulations related to nationality, civil registration and immigration, in order to facilitate access to legal residence, nationality and civic rights, particularly for children born in Thailand; as well as”
4. “Cooperating with UNHCR and joining the Global Alliance to End Statelessness”.⁹¹⁸

At the High-Level Segment on Stateless in October 2019, both the Philippines and Indonesia made pledges related to the prevention of statelessness.⁹¹⁹

The Philippines committed:

- ◆ To enhance the policy, legal, and operational framework for stateless persons to ensure their full access to rights as guaranteed by the 1954 Convention Relating to the Status of Stateless Persons including their facilitated naturalization and as may be provided by national laws;⁹²⁰
- ◆ To improve access of vulnerable and marginalized populations to documentation through birth and civil registration;⁹²¹
- ◆ To continue the study of statelessness, with a thrust to improve qualitative and quantitative data on populations at risk of statelessness in the Philippines and among its nationals, in continuation of efforts initiated in 2011;⁹²²
- ◆ To continue the process of accession to the 1961 Convention on the Reduction of Statelessness;⁹²³
- ◆ To continue leadership in Southeast Asia in the development of a human rights framework and provide technical support to other States in dealing with issues relating to stateless persons;⁹²⁴ and

- ◆ To cooperate with UNHCR by supporting projects, continuing fund contributions, and by building or expanding partnerships.⁹²⁵

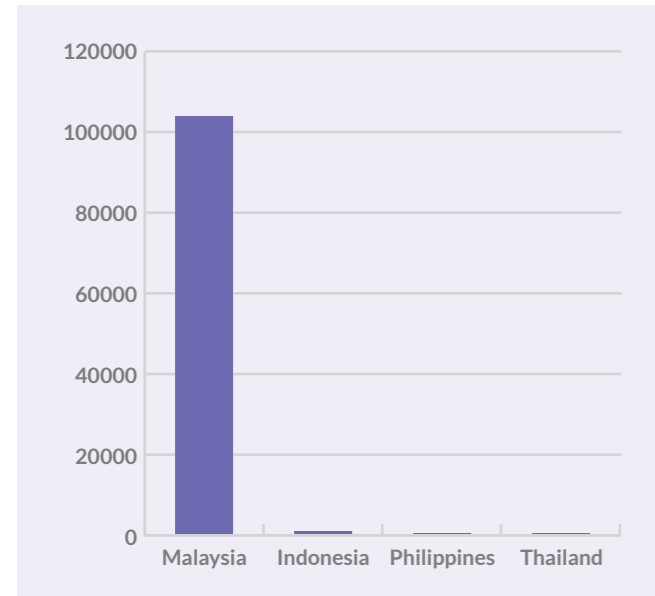
So far, the Philippines has been successful in ratifying the 1961 Convention on statelessness.⁹²⁶ Indonesia also pledged to:

- ◆ increase the scope of operation and the provision of infrastructure related to its national citizenship registry;⁹²⁷
- ◆ increase the utilisation of a digital platform for citizenship registry and citizenship documentations such as the issuance of birth certificate and single identity number;⁹²⁸
- ◆ enhance cooperation with UNHCR in handling refugees and asylum seekers⁹²⁹, and
- ◆ to work with all countries, particularly the two Statelessness Conventions, to learn together, increase capacities, and exchange technology in addressing statelessness.⁹³⁰

On this, significant advancements towards these goals are yet to be seen from Indonesia.

FIGURE 6

Reported Stateless Rohingya Refugees in Southeast Asia



Source: Global Trends: Forced Displacement in 2022

Stateless Refugees

Four countries (Indonesia, Malaysia, Philippines and Thailand) in the region reported populations of stateless refugees to UNHCR in 2022. All of the reported stateless refugees are Rohingya from Myanmar, with Malaysia reporting the largest population (103,380), while Indonesia (925), the Philippines (11) and Thailand (321) all reported comparatively small population groups.⁹³¹ In total, the sub-region has reported 104,637 stateless Rohingya refugees.

Undetermined nationalities

In March 2022 the Chief Minister of Sabah, Malaysia announced that 810,443 residents of Sabah are non-citizens.⁹³² This group represents the largest and most notable population of undetermined nationality within Southeast Asia as disagreement exists as to whether this population are stateless or should be considered citizens of

either the Philippines, Malaysia or Indonesia.⁹³³ The citizenship status of other population groups including children of returned marriage migrants in Viet Nam and⁹³⁴ persons of Chinese, Indian and Nepali descent in Myanmar⁹³⁵ remains uncertain.

