

SEAP

STATELESSNESS ENCYCLOPEDIA ASIA PACIFIC
(DETAILED VERSION)



NATIONALITY FOR ALL

Advancing the right to a nationality in the Asia-Pacific region

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

SEAP

STATELESSNESS ENCYCLOPEDIA ASIA PACIFIC
(DETAILED VERSION)

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Special thanks DLA Piper and Taiwan Foundation for Democracy (TFD)
Design YoungInnovations Pvt. Ltd.
Year February 2024
Edition Second

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

List of Acronyms

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

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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 Registratioin 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 increase in displacement on communities and 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

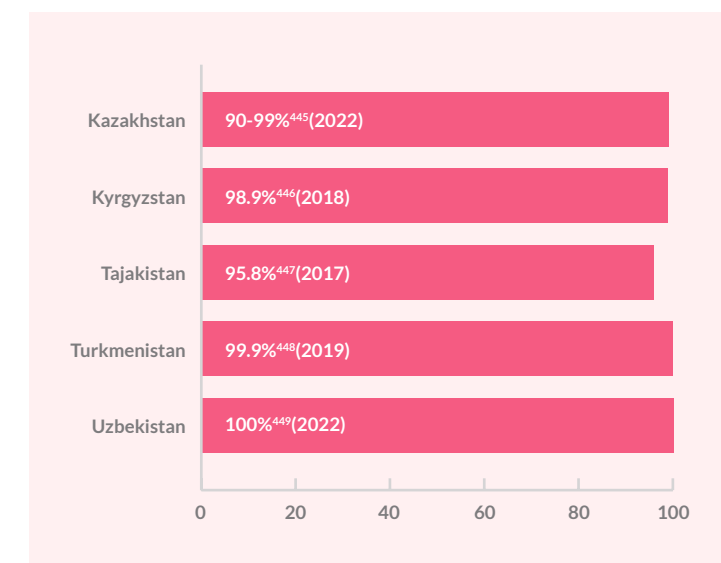
Parents who lack identity documents may have difficulty registering their child’s birth in practice in Tajikistan.⁴³² However, Tajikistan has made significant improvements in birth registration with its new electronic system launched and amendments to the *Civil Registration Law* in 2019.⁴³³ The changes 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/

Kazakhstan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The Republic of Kazakhstan's citizenship laws provide for both *jus soli* and *jus sanguinis* citizenship, which are outlined in the *Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan*.⁴⁵⁰ Article 11 of the *Law* outlines that a child born to two Kazakhstani citizens will be granted citizenship by descent regardless of their place of birth.⁴⁵¹ Children born inside of the territory of Kazakhstan will have citizenship if they have at least one parent who is a citizen of Kazakhstan according to Article 12 of the *Law*.⁴⁵² However, Article 11(1) states that a child born to two parents of foreign citizenship will not have citizenship regardless of their birthplace.⁴⁵³

The Republic of Kazakhstan's citizenship laws provide for both jus soli and jus sanguinis citizenship, which are outlined in the Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan.

Permanent residency is an additional condition of citizenship in Kazakhstan which narrows the scope of protection from statelessness under the *Law*.⁴⁵⁴ If a child is born outside of the territory, the child will have citizenship only if the parents are both citizens, or if at least one parent was a citizen of Kazakhstan and had permanent residence in Kazakhstan at the time of birth.⁴⁵⁵ Article 12 also stipulates that citizenship is determined upon written consent from the parents for children born to at least one parent who is a citizen but both parents permanently reside outside of Kazakhstan.⁴⁵⁶

If a child is born outside of the territory, the child will have citizenship only if the parents are both citizens, or if at least one parent was a citizen of Kazakhstan and had permanent residence in Kazakhstan at the time of birth.

Kazakhstan's *Law on Citizenship of the Republic of Kazakhstan* also includes provisions specifically for people affected by statelessness. Kazakhstan introduced a national statelessness

determination procedure in 2020, which determines the legal status of persons residing in Kazakhstan who do not have Kazakh citizenship or proof of citizenship elsewhere and can facilitate legalization of stateless persons' stay in Kazakhstan.⁴⁵⁷ Even though a 2020 Order from the Minister of Internal Affairs of Kazakhstan stipulates that any non-citizen residing within the territory who does not have proof of citizenship elsewhere "shall be recognized as stateless persons", one is often not granted stateless status due to inability to confirm their residence.⁴⁵⁸ Further, the requirement of showing documentation of absence or termination of citizenship in another state in order to obtain stateless status through the SDP presents a major barrier as states often do not administer such documents.⁴⁵⁹ If administered, state bodies of Kazakhstan also often do not accept many forms of such a document.⁴⁶⁰ This legislation leaves the burden of proof to stateless people, which can leave some in limbo as they are unable to acquire the required documents for the SDP.⁴⁶¹ While the introduction of the SDP is a significant achievement for Kazakhstan, UNHCR has noted that gaps in safeguards in the SDP legislation remain, including lack of access to the procedure for those without documents proving permanent residence and lack of access to the right to an interview and the right to appeal a negative decision.⁴⁶² Kazakhstan's legislation currently does not protect the right to an interview, free legal aid, and the right to appeal first-instance negative decisions.⁴⁶³ For example, those whose citizenship applications have been rejected have the opportunity to appeal the decision, but the process to appeal is often drawn out.⁴⁶⁴ The 1954 Convention relating to the Status of Stateless Persons provides that stateless persons' access to

Kazakhstan introduced a national statelessness determination procedure in 2020, which determines the legal status of persons residing in Kazakhstan who do not have Kazakh citizenship or proof of citizenship elsewhere and can facilitate legalization of stateless persons' stay in Kazakhstan

the courts shall be equal to citizens of the state.⁴⁶⁵ UNHCR recommends Kazakhstan to ratify the 1954 Convention and adequately provide legal safeguards and equal access to the courts for stateless persons in Kazakhstan.⁴⁶⁶

The law also provides for those children who are born to two stateless parents within Kazakhstan will only have citizenship if their parents are permanent residents.

Currently, the *Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan* defines a stateless person as any person who is not a citizen of Kazakhstan and does not have proof of citizenship elsewhere, placing the burden of proof on the stateless person.⁴⁶⁷ Kazakhstan could further improve its legislation by bringing its definition of a stateless person in line 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.⁴⁶⁸

Naturalized citizenship

In Kazakhstan, stateless individuals are eligible for naturalized citizenship on the same basis as foreigners.⁴⁶⁹ However, Article 32 of the 1954 Convention relating to the Status of Stateless Persons stipulates that such a process should be expedited for stateless persons.⁴⁷⁰ Naturalization can be achieved by stateless persons and foreigners alike by legally residing in Kazakhstan for a period of 5 years or being married to a citizen of Kazakhstan for three years.⁴⁷¹ Part of the registration process for naturalization requires providing a criminal record, documentation regarding termination or absence of citizenship in a different state, as well as proof of permanent residency in Kazakhstan for the required period.⁴⁷²

Naturalization can be achieved by stateless persons and foreigners alike by legally residing in Kazakhstan for a period of 5 years or being married to a citizen of Kazakhstan for three years.

TABLE 8

Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Kazakhstan	–	–	✓	✓	✓	✓	✓	✓

✓ 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

A stateless person can only begin accumulating the years of residency required for naturalization after they have successfully completed the Statelessness Determination Procedures (SDPs), and are formally recognised as stateless.⁴⁷³ Difficulties accessing the SDP for some stateless persons can present a barrier to stateless persons' naturalization in Kazakhstan.⁴⁷⁴

A stateless person can only begin accumulating the years of residency required for naturalization after they have successfully completed the Statelessness Determination Procedures (SDPs), and are formally recognised as stateless.

Dual citizenship

Dual citizenship is not permitted in Kazakhstan's citizenship laws with Article 3 stating that the Republic of Kazakhstan does not recognize the citizenship of another state to its citizens.⁴⁷⁵ Article 21 further states that gaining citizenship of a different state will result in loss of citizenship of Kazakhstan.⁴⁷⁶ The Law does not provide details on the process of renunciation of prior citizenship upon application for citizenship of Kazakhstan.

Treaty ratification status

Article 2 of the *Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan* states that the rules of any ratified international treaties take precedence over the rules included in the Law.⁴⁷⁷

Dual citizenship is not permitted in Kazakhstan's citizenship laws with Article 3 stating that the Republic of Kazakhstan does not recognize the citizenship of another state to its citizens.

Aside from the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, Kazakhstan has ratified all relevant international treaties, which include the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, ICERD, CRC, and CEDAW. There were no notable reservations from Kazakhstan on these ratifications.

Under CEDAW, Kazakhstan is required to ensure gender equality in nationality laws.⁴⁷⁸ In Kazakhstan's recent concluding observations by the CEDAW Committee, it was identified that reacquisition of nationality after loss of nationality through marriage is not always possible and, therefore, legislation should be reviewed to ensure that women can re-acquire nationality in cases of dissolution or non-occurrence of marriage.⁴⁷⁹ It was also recommended that Kazakhstan ensure the right to appeal to protect against arbitrary deprivation of nationality.⁴⁸⁰ Recent concluding observations by the CERD Committee also included recommendations for Kazakhstan to improve data collection on the number of stateless persons in the territory.⁴⁸¹

Kazakhstan has also already committed to ensuring that every child's birth is registered immediately by ratifying the ICCPR and the CRC.⁴⁸² However, the State has been non-compliant with its obligations under ICCPR, CRC, and its statelessness pledge of 2019 due to the lack of proper implementation of birth registration to children of undocumented parents.⁴⁸³ This also relates to Kazakhstan's obligations under the CRC which requires that signatory states leave no child to statelessness.⁴⁸⁴

TABLE 9

Reported stateless persons to the UNHCR

Country	2019 (year start) ⁴⁸⁵	2020 (year end) ⁴⁸⁶	2021 (year end) ⁴⁸⁷	2022 (year end) ⁴⁸⁸
Kazakhstan	7,690	7,999	7,831	8,569

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

The CRC Committee in 2015 recommended that Kazakhstan ensure stateless children access to free education and health care services.⁴⁸⁹

Population

Reported stateless persons

In 2022, UNHCR reported 8,569 stateless persons in Kazakhstan, which shows an increase of 738 reported stateless persons in the year since 2021.⁴⁹⁰ The true number of stateless persons living in Kazakhstan may be higher than reported, with ICERD noting that data collection needs improvement.⁴⁹¹ The reported population in 2022 shows an increase of 879 reported stateless people since the start of 2019.⁴⁹²

Kazakhstan's Pledges to End Statelessness

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".⁴⁹³ At the High-Level Segment on Statelessness in 2019, Kazakhstan made a pledge to "improve access to birth registration procedures through amendment of the national legislation to ensure that every child is registered at birth".⁴⁹⁴

The stateless population in Kazakhstan is largely made up of those who did not acquire citizenship of Kazakhstan or another successor state after the dissolution of the USSR in 1991.⁴⁹⁵ In 2020, a nation-wide campaign to identify stateless persons was launched by UNHCR with the goal of increasing registration and resolution of statelessness in Kazakhstan.⁴⁹⁶

Persons at risk of statelessness

Those who are at risk of statelessness in Kazakhstan generally comprise of children born to two foreign parents within Kazakhstan's territory, children born to refugees, undocumented parents, or parents who are otherwise unable to confer nationality to their child, as well as children born to stateless parents who are not permanent residents of Kazakhstan.⁴⁹⁷

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Kazakhstan's national legislation provides that children born to one Kazakhstani citizen parent and one parent who is officially recognized as stateless or whose nationality is undetermined will

Those who are at risk of statelessness in Kazakhstan generally comprise of children born to two foreign parents within Kazakhstan's territory, children born to refugees, undocumented parents, or parents who are otherwise unable to confer nationality to their child, as well as children born to stateless parents who are not permanent residents of Kazakhstan.

Currently, the Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan defines a stateless person as any person who is not a citizen of Kazakhstan and does not have proof of citizenship elsewhere, placing the burden of proof on the stateless person.

have Kazakhstani citizenship by descent no matter their birthplace.⁴⁹⁸ The law also provides for those children who are born to two stateless parents within Kazakhstan will only have citizenship if their parents are permanent residents.⁴⁹⁹ Foundling children in the territory of Kazakhstan are considered citizens through *jus soli* provisions if their parents are unknown.⁵⁰⁰ Citizenship is also protected for children under the age of 14 whose mother is stateless or has undetermined nationality and whose father is a citizen.⁵⁰¹ Provisions affecting children born to a citizen and a foreign parent outside of Kazakhstan which stipulate a requirement of written consent from the parents in order to pass citizenship to their child could leave some children at risk of statelessness.⁵⁰²

Citizenship stripping

Article 10(2) of the Constitution of Kazakhstan states that a citizen may be stripped of citizenship by an order of the Court only on the grounds of commission of terrorist crimes or acting against the interests of the Republic of Kazakhstan.⁵⁰³ There are currently no laws in Kazakhstan preventing those who are stripped of their citizenship from becoming stateless.⁵⁰⁴ Although, individuals are able to file appeals to reinstate their citizenship.⁵⁰⁵

Administrative barriers

Aside from political rights, stateless individuals in Kazakhstan enjoy nearly equal rights to citizens, which has lowered the priority to resolve stateless status in the country.⁵⁰⁶ For children a birth certificate as well as a passport of either parent are required in order to become a citizen of Kazakhstan.⁵⁰⁷ Despite

Article 10(2) of the Constitution of Kazakhstan states that a citizen may be stripped of citizenship by an order of the Court only on the grounds of commission of terrorist crimes or acting against the interests of the Republic of Kazakhstan.

Kazakhstan's birth registration rate standing around 90-99%⁵⁰⁸, concerns have been expressed with regards to provisions for documentation to a child born to two undocumented parents.⁵⁰⁹

The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family stipulates that birth registration is administered via "medical birth certificate or a copy of a court decision establishing the fact of birth".⁵¹⁰ Article 187 of the Code, states that the registration for a child born to two undocumented parents (unable to provide a passport) or a mother without proof of identity in a medical institution will be administered under the statement of information given by the mother.⁵¹¹

Concerns have been raised with the implementation of this legislation, which often results in issuance of documents that are not in full compliance with the law and lack information given by the mother about her identity.⁵¹² The lack of thorough and consistent birth registration for children born to undocumented parents places such children at risk of statelessness.⁵¹³ If a child of two undocumented parents is born outside of medical facilities, they are especially at risk of statelessness as they are not protected by laws regulating birth registration.⁵¹⁴

The Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family stipulates that birth registration is administered via "medical birth certificate or a copy of a court decision establishing the fact of birth". Article 187 of the Code, states that the registration for a child born to two undocumented parents (unable to provide a passport) or a mother without proof of identity in a medical institution will be administered under the statement of information given by the mother.



Kyrgyzstan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The Law of the Kyrgyz Republic on Citizenship of the Kyrgyz Republic contains both *jus sanguinis* and *jus soli* provisions.⁵¹⁵ Under Article 12 of the Law, a child, one or both of whose parents are citizens of Kyrgyzstan, is considered a citizen of Kyrgyzstan regardless of birthplace.⁵¹⁶ Amendments were made in February 2023 to the citizenship laws of Kyrgyzstan removing the problematic requirements for written consent to acquire citizenship in circumstances where one parent is a foreign national.⁵¹⁷ Now, in instances where one parent is a citizen of Kyrgyzstan and another parent is a foreign national, the child is considered a citizen of Kyrgyzstan unless both parents file a joint application to renounce the citizenship of Kyrgyzstan for the child who acquires another foreign citizenship at birth.⁵¹⁸

The Law of the Kyrgyz Republic on Citizenship of the Kyrgyz Republic contains both *jus sanguinis* and *jus soli* provisions.

Following 2023 amendments, the citizenship laws of Kyrgyzstan provide broad protection to stateless children. Article 12 stipulates that children with one parent who is stateless or unknown and one parent who is a citizen of Kyrgyzstan will have citizenship of Kyrgyzstan, regardless of their birthplace.

The definition of a stateless person in Article 3 of the Law on Citizenship has been amended to broadly align with the definition provided by the 1954 Convention relating to the Status of Stateless Persons.⁵¹⁹ The 2023 amendments removed the burden of proof that had previously been placed on the stateless person.

Naturalized citizenship

According to the Law on Citizenship of Kyrgyzstan, to obtain naturalization, stateless or foreign persons of at least 18 years of age must attain five years of residency, proficiency in a state or official language, comply with Kyrgyzstan's Constitution and

TABLE 10

Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Kyrgyzstan	–	–	✓	✓	✓	✓	✓	✓

✓ 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

legislation, and have a source of subsistence.⁵²⁰ However, if the person is recognized as a refugee or a stateless person in accordance with legislation by the Kyrgyz government, the period of residency required is reduced to three years.⁵²¹ There is a simplified procedure for naturalization that removes (or reduced to one year) both the required residency period and the other requirements listed above that covers some categories of stateless persons. UNHCR has found the procedure for naturalization available to stateless persons in line with Article 32 of the 1954 Convention relating to the Status of Stateless Persons which stipulates that such a process should be expedited for stateless persons to “reduce as far as possible the charges and costs of such proceedings”.⁵²² UNHCR has recommended further simplification of the processes of naturalization including the waiving or reduction of fees and exemption for submitting certain documents.⁵²³

According to the Law on Citizenship of Kyrgyzstan, to obtain naturalization, stateless or foreign persons of at least 18 years of age must attain five years of residency, proficiency in a state or official language, comply with Kyrgyzstan’s Constitution and legislation, and have a source of subsistence.