Causes of Statelessness

Discriminatory nationality laws

As noted above, ethnicity and national identity share a deep connection within a number of States in Southeast Asia. The most conspicuous example of this is the ethnic discrimination present in the nationality law of Myanmar that has rendered hundreds of thousands of ethnic Rohingya stateless.⁹³⁶ Denial of citizenship to the Rohingya, as codified in the 1982 citizenship law, has been a key component of the systemic oppression and persecution of the Rohingya people by the government and military of Myanmar prior to the 2021 military coup.⁹³⁷

Additionally, ethnic discrimination affects a number of other populations in countries other than Myanmar. For example, in the process of Thai nation building in the 20th Century, Thai ethnicity and citizenship were deeply entwined. Members of nine ethnic groups often referred to as 'hill-tribe' or 'highland' communities living in the northwest of the country have faced intergenerational statelessness due to social exclusion.⁹³⁸ In Brunei, limitations of nationality to certain prescribed ethnic groups, or "indigenous groups of the Malay race" is the primary cause of statelessness with the largest stateless registered stateless group being persons of Chinese heritage.⁹³⁹

Gender discriminatory nationality laws place a number of children at risk of statelessness in Malaysia and Brunei. Notably, children born outside of Malaysia to Malaysian citizen mothers and foreign fathers do not immediately gain

citizenship of Malaysia.⁹⁴⁰ Children born in Malaysia out of wedlock (or in situations where the marriage is not recognised by the State, notably non-Islamic customary or religious marriages) to a Malaysian citizen father and a mother who is stateless or whose citizenship cannot be ascertained, are also at risk of statelessness due to discriminatory provision that disallow the transfer of nationality from a father outside of wedlock.⁹⁴¹

Gender discriminatory nationality laws place a number of children at risk of statelessness in Malaysia and Brunei.

A combination of ethnic discrimination and gender discriminatory provisions also rendered stateless persons of Japanese descent who were born in the Philippines between the 1930's and 1970's (as well as their descendants) to Filipino mothers and Japanese fathers.⁹⁴² Some gender discrimination remains in the citizenship legislation of the Philippines, as naturalized alien women who are married to Philippine citizen men may *ipso facto* become a Philippine citizen through marriage; however, Philippine citizen women cannot confer nationality to a foreign spouse on the same basis as men.⁹⁴³ Singapore's citizenship law also contains some gender discriminatory provisions, where a child born in Singapore to a citizen mother and a father who is foreign diplomat will not be a citizen, despite the fact that the child should be eligible for citizenship by descent through their citizen mother.⁹⁴⁴ The limitation on the ability of married women to confer nationality to their foreign spouse on the same basis as men⁹⁴⁵ also constitutes gender

Some gender discrimination remains in the citizenship legislation of the Philippines, as naturalized alien women who are married to Philippine citizen men may ipso facto become a Philippine citizen through marriage; however, Philippine citizen women cannot confer nationality to a foreign spouse on the same basis as men.

discrimination. Singapore law's retention of the concept of illegitimacy, as applied to children born out of wedlock, creates a discriminatory imbalance and an increased risk of statelessness for children deemed as "illegitimate".⁹⁴⁶ While Thailand's 2008 amendments to its citizenship law allowed for foreign spouses to apply for Thai citizenship without the requirement of permanent residence⁹⁴⁷, the Act still does not allow for full gender equality in the ability to confer citizenship to foreign spouses.⁹⁴⁸ Women are also limited in their ability to confer nationality onto foreign husbands in Brunei while Brunei men are able to confer nationality to a foreign spouse.⁹⁴⁹

Lack of legal safeguards against childhood statelessness

Two States in Southeast Asia (Brunei and Myanmar) provide no protection for stateless or foundling children to gain citizenship. The citizenship laws of six States (Cambodia, Indonesia, Laos, Philippines, Singapore and Viet Nam) explicitly provide that foundling children will be considered citizens.⁹⁵⁰ In Indonesia, there have been some implementation issues due to the absence of specific guidelines and procedures of the provisions.⁹⁵¹ The citizenship laws of three States (Malaysia, Thailand and Timor-Leste) provide some protection for foundling children under their law. Malaysian law considers those born in Malaysia who are not born citizens of another country to be citizens of Malaysia.⁹⁵² Timor-Leste's citizenship laws provide that a child of 'incognito parents' will be considered an original citizen of Timor-Leste.⁹⁵³ Foundlings can acquire Thai nationality through naturalization. However, there are many conditions of naturalization that limit many foundlings from accessing the naturalization process.⁹⁵⁴

Two States in Southeast Asia (Brunei and Myanmar) provide no protection for stateless or foundling children to gain citizenship.

Brunei, Myanmar, the Philippines and Singapore do not provide any explicit protection for children born to stateless parents. The *jus soli* provisions of Cambodian citizenship law may provide protection to children born to stateless parents in limited circumstances (where those parents were born and resided legally in Cambodia and were considered ‘foreigners’).⁹⁵⁵ The citizenship laws of Indonesia, Laos, Timor-Leste and Viet Nam explicitly provide that children born to stateless parents will be considered citizens.⁹⁵⁶ In Viet Nam, the parents must have a ‘permanent residence’ in Viet Nam.⁹⁵⁷ Laotian citizenship similarly provides that children born to stateless parents are considered Laotian citizens if the parents are permanently residing in Laos and have ‘integrated to the Lao society and culture’.⁹⁵⁸ The Malaysian Constitution provides that every person born in Malaysia who is “not born a citizen of any country” will be considered as a citizen of Malaysia.⁹⁵⁹ Thailand’s *jus soli* citizenship provisions may provide avenues to citizenship to children of stateless parents who have regularised stay in Thailand.⁹⁶⁰ Article 1 of the 1961 Convention on the Reduction of Statelessness states that State parties “shall grant nationality to a person born in its territory who would otherwise be stateless” either “by birth, by operation of law, or upon and application”.⁹⁶¹

Citizenship stripping

Citizenship stripping is a less prevalent cause of statelessness within Southeast Asia. However, four countries (Indonesia, Philippines, Myanmar, and Viet Nam) have notable instances of citizenship deprivation. Under the operation of the 1958 citizenship law, persons residing outside of Indonesia for a period of more than five years without registration lost their Indonesian citizenship (with no inbuilt protection from statelessness). While the law was reformed in 2006, there remains a small number of persons

of Indonesian descent who resided in the Philippines and were stripped of their Indonesian citizenship.⁹⁶²

Citizenship stripping is a less prevalent cause of statelessness within Southeast Asia. However, four countries (Indonesia, Philippines, Myanmar, and Viet Nam) have notable instances of citizenship deprivation.

Due to barriers to dual nationality in the laws of receiving countries, marriage migrants from Viet Nam had to relinquish citizenship to naturalize as citizens, however, where a relationship was determined to be a ‘sham’ or fraudulent women have been stripped of their nationality without protections from statelessness.⁹⁶³

In February 2020, the government of Indonesia disallowed over 1,000 Indonesian citizens who had left Indonesia and joined the Islamic State from returning to the country. While not officially stripping these individuals (who include family members of fighters) of their citizenship, concerns have been raised over the risk of future statelessness faced by this population group.⁹⁶⁴ Myanmar’s citizenship legislation includes vague, overarching provisions allowing for the revocation of citizenship.⁹⁶⁵ There are no legislative protections for those who have their citizenship revoked from becoming stateless, which could leave some at risk of statelessness.⁹⁶⁶ Notably, in Singapore, there is no right to appeal.⁹⁶⁷ Naturalized citizens of Singapore may be deprived of their citizenship if they resided outside of Singapore for five continuous years without registering annually at the Singaporean consulate.⁹⁶⁸

Administrative barriers

The denial of civil registration documents and arbitrary and discriminatory applications of policy

have played a key role in causing and compounding statelessness in Southeast Asia. For example, low birth registration rates and barriers to birth registration especially among children of migrant workers and communities living in poverty have placed as many as 50 million children in Indonesia at risk of statelessness.⁹⁶⁹ In the past decades the provision and withdrawal of civil registration documents has been complex, discriminatory and a key component of the persecution of the Rohingya population in Myanmar.⁹⁷⁰ Additionally, the failure of the government of Myanmar to facilitate the naturalization of Rohingya populations, and the degradation of the documented status of Rohingya that is also a key cause of statelessness within Myanmar.⁹⁷¹