Dual citizenship

While Chapter 1 of the *Law of the Kyrgyz Republic of Citizenship of the Kyrgyz Republic* states that dual citizenship is not recognized by the Kyrgyz Republic, except for exceptional cases and existing bilateral treaties,⁵²⁴ some forms of dual citizenship are allowed.⁵²⁵ Safeguards exist in the laws of

Kyrgyzstan to protect persons from statelessness if they renounce their Kyrgyz citizenship in the process of acquiring the citizenship of another state.⁵²⁶

Safeguards exist in the laws of Kyrgyzstan to protect persons from statelessness if they renounce their Kyrgyz citizenship in the process of acquiring the citizenship of another state

Treaty ratification status

While Kyrgyzstan has not yet ratified the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, it has ratified the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, ICERD, CRC, and CEDAW.

Under its ratification of CEDAW, Kyrgyzstan is responsible for protecting gender equality in nationality laws.⁵²⁷ In 2021, the CEDAW Committee in its concluding observations noted that issues with access to birth registration and the limited scope of the statelessness determination procedure should be amended to better ensure gender equality in implementation of nationality laws.⁵²⁸ Certain ethnic minority groups including the Lyuli or Mugat community were identified by CEDAW as facing specific barriers to accessing birth registration.⁵²⁹ On birth registration, as a party to the ICCPR, Kyrgyzstan is obligated to ensure that every child be registered immediately at birth and protect their right to acquire nationality.⁵³⁰ Included in both the recent CEDAW and CERD Committee concluding observations

Kyrgyzstan’s Pledges to End Statelessness

At the High-Level Segment on Statelessness in October 2019, Kyrgyzstan made four pledges on statelessness.⁵³¹ By the end of 2020, Kyrgyzstan pledged to regulate the statelessness determination process as well as ensure that all children in Kyrgyzstan have a birth certificate.⁵³² Kyrgyzstan also pledged to bring its laws on birth registration in line with international standards to ensure all children are registered immediately at birth.⁵³³ Finally, Kyrgyzstan pledged to “study the experience of other State parties to the 1954 and 1961 Conventions on Statelessness”.⁵³⁴

While Kyrgyzstan did not fulfill their pledges to regulate statelessness determination, provide all children with a birth certificate, or bring its legislation on birth registration in line with international standards by 2020, in 2023 UNHCR has lauded Kyrgyzstan for their subsequent action towards reaching these aims. Amendments to citizenship laws and new legislation came into force in 2023 which ensures that no child will be left behind in birth registration and provide far greater safeguards to stateless children in their territory. However, due to the recency of these laws the success of their implementation cannot be commented upon yet.⁵³⁵

is a recommendation to establish a simple and streamlined statelessness determination procedure which ensures that stateless persons in Kyrgyzstan may obtain their status without discrimination.⁵³⁶ In 2021, amendments were made to facilitate more streamlined access to birth registration for children of stateless parents, providing for instances where certain documents are unable to be provided.⁵³⁷

Under its ratification of the ICERD, Kyrgyzstan is obligated to protect the right to nationality, to work, and to equal civil rights regardless of nationality, and to ensure non-discrimination

on the basis of nationality.⁵³⁸ In 2018, the CERD Committee recommended in its concluding observations to improve legal safeguards against statelessness, such as the right to appeal in Kyrgyzstan.⁵³⁹ Further, it was also recommended that Kyrgyzstan “amend the Law on External Migration to ensure that the provisions on the removal of non-citizens from its jurisdiction do not” result in discriminatory refoulement.⁵⁴⁰ As a party to the 1951 Refugee Convention, Kyrgyzstan is bound to protect the fundamental principle of non-refoulement.⁵⁴¹ Expulsion of a stateless person should only be legally permitted in exceptional circumstances, of which Kyrgyzstan has overstepped in its legislation.⁵⁴²

Kyrgyzstan has also ratified the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases (‘Minsk Convention’), which marks its obligation to ensure the right to a nationality, the right to change nationality, and freedom from arbitrary deprivation of nationality.⁵⁴³ However, only four States have ratified this Convention thus far.⁵⁴⁴

Population

Reported stateless persons

Kyrgyzstan became the first country to successfully resolve all known cases of statelessness in the country in July of 2019.⁵⁴⁵ However, Kyrgyzstan reported 203 stateless persons to UNHCR at the end of 2022, which shows that the number of identified stateless persons is still increasing despite the successes Kyrgyzstan has had in combating the issue.⁵⁴⁶ The stateless population in Kyrgyzstan is largely made up of former citizens of the USSR or others living in the area who have not yet gained citizenship of a new successor state.⁵⁴⁷

Official statistics on stateless persons in Kyrgyzstan only includes individuals who have a

TABLE 11

Reported stateless persons to the UNHCR

Country	2019 (year start) ⁵⁴⁸	2020 (year end) ⁵⁴⁹	2021 (year end) ⁵⁵⁰	2022 (year end) ⁵⁵¹
Kyrgyzstan	548 (0 at year end)	18	600	203

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

permanent residence permit as well as an official document verifying their stateless status.⁵⁵² There is currently no legislation regarding the collection of quantitative data on stateless persons in Kyrgyzstan.⁵⁵³ Further, statelessness determination is not covered by a specific statelessness determination procedure placed down in legislation but rather under regulations that are limited in their scope and only apply to certain categories of persons. The current regulations do not align with international standards.⁵⁵⁴

Persons at risk of statelessness

The nomadic Lyuli/Mugat community have low access to social services due to discrimination.⁵⁵⁵ While the Lyuli/Mugat community is largely no longer nomadic, their nomadic past meant that many members of the community never acquired documentation such as birth certificates.

Further, children of stateless parents who are temporarily residing in Kyrgyzstan and those who are in the process of relinquishing their citizenship of another state to gain Kyrgyz citizenship have historically been at risk of statelessness.⁵⁵⁶ While recent amendments to citizenship laws should provide protection to these cohorts, their impact is yet to be seen.

The nomadic Lyuli/Mugat community have low access to social services due to discrimination. While the Lyuli/Mugat community is largely no longer nomadic, their nomadic past meant that many members of the community never acquired documentation such as birth certificates.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

In Kyrgyzstan, citizenship laws have been amended to remove the requirement of written consent from parents of different citizenship in order to pass Kyrgyz citizenship to their child which had created the potential for children in this situation to remain stateless.⁵⁵⁷ Amendments have also been made to address a gap in legal protection that existed for children born to stateless parents who are not permanent residents of Kyrgyzstan, with the requirements of residence removed from Article 12 of the *Law on Citizenship*.⁵⁵⁸ Article 12 stipulates that children with one parent who is stateless or unknown and one parent who is a citizen of Kyrgyzstan will have citizenship of Kyrgyzstan, regardless of their birthplace.⁵⁵⁹ Further, *jus soli* provisions also provide that a child born in the territory whose parents or single parent are stateless will also be a citizen.⁵⁶⁰ Further, where a child is born on the territory of Kyrgyzstan to foreign parents or a single parent and the state of their citizenship fails to grant citizenship to the child, they will be considered a citizen of Kyrgyzstan.⁵⁶¹ Foundling children are also provided with citizenship as per Article 12 of the *Law*.⁵⁶²

Further the citizenship laws have been amended to remove the requirement of written consent from parents of different citizenship in order to pass Kyrgyz citizenship to their child which had created the potential for children in this situation to remain stateless.

Citizenship stripping

Kyrgyzstan has undertaken major amendments to the country's citizenship laws to address a lack of safeguards against statelessness in the case of deprivation of citizenship.⁵⁶³ A Kyrgyz citizen may lose their nationality if they are found to be or have been involved in the commission of a terrorist crime.⁵⁶⁴ Article 41 of the *Law on Citizenship* provides that decisions regarding "citizenship may be appealed through the court" within six months of the decision.⁵⁶⁵ If this deadline is missed for a legitimate reason, an appeal may be filed.⁵⁶⁶

A Kyrgyz citizen may lose their nationality if they are found to be or have been involved in the commission of a terrorist crime

Administrative barriers

Although Kyrgyzstan does have a high birth registration rate at 98.9%⁵⁶⁷, over 18,000 children under the age of 5 are lacking birth registration which prevents their access to many basic services.⁵⁶⁸ Previously, in order to register a birth of a child, the parents had to show documentation proving their identity, which presented a barrier

for the birth registration of children born to two parents without documentation.⁵⁶⁹ However, in June of 2023, a new law came into effect which ensures that all children are registered at birth regardless of the legal status of their parents.⁵⁷⁰ This new law also protects children who have already been born to stateless or undocumented parents as they will now also be eligible for birth registration.⁵⁷¹ Certifying documents for citizenship in Kyrgyzstan include both a birth certificate and passport.⁵⁷² As a result, increased access to birth registration is likely to increase access to citizenship for individuals and families affected by statelessness in Kyrgyzstan.

While not an administrative barrier, increasing trends of unregistered marriages in rural areas is one reason why birth registration remains an issue.⁵⁷³ While women have equal access to birth registration in law, in practice oftentimes the equality is not there.⁵⁷⁴

in June of 2023, a new law came into effect which ensures that all children are registered at birth regardless of the legal status of their parents. This new law also protects children who have already been born to stateless or undocumented parents as they will now also be eligible for birth registration.



Tajikistan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

In Tajikistan, both *jus sanguinis* and *jus soli* provisions are included in the main legislative instrument for citizenship and nationality.⁵⁷⁵ According to the *Constitutional Law of the Republic of Tajikistan on Nationality of the Republic of Tajikistan*, if a child is born to at least one citizen of Tajikistan, they will be a citizen regardless of birthplace.⁵⁷⁶ For children born on the territory of Tajikistan where one parent is a citizen and the other holds a different citizenship, there are no additional requirements.⁵⁷⁷ However, if the child is born outside the territory, they must have at least one parent with permanent residence in Tajikistan in order to be eligible for citizenship.⁵⁷⁸ If neither of the parents have permanent residence, a written agreement is required from the parents.⁵⁷⁹ To ensure that the child does not become stateless as a result of a disagreement between the parents, the law stipulates that if an agreement has not been reached within three months of the child's birth, the child will be considered a national of the Republic if not granted nationality of another state.⁵⁸⁰

In Tajikistan, both jus sanguinis and jus soli provisions are included in the main legislative instrument for citizenship and nationality.

The *Constitutional Law* 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.⁵⁸¹ The Law also states in Article 6 that stateless persons are encouraged to acquire citizenship of Tajikistan.⁵⁸²

Naturalized citizenship

Foreign citizens and stateless persons alike have the right to apply for nationality in Tajikistan.⁵⁸³ In order to do so, one must have permanent continuous residence in Tajikistan for five years, be able to communicate in the state language, and have no criminal prosecution.⁵⁸⁴ There is a simplified procedure for naturalization open to both foreigners and stateless persons

who have outstanding achievements, are former USSR citizens, or are a child or incapacitated person who is in state custody or guardianship.⁵⁸⁵ A 2008 amendment to the *Constitutional Law* removed access to this simplified procedure for refugees.⁵⁸⁶ While some stateless persons can still access this procedure, UNHCR recommends that the Republic of Tajikistan ensure that it is open to refugees as well.⁵⁸⁷

Foreign citizens and stateless persons alike have the right to apply for nationality in Tajikistan.

Stateless persons who are ineligible for naturalization through the simplified procedure can apply for naturalization at half the required period of permanent residence.⁵⁸⁸ UNHCR recommends that the requirement of permanent residence be removed for the process of naturalization for stateless persons to further expedite the process.⁵⁸⁹

In 2019, the *Law of the Republic of Tajikistan On Amnesty Related to Legalization of Stateless Persons and Foreign Nationals Illegally Residing in the Territory of the Republic of Tajikistan* was passed, which includes provisions for foreign nationals and stateless persons to legalize and regularize their status.⁵⁹⁰ The new *Law* provided the opportunity for stateless persons to obtain residence permits, resolve complex cases of statelessness, and a possibility of gaining citizenship in just three years.⁵⁹¹ However, an expiration date was placed on this new *Amnesty Law* for December of 2022, which UNHCR recommends that the Republic of Tajikistan extend to provide more people affected by statelessness the opportunity to address their legal status.⁵⁹²

The new Law provided the opportunity for stateless persons to obtain residence permits, resolve complex cases of statelessness, and a possibility of gaining citizenship in just three years.

Dual citizenship

The *Constitution* states that only Tajik citizenship of dual citizens will be recognized unless covered by a treaty recognizing dual citizenship of the specific state/s.⁵⁹³ For a foreign citizen to obtain citizenship of Tajikistan, they must include proof of renunciation of previous citizenship in the application for citizenship, leaving them vulnerable to become stateless if the Republic of Tajikistan rejects their application for citizenship.⁵⁹⁴

Treaty ratification status

Article 3 of the *Constitutional Law of the Republic of Tajikistan on Nationality of the Republic of Tajikistan* states that both “the present Constitutional Law and international treaties of Tajikistan shall be applied” for issues pertaining to nationality of the Republic of Tajikistan.⁵⁹⁵

While Tajikistan has not yet ratified the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, it has ratified the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, ICERD, CRC, and CEDAW. Tajikistan has made no reservation in the ratification of these treaties.

In 2018, the CEDAW Committee in its concluding observations expressed concerns regarding the marginalization and high rate of statelessness among women and their disproportionate lack

TABLE 12

Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Tajikistan	–	–	✓	✓	✓	✓	✓	✓

✓ 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

of access to social and economic services.⁵⁹⁶ As a party to CEDAW, Tajikistan is obligated to ensure gender equality in nationality laws.⁵⁹⁷ While there are no discriminatory provisions in Tajikistan's legislation, data suggests that implementation has not resulted in equality.⁵⁹⁸ Included in the 2023 concluding observations by the CERD Committee were concerns about the 2011 *Family Code* which places discriminatory regulations on foreigners and stateless persons marrying Tajik women.⁵⁹⁹ By ratifying the ICERD, Tajikistan has committed to ensure no discrimination based on nationality or legal status.⁶⁰⁰

Under the CRC, Tajikistan is also bound to ensure that every child is registered immediately at birth.⁶⁰¹ While recent improvements in legislation have significantly improved access to birth registration in rural areas, the Republic should monitor the implementation to ensure that birth registration rates continue to increase and become more equal in accessibility.⁶⁰²

Tajikistan is one of only four states globally to have ratified the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases ('Minsk Convention'), which marks its obligation to ensure the right to a nationality, the right to change nationality, and freedom from arbitrary deprivation of nationality.⁶⁰³

The new Law provided the opportunity for stateless persons to obtain residence permits, resolve complex cases of statelessness, and a possibility of gaining citizenship in just three years.

Population

Reported stateless persons

In 2022, there were 5,391 reported stateless persons in Tajikistan, which is a decrease of 719 stateless persons from the reported population in 2021.⁶⁰⁴ However, the reported population has overall increased by 775 people since the beginning of 2019.⁶⁰⁵

Tajikistan's Pledges to End Statelessness

Tajikistan made four pledges pertaining to statelessness at the High-Level Segment on Statelessness in 2019.⁶⁰⁶ The pledges included committing to consider legalization of persons illegally residing in Tajikistan (*Amnesty Law*), reform the Civil Registration System and ensure safeguards for universal child birth registration, consider ratification of the 1954 and 1961 Conventions on statelessness, and "explore the scale of statelessness through identification of persons at risk of statelessness, stateless persons and persons with undetermined nationality."⁶⁰⁷

On this, Tajikistan has successfully enacted a new *Amnesty Law* and reform the Civil Registration System, but did not follow through in ratifying the Conventions on statelessness or improving its identification of stateless persons.⁶⁰⁸ One of the key protection issues, challenges, and recommendations included in Tajikistan's 2021 UPR submission was universal birth registration.⁶⁰⁹ It was noted that parents who lack identity documents may have difficulty registering their child's birth in practice.⁶¹⁰ Recommendations on this include amending the *Law on Civil Registration* to ensure there are no barriers for parents without identity documents and "raise awareness of the importance of birth registration and birth certificates, especially in rural areas."⁶¹¹

Like all countries in Central Asia, Tajikistan has been directly affected by the disintegration of the USSR which left millions on the wrong side of the borders of fifteen new successor states.⁶¹² Those who have not yet gained citizenship of Tajikistan after the disintegration make up a major portion of the reported stateless population in Tajikistan.⁶¹³ Further, Tajikistan experienced a civil war throughout the 1990s that caused economic and political hardship and resulted in displacement that left some people stateless.⁶¹⁴ Statelessness in Tajikistan is also partly attributed to legislative and administrative gaps.⁶¹⁵

TABLE 13

Reported stateless persons to the UNHCR

Country	2019 (year start) ⁶¹⁶	2020 (year end) ⁶¹⁷	2021 (year end) ⁶¹⁸	2022 (year end) ⁶¹⁹
Tajikistan	4,616	6,385	6,110	5,391

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

While Tajikistan has launched identification campaigns across different regions of the country, insufficient infrastructure in the country has presented a major challenge for identifying individuals affected by statelessness.⁶²⁰ This is especially problematic due to the fact that the majority of stateless communities in Tajikistan live in remote border areas.⁶²¹ Official statistics on stateless persons in Tajikistan only includes individuals who have a permanent residence permit as well as an official document verifying their stateless status.⁶²²

While Tajikistan has launched identification campaigns across different regions of the country, insufficient infrastructure in the country has presented a major challenge for identifying individuals affected by statelessness.

Women make up 65% of the reported stateless population in Tajikistan, which has been noted to be a result of women disproportionately lacking valid identity documents compared to men.⁶²³ Male family members tend to be the first to receive the limited resources available to rural families where rates of statelessness are higher.⁶²⁴

Persons at risk of statelessness

Populations at risk of statelessness in Tajikistan include foreign citizens who are in the process of applying for citizenship of the Republic, children born to stateless parents or parents with undetermined nationality who do not have permanent residence.⁶²⁵ Tajikistan also hosts some of the Lyuli/Mughat ethnic group, recognized in Tajikistan as the Roma/Jughi, who face socioeconomic discrimination and barriers to social services which increase their risk of statelessness.⁶²⁶

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

For children born to one citizen parent and one stateless parent they are entitled to citizenship regardless of their place of birth.⁶²⁷ Despite this protection under the *Constitutional Law*, UNHCR has raised concerns that children in these circumstances may still be at risk of statelessness. If the parent with different citizenship is stateless, there is a possibility for the child to become stateless as well, despite Article 13(4) of the *Constitutional Law* stating they will be a citizen, due to specifications in the *Resolution on the rules of issuance of passports of nationals of the Republic of Tajikistan*.⁶²⁸ There however, is a difference in the way citizenship is established if the mother is a stateless individual and the father is a citizen of the Republic of Tajikistan.⁶²⁹ The child acquires Tajik citizenship upon the presence of a marriage/dissolution certificate of parents, necessary to confirm the fact of paternity of the biological father of the child. On the birth certificate of the child the name of the child's father (a citizen of Tajikistan) is indicated. If the mother is a citizen of the Republic of Tajikistan and the father is a stateless individual, the child is automatically granted citizenship, even if the marriage of the parents is not registered at the civil registry office.⁶³⁰ In this case, the basis for obtaining a birth certificate for the child is a medical document on the fact of birth issued in a maternity hospital.

Similar to other Central Asian countries, Tajikistan's citizenship laws include an additional condition of permanent residency when both parents are stateless. The law states that if a

child is born in the territory of Tajikistan to two stateless parents, or parents with undetermined nationality, the child will be a national of the Republic only if at least one parent has permanent residency at the time of birth.⁶³¹ This requirement fails to protect children of stateless parents who may not have permanent residency, placing them at risk of intergenerational statelessness.⁶³² However this residency requirement does not seem to apply in circumstances where either both parents are foreigners or one parent is a foreigner and the other is stateless. In this circumstance the child shall be considered a citizen of Tajikistan if they are not granted citizenship from their foreign citizen parent/s state.⁶³³

There however, is a difference in the way citizenship is established if the mother is a stateless individual and the father is a citizen of the Republic of Tajikistan.

Article 13(8) of the *Constitutional Law* provides that children with unknown parents (foundling children) “shall become a national of the Republic of Tajikistan”.⁶³⁴ However, UNHCR has raised concerns that the language included in this provision implies that the child must go through an application process to become a citizen.⁶³⁵

Administrative barriers

In Tajikistan, a birth certificate is required in order to obtain identity documents.⁶³⁶ While the birth registration rate in Tajikistan was reported to be at 95.8%⁶³⁷ in 2017, birth registration has been a major challenge in Tajikistan with an estimated 50,000 births per year going unregistered.⁶³⁸ Poor infrastructure, poverty, and past policy of charging a fee for registration made registration rates particularly low in rural areas.⁶³⁹ On top of this, the process of registration was long and time consuming.⁶⁴⁰ Major changes in 2019 amended some of these issues and greatly improved access to birth registration.⁶⁴¹ In April of 2019, a new electronic system for processing birth registration was introduced which significantly reduced the

In Tajikistan, a birth certificate is required in order to obtain identity documents.

time as well as resources required to complete the process.⁶⁴² On top of this, a 2019 amendment to the *Civil Registration Law* removed the fees required for birth registration for the first 3 months after birth of the child, making it more accessible for rural and poor families.⁶⁴³ This amendment is expected to positively impact women and girls in particular as they have previously been left behind in registration due to the fees required for registration and the prioritization of male family members.⁶⁴⁴

Despite the protection under the *Constitutional Law* for children born to parents, one of whom is a citizen and one of whom is stateless, UNHCR has raised concerns that children in these circumstances may still be at risk of statelessness due to the *Resolution On the Rules of Issuance of Passports of Nationals of the Republic of Tajikistan*.⁶⁴⁵ Article 8 of the *Resolution* states that when applying for a passport - which functions as a citizenship certifying document - both parents of the child are required to submit their passports. Many stateless people lack passports and are unable to meet this requirement, placing their children at risk.⁶⁴⁶ Tajikistan does not currently have legislation to specify what documents are required in order to obtain citizenship.⁶⁴⁷ Article 10 of the *Constitutional Law* only provides that the “document confirming nationality of the Republic of Tajikistan is an official document that indicates nationality of a person.”⁶⁴⁸ To ensure protection from statelessness for children of stateless parents, UNHCR has advised that legislation should be amended to remove the requirement of the parents showing documentation in the application for the child’s passport.⁶⁴⁹

To ensure protection from statelessness for children of stateless parents, UNHCR has advised that legislation should be amended to remove the requirement of the parents showing documentation in the application for the child’s passport.



Turkmenistan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

National legislation on citizenship in Turkmenistan includes both *jus soli* and *jus sanguinis* provisions.⁶⁵⁰

National legislation on citizenship in Turkmenistan includes both jus soli and jus sanguinis provisions.

Article 4(5) of the *Law of Turkmenistan on the Citizenship of Turkmenistan* enacted in 2013 specifically mentions that one of the principles which citizenship of Turkmenistan is based on is “prevention and reduction of statelessness”.⁶⁵¹ Children born to two parents (or a single parent) who are citizens of Turkmenistan will be a citizen regardless of birthplace.⁶⁵² If a child is born to one citizen parent and one stateless parent, missing parent, or unknown parent, the law provides that they will also be a citizen regardless of birthplace.⁶⁵³ For children born to one parent who is a citizen and one parent who is a foreigner, the child will be a citizen if born within the territory of Turkmenistan.⁶⁵⁴ If in the same case, the child was born outside of the territory, the child may still be eligible for citizenship if at least one parent is a habitual resident of Turkmenistan at the time of birth.⁶⁵⁵ In the same case, if neither of the child’s parents are habitual residents, a joint application must be filed by the parents for citizenship of the child.⁶⁵⁶ This provision, included in Article 11(1.5), further protects children in these circumstances by stating that if the child would otherwise be stateless, they will be granted citizenship of Turkmenistan.⁶⁵⁷

Children born to two parents (or a single parent) who are citizens of Turkmenistan will be a citizen regardless of birthplace.

If a child is born to one citizen parent and one stateless parent, missing parent, or unknown parent, the law provides that they will also be a citizen regardless of birthplace.

Stateless persons are defined in Article 8 of the - as “persons who are not citizens of Turkmenistan and who have no proof of

possessing the citizenship of any foreign state”.⁶⁵⁸ This definition does not align with international standards as it places the burden of proof on stateless persons, who often do not have and are unable to obtain documentation proving absence of nationality elsewhere.

Naturalized citizenship

Any “capable person” who is 18 years of age or older is eligible to apply for Turkmen citizenship as stipulated in Article 12 of the *Law on Citizenship*.⁶⁵⁹ To do so, the individual must abide by the *Constitution* and laws of Turkmenistan, be able to communicate in the official language, be a habitual resident in the territory for five years, and have a legal source of income.⁶⁶⁰ Habitual residency is accepted as long as the individual has not left the country for longer than a three month period in one year.⁶⁶¹

A shortened period of habitual residence is accepted for Turkmen people and their descendents, former citizens of the USSR, those with outstanding achievements, persons granted asylum, and refugees, among others.⁶⁶² This notably does not include stateless persons. Article 32 of the 1954 Convention relating to the Status of Stateless Persons provides that such a process

The individual must abide by the Constitution and laws of Turkmenistan, be able to communicate in the official language, be a habitual resident in the territory for five years, and have a legal source of income. Habitual residency is accepted as long as the individual has not left the country for longer than a three month period in one year.

should be expedited for stateless persons to “reduce as far as possible the charges and costs of such proceedings”.⁶⁶³

Dual citizenship

Provisions regarding dual citizenship are included in Article 5 of the *Law*.⁶⁶⁴ Article 5(2) states that dual citizenship is not recognized, and that a citizen of Turkmenistan who holds the nationality of another state “shall be regarded exceptionally as a citizen of Turkmenistan”.⁶⁶⁵ The *Law* does not provide provisions on the process of renunciation of previous citizenship of a different state when applying for Turkmen citizenship.

The Law does not provide provisions on the process of renunciation of previous citizenship of a different state when applying for Turkmen citizenship.

Treaty ratification status

Article 3(2) of the *Law of Turkmenistan on Citizenship of Turkmenistan* states that “if an international treaty of Turkmenistan establishes rules that differ from those stipulated in the present *Law*, the rules of the international treaty shall be applied.”⁶⁶⁶

Turkmenistan is one of only three states in the entire Asia-Pacific region to achieve perfect treaty ratification status. Turkmenistan has ratified all international treaties pertaining to statelessness with no reservations and is the first and only country in Central Asia to have ratified the 1954 Convention relating to the Status of

Stateless Persons and the 1961 Convention on the Reduction of Statelessness.⁶⁶⁷ The 1954 Convention includes protections of the rights to education, employment, housing, identity, travel documents, and administrative assistance.⁶⁶⁸ Adding to this, the 1961 Convention seeks to prevent and eventually end statelessness, including protections for the right to nationality for every person ensures proper legal safeguards in nationality laws to prevent statelessness.⁶⁶⁹ The 1961 Convention also protects children who would otherwise be stateless by ensuring their citizenship in their country of birth if they are not eligible for citizenship elsewhere.⁶⁷⁰

In 2018, the CERD Committee in its concluding observations recommended that Turkmenistan improve its data collection and reporting of stateless persons and expedite the process of eliminating statelessness within its territory.⁶⁷¹ Additionally, in 2018, the CEDAW Committee in its concluding observations noted the need for improving statistics on the stateless population and improving the statelessness determination procedure in Turkmenistan, particularly due to compounded marginalization of stateless women and girls.⁶⁷²

As a party to the ICCPR, Turkmenistan is bound to protect freedom of movement.⁶⁷³ Reports that the Turkmenistan government has been requesting citizens to give up their passports and halt applications for passports, the main citizenship certifying document in Turkmenistan, are in direct violation of its obligations to the ICCPR.⁶⁷⁴

Population

Reported stateless persons

UNHCR reported 4,527 stateless persons in Turkmenistan in 2022.⁶⁷⁵ This shows an increase of 247 reported stateless persons since 2021, but

Turkmenistan’s Pledges to End Statelessness

In 2019, the Turkmenistan government established the National Action Plan to End Statelessness intended to resolve all existing cases of statelessness and ensure proper legal safeguards against statelessness by 2024.⁶⁷⁶ Unfortunately, as of 2022, the reported stateless population in Turkmenistan is still quite high, as discussed in the Population section, making the possibility of following through on this pledge slim.

Turkmenistan also made three pledges pertaining to statelessness at the High-Level Segment on Statelessness in 2019.⁶⁷⁷ The pledges include commitments to undertake a widespread registration campaign to register and improve statistics on stateless persons and ensure that all stateless persons have a fundamental right to citizenship, resolve all identified cases of statelessness, and redefine the definition of the status of stateless persons and end the risk of statelessness for children of undocumented people by realizing the National Action Plan in the upcoming 2022 Population Census.⁶⁷⁸ To date, there have been no improvements in the identification of stateless persons or on official statistics for the stateless population. As mentioned above, identified cases of statelessness have yet to be fully resolved in Turkmenistan. A new definition of the status of stateless persons has also not yet been solidified in national legislation. Commendably, however, Turkmenistan has taken steps towards ensuring universal birth registration for all children in the country, especially those born to undocumented parents.⁶⁷⁹

TABLE 14

Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Turkmenistan	✓	✓	✓	✓	✓	✓	✓	✓

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

TABLE 15**Reported stateless persons to the UNHCR**

Country	2019 (year start) ⁶⁸⁰	2020 (year end) ⁶⁸¹	2021 (year end) ⁶⁸²	2022 (year end) ⁶⁸³
Turkmenistan	4,714	3,924	4,280	4,527

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

a decrease by 187 people since the beginning of 2019.⁶⁸⁴ These reported numbers have been derived from reports from UNHCR partners in Turkmenistan because UNHCR does not have an office in Turkmenistan and there are no official statistics available on the stateless population.⁶⁸⁵

With the dissolution of the USSR, millions of people across Central Asia became stateless as a result of loss of USSR citizenship.⁶⁸⁶ Today, many of the reported stateless population in Turkmenistan is made up of individuals who have not been able to obtain citizenship of the new successor state.⁶⁸⁷ Unfortunately, due to lack of freedom of information and the absence of a UNHCR office in Turkmenistan, both qualitative and quantitative data on statelessness in the country is limited.⁶⁸⁸

Persons at risk of statelessness

There have been multiple reports of state authorities ordering citizens of Turkmenistan to give up their passports and not apply for new ones as an attempt to restrict freedom of movement by the government.⁶⁸⁹ This could place people at risk of statelessness considering that the main citizenship certifying document in Turkmenistan is the passport.⁶⁹⁰

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Turkmenistan's citizenship legislation does not provide access to citizenship for children born to

two stateless parents either of whom do not qualify as habitual residents of the territory.⁶⁹¹ This lack of protection enhances the risk of intergenerational statelessness. For children born to two stateless persons within the territory, the child will be a citizen if at least one parent is habitually resident in the territory.⁶⁹² The Law also provides that a child born in the territory to two foreign citizen parents who is not granted citizenship of the state(s) of the parents citizenship, will be a citizen of Turkmenistan.⁶⁹³ Foundling children born or resident in Turkmenistan will also be citizens provided that the whereabouts and citizenship of the parents are unknown.⁶⁹⁴ Further, if a citizen of Turkmenistan is found to be the father of a child with a stateless mother, the child will be a citizen regardless of birthplace.⁶⁹⁵

Turkmenistan's citizenship legislation does not provide access to citizenship for children born to two stateless parents either of whom do not qualify as habitual residents of the territory.

Citizenship stripping

Article 4 of Turkmenistan's citizenship law states that citizens cannot be deprived of their citizenship.⁶⁹⁶ Appealing other decisions relating to nationality is possible by lodging a complaint addressed to the President of Turkmenistan, who may revise the decision.⁶⁹⁷

Administrative barriers

In January 2020, the new Law on Civil Status Acts, came into force ensuring universal birth registration and prevention of childhood

statelessness.⁶⁹⁸ Before the introduction of the Law, children born to parents who were undocumented, stateless, or who had undetermined nationalities had low access to birth registration due to the requirement of parents to show documentation to register their child's birth.⁶⁹⁹ Turkmenistan's reported birth registration rate is 99.9%⁷⁰⁰.

The Constitution states that citizenship certifying documents in Turkmenistan are a passport of a citizen of Turkmenistan or another government-issued document confirming nationality.⁷⁰¹ For children under 16, nationality can be confirmed by either a birth certificate or passport of one of

The Constitution states that citizenship certifying documents in Turkmenistan are a passport of a citizen of Turkmenistan or another government-issued document confirming nationality

their parents who is a citizen of Turkmenistan.⁷⁰² Therefore, while birth registration is not required in all cases to gain citizenship in Turkmenistan, it is important to have it in the event of loss of passport and for children under 16 who have not yet applied for their passport. On this, reports of state authorities requesting citizens to give up their passports is problematic for ensuring everyone in the country has the necessary documentation to certify citizenship.⁷⁰³ In Lebap province in particular, state authorities also reportedly urged state employees to refrain from applying for a passport.⁷⁰⁴ In some cases, passports have also been confiscated by employers without providing explanation for the confiscation.⁷⁰⁵

While birth registration is not required in all cases to gain citizenship in Turkmenistan, it is important to have it in the event of loss of passport and for children under 16 who have not yet applied for their passport.

Uzbekistan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The *Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan*, which came into effect in 2020, is the main legislative document for citizenship in Uzbekistan.⁷⁰⁶ The *Law* contains provisions for both *jus soli* and *jus sanguinis* citizenship, and expressly states the right to citizenship.⁷⁰⁷ Regardless of birthplace, a child born to two Uzbek citizen parents (or a single parent) will be a citizen by descent as stated in Article 14 of the *Law*.⁷⁰⁸ Children of a stateless parent are also entitled to citizenship by descent, regardless of birthplace as long as they have one parent who is a citizen of the Republic of Uzbekistan.⁷⁰⁹ In instances where one parent is a citizen of Uzbekistan and the other parent is a foreign citizen, while the child is entitled to citizenship this process is not automatic and it is the responsibility of the Uzbek citizen parent to request citizenship for the child.⁷¹⁰

The Law contains provisions for both jus soli and jus sanguinis citizenship, and expressly states the right to citizenship. Regardless of birthplace, a child born to two Uzbek citizen parents (or a single parent) will be a citizen by descent as stated in Article 14 of the Law. Children of a stateless parent are also entitled to citizenship by descent, regardless of birthplace as long as they have one parent who is a citizen of the Republic of Uzbekistan.

The *Law* provides that anyone who was a permanent resident in the Republic of Uzbekistan since July 28, 1992 and is not a citizen elsewhere will be a citizen of the Republic.⁷¹¹ This provision directly addresses the statelessness of many which resulted from Uzbekistan's succession from the USSR.

In Article 3 of the *Law on Citizenship*, a stateless person is defined as "a person permanently residing in the territory of the Republic of Uzbekistan who is not a citizen of the Republic of Uzbekistan and does not have proof of his/her affiliation to citizenship of a foreign state".⁷¹² This definition is not in line with the definition provided in the 1954 Convention relating to the

Status of Stateless Persons as it places the burden of proof on stateless persons and incorporates residency requirements.