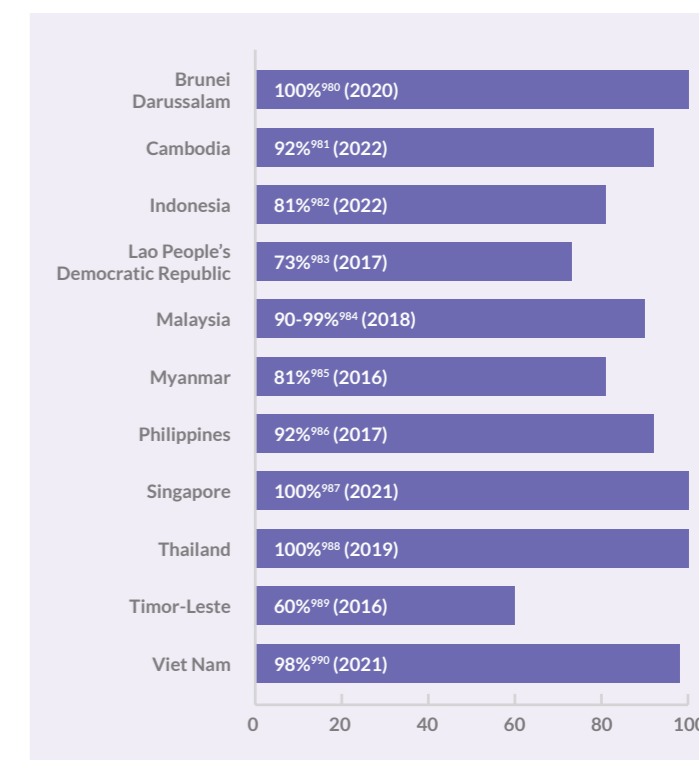
Ethnic minority groups in Brunei, Cambodia, the Philippines and Viet Nam have also faced barriers to gaining civil registration and citizenship, with such barriers leading to protracted and intergenerational statelessness.⁹⁷² Ethnic Vietnamese populations in Cambodia have also faced discriminatory barriers to both recognition of citizenship and access to citizenship through naturalization.⁹⁷³ Notably, administrative barriers have continued to limit the ability of members of ‘highland’ communities in Thailand to gain citizenship. Differentiation in treatment by officials, lack of documentation, ingrained concepts of communities as ‘mobile’ and physical/geographic barriers to accessing communities have complicated the citizenship application/verification process for these communities.⁹⁷⁴ Administrative and practical barriers to accessing birth registration have placed as many as 130,000 Sama Bajau (Bajut Laut) community members – who reside in the Philippines, Malaysia and Indonesia – at risk of statelessness.⁹⁷⁵ Additionally, lack of documentation, specifically among older populations in Singapore has left persons stateless since the country’s independence in 1965.⁹⁷⁶ In Singapore, heavy penalties for late registration

and a lack of registration procedures for children born outside of Singapore present major barriers to birth registration.⁹⁷⁷

Requirement of birth registration for citizenship acquisition

A birth certificate is the primary document proving citizenship in Cambodia, Thailand, and Timor-Leste.⁹⁷⁸ In six States (Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Viet Nam), a birth certificate, among other documents, may certify citizenship.⁹⁷⁹ Information is limited on the required documents for proving citizenship in Brunei and Laos.

FIGURE 7
Birth Registration rates of countries in Southeast Asia



Source: “Birth and Death Registration Completeness” (UN Statistics Division, April 2023); “Data Warehouse,” UNICEF DATA

Stakeholders

The stakeholder information in this section has been gathered through seeking consent from the organisations in the region. However, it is important to note that this list is not exhaustive and does not identify all organisations working on the issue in the region, as it is limited to those who provided consent.

In total, 68 stakeholders have been identified in the region, comprising 6 networks and coalitions, and 5 independent researchers. South Asia hosts the largest number of stakeholders with 22 organisations, followed by Southeast Asia with 17. Additionally, one active network has been identified in Central Asia, along with 9 organisations in East Asia and 8 in the Pacific region focusing on the issue.

Organisations

Central Asia

- ◆ Central Asian Network on Statelessness

East Asia

- ◆ Beijing Institute of Technology, China
- ◆ Justice Centre Hong Kong, Hong Kong
- ◆ International Christian University, Japan
- ◆ Forum for Refugees Japan, Japan
- ◆ University of Tsukuba, Japan
- ◆ Stateless Network, Japan

- ◆ Forum for Refugees Japan, Japan
- ◆ Duroo Lawyers for Public Interest, South Korea
- ◆ Taiwan Association for Human Rights, Taiwan

Pacific

- ◆ Wilai Foundation, Australia
- ◆ University of the Sunshine Coast, Australia
- ◆ DLA Piper, Australia
- ◆ Refugee Communities Association of Australia Inc., Australia
- ◆ Help Himalayan Youth Foundation Inc., Australia
- ◆ Refugee Council of Australia, Australia
- ◆ Peter McMullin Centre on Statelessness, Melbourne Law School, Australia
- ◆ Borneo Komrad, Kiribati