Naturalized citizenship

Stateless people in Uzbekistan can apply for naturalization in an equal manner to foreign citizens under Article 19 of the *Law* by attaining five years of residency with a valid residence permit, having a legitimate source of income, complying with the Constitution of Uzbekistan, and being able to communicate in the state language.⁷¹³ It should be noted that this provision appears to require a foreign citizen to renounce their foreign citizenship, then endure five years of statelessness with a permanent residence permit in Uzbekistan before becoming eligible for Uzbek citizenship.⁷¹⁴ The provision further mentions that stateless persons will still meet residency requirements if they have traveled outside of the country for no longer than 6 months each year.⁷¹⁵ A simplified naturalization procedure is available for stateless persons and foreign citizens who have a "direct ascendant relative who lives in the territory of the Republic of Uzbekistan and is a citizen of the Republic of Uzbekistan".⁷¹⁶ Those with ascendant links to the country, eligible for the simplified procedure, will receive a letter of guarantee of citizenship of the Republic, valid for one year, while they renounce their foreign citizenship.⁷¹⁷ This ensures that they do not become stateless in between the process of renunciation and acceptance of citizenship to Uzbekistan. Foreign citizens applying for citizenship through the standard process are not protected in this way if they are not eligible for the simplified procedure.⁷¹⁸

Additionally, the *Law* provides that foreign citizens and stateless persons may be granted citizenship in an exceptional manner by the President outside of the requirements set out in Articles 19 and 20.⁷¹⁹ The 2020 *Law* also includes provisions for a simplified procedure for recognition of Uzbek citizenship for stateless persons who arrived in

the country before January 1, 1995.⁷²⁰ As long as such persons do not have citizenship of another country and had residence permits (identification document for stateless persons) before the new *Law* was enacted, they are entitled to Uzbek citizenship and can apply through the simplified procedure for their citizenship to be recognized.⁷²¹

A simplified naturalization procedure is available for stateless persons and foreign citizens who have a "direct ascendant relative who lives in the territory of the Republic of Uzbekistan and is a citizen of the Republic of Uzbekistan"

Article 22 of the *Law of the Republic of Uzbekistan On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Uzbekistan*, ensures that stateless persons and foreigners have the right to appeal negative decisions.⁷²² Uzbekistan should consider ensuring a simplified process of naturalization for all stateless persons, not just those with ascendent ties to Uzbekistan, in its territory as 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".⁷²³

Dual citizenship

Dual citizenship is not recognized by the Republic of Uzbekistan.⁷²⁴ Foreign citizens who do not have links to Uzbekistan through descent are required to renounce their citizenship in order to obtain citizenship of the Republic.⁷²⁵

The 2020 Law also includes provisions for a simplified procedure for recognition of Uzbek citizenship for stateless persons who arrived in the country before January 1, 1995. As long as such persons do not have citizenship of another country and had residence permits (identification document for stateless persons) before the new Law was enacted, they are entitled to Uzbek citizenship and can apply through the simplified procedure for their citizenship to be recognized.

TABLE 16
Status of Accession Of International Human Rights Treaties

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Uzbekistan	–	–	–	✓	✓	✓	✓	✓

✓ 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

Article 2 of the *Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan* states that “if an international treaty of the Republic of Uzbekistan establishes other rules than those provided for by the legislation on citizenship of the Republic of Uzbekistan, then the rules of the international treaty are applied.”⁷²⁶

Uzbekistan has ratified the ICCPR, ICESCR, ICERD, CRC, and CEDAW with no reservations. The country has yet to ratify the 1951 Refugee Convention or its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness. Uzbekistan is the only country in Central Asia that has yet to ratify the Refugee Convention and its Protocol. Despite the fact that Uzbekistan has not yet ratified the Statelessness Conventions, much of its legislation already aligns with the Conventions, including the right to citizenship protected in the *Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan*.⁷²⁷

In 2020 concluding observations by the CEDAW Committee, it was recommended that Uzbekistan provide legal safeguards for its citizens living abroad who have not registered at a consulate in the last 7 years to ensure they do not become stateless.⁷²⁸

Uzbekistan’s ratification of the ICERD binds the Republic to ensure that the right to nationality

is protected.⁷²⁹ In 2020, the CERD Committee expressed concerns about the requirement for stateless persons to prove a source of income in order to apply for citizenship.⁷³⁰ The concluding observations also included concerns about discrimination faced by the Luli/Roma community, particularly the barriers they face to obtain identity documents and recommended to immediately ensure that Luli/Roma have access to such documents.⁷³¹ To this, Uzbekistan responded as part of the follow-up procedure stating that “Lyuli/Roma persons in Uzbekistan have equal rights and equal opportunities to obtain identity documents” and that as of November 2020, 25,638 documents were issued to Lyuli/Roma persons, “including 13,100 to women.”⁷³² The Committee responded to Uzbekistan’s follow-up reaffirming their concerns that only 25,638 documents were issued despite the fact that there are 69,851 Luli/Roma in Uzbekistan.⁷³³ Additionally, the Committee requested Uzbekistan to provide an explanation for the discrepancy in issuance of identity documents.⁷³⁴

Further included in the concluding observations by both the CERD and CEDAW committees, are concerns regarding the lack of guarantee of Uzbek citizenship for a foreign citizen renouncing their citizenship of another state while still in the process of applying for citizenship of Uzbekistan.⁷³⁵ The CEDAW committee further expressed recommendations to ensure proper legal safeguards for children born in the territory who may otherwise be stateless and that all children born in the territory be “registered at

birth and have access to Uzbek nationality and identity documents”⁷³⁶ Uzbekistan is obligated, under its ratification of the CRC, to ensure that all children be registered immediately at birth.⁷³⁷

Population

Reported stateless persons

By the end of 2022, there were 27,389 reported stateless persons in Uzbekistan, which was a 10,604 decrease from 2021.⁷³⁸ These numbers also show exceptional improvement in the reduction of statelessness from five years ago, when the reported population reached 97,346 stateless persons.⁷³⁹ Further, 83,793 cases have been resolved in the country since 2014, evidencing that Uzbekistan has made great strides in identifying and resolving cases of statelessness.⁷⁴⁰ UNHCR reported numbers include only stateless persons with permanent residence permits officially reported by the government.⁷⁴¹

Persons at risk of statelessness

Foreign citizens at risk of statelessness in Uzbekistan include those going through the naturalization process who do not have descendent links to Uzbekistan applying for naturalization.⁷⁴² Uzbek citizens living abroad who have not registered at a consulate in the past 7 years are also at risk of losing their Uzbek citizenship.⁷⁴³ Children at risk of statelessness include: those born to one foreign citizen and one

Uzbek citizens living abroad who have not registered at a consulate in the past 7 years are also at risk of losing their Uzbek citizenship. Children at risk of statelessness include: those born to one foreign citizen and one Uzbek citizen, those born to one stateless parent and one foreign parent, foundling children who may know the identity of one or both parents, children of undocumented single mothers and children who would otherwise be stateless.

Uzbek citizen, those born to one stateless parent and one foreign parent, foundling children who may know the identity of one or both parents, children of undocumented single mothers and children who would otherwise be stateless.⁷⁴⁴

The historically nomadic Lyuli/Mughat community in Uzbekistan comprises an estimated 69,851 people.⁷⁴⁵ The Lyuli/Mughat community faces socioeconomic discrimination and marginalization based on their ethnicity with low access to quality education, health, employment and housing.⁷⁴⁶ 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 placing them at risk of statelessness.⁷⁴⁷

The historically nomadic Lyuli/Mughat community in Uzbekistan comprises an estimated 69,851 people. The Lyuli/Mughat community faces socioeconomic discrimination and marginalization based on their ethnicity with low access to quality education, health, employment and housing.

TABLE 17
Reported stateless persons to the UNHCR

Country	2019 (year start) ⁷⁴⁸	2020 (year end) ⁷⁴⁹	2021 (year end) ⁷⁵⁰	2022 (year end) ⁷⁵¹
Uzbekistan	79,942	69,791	37,993	27,389

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

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Jus soli provisions mean that children born to stateless parents in the territory of the Republic will be citizens by birth.⁷⁵² However, the Law does not provide for situations where a child is born in the territory to one stateless parent and one parent who is a foreign citizen.⁷⁵³ While there are protections for children born to stateless parents, there are no provisions specifically for children born in Uzbekistan who may otherwise be stateless.⁷⁵⁴ Further, children born to one stateless parent and one foreign parent in the territory are specifically excluded from citizenship and will become stateless if not eligible for another nationality.⁷⁵⁵ Foundling children will also gain citizenship if their parents are unknown, however UNHCR has noted that the language of this provision may indicate that children who may know some information about their parents, but are nonetheless unable to acquire citizenship through them, will not gain citizenship.⁷⁵⁶ Gaps in protection also exist for children of one or both parents who are undocumented due to potential difficulties in registering the birth of the child without full documentation.⁷⁵⁷

Citizenship stripping

A citizen of the Republic may lose their citizenship on the grounds of enlisting in the state authorities of a different state, failing to register with the permanent consulate register within seven years without valid reasons while living abroad, providing false information in application for citizenship, causing “substantial harm to the interests of society and state,” or acquiring citizenship of a foreign state.⁷⁵⁸ While the Constitution of the Republic of Uzbekistan guarantees the right to appeal⁷⁵⁹, safeguards should be made for Uzbek citizens living abroad who have not registered

Safeguards should be made for Uzbek citizens living abroad who have not registered at a consulate in the last seven years who will be stateless if stripped of their Uzbek nationality and do not have another nationality. Foreign citizens who do not have ascendent links to the country and are applying for citizenship are not eligible for the simplified procedure which includes legal safeguards protecting against statelessness throughout the process of naturalization as a result of renunciation of foreign citizenship.

at a consulate in the last seven years who will be stateless if stripped of their Uzbek nationality and do not have another nationality.⁷⁶⁰ Foreign citizens who do not have ascendent links to the country and are applying for citizenship are not eligible for the simplified procedure which includes legal safeguards protecting against statelessness throughout the process of naturalization as a result of renunciation of foreign citizenship.⁷⁶¹

Administrative barriers

Uzbek law states that a citizenship certifying document can be a passport of a citizen of the Republic or any document indicating citizenship of the Republic.⁷⁶² Medical birth certificates are required for birth registration for children and, in turn, for applying for admission to citizenship of Uzbekistan.⁷⁶³ For stateless adults applying, a birth certificate is required if they are applying through the simplified procedure.⁷⁶⁴

The birth registration rate in Uzbekistan stands at 100%.⁷⁶⁵ Birth registration is carried out by the *Registration of Acts of Civil Status*, as stipulated by

Provisions do exist for allowing parents to register their child's birth without documentation “on the basis of a written request from a medical institution or from social services”. However, this requirement could still present an obstacle to undocumented parents registering their child's birth, which could lead to the child becoming stateless.

the *Decision of the Cabinet of Ministers on Approving the Rules of Registration of Acts of Civil Status*. The *Decision* provides that all births must be registered “at the place of birth or at the place of permanent or temporary residence of parents or one of the parents”.⁷⁶⁶ A 2020 amendment to the *Decision* provided further safeguards for registration at birth for those without permanent residence in Uzbekistan at the time of birth.⁷⁶⁷

Despite Uzbekistan's high birth registration rate, undocumented parents could still face barriers in registering their child's birth with parents required to show documentation in order to register the birth of their child.⁷⁶⁸ Provisions do

exist for allowing parents to register their child's birth without documentation “on the basis of a written request from a medical institution or from social services”.⁷⁶⁹ However, this requirement could still present an obstacle to undocumented parents registering their child's birth, which could lead to the child becoming stateless.⁷⁷⁰ The *Decision* (mentioned above) also includes a provision specifically ensuring prompt registration of the births of foundling children.⁷⁷¹ If one parent is undocumented, the *Decision* provides that registration of the child's birth will require a marriage certificate preceding child's birth registration, which does not protect, for example, undocumented single mothers.⁷⁷²

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.⁷⁷³ In three States (Japan, South Korea, and Taiwan⁷⁷⁴) 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.⁷⁷⁵ 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.⁷⁷⁶ It is important to note that China's *Nationality Law* has applied to Hong Kong since 1997.⁷⁷⁷ In both Mongolia and North Korea, a child must be born to two citizen parents in order to be a citizen.⁷⁷⁸ Children will also become citizens in China and Hong Kong if born in the territory to one citizen parent⁷⁷⁹ or outside of the territory to one citizen parent as long as both parents have not settled abroad.⁷⁸⁰ 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.⁷⁸¹

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.⁷⁸² Children born to one South Korean citizen and one foreign citizen may gain citizenship by acknowledgement by the citizen parent.⁷⁸³ 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.⁷⁸⁴

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.⁷⁸⁵ In China and Taiwan, nationals are afforded different rights based on whether they do or do not hold 'Household Registration'.⁷⁸⁶ Only those who hold a 'Household Registration' have access to complete residential and voting rights in Taiwan.⁷⁸⁷ 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 as the citizen of any country according to the laws of that country".⁷⁸⁸ This aligns with the 1954 Statelessness

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

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.⁷⁸⁹ 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.⁷⁹⁰ Provisions for naturalization in China's *Nationality Law* also apply to Hong Kong, with foreign nationals or stateless persons able to apply for naturalization.⁷⁹¹ 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 Kong⁷⁹², as well as the rights to stand for election in accordance with law⁷⁹³. Anyone found to be residing in Hong Kong without permanent residence may be deported from Hong Kong.⁷⁹⁴ 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.⁷⁹⁵

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.⁷⁹⁶ While North Korea states that stateless persons are eligible for naturalization, its legislation provides no details on the process of naturalization.⁷⁹⁷ Countries which have permanent residence requirements for naturalization, including Japan, Mongolia, and South Korea, all require five years residence prior to application for naturalization.⁷⁹⁸ 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.⁷⁹⁹ 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".⁸⁰⁰

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.⁸⁰¹ 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.⁸⁰² 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.⁸⁰³ 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.⁸⁰⁴ In Mongolia, a lack of legal safeguards

around renunciation of nationality,⁸⁰⁵ and the bar on dual nationality⁸⁰⁶ has left many ethnic Kazakhs stateless.⁸⁰⁷ 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.⁸⁰⁸ 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.⁸⁰⁹ If they fail to do so, their naturalized citizenship will be revoked.⁸¹⁰ 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".⁸¹¹

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.⁸¹²

TABLE 18
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	⊖	⊖	⊖	✓	✓	✓	✓	✓
People's Republic of China	⊖	⊖	✓	⊖*	✓	✓	✓	✓
Republic of China	⊖	⊖	⊖	✓	✓	✓	✓	✓
Republic of Korea	✓	⊖	✓	✓	✓	✓	✓	✓
Total	2	0	3	6	7	6	7	7

* 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

TABLE 19**Reported stateless population in East Asia**

Country	2019 (year start) ⁸¹³	2020 (year end) ⁸¹⁴	2021 (year end) ⁸¹⁵	2022 (year end) ⁸¹⁶
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.⁸¹⁷ All countries in East Asia are party to ICESCR, CEDAW and CRC.⁸¹⁸

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.⁸¹⁹ 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.⁸²⁰

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 2021.⁸²¹ Before 2021, the reported population stayed generally the same since 2019.⁸²² Mongolia has consistently reported 17 stateless persons to the UNHCR since 2019, excluding that the country did not report any

stateless persons in 2020.⁸²³ 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.⁸²⁴ 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 2015.⁸²⁵ 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.⁸²⁶ UNHCR has specifically noted China as a country in which they have information regarding stateless people but no reliable data.⁸²⁷ There is also a lack of reliable data in Mongolia and South Korea.⁸²⁸ While no UNHCR estimates exist for Taiwan, sources state that there could be as many as 10,000 stateless children in the country.⁸²⁹

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%.⁸³⁰ 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,⁸³¹ and 20,000 children of irregular migrants in South Korea who remain unregistered and at risk of statelessness.⁸³² Further, due to systemic discrimination, particularly the denial of the right to a passport⁸³³ and freedom of movement, Uyghurs, Kazakhs, Uzbeks, and other ethnic Muslim minorities in China are also at risk of statelessness.⁸³⁴ 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.⁸³⁵ In Japan, Zainichi Koreans⁸³⁶ and children of Indochinese refugees from Thailand⁸³⁷ 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 2022.⁸³⁸ A newspaper article in 2016 highlighted that there are growing numbers of stateless children born to refugees in Hong Kong.⁸³⁹ Many such refugees lack identification documents, which further contributes to intergenerational statelessness.⁸⁴⁰

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.⁸⁴¹ In Japan's 2020 census the nationalities of 131,684 foreigners in Japan were categorized as "stateless and name of country not reported".⁸⁴² 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.⁸⁴³

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)"⁸⁴⁴ and hold the status of "special permanent residents".⁸⁴⁵ In Mongolia, thousands of ethnic Kazakhs have faced administrative barriers to reacquiring citizenship, which they lost in the early 1990s.⁸⁴⁶

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.⁸⁴⁷ In Mongolia, they can access Mongolian citizenship after reaching 16 years of age.⁸⁴⁸ Foundlings have the right to citizenship at birth in Japan, Mongolia, North Korea, South Korea, and Taiwan.⁸⁴⁹ 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,⁸⁵⁰ in 2021, this figure had reduced to 190,000.⁸⁵¹ 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”⁸⁵².

Citizenship stripping

After World War II, there were massive amounts of people who were displaced across East Asia.⁸⁵³ After Japan was defeated at the end of the war, ethnic Koreans and Taiwanese residing in Japan went from being colonial subjects to foreigners.⁸⁵⁴ As a result, approximately 52,000 ethnic Koreans were stripped of Japanese citizenship.⁸⁵⁵ Ethnic Koreans in Japan were unable to return home to Korea due to division and political danger in Korea.⁸⁵⁶ 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.⁸⁵⁷ In 2021, more than 26,000 persons and their descendants have not had their citizenship status resolved.⁸⁵⁸

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).⁸⁵⁹

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

deported.⁸⁶⁰ 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.⁸⁶¹

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

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/

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.⁸⁶⁶ In China, there are major barriers for children of undocumented parents to register their birth for this reason.⁸⁶⁷

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.⁸⁶⁸ Further, there is a need to ensure ethnic Kazakh childrens’ births are registered in Mongolia.⁸⁶⁹ Despite South Korea reporting a 100% birth registration rate⁸⁷⁰, 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.⁸⁷¹

Requirement of birth registration for citizenship acquisition

In both Japan⁸⁷² and Mongolia⁸⁷³, 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.⁸⁷⁴



Braveheart Foundation

People's Republic of China

Laws

Citizenship Law

Jus sanguinis and *jus soli* provisions

The Peoples' Republic of China's nationality laws operate through a *jus sanguinis* structure.⁸⁷⁵ Children born within the territory of China to a Chinese national parent or parents gain Chinese nationality.⁸⁷⁶ Children born outside of China to a Chinese national parent or parents gain Chinese nationality unless one or both parent/s have settled abroad, and the child acquires another nationality at birth.⁸⁷⁷ China's citizenship legislation does not provide a definition of a stateless person, leaving this up to the discretion of authorities.

The Peoples' Republic of China's nationality laws operate through a jus sanguinis structure.

Naturalized citizenship

There is a naturalization process which is explicitly mentioned to be available to stateless persons as well as foreigners.⁸⁷⁸ Foreign or stateless persons willing to abide by the constitution and laws of China, and fulfilling one of the following criteria, can apply for Chinese nationality if they are 'near relatives' of Chinese nationals, they are 'settled in China', or have 'other legitimate reasons'.⁸⁷⁹ Those whose applications for Chinese nationality are approved shall be granted Chinese nationality and may not retain foreign nationality.⁸⁸⁰ There are no provisions included in China's legislation which details the renunciation process. The Ministry of Public Security will issue a certificate when applications are approved.⁸⁸¹

There are no specific rules or judicial interpretation to clarify the scope of 'near relatives' and the meaning of 'settled in China'.⁸⁸² However, based on the Application Form for Naturalization from the official website of the National Immigration Administration, close relatives include a spouse, parent, child or sibling.⁸⁸³ While there is persistent ambiguity and no explicit specification on the meaning of "settled in China", the Application Form includes a specified circumstance

of permanent residence.⁸⁸⁴ Further, on China's government website, the listed application materials required to gain Chinese citizenship includes a copy of a foreign passport and a copy of the Foreigner's Permanent Residence Card.⁸⁸⁵ In order to be granted permanent residence in China, one must satisfy at least one of the listed requirements, which includes but is not limited to having investments in China for three consecutive years, holding a high career title⁸⁸⁶ and residing in the country for four consecutive years, or having made an outstanding contribution to and being specially needed by China.⁸⁸⁷ There are currently no provisions or explanations provided for what may constitute 'other legitimate reasons'.

The requirement to show a copy of the applicant's passport in the application may act as a barrier to stateless persons who often do not have passports.⁸⁸⁸ There is no simplified or expedited procedure for stateless persons or refugees.

Dual citizenship

Dual citizenship is not recognized in China.⁸⁸⁹ Chinese citizens settled abroad who voluntarily acquire foreign nationality shall automatically lose their Chinese nationality.⁸⁹⁰ Foreigners who have previously held Chinese nationality may apply to resume their Chinese nationality if they have proper reason to do so, while those approved to resume Chinese nationality may not retain their foreign nationality.⁸⁹¹

Treaty ratification status

While China has yet to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, it has ratified the 1951 Refugee Convention and its 1967 Protocol, the ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. China has also signed, but not ratified, the ICCPR.

In 2018 concluding observations, the CERD Committee expressed concerns regarding the fact that asylum seekers from North Korea are not registering the births of their children born in China, who are reportedly stateless, out of fear of facing refoulement upon registering the births.⁸⁹² As a party to the CRC, China is obligated to ensure that all births in its territory are registered immediately as well as that no child is left stateless.⁸⁹³ Further, as a party to the Refugee Convention and its Protocol, it is further obligated to ensure non-refoulement.⁸⁹⁴

Similar concerns were expressed in 2023 concluding observations by the CEDAW Committee regarding children born in China to women from North Korea, who are "deprived of their rights to birth registration, nationality, education and health care because their birth cannot be registered without exposing the mother to the risk of deportation to the Democratic People's Republic of Korea."⁸⁹⁵ It was recommended that China ensure that children born to women from North Korea are eligible for citizenship and obtain birth registration.⁸⁹⁶ Lack of access to birth registration increases their risk of statelessness and lowers access to basic services.⁸⁹⁷ The 2023 concluding observations by the CEDAW Committee also noted concern regarding the "confiscation of passports from Tibetan and Uyghur women."⁸⁹⁸ The Committee further recommended that China ensure that "passports are not confiscated on the basis of ethnic minority status" as well as amend nationality legislation which prohibits dual nationality.⁸⁹⁹

In 2013 concluding observations by the CRC Committee, it was noted that birth registration in remote areas of China is poor "among girls,

The 2023 concluding observations by the CEDAW Committee also noted concern regarding the "confiscation of passports from Tibetan and Uyghur women".

TABLE 20

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
People's Republic of China	–	–	✓	–*	✓	✓	✓	✓

* 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

migrant children, adopted children and children whose birth would put a family above the limit of the locally “sanctioned” family size”.⁹⁰⁰ The Committee expressed concerns regarding family household registration (*hukou*), which birth registration relates to and can be a barrier for registration for children of migrant workers.⁹⁰¹ It was also recommended that China abandon the *hukou* system to improve access to birth registration.⁹⁰² The *hukou* system is a form of civil registration which also acts as the legal basis for personal identification.⁹⁰³ Children inherit the same *hukou* location and categorization as their parents and are not able to permanently reside or exercise a variety of rights outside of their *hukou* location.⁹⁰⁴

The hukou system is a form of civil registration which also acts as the legal basis for personal identification. Children inherit the same hukou location and categorization as their parents and are not able to permanently reside or exercise a variety of rights outside of their hukou location.

Population

Reported stateless persons

China has not reported any stateless persons to UNHCR since it began compiling such data in 2019. UNHCR has noted China as a country which has information regarding stateless people but no reliable data.⁹⁰⁵

Persons at risk of statelessness

Several independent articles have examined stateless populations and those at risk of statelessness within China, which include children born in China to North Korean women, foreign spouses and children excluded from the *hukou* household registration system.⁹⁰⁶ As many as 30,000 children born in the territory of China to undocumented North Korean mothers (some of whom have been trafficked into China) and Chinese fathers are at risk of statelessness as they remain unregistered at birth and in the household registration system.⁹⁰⁷ Despite having the right to citizenship through their fathers under the citizenship law of China,⁹⁰⁸ children frequently remain unregistered due to their mother’s undocumented status and potential deportation and its repercussions on the mother and child.⁹⁰⁹

The Uyghur population, a Turkic and majority Muslim ethnic group predominantly residing in the Xinjiang Uyghur Autonomous Region, termed by activists as ‘occupied East Turkistan’,⁹¹⁰ in northwest China, continues to face a severe risk of statelessness due to the Chinese government’s systematic denial of passport renewal for Uyghurs living overseas.⁹¹¹ Other ethnic Muslim minorities, such as Kazakhs and Uzbeks, have also faced similar systemic discrimination.⁹¹² More than 1 million Uyghurs, Kazakhs, and Uzbeks have been arbitrarily detained by the Chinese government since 2017.⁹¹³ The government insists that Uyghurs return to China for passport renewal, and

The Uyghur population, a Turkic and majority Muslim ethnic group predominantly residing in the Xinjiang Uyghur Autonomous Region, termed by activists as ‘occupied East Turkistan’, in northwest China, continues to face a severe risk of statelessness due to the Chinese government’s systematic denial of passport renewal for Uyghurs living overseas.

this is a dangerous proposition considering there are many reported forced disappearances.⁹¹⁴ Those who do not return also face living abroad without citizenship, severely impacting their livelihoods, freedom of movement, and ability to establish new lives outside China.⁹¹⁵ This denial of passports is a strategy of control by the Chinese government that violates international human rights standards, rendering Uyghurs stateless in countries where they cannot apply for refugee status.⁹¹⁶ Hui peoples, another Muslim ethnic minority group, have also been recognized as facing systemic discrimination when attempting to apply for passports.⁹¹⁷ The Chinese government’s discriminatory policies, treating Muslim ethnic minorities as threats to national security, further increases the risk of statelessness among these populations in China.⁹¹⁸

The Tibetan population of China, historically having faced occupation and systemic discrimination, also experiences a significant risk of statelessness.⁹¹⁹ The Chinese government’s stringent control over Tibetans’ movements involves the systematic denial and recall of passports. Gaining access to a passport is an incredibly hard task for Tibetans. Only a minimal number of Tibetans in the Tibet Autonomous Region and other Tibetan areas have been issued passports, and many have experienced the confiscation of their existing ones.⁹²⁰ The denial of passport issuance is not only an individual punishment but also extends to families and friends, especially those associated with political prisoners or individuals involved in protests. This denial often comes with increased militarization and security measures, particularly

The Tibetan population of China, historically having faced occupation and systemic discrimination, also experiences a significant risk of statelessness.

in regions marked by protests and dissent over China’s occupation of Tibet.⁹²¹

Undetermined nationalities

The scale of statelessness in China is uncertain, however the requirement to register children and maintain registration in the household registration system (*hukou*) leaves millions with an uncertain status. China’s 2010 census showed that at least 13 million children lacked *hukou* registration, preventing them from accessing the full rights of citizens.⁹²² This group covers both children born to irregular migrants (discussed above) as well as those born outside of China’s one-child policy prior to 2016.⁹²³

Additionally, in February 2020, the National Bureau of Statistics in China reported that 280 million people lived outside of the jurisdiction of their household registration – which limits the location where one can live and work – limiting their ability to access government services and education for children and enforce employment and labour rights.⁹²⁴ While this cohort may officially be considered Chinese nationals, their ability to access any of the accompanying rights is fundamentally limited.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

A child born in the territory of China to two stateless parents or parents with undetermined nationality who have settled in China will be a citizen of China.⁹²⁵ There are no provisions specifically addressing foundlings in the territory.

Prior to the dissolution of China's one-child policy, the country had over 500,000 (largely female) registered orphans who had been abandoned or whose parents had died.⁹²⁶ In 2021, the figure of abandoned children had reduced to 190,000, from which 98% of the abandoned children in state care lived with a disability or illness.⁹²⁷

Citizenship Stripping

According to the *Nationality Law*, a Chinese citizen may renounce their citizenship through an application process that involves satisfying certain preconditions, like settling abroad, being near relatives of foreign nationals, etc.⁹²⁸ The concept of citizenship stripping is not recognised as a form of punishment under the Criminal Code or any other statutes in Chinese law. At the same time, there are no provisions in China's legislation which stipulate the renunciation process of previous foreign citizenship in order to apply for Chinese citizenship.

Administrative barriers

Under the nationality laws of China, children born to stateless parents or parents of uncertain nationality who have settled in China are entitled to an automatic grant of nationality.⁹²⁹ However, the practical application of this law and its interaction with policies and administrative requirements fundamentally limits the applicability of this protection.⁹³⁰ Requirements for household registration have left potentially millions of children, including those born outside of policy quotas, to unregistered persons and single mothers with uncertain statuses, stateless or at risk of statelessness.⁹³¹

China has not reported any birth registration data to UNICEF, but according to the country's 2010 census, an estimated 13 to 30 million children were affected by the lack of household registration.⁹³² This issue stems from citizenship being left to the

China has not reported any birth registration data to UNICEF, but according to the country's 2010 census, an estimated 13 to 30 million children were affected by the lack of household registration.

discretion of bureaucrats and local officials who often refuse to provide registration to children born in violation of the former one-child policy or those born to North Korean women.⁹³³ The absence of proper documentation for these children puts them at severe risk of statelessness and affects their ability to access essential resources and rights. There is a lack of recent data regarding this issue, especially as China has not reported any data to UNICEF from 2013-2022 regarding its birth registration rates, but estimates as of 2017 suggest that the issue persists.⁹³⁴ Birth registration in remote areas is especially low for girls, migrant children, adopted children, children who exceed the "sanctioned" family size, and those affected by the hukou system.⁹³⁵ Excessive administrative requirements have also been identified as a barrier to birth registration for many households.⁹³⁶

The Medical Certificate of Birth serves as the legal and medical evidence for a person's proof of citizenship, record of birth, blood relations, and the registration of residence.⁹³⁷ The issuance of the Medical Certificate of Birth would, however, first require parents to present their valid identity documents (such as an ID card or passport).⁹³⁸ Stateless parents or parents of uncertain nationality generally do not possess valid identity documents. As such, it would be difficult for these parents to obtain the Medical Certificate of Birth for their children. Given that the Medical Certificate of Birth generally serves as the legal and medical evidence for a person's proof of citizenship and record of birth, the authority may require such certificate to be submitted in reviewing the application for nationality pursuant to Article 6 of the *Nationality Law*. Accordingly, lack of such certificate will present substantial difficulties in obtaining Chinese nationality

The aforementioned documents are unlikely to be available to stateless parents or parents of uncertain nationality, leaving them unable to register their children's births.

pursuant to Article 6 of the *Nationality Law* in practice. In addition, the children would not be able to complete birth registration if the Medical Certificate of Birth is absent.⁹³⁹

In China, the birth of a newborn is required to be registered with the authority for household registration at the place of residence.⁹⁴⁰ According to birth registration guidelines published by local authorities, in order to register the birth of a newborn, it would require at least the Medical Certificate of Birth for the newborn, valid identity documents of the parents, and the local household registration documents of the parents⁹⁴¹ (which will not be available to stateless parents or

parents of uncertain nationality because the household registration authority would require the applicant to first obtain Chinese nationality⁹⁴²). The aforementioned documents are unlikely to be available to stateless parents or parents of uncertain nationality, leaving them unable to register their children's births.

Birth registration is essentially part of the household registration system (*hukou*), which determines citizenship rights including social services, healthcare, employment and other welfare benefits for residents in China. Without completing the birth registration, the children would not be able to enjoy full citizenship rights in China. The nature of birth registration and the rights attached to it are not expressly provided in law, but rather a well-known fact deriving from the practical difficulties for unregistered individuals to enjoy citizenship rights in China.⁹⁴³

Hong Kong Special Administrative Region of The People's Republic of China (Hong Kong SAR)

Laws

Citizenship Law

Jus sanguinis provisions

As Hong Kong SAR (Hong Kong) is a special administrative region of China, the region does not have its own nationality law. Instead, Hong Kong operates under the concept of "One Country, Two Systems", enshrined under the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law)*. In accordance with Article 18 and Annex III of the Basic Law, various national laws of China would apply to Hong Kong. China's Nationality Law has applied to Hong Kong since 1997.⁹⁴⁴ As a result, children born in Hong Kong gain nationality through the same *jus sanguinis* structure, with children born within the territory to at least one Chinese parent gaining citizenship.⁹⁴⁵ As long as a citizen parent of a child born outside the territory has not settled abroad and the child has not gained another nationality at birth, the child will be a citizen.⁹⁴⁶ China's citizenship legislation does not provide a definition of a stateless person.

Instead, Hong Kong operates under the concept of "One Country, Two Systems", enshrined under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law).

Naturalized citizenship

Provisions for naturalization in China's Nationality Law also apply to Hong Kong, with foreign nationals or stateless persons able to apply for naturalization.⁹⁴⁷ Foreign or stateless persons willing to abide by the constitution and laws of China, and fulfilling one of the following criteria, can apply for Chinese nationality if they are 'near relatives' of Chinese nationals, they are 'settled in China', or have 'other legitimate reasons'.⁹⁴⁸ Those

whose applications for Chinese nationality are approved shall be granted Chinese nationality and may not retain foreign nationality.⁹⁴⁹ The Ministry of Public Security will issue a certificate when applications are approved.⁹⁵⁰

There are no specific rules or judicial interpretation to clarify the scope of 'near relatives' and the meaning of 'settled in China'.⁹⁵¹ However, based on the Application Form for Naturalization from the official website of the National Immigration Administration, close relatives include a spouse, parent, child or sibling.⁹⁵² While there is persistent ambiguity and no explicit specification on the meaning of "settled in China", the Application Form includes a specified circumstance of permanent residence.⁹⁵³ Further, on China's government website, the listed application materials required to gain Chinese citizenship includes a copy of a foreign passport and a copy of the Foreigner's Permanent Residence Card.⁹⁵⁴ In order to be granted permanent residence in China, one must satisfy at least one of the listed requirements, which includes but is not limited to having investments in China for three consecutive years, holding a high career title⁹⁵⁵ and residing in the country for four consecutive years, or having made an outstanding contribution to and being specially needed by China.⁹⁵⁶ There are currently no provisions or explanations provided for what may constitute 'other legitimate reasons'. The requirement to show a copy of the applicant's passport in the application may act as a barrier to stateless persons who often do not have passports.⁹⁵⁷ There is no simplified or expedited procedure for stateless persons or refugees.