South Asia

- ◆ Association of Urdu-speaking Community in Bangladesh (AUCB), Bangladesh
- ◆ Al-Falah, Bangladesh
- ◆ Naripokko, Bangladesh
- ◆ Rohingya Project, Bangladesh
- ◆ Council of Minorities, Bangladesh
- ◆ Rohingya Human Rights Initiative, Bangladesh
- ◆ BRAC University, Bangladesh
- ◆ Center for Peace and Justice, Bangladesh
- ◆ Right to Nationality and Citizenship Network (RNCN), India

- ◆ Centre for Statelessness and Refugee Studies, Tata Institute of Social Sciences, India
- ◆ Development and Justice Initiative (DAJI), India
- ◆ O.P. Jindal Global University, India
- ◆ Citizenship Affected People's Network, Nepal
- ◆ Forum for Women Law and Development (FWLD), Nepal
- ◆ Alliance on Social Dialogue, Nepal
- ◆ Hope Worldwide-Pakistan, Pakistan
- ◆ Institute of Policy Studies, Pakistan
- ◆ Musawi, Pakistan
- ◆ Youth Association for Development (YAD), Pakistan
- ◆ Human Rights Alliance, Pakistan
- ◆ Rights Now Pakistan, Pakistan
- ◆ Imkaan Welfare Organization, Pakistan

Southeast Asia

- ◆ Jesuit Refugee Service Cambodia, Cambodia
- ◆ Women Peace Makers (WPM), Cambodia
- ◆ Putri Kusuma Amanda Center on Child Protection and Wellbeing, Universitas Indonesia (PUSKAPA), Indonesia
- ◆ SUAKA, Indonesia
- ◆ Dompot Dhuafa, Indonesia
- ◆ Development of Human Resources for Rural Areas (DHRRA), Malaysia
- ◆ Family Frontiers, Malaysia
- ◆ Yayasan Chow Kit (YCK), Malaysia
- ◆ SMILE, Myanmar

- ◆ Braveheart Foundation, Myanmar
- ◆ Peace and Human Security Institute, Philippines
- ◆ Western Mindanao State University, Philippines
- ◆ Citizenship Rights Network Philippines, Philippines
- ◆ Ateneo Human Rights Center, Philippines
- ◆ The Life Skills Development Foundation, Thailand
- ◆ Asia Centre, Thailand
- ◆ Adventist Development and Relief Agency, Thailand

Independent Researchers

- ◆ Professor Sanoj Rajan, Zhejiang Gongshang University, China
- ◆ Jose Arraiza, Myanmar
- ◆ Helen Brunt
- ◆ Dr. Rodziana Mohamed Razali, Malaysia
- ◆ Parsu Sharma Luita, Australia

Regional Networks and Coalitions

- ◆ Statelessness and Dignified Citizenship Coalition - Asia Pacific (SDCC-AP)
- ◆ Rohingya Maiyafuinqor Collaborative Network
- ◆ Asia Pacific Refugee Rights Network
- ◆ International Detention Coalition (IDC)
- ◆ Fortify Rights
- ◆ End Detention Network (EDN)

Concluding Remarks

Statelessness is far-reaching and pervasive, adversely impacting all aspects of life for individuals and communities across the region, which carries forward intergenerationally. In conducting research for this report, we found statelessness to be not only a product of, but also a catalyst for discrimination. Our hope is that this encyclopedia will highlight and bring attention to the growing issue of statelessness in the Asia-Pacific region and serve as a roadmap for stakeholders working in the field. The aim of this report is to combine existing data and research on statelessness across the Asia-Pacific into a comprehensive overview of the ongoing situation of statelessness in the region. The lack of research and data on statelessness in the region, as such, is a clear limitation to knowledge production. Through our consultations, the scarcity of funding and resources, as well as the politicization of statehood was found to be a pervasive barrier to organizations working on statelessness. This report endeavors to invite further research and financial investment to support organizations working with individuals and communities experiencing statelessness. The rising disconnect between the existence of known

stateless populations and figures of zero (or near zero) officially reported stateless persons needs to be ended by investing in better quantitative research. In addition, further qualitative research on the experiences of stateless persons would substantially improve public understanding of how statelessness is experienced across the region. Such research is crucial in highlighting the ways in which statelessness significantly impacts peoples' lives and limits their access to fundamental rights. The first edition of the Statelessness Encyclopedia Asia Pacific (SEAP) represented the foundational research derived from NFA's early organizational development and strategic planning. As a continuation of the first edition thematically and geographically to continue to fill gaps in existing research and bring greater transparency to the issue of statelessness in the Asia-Pacific region. Along with a deeper examination of all countries of the region, it showcases the obligations and pledges undertaken by countries, examining violations of human rights and highlighting the areas where countries and civil society could come together to prevent and end statelessness.

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