As Hong Kong is a special administrative region of China, there is also a concept of "right of abode"

The requirement to show a copy of the applicant's passport in the application may act as a barrier to stateless persons who often do not have passports. There is no simplified or expedited procedure for stateless persons or refugees.

in Hong Kong. Only permanent residents of Hong Kong have the right of abode⁹⁵⁸, which provides a person with various rights, including the rights to land and stay in Hong Kong⁹⁵⁹, as well as the rights to stand for election in accordance with law⁹⁶⁰. Hong Kong also has its own permanent resident status, stipulated by the Basic Law.⁹⁶¹ Anyone found to be residing in Hong Kong without permanent residence may be deported from Hong Kong.⁹⁶² The eligibility criteria for permanent residence in Hong Kong differs for Chinese and non-Chinese citizens.⁹⁶³

Chinese citizens may be eligible to gain permanent residence in Hong Kong if born in Hong Kong, if they have ordinarily resided in Hong Kong for seven years continuously, or if they were born outside of Hong Kong to a permanent resident of Hong Kong.⁹⁶⁴ 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".⁹⁶⁵ Non-chinese citizens can also gain permanent residence if they are under 21 years of age and were born in Hong Kong to at least one permanent resident.⁹⁶⁶

Dual citizenship

Dual citizenship is not recognized in China, and as such, is not recognized in Hong Kong.⁹⁶⁷ Chinese citizens settled abroad who voluntarily acquire foreign nationality shall automatically lose their Chinese nationality.⁹⁶⁸ Foreigners who have previously held Chinese nationality may apply to resume their Chinese nationality if they have proper reason to do so, while those approved to resume Chinese nationality may not retain their foreign nationality.⁹⁶⁹

Treaty ratification status

While Hong Kong has yet to ratify the 1961 Convention on the Reduction of Statelessness or the 1951 Refugee Convention and its 1967 Protocol, it has ratified the 1954 Convention

TABLE 21

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Hong Kong SAR	✔	✘	✘	✔	✔	✔	✔	✔

✔ 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

relating to the Status of Stateless Persons as well as the ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. The 1954 Convention relating to the Status of Stateless Persons is applicable to Hong Kong as a result of Hong Kong being a British territory when Britain entered into the Convention.⁹⁷⁰

Considering the potentially large number of stateless children born to refugees and asylum seekers in Hong Kong, it should be noted that as a party to the CRC, Hong Kong has committed to ensuring that every child enjoys the right to acquire a nationality.⁹⁷¹ The 1954 Stateless Convention, which Hong Kong is also party to, provides a definition for a stateless person. However, Hong Kong’s legislation does not include any such definition.⁹⁷² Further, Article 22 of the 1954 Stateless Convention ensures that stateless persons are accorded equal treatment to nationals with respect to elementary education⁹⁷³, which Hong Kong contravenes due to requirements of refugees, asylum seekers, and their children to periodically visit the Immigration Department, interfering with their education.⁹⁷⁴

Population

Reported stateless persons

According to UNHCR's statistics, there was only one stateless person reported in Hong Kong as of 2015.⁹⁷⁵ There have been some journalistic articles which suggest that there are stateless children who are born to refugees in Hong Kong.⁹⁷⁶ However, no official statistics or reports on this

situation are available. UNHCR has noted China as a country which has information regarding stateless people but no reliable data.⁹⁷⁷

Stateless refugees

A newspaper article in 2016 highlighted that there are growing numbers of stateless children born to refugees in Hong Kong.⁹⁷⁸ Many such refugees lack identification documents, which further contributes to intergenerational statelessness.⁹⁷⁹ Very few refugees in Hong Kong have been approved for asylum, approving only 52 of 8,000 asylum applications made between 2009 and 2016.⁹⁸⁰ In 2016, 580 refugee children were said to have been denied the right to abode, leaving them unable to get jobs in or to leave Hong Kong.⁹⁸¹

Very few refugees in Hong Kong have been approved for asylum, approving only 52 of 8,000 asylum applications made between 2009 and 2016.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Like in China, a child born in the territory to two stateless parents or parents with undetermined nationality who have settled in Hong Kong will be a citizen.⁹⁸² There are no provisions specifically addressing foundlings in the territory. Prior to the dissolution of China’s one-child policy, the country had over 500,000 (largely female) registered orphans who had been abandoned or whose parents had died.⁹⁸³ In 2021, the figure

of abandoned children had reduced to 190,000, where 98% of the abandoned children in state care lived with a disability or illness.⁹⁸⁴

Citizenship Stripping

According to the Nationality Law, there are primarily two circumstances under which a Chinese citizen can lose their citizenship: firstly, when they acquire a foreign citizenship, which results in the automatic loss of their Chinese citizenship due to China's policy of not recognizing dual citizenship; secondly, through an application process that involves satisfying certain preconditions.⁹⁸⁵ The concept of citizenship stripping is not recognised as a form of punishment under the Criminal Code or any other statutes in Chinese law. At the same time, there are no provisions in China’s legislation which stipulate the renunciation process of previous citizenship in order to apply for Chinese citizenship.

Administrative barriers

Hong Kong’s legislation does not stipulate the granting of asylum or refugee status.⁹⁸⁶ However, the government may provide limited protection to refugees in dire situations.⁹⁸⁷ Refugees may file for a ‘nonrefoulement claim’ which protects them from deportation, but this can lead to detention until the claim is processed.⁹⁸⁸ With less than 1 percent of claims approved, refugees may appeal the decision, but the lack of transparency of the outcome of such a decision has raised concern among members of the Hong Kong Bar Association.⁹⁸⁹ The requirement of refugees and asylum seekers to periodically visit the Immigration Department in person has been noted to cause disruptions in school attendance for refugee children.⁹⁹⁰ Of particular concern among activists is Hong Kong’s 2021 ordinance amendment which denies anyone seeking asylum from entering Hong Kong and shortens the protection timeframes for individuals at risk of deportation.⁹⁹¹ The ordinance amendment

also “allows immigration officers to carry guns and, in some cases, requires asylum seekers to communicate in a language other than their mother tongue”.⁹⁹²

Under the nationality laws of China, applicable to Hong Kong, children born to stateless parents or parents of uncertain nationality who have settled in China are entitled to an automatic grant of nationality.⁹⁹³ However, the practical application of this law and its interaction with policies and administrative requirements fundamentally limits the applicability of this protection.⁹⁹⁴

Under the nationality laws of China, applicable to Hong Kong, children born to stateless parents or parents of uncertain nationality who have settled in China are entitled to an automatic grant of nationality.

Hong Kong reported a birth registration rate of 90-99% in 2022.⁹⁹⁵ The Medical Certificate of Birth serves as the legal and medical evidence for a person’s proof of citizenship, record of birth, blood relations, and the registration of residence.⁹⁹⁶ The issuance of the Medical Certificate of Birth would, however, first require parents to present their valid identity documents (e.g., ID card or passport).⁹⁹⁷ Stateless parents or parents of uncertain nationality generally do not possess valid identity documents. As such, it would be difficult for these parents to obtain the Medical Certificate of Birth for their children. Given that the Medical Certificate of Birth generally serves as the legal and medical evidence for a person’s proof of citizenship and record of birth, the authority may require such certificate to be submitted in reviewing the application for nationality pursuant to Article 6 of the Nationality Law. Accordingly, lack of such certificate will present substantial difficulties in obtaining Chinese nationality pursuant to Article 6 of the Nationality Law in practice. In addition, the children would not be able to complete birth registration if the Medical Certificate of Birth is absent.

Japan

Laws

Citizenship Law

Jus sanguinis provisions

Japan's citizenship laws operate through a *jus sanguinis* structure.⁹⁹⁸ According to Japan's *Nationality Law*, children born to a Japanese national parent shall be considered a Japanese national, with no distinction between children born within or outside of the national boundaries.⁹⁹⁹ If the father of a child, who was a Japanese citizen, died before the child's birth, the child will be a citizen by descent.¹⁰⁰⁰ A child born in the territory of Japan to two stateless persons or to parents who are unknown will be a citizen of Japan.¹⁰⁰¹

Japan's citizenship laws operate through a jus sanguinis structure.

Another acquisition method, citizenship by acknowledgement, exists in Japan. Under Japanese law, a child born to a Japanese mother and a foreign father will become a citizen due to the fact that Japanese law establishes the relationship of the mother and child automatically at birth.¹⁰⁰² However, for children born to Japanese fathers and a foreign mother, an acknowledgement is required from the citizen father.¹⁰⁰³ Due to a 2008 Supreme Court judgement, children born to a non-Japanese father and a Japanese parent can now gain citizenship if the parents are out of wedlock by acknowledgement of the relationship by the citizen father after the birth of the child.¹⁰⁰⁴ Before the judgement, children born to a non-Japanese mother and citizen father out of wedlock would not be eligible for citizenship unless the father acknowledged the legitimacy of the child before the child's birth.¹⁰⁰⁵ A child can be presumed to be born in wedlock if the parents have been previously married and the child is born 200 days or more after the start of such marriage or 300 days or less after the divorce of such parents.¹⁰⁰⁶ A child born out of wedlock to a non-Japanese mother and Japanese father may obtain Japanese nationality through acknowledgement after the birth if the child is under 18 years of age, a notification is made to the Minister of Justice, and the father or mother who has made the acknowledgement is a citizen at the time of the child's birth as well as is currently a citizen.¹⁰⁰⁷ If the Japanese father does not

voluntarily acknowledge a child (*nin'i ninchi*)¹⁰⁰⁸, then the child (or their agent) can seek compulsory acknowledgement (*kyousei ninchi*), a process to procure acknowledgement through arbitration, or if unsuccessful, a lawsuit.¹⁰⁰⁹

There is no statutory protection such as a grant of residence status or nationality for stateless persons based on the fact that they are stateless.¹⁰¹⁰ Thus, stateless persons in Japan do not enjoy freedom of movement (Article 26 of the Convention relating to the Status of Stateless Persons) or the benefit of expulsion prohibition (Article 31 of the Convention relating to the Status of Stateless Persons). A 2015 report supported by UNHCR outlined the "convergence and divergence" between the statelessness conventions and Japanese citizenship laws and administrative policies, finding major gaps in the laws of Japan (including the lack of a definition of 'statelessness' or 'stateless person').¹⁰¹¹ Stateless persons who do not have residence status in Japan ('Non-resident Stateless Persons') are deprived of nearly all of the rights and protections provided to persons with Japanese nationality or residence status.¹⁰¹² On the other hand, stateless persons with residence status (Resident Stateless Persons) can enjoy the benefits of social insurance including pension and health insurance, financial support for disabled persons or childcare, and subsidies for residence.¹⁰¹³ Even for Resident Stateless Persons, there is a risk of receiving a deportation order upon being deemed to fulfil certain deportable conditions.¹⁰¹⁴ Practical difficulty in enforcing such deportation orders often result in such stateless persons remaining in Japan with an unstable status without any assurance of right to stay in Japan or to avoid further deportation.¹⁰¹⁵ A 2017 report supported by UNHCR showed that with the lack of a legal definition of statelessness, Japan

There is no statutory protection such as a grant of residence status or nationality for stateless persons based on the fact that they are stateless.

administratively does not follow classification of stateless persons in accordance with international law which can lead to lesser reliance on official statistics due to duplication of numbers or can lead to misclassification.¹⁰¹⁶

Naturalized citizenship

A process for naturalization is available for foreign nationals, stipulated by Article 5 of Japan's *Nationality Law*.¹⁰¹⁷ In order to be eligible, the applicant must have continuously resided in Japan for at least five years, must not have nationality of another country, and have never been involved in terrorist activities, among other requirements.¹⁰¹⁸ There is no naturalization process available explicitly to refugees or stateless persons.

A process for naturalization is available for foreign nationals, stipulated by Article 5 of Japan's Nationality Law.

However, there is a provision stipulating a separate naturalization process for 'aliens'.¹⁰¹⁹ 'Aliens' can be eligible for this process if they have residence in Japan for three consecutive years and are by birth the child of a Japanese citizen, they have residence in Japan for three consecutive years and was born in Japan, or who has had residence in Japan for ten consecutive years.¹⁰²⁰ Therefore, to obtain a legal residency status in Japan, one would need to pursue recognition of refugee status.

Dual citizenship

Dual citizenship is not recognized in Japan. If a Japanese citizen acquires citizenship elsewhere, they will lose their Japanese citizenship.¹⁰²¹ Japanese nationals possessing another nationality must make a choice on which citizenship to take, and deprive themselves of the other nationality.¹⁰²²

Treaty ratification status

While Japan is not a party to the 1954 Convention relating to the Status of Stateless Persons

TABLE 22

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Japan	–	–	✓	✓	✓	✓	✓	✓

✓ 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

or the 1961 Convention on the Reduction of Statelessness, it has acceded to all other relevant human rights treaties without any relevant reservations.

In 2018 concluding observations by the CERD Committee, concerns were raised regarding Koreans who remain as foreign nationals after multiple generations of living in Japan and, as a result, are unable to vote or be public servants or engage in decision making.¹⁰²³ Further, the Committee expressed concerns about the fact that Korean schools in Japan “do not receive support from the High School Tuition Support Fund” and that Korean women experience pervasive discrimination based on their nationality and gender.¹⁰²⁴ Due to its ratification of the CERD, Japan is obligated to protect persons in its territory from discrimination based on nationality or legal status as well as ensure their equal civil rights regardless of nationality or legal status.¹⁰²⁵

Concluding observations by the CRC Committee in 2019 also recommended that Japan strengthen its *Nationality Law* in order to better protect against *de jure* statelessness, to grant citizenship at birth to children who would otherwise be stateless, and to ensure that children of irregular migrants in

particular are registered at birth.¹⁰²⁶ It was further recommended that Japan develop a statelessness determination procedure (SDP) to “properly identify and protect stateless children”.¹⁰²⁷ As a party to the CRC, Japan is bound to ensure that all births in its territory are registered immediately.¹⁰²⁸

In its 2017 UPR, Japan was recommended to accede to the Convention on the Reduction of Statelessness¹⁰²⁹. Although the Japanese government has reported that it recognises the importance of taking necessary measures for stateless people¹⁰³⁰, it has not taken any specific measures so far.

Population

Reported stateless persons

Japan has shown fluctuations in the reported statistics on stateless individuals over the past few years. The country has the highest reported stateless population in East Asia, with 508 stateless persons reported to UNHCR in 2022, a decrease of 199 persons from 2021 and 2020, when the country reported 707 stateless persons.¹⁰³¹ Many of the reported stateless population in Japan

are children of irregular migrants and foundling children.

It is estimated that the actual number of stateless persons in Japan is far larger than the above numbers reflect as the number of stateless persons in Japan under UNHCR's statelessness mandate only reflects cases of those recognized by the Japanese government.¹⁰³⁶ UNHCR's representatives in Japan have pointed out that the actual number of stateless persons in Japan is not accurately captured by the official estimates due to the lack of consistent definition for “statelessness” or “stateless person” and possibility of duplication among various estimates.¹⁰³⁷

Persons at risk of statelessness

A child born to foreign parents in the territory of Japan may be at risk of statelessness if they are not eligible for citizenship elsewhere due to gaps in citizenship legislation. Children born to migrants and abandoned children risk statelessness due to presumed links to foreign nations which can, at times, undermine the legal protection for such children recognised in Japanese laws.¹⁰³⁸

Historical context and legal frameworks suggest that certain populations, particularly Zainichi Koreans, persons of Korean ethnic descent permanently residing in Japan, are at a higher risk for statelessness in Japan.¹⁰³⁹ This is especially true for those who chose not to apply for South Korean nationality in the 1960s. While many Zainichi Koreans have naturalized as Japanese citizens since the 1990s, to this day their legal status remains complex, and the application process is intricate and requires renouncing any dual citizenship they may hold.¹⁰⁴⁰

Historical context and legal frameworks suggest that certain populations, particularly Zainichi Koreans, persons of Korean ethnic descent permanently residing in Japan, are at a higher risk for statelessness in Japan.

Individuals who are the children of Indochinese refugees from Thailand escaping the first Indochina War to live in Japan are also at a high risk of statelessness. Many of these refugees' children were born and brought up in Thailand but it is nearly impossible for them to trace their roots or obtain relevant documents, making it challenging to prove ties to Vietnam, Laos, or Thailand. A number of these individuals resort to illegal entry into Japan to find work but are rendered stateless.¹⁰⁴¹

Stateless Refugees

In 2022, among the 17,406 refugees in Japan according to UNHCR's mandate, the Japanese government reported 9 stateless refugees to UNHCR.¹⁰⁴² As noted above, while Japan is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol¹⁰⁴³, its domestic laws do not provide a definition for statelessness. The unique status of stateless refugees in Japan has however been recognised and examined by the courts of Japan.¹⁰⁴⁴

Undetermined nationalities

In Japan's 2020 census, the nationality of 131,684 foreigners in Japan was categorised as “stateless and name of country not reported”.¹⁰⁴⁵ The discrepancy between the number of such “stateless and name of country not reported” persons from the number of UNHCR-identified stateless persons may be explained by the fact that the former number includes individuals with undetermined nationality or who did not report their nationality (but may nonetheless be recognised as nationals).¹⁰⁴⁶ Japan is the only country in East Asia with publicly accessible census statistics available in English on the citizenship status of foreigners.¹⁰⁴⁷

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

TABLE 23

Reported stateless persons to the UNHCR

Country	2019 (year start) ¹⁰³²	2020 (year end) ¹⁰³³	2021 (year end) ¹⁰³⁴	2022 (year end) ¹⁰³⁵
Japan	709	707	707	508

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

While not recognised as stateless persons by the Japanese government or UNHCR, a major group within Japan whose nationality status remains unresolved is the children of ethnic Koreans who currently hold the categorisation of “citizens of the Korean Peninsula (Korea or Chōsen)”. This population group may opt to claim South Korean citizenship or seek Japanese citizenship through naturalization and until they do so are considered to be “special permanent residents” which enables their access to services and temporary travel documents.¹⁰⁴⁸ Of the over 800,000 registered Koreans in Japan,¹⁰⁴⁹ 25,358 persons remain registered as Chōsen in 2022.¹⁰⁵⁰

Of the over 800,000 registered Koreans in Japan, 25,358 persons remain registered as Chōsen in 2022.

Causes of Statelessness

The context of statelessness in Japan has been quite extensively studied with a series of mapping reports commissioned by UNHCR having been undertaken between 2010 and 2017 as well as a number of independent articles published in English and Japanese.¹⁰⁵¹ Within identified groups of stateless persons in Japan, in particular, children are affected by conflict of nationality laws and children of unregistered migrants and abandoned children are particularly affected.¹⁰⁵²

Lack of legal safeguards against childhood statelessness

Under the *Nationality Law* of Japan, children born in Japan to stateless parents and founding children born in Japan are considered nationals.¹⁰⁵³ However, research has shown that abandoned children of migrant workers, mixed-status families and multigeneration translational families are at times presumed to possess foreign nationality or have links to foreign states and are in turn denied the protection from these provisions.¹⁰⁵⁴ A survey undertaken by the Japan Immigration agency in

2020 found that the majority of stateless children in Japan were stateless as a result of procedural issues and failures to provide adequate documentation.¹⁰⁵⁵

However, research has shown that abandoned children of migrant workers, mixed-status families and multigeneration translational families are at times presumed to possess foreign nationality or have links to foreign states and are in turn denied the protection from these provisions.

Citizenship stripping

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.¹⁰⁵⁶ Some of these individuals were subsequently recorded as overseas nationals of South Korea, while others received the status as Chōsen (partially due to Japan’s rejection of recognising North Korea’s statehood).¹⁰⁵⁷ As noted above, 25,358 persons retain the status of Chōsen as of 31 December 2022.¹⁰⁵⁸

Ethnic Koreans and Taiwanese persons who are Japanese citizens have had their citizenship stripped in some cases.¹⁰⁵⁹ Since Korea and Taiwan ceased to be considered as a part of Japan by the conclusion of the Treaty of Peace with Japan¹⁰⁶⁰, the Japanese government issued a notification to Japanese courts that ethnic Koreans and Taiwanese shall be deemed to no longer hold Japanese citizenship unless they have certain special relationships with Japanese nationals.¹⁰⁶¹ A number of cases have commenced in Japanese courts seeking to retain the Japanese citizenship of affected persons. For example, the Supreme Court of Japan found that a child between a

Ethnic Koreans and Taiwanese persons who are Japanese citizens have had their citizenship stripped in some cases.

Korean father and Japanese mother, for which the Korean father acknowledged paternity before the amendment of the *Nationality Law* in 1950 shall obtain Chōsen nationality and lose Japanese nationality.¹⁰⁶² On the other hand, the Supreme Court of Japan found that considering such a child’s paternity was acknowledged after the amendment of the *Nationality Law* in 1950, before the Treaty of Peace with Japan came into effect in April 1952, they shall not lose their Japanese nationality.¹⁰⁶³

A new amendment to the *Nationality Law*, which will come into force from 1 April 2024¹⁰⁶⁴, stipulates that a child may be deprived of his or her Japanese citizenship when there is a fact which contradicts the acknowledgment from the father in the case of children born to a non-citizen mother and citizen father. There is no time limit to such deprivation. The amended paragraph is controversial as it jeopardizes the Japanese nationality of certain children and could result in them becoming stateless. There is opposition to the introduction of the new amended, which will add a Paragraph 3¹⁰⁶⁵ to Article 3 of the *Law*. The United Nations High Commissioner for Refugees has called for action to prevent children becoming stateless such

Japan reported a 100% birth registration rate to UNICEF in 2022.

as establishing a limitation period beyond which an acquired nationality cannot be withdrawn.¹⁰⁶⁶

Administrative barriers

The documents required for application for naturalization, particularly for proving nationality, may present a barrier to accessing citizenship through naturalization. Documents that prove nationality and family relationships of the applicant generally must be issued by a government official of the country of the applicant’s nationality.¹⁰⁶⁷ This requirement could present a barrier for an applicant who may not possess or be able to obtain an acceptable version of such documentation. In addition, applicants will be required to demonstrate a certain level of Japanese proficiency.¹⁰⁶⁸ The application documentation and consultation or interview will also be conducted in Japanese, which may present a barrier for certain applicants.¹⁰⁶⁹

Japan reported a 100% birth registration rate to UNICEF in 2022.¹⁰⁷⁰



Mongolia

Laws

Citizenship Law

Jus sanguinis provisions

The nationality law in Mongolia operates on a *jus sanguinis* basis. The *Law of Mongolia on Citizenship* stipulates that regardless of birthplace, a child born to two Mongolian citizen parents will be a citizen.¹⁰⁷¹ A child born in the territory of Mongolia to one citizen parent and one foreign citizen parent will be a citizen. However, if the child is born outside the territory, the child will only gain citizenship upon written agreement from the parents.¹⁰⁷² There is also no definition of a stateless person included in the citizenship legislation of Mongolia.

The nationality law in Mongolia operates on a jus sanguinis basis.

Naturalized citizenship

A naturalization process is available to foreign citizens and stateless persons alike in Mongolia.¹⁰⁷³ To be eligible, one must permanently reside in the country for five years and understand the customs and official language of Mongolia, among other requirements.¹⁰⁷⁴ In order to gain citizenship by naturalization, a foreign citizen must first renounce their prior citizenship unless the other nation's legislation stipulates the loss of citizenship upon acquisition elsewhere.¹⁰⁷⁵ There is no simplified or expedited process for stateless persons or refugees.

Dual citizenship

Dual citizenship is not recognized in Mongolia, as per the *Law of Mongolia on Citizenship*.¹⁰⁷⁶ However, applicants in the process of naturalization are still at the risk of statelessness due to the fact that one must first renounce prior citizenship in order to gain citizenship of Mongolia by naturalization.¹⁰⁷⁷ A lack of legal safeguards around renunciation of nationality,¹⁰⁷⁸ and the bar on dual nationality¹⁰⁷⁹ has left many ethnic Kazakhs stateless. Some individuals relinquished their Mongolian nationality to gain Kazakh nationality but were unsuccessful. Others who were successful in gaining Kazakh nationality have subsequently returned to Mongolia, renouncing their Kazakh nationality and have been unsuccessful in having their Mongolia nationality reinstated.¹⁰⁸⁰

A lack of legal safeguards around renunciation of nationality, and the bar on dual nationality has left many ethnic Kazakhs stateless.

Treaty ratification status

While Mongolia has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1951 Refugee Convention (and its 1967 Protocol), it has ratified all of the relevant core treaty bodies with no relevant reservations.

In 2022 concluding observations, the CESCR Committee expressed concerns regarding the ongoing discrimination towards asylum-seekers, refugees, and stateless persons.¹⁰⁸¹ In previous follow-up to concluding observations, Mongolia provided that it had enacted a new law which protects these groups from discrimination; however, in practice discrimination still persists.¹⁰⁸² The Committee further mentioned the failure of anti-discrimination law to cover all groups and a need to make it more robust such that it covers all grounds for discrimination and all groups that are marginalized or disadvantaged.¹⁰⁸³ The concern regarding discrimination towards stateless persons and other groups was also touched on in 2019 concluding observations by the CERD Committee, particularly pertaining to difficulties faced by stateless persons and other persons of foreign origin in accessing State-provided services including health care, social security and education.¹⁰⁸⁴ As a party to ICESCR and ICERD, Mongolia is bound to ensure non-discrimination, including on the grounds of nationality or legal status.¹⁰⁸⁵ The issue of lack of data collection on specific groups including stateless persons was also raised in the CERD Committee's 2019 concluding observations.¹⁰⁸⁶ The Committee requested that Mongolia provide such data in its next periodic report on socioeconomic indicators.¹⁰⁸⁷

While commending Mongolia's high birth registration rate, the CRC Committee recommended that Mongolia ensure a legal identity through birth registration for "Kazakh children, those who migrate within the territory of the State party and those who were born at home or without midwife support" as well as grant citizenship to all children in the territory who would otherwise be stateless.¹⁰⁸⁸

Population

Reported stateless persons

Mongolia reported a population of 17 stateless persons to UNHCR in 2019, and 2021, 2022.¹⁰⁸⁹ In 2020, Mongolia did not report any figures of their stateless population to UNHCR.¹⁰⁹⁰ However, Mongolia's 2020 Census results showed 37 stateless persons permanently residing in the country.¹⁰⁹¹ UNHCR stated in a 2010 UPR submission for Mongolia that there have been widely differing estimates available for the number of stateless persons in Mongolia of up to "several tens of thousands of persons, while official statistics count very few stateless persons on the territory of Mongolia".¹⁰⁹² As such, there is a lack of reliable data in the country.

Persons at risk of statelessness

Mongolia hosts a strict policy against dual nationality, and foreign citizens aspiring to become Mongolian citizens are obligated to renounce their existing citizenships. This legal framework poses a risk of statelessness for those who renounce their previous nationality but do not acquire Mongolian citizenship.¹⁰⁹³ Also at risk are children born to foreign parents in Mongolia who may not be eligible

TABLE 24

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Mongolia	⊖	⊖	⊖	✓	✓	✓	✓	✓

✓ 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 25

Reported stateless persons to the UNHCR

Country	2019 (year start) ¹⁰⁹⁴	2020 (year end) ¹⁰⁹⁵	2021 (year end) ¹⁰⁹⁶	2022 (year end) ¹⁰⁹⁷
Mongolia	17	-	17	17

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

Mongolia hosts a strict policy against dual nationality, and foreign citizens aspiring to become Mongolian citizens are obligated to renounce their existing citizenships.

for citizenship in the foreign country of their parents.

Undetermined nationalities

There is minimal research available on the composition of the stateless populations in Mongolia. However, UNHCR and the CRC have both drawn attention to the situation of ethnic Kazakhs in the country.¹⁰⁹⁸ After the USSR dissolved in the early 1990s and Kazakhstan became an independent state, hundreds of thousands of ethnic Kazakhs left Mongolia for Kazakhstan.¹⁰⁹⁹ In the late 1990s and early 2000s, many ethnic Kazakhs wanted to return to Mongolia. However, they were unsuccessful in their attempt and were left stateless as they had previously renounced their Mongolian nationality to acquire Kazakh nationality. Many have since returned to Mongolia and may have the right to reacquire citizenship yet have faced administrative barriers to doing so.¹¹⁰⁰

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Mongolia's citizenship laws provide some safeguards against statelessness and protections for foundling children. A child born to one Mongolian citizen and one stateless parent will be a citizen of Mongolia regardless of birthplace.¹¹⁰¹ Children born to stateless parents permanently

residing in Mongolia can only access Mongolian citizenship after reaching 16 years of age.¹¹⁰² This is problematic as stateless children often are denied the right to education, healthcare, and an adequate standard of living.¹¹⁰³ Foundling children born in Mongolia are automatically considered Mongolian nationals.¹¹⁰⁴ There are, however, no legislative safeguards protecting children born outside of the territory from becoming stateless in the event that the parents fail to provide the required written agreement in order to gain citizenship.

Administrative barriers

A 2010 stateless survey showed that a lack of knowledge of the administrative process and information only being available in Mongolian fundamentally limited the ability of the largely stateless Kazakh ethnic minority population from gaining citizenship.¹¹⁰⁵

The CRC has noted that while Mongolia has a high rate of recorded birth registration (reported to the UN Statistical Department to be 100% in 2021¹¹⁰⁶), additional efforts are needed to ensure that children of Kazakh ethnicity whose parents have either returned to Mongolia or internally migrated have access to birth registration and citizenship.¹¹⁰⁷ Births are registered immediately in Mongolia, and failure to register a birth could cause a person to be denied public services.¹¹⁰⁸ Further, one must have a birth certificate in order to receive a passport, as stipulated by the *Law of Mongolia on Citizenship*.¹¹⁰⁹

Children born to stateless parents permanently residing in Mongolia can only access Mongolian citizenship after reaching 16 years of age. This is problematic as stateless children often are denied the right to education, healthcare, and an adequate standard of living.

Democratic People's Republic of Korea (North Korea)

Laws

Citizenship Law

Jus sanguinis and *jus soli* provisions

The nationality laws of Democratic People's Republic of Korea (North Korea) operate through a *jus sanguinis* structure with a limited *jus soli* provision, as stipulated by the *Nationality Law of the Democratic People's Republic of Korea*. Persons born to two North Korean parents are considered citizens.¹¹¹⁰ A child born to one citizen and one foreigner or stateless person who is residing in North Korea will be a citizen.¹¹¹¹ For children born outside of North Korea to one North Korean citizen and one foreign citizen where the child is under 14 years of age, citizenship is granted upon the wish of the parents.¹¹¹² The child will gain citizenship if the parents or the guardian of the child fail to express their wish within 3 months from birth.¹¹¹³ If the child in this scenario is over 14 years of age, the parents or guardian may express their wish along with the child's consent in order for the child to gain citizenship with the ultimate decision left to the child in the event of indecision of the parents.¹¹¹⁴ If an individual is 18 years of age, citizenship is granted upon the consent of the said individual.¹¹¹⁵ In order to complete this process, the parents or the individual must submit an application to the embassy in the foreign country where the child was born or, if unable to do so, in a nearby country.¹¹¹⁶ There is no definition of a stateless person included in the national citizenship legislation of North Korea.

Naturalized citizenship

While Article 6 of the *Nationality Law* provides that a stateless person or citizen of another country can acquire North Korean

The nationality laws of Democratic People's Republic of Korea (North Korea) operate through a jus sanguinis structure with a limited jus soli provision, as stipulated by the Nationality Law of the Democratic People's Republic of Korea.

citizenship by petition, there are no provisions that provide more detail on such a process of naturalization.¹¹¹⁷

Dual citizenship

The citizenship legislation of North Korea does not recognise dual citizenship.¹¹¹⁸

Treaty ratification status

North Korea has ratified the ICCPR, ICESCR, CRC, and CEDAW with no relevant reservations. However, in 1997, North Korea attempted to withdraw from the ICCPR, which was rejected by the Secretary-General due to the Covenant's lack of withdrawal provision.¹¹¹⁹ The country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1951 Refugee Convention (and its 1967 Protocol), and the ICERD.

In its 2017 concluding observations, the CRC Committee recommended that North Korea ensure that children born to North Korean mothers outside of North Korea have access to birth registration and nationality without being forcibly returned back to North Korea.¹¹²⁰ The Committee also expressed serious concerns regarding the lack of official data on stateless children in North Korea.¹¹²¹

The CEDAW Committee in its 2017 concluding observation mentioned concerns over reports that North Korean women in China avoid

registering the births of their child out of fear of being forcibly returned to North Korea, choosing instead for their child to remain stateless.¹¹²² The Committee also expressed concerns regarding the trafficking of women which increases the risk that they will be "subjected to forced marriage, that their children will be stateless and that they will be exploited in forced labour and prostitution".¹¹²³ North Korea did not provide a follow-up report to these concluding observations.¹¹²⁴

Population

North Korea has yet to report a figure for its stateless population to UNHCR.¹¹²⁵ There is minimal to no research available in English on stateless populations within North Korea. Approximately five thousand ethnic Chinese or 'Hwagyos' reside in North Korea as the only recognised foreigners allowed to stay in the country for indefinite periods. This population retains Chinese nationality and holds a special permanent residence status in North Korea, possessing employment rights and greater freedom of movement than North Korean citizens.¹¹²⁶

Persons at risk of statelessness

As noted in the East Asia sub-regional report as well as country reports for China¹¹²⁷ and South Korea¹¹²⁸, North Korean defectors, trafficked persons and their children are at risk of statelessness.

As noted in the East Asia sub-regional report as well as country reports for China and South Korea, North Korean defectors, trafficked persons and their children are at risk of statelessness.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

North Korea provides access to citizenship for foundling children¹¹²⁹ and children born to stateless parents, as long as both parents reside in the country.¹¹³⁰

Administrative barriers

According to Article 7 of the *Citizen Registration Law of the Democratic People's Republic of Korea*, documents confirming citizenship of North Korea are the birth certificate, citizen cards, and Pyongyang city resident certificates.¹¹³¹ A birth certificate is administered upon birth registration.¹¹³² For North Korean women living outside the territory, administrative barriers make it extremely difficult to register the birth of their children.¹¹³³ When a North Korean woman has a child in China with a Chinese citizen, often the child's birth registration is refused until the mother is deported back to North Korea.¹¹³⁴ There are no birth registration rates available for the country.

TABLE 26

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	⊖	⊖	⊖	✓	✓	⊖	✓	✓

✓ 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

Republic of Korea (South Korea)

Laws

Citizenship Law

Jus sanguinis and *jus soli* provisions

The citizenship law of the Republic of Korea (South Korea) operates mainly through a *jus sanguinis* structure with one *jus soli* provision. According to the *Nationality Act*, a child born to one or two citizen parents is considered a citizen, with no distinction made regarding the individual's place of birth.¹¹³⁵ Citizenship by acknowledgement is also possible for foreign citizen children who have a citizen parent.¹¹³⁶ There is no definition of statelessness or a stateless person included in the citizenship legislation of South Korea.

The citizenship law of the Republic of Korea (South Korea) operates mainly through a jus sanguinis structure with one jus soli provision.

Naturalized citizenship

Stateless persons are not included in the naturalization provisions of South Korea's *Nationality Act*. However, non-citizens may gain citizenship by naturalization if they "sustain a domicile" in South Korea for at least five years, are financially independent, and have basic knowledge of Korean language and customs.¹¹³⁷ Reports however suggest that the process of naturalization takes place for a prolonged period and is too difficult to obtain for stateless refugees, making their situation precarious and opening them to prolonged periods of statelessness.¹¹³⁸ A simplified naturalization process is open to limited foreigners who satisfy the categories of making an outstanding contribution to South Korea, or having a parent who is a South Korean national, or whose spouse is South Korean, among others.¹¹³⁹

Dual citizenship

Dual citizenship is not recognized in South Korea.¹¹⁴⁰ In order to gain South Korean citizenship, a person with foreign citizenship must renounce their prior citizenship within one year of receiving South Korean citizenship.¹¹⁴¹ A South Korean citizen will lose their citizenship upon gaining citizenship of

another state.¹¹⁴² However, a 2010 amendment to the *Nationality Act* made an exception to this 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.¹¹⁴³ As a result of the amendment, eligible persons can maintain dual citizenship by making a pledge to the Minister of Justice not to exercise their non-South Korean citizenship while in South Korea.¹¹⁴⁴

Treaty ratification status

South Korea is the only state in East Asia and one of only six states in the Asia Pacific that has acceded to the 1954 Statelessness Convention. While it has not acceded to the 1961 Convention on the Reduction of Statelessness, it has ratified the 1951 Refugee Convention and its 1967 Protocol, ICCPR, ICESCR, ICERD, CRC, and CEDAW. A 2021 Mapping report of Statelessness in South Korea notes that while the Constitution of the country stipulates that international treaties should be considered part of domestic law, in practice that 1954 convention is not applied as domestic law (most notably in the lack of codified definitions of statelessness and stateless persons).¹¹⁴⁵ Upon signing CEDAW, South Korea made a reservation stating that the country is not bound to Article 9, which stipulates gender equality in nationality.¹¹⁴⁶ Article 9 also states that the "State Parties shall grant women equal rights with men to acquire, change or retain their nationality" and that change of nationality of the husband shall not automatically alter the nationality of the wife, "render her stateless or

force upon her the nationality of the husband".¹¹⁴⁷ South Korea also made a reservation on Article 16(1)(g), which provides equal rights of husband and wife, particularly "to choose a family name, a profession and an occupation".¹¹⁴⁸

South Korea is the only state in East Asia and one of only six states in the Asia Pacific that has acceded to the 1954 Statelessness Convention.

In its 2023 concluding observations, the Human Rights Committee expressed concerns regarding the severe lack of anti-discrimination legislation, including on the grounds of nationality.¹¹⁴⁹ Further concerns expressed by Committee is with regard to reports of pervasive hate speech towards "escapees from the Democratic People's Republic of Korea and Muslim migrants and refugees" as well as "towards migrants, asylum-seekers and refugees during the coronavirus disease (COVID-19) pandemic, including by politicians and public figures, both offline and online".¹¹⁵⁰ This was echoed in 2017 concluding observations by the CESCR Committee, which found the exclusion of non-citizens from the country's social security system and public services concerning.¹¹⁵¹ As a party to both of the ICCPR and ICESCR, South Korea is bound to protect the right to freedom from discrimination.¹¹⁵² South Korea did not respond to the concerns regarding discrimination on the grounds of nationality specifically in the follow-up to the CESCR Committee's concluding observations.¹¹⁵³ The Rapporteur responded that South Korea's progress in ensuring non-discrimination on all prohibited grounds of discrimination is insufficient.¹¹⁵⁴

TABLE 27

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Republic of Korea	✓	✗	✓	✓	✓	✓	✓	✓

✓ 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

On birth registration, the Human Rights Committee in 2023 observed the issue of the requirement for foreigners to go to their respective embassy in order to register the birth of their child, making birth registration effectively unavailable for stateless persons.¹¹⁵⁵ The issue of birth registration for foreigners was also mentioned in the CERD Committee's concluding observations in 2019.¹¹⁵⁶ The Human Rights Committee has recommended expediting the enactment of the bill on birth registration for foreign children in South Korea.¹¹⁵⁷ The CEDAW Committee stated in 2019 that the children of undocumented, unmarried migrant women are at particular risk of statelessness due to administrative and legislative barriers to birth registration.¹¹⁵⁸ As a party to both the ICCPR and the CRC, South Korea is obligated to ensure that every birth in its territory is registered immediately – not just the births of citizens.¹¹⁵⁹ In the 4th cycle UPR submission for South Korea, it was recommended that the country “establish a universal birth registration system which includes children of refugees, asylum-seekers, stateless persons, persons of undetermined nationality and undocumented persons” as well as ensure that every birth in the country is registered immediately.¹¹⁶⁰ In an effort to comply with the Global Compact on Migration, South Korea made a pledge in January 2023 for “introducing a birth registration system for foreign children” by December 31, 2026.¹¹⁶¹

The 2019 concluding observations by the CERD Committee also included concerns regarding legislative provisions that require the passport of the mother for citizenship applications for children born out of wedlock to a foreign mother and Korean citizen father. As a result, instances where issuance of a passport to the mother is not feasible, leaves children in such a scenario unregistered.¹¹⁶²

In an effort to comply with the Global Compact on Migration, South Korea made a pledge in January 2023 for “introducing a birth registration system for foreign children” by December 31, 2026.

It was recommended that South Korea amend the relevant provisions to remove barriers to citizenship for children born out of wedlock to a Korean citizen father and foreign mother.¹¹⁶³ In South Korea's 2019 follow-up report to the CERD Committee's concluding observations, it clarified its intentions by reporting its actions to draft a new bill to address issues with birth registration in the country.¹¹⁶⁴ It also explained that for children born out of wedlock, the ‘citizenship by acknowledgement’ provision is meant to make acquisition of citizenship easier.¹¹⁶⁵ In a follow-up report provided by a South Korean NGO Coalition, the Coalition noted that South Korea has not taken any actions to implement the recommendations provided by the Committee.¹¹⁶⁶ The Coalition also stated that the government has previously expressed that it is unsure which branch of the government is responsible for overseeing birth registration.¹¹⁶⁷ The Rappourter provided in its follow-up to this information that the ‘citizenship by acknowledgement’ provision does not remove all barriers to citizenship for children born out of wedlock to a foreign mother and Korean citizen father.¹¹⁶⁸ The Rappourter further stated that the national legislation on citizenship in South Korea, contrary to the State party's statement, does not fully protect all children from statelessness in its territory.¹¹⁶⁹

Population

Reported stateless persons

In 2022, the South Korean government reported 241 stateless persons to UNHCR.¹¹⁷⁰ This represents an increase of 39 persons since 2021, when the government reported a total of 202 stateless persons.¹¹⁷¹ The officially reported stateless population has remained around 200 persons for the past 5 years.¹¹⁷² Based on entry and exit immigration data and foreign residents data, as many 10,032 stateless persons could be residing within South Korea.¹¹⁷³ UNHCR's 4th

TABLE 28

Reported stateless persons to the UNHCR

Country	2019 (year start) ¹¹⁷⁴	2020 (year end) ¹¹⁷⁵	2021 (year end) ¹¹⁷⁶	2022 (year end) ¹¹⁷⁷
Republic of Korea	197	203	202	241

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

Around 33,000 defectors from North Korea entered South Korea between 1998 and 2023, 71% of which being women.

cycle UPR submission for South Korea mentions that “it is generally agreed that no reliable official figures exist on the number of stateless persons in Korea”.¹¹⁷⁸

One group experiencing statelessness are ethnically Chinese defectors from North Korea who are unable to gain Korean citizenship due to ties to China.¹¹⁷⁹ Around 33,000 defectors from North Korea entered South Korea between 1998 and 2023, 71% of which being women.¹¹⁸⁰ South Korea does not recognise the legitimacy of the North Korean state and considers the entire Korean peninsula to be their territory and nationals of North Korea to be their nationals.¹¹⁸¹ Refugees from North Korea are however required to undertake a verification process and receive a ‘decision of protection’ which enables the creation of a new family registration.¹¹⁸² While most North Korean defectors are supported by government services, those who are of Chinese descent are denied refugee status and the government services that come with it.¹¹⁸³ As of 2021, 30 of these defectors were recognized as stateless.¹¹⁸⁴ Due to their stateless status, many have difficulty finding employment and accessing basic services.¹¹⁸⁵ Some resort to posing as a North Korean national, which has led to prolonged detention in South Korea.¹¹⁸⁶

Persons at risk of statelessness

Both the CEDAW and ICERD Committees have noted with concern the barriers faced by children

born to foreign parents to access birth registration and citizenship.¹¹⁸⁷ The CEDAW Committee stated in 2019 concluding observations for South Korea that the children of undocumented, unmarried migrant women are at particular risk of statelessness due to barriers to birth registration.¹¹⁸⁸

Those who are stateless and at risk of statelessness in South Korea include foreigners whose naturalized South Korean citizenship is revoked after renouncing prior citizenship, returning former nationals who were rendered stateless in Russia and Japan¹¹⁸⁹, stateless asylum seekers from North Korea and other states¹¹⁹⁰, and children born to foreigners.¹¹⁹¹

Stateless Refugees

The 2021 mapping report identified 97 Vietnamese asylum seekers (and their descendants) who arrived in South Korea during the Vietnamese war, were classified as stateless due to an administrative gap and have not yet had their status resolved.¹¹⁹²

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

While foundlings as well as children born to two stateless parents have safeguards in place to apply for citizenship of South Korea, the same cannot be said for children of undocumented migrants.¹¹⁹³ With the lack of legal safeguards,

risk of statelessness of children of undocumented migrants and out-of-wedlock relationships runs high as the consulate of the migrants in several cases, have refused to register births of their children due to the “unlawful” residential status of the parent.¹¹⁹⁴

Citizenship stripping

Citizenship stripping has fundamentally affected foreign spouses within South Korea in instances where their marriage is determined to be a ‘sham’. Prior to 2010, South Korea did not allow for dual citizenship in any form, with marriage migrants having to relinquish citizenship prior to being naturalized in South Korea. A number of marriage migrants were subsequently stripped of their citizenship and rendered stateless within South Korea, with minimal to no avenues for review.¹¹⁹⁵

Administrative barriers

While South Korea has reported a birth registration rate of 100% to the UN Statistics Division,¹¹⁹⁶ birth registration in the country is only counted for citizens. The lack of inclusion of foreigners and non-citizens in legislation requiring birth registration places children born to foreign, undocumented, and stateless persons at risk of remaining unregistered, which may place them at risk of statelessness. In South Korea, foreigners, including undocumented and stateless persons, as well as single mothers experience low birth registration rates. As possession of family registration ‘is the core evidence to identify a person to be [a] national of [South Korea]’¹¹⁹⁷ barriers to children of migrants from being registered places children of undocumented migrants at a profound risk of statelessness. In June 2023, South Korea’s state audit agency discovered that 6,000 births in local hospitals were not reflected in birth registration records, of which two thirds were births of a foreign mother.¹¹⁹⁸ The US Department of State has estimated that

While South Korea has reported a birth registration rate of 100% to the UN Statistics Division, birth registration in the country is only counted for citizens.

there may be as many as 20,000 children born to undocumented foreigners in South Korea who are unregistered.¹¹⁹⁹ Currently, in order to register the birth of their child, foreigners in South Korea, including stateless persons, are unable to register the birth with the South Korean government and must instead register the birth at their respective embassy, which is not possible for stateless persons.¹²⁰⁰ There is currently no legislation mandating birth registration for non-citizens of South Korea, while it is required for citizens.¹²⁰¹ Undocumented persons often avoid exposing their identity to their embassy, face “insurmountable administrative barriers”, or are simply denied registration by their embassy, leaving thousands of children’s births in South Korea unregistered.¹²⁰²

A bill was proposed in August 2022 as well as June 2023 in order to address the gaps in legislation for registration of the births of foreign children, but has yet to move through to enactment.¹²⁰³ The Human Rights Committee has recommended that South Korea expedite the enactment of the Bill to ensure foreigners, stateless persons, and undocumented persons access to birth registration¹²⁰⁴. However, a different bill, the *Protected Birth Bill*, was passed by the National Assembly as of October 2023 and will enter into force in July 2024.¹²⁰⁵ Despite criticism of its potential social implications, the Bill seeks to improve birth registration and better protect children by allowing anonymous births, adoption, and orphanage care as well as requiring medical institutions to report births to authorities within 14 days.¹²⁰⁶

The US Department of State has estimated that there may be as many as 20,000 children born to undocumented foreigners in South Korea who are unregistered.

Republic of China (Taiwan)

Laws

Citizenship Law

Taiwan provides access to nationality rights under their democratic regime.¹²⁰⁷ The *Anti-Secession Law* of the People’s Republic of China (China), enacted in 2005, claims that “Taiwan is a part of China” and provides for the use of non-peaceful means taken by China to achieve unification.¹²⁰⁸ Taiwan’s official position on the *Law* explicitly states that “the Republic of China is a sovereign and independent state” and that “according to the principles of sovereignty and self-determination as stated in the UN Charter, the sovereignty of Taiwan belongs to its 23 million people”.¹²⁰⁹ Due to the fact that the *Anti-Secession Law* is a domestic law of China and Taiwan does not fall into the jurisdiction of China, the *Law* is not applicable to Taiwan.¹²¹⁰ Taiwan has called on the international community to “safeguard Taiwan’s right to exist in the international community”.¹²¹¹

Due to the fact that the Anti-Secession Law is a domestic law of China and Taiwan does not fall into the jurisdiction of China, the Law is not applicable to Taiwan. Taiwan has called on the international community to “safeguard Taiwan’s right to exist in the international community”.

Jus sanguinis and jus soli provisions

Taiwan does not hold a concept of citizenship, but rather the system works on the concept of nationality. According to the *Nationality Act* of Taiwan, children born to one Taiwanese parent will be a national regardless of their birthplace.¹²¹² Nationals are afforded different rights based on whether they do or do not hold ‘Household Registration’, as stipulated by the *Immigration Act*.¹²¹³ Those individuals who hold a ‘Household Registration’ have access to complete residential and voting rights in Taiwan.¹²¹⁴ The *Immigration Act* was amended on January 1, 2024, making the process of acquiring nationality to those with Taiwanese parents easier. The new rules provide that for those individuals born in Taiwan to at least one Taiwanese parent and left the country without Household Registration or those individuals born overseas to a parent who holds Household

Nationals are afforded different rights based on whether they do or do not hold 'Household Registration', as stipulated by the Immigration Act.

Registration are allowed to immediately register upon entry into Taiwan with a valid R.O.C. (Taiwan) passport and do not need a Taiwan Area Residence Certificate (TARC).¹²¹⁵

In the *Enforcement Rules of the Nationality Act*, Article 3 defines a stateless individual as, “a person who is not recognized as the citizen of any country according to the laws of that country”.¹²¹⁶ It also, in particular, recognizes individuals from India, Nepal, Myanmar, Thailand, and Indonesia as stateless if they conform with Article 16 of the *Immigration Act* and hold an Alien Resident Certificate, prescribing them as stateless.¹²¹⁷

Naturalized citizenship

Foreigners and stateless persons can apply for naturalization in Taiwan if they currently have residence in Taiwan, have legally resided in the territory for at least 183 days of each year for five consecutive years and have “enough property or professional skills to support themselves”, among other requirements.¹²¹⁸ Those applying for naturalization would have to renounce any prior citizenship they hold within one year after the approval of the application.¹²¹⁹ There is no simplified or expedited naturalization procedure available to stateless persons or refugees, with PRC nationals having no access to naturalization at all. Foreign spouses in Taiwan are free to apply for residency or naturalization if they are married to a Taiwanese individual.¹²²⁰ Recent amendments, effective from January 1 2024, have allowed for foreign spouses (and their minor children) married to Taiwanese nationals to obtain legal residency in

There is no simplified or expedited naturalization procedure available to stateless persons or refugees, with PRC nationals having no access to naturalization at all.

the country. This is applicable without individuals having to go through judicial proceedings to obtain an official judgment of divorce or child custody to meet the residence grounds stipulated in Article 31.¹²²¹ With these amendments, while the implementation is yet to be seen, foreign spouses who have divorced or been widowed are likely to have increased eligibility for naturalization as legal residency is a prerequisite of naturalization.

The *Immigration Act* of Taiwan applies to stateless persons as well as foreign individuals who have entered Taiwan with a foreign passport.¹²²² Stateless individuals from Thailand, Myanmar, Indonesia, India or Nepal or nationals without Household Registration who cannot be repatriated are permitted to reside in Taiwan. Upon the completion of a minimum of three years or 270 days each year in case of five years, or 183 days in case of seven years of their residence in Taiwan, individuals are permitted to apply for Permanent Residency, which is a requirement for naturalization.¹²²³ The historical reasoning behind this provision is to provide residence to Chinese diaspora coming to Taiwan from Thailand, Myanmar and Indonesia. In light of the 2008 Tibetan uprising, the 2009 Immigration Act extended the special type of residence to stateless persons coming from India and Nepal. In other words, the provision was not enacted with the intention to provide legal status to stateless people in general, but is limited to individuals of Chinese descent present in the selected countries.

Prior to the 2024 amendments in the *Immigration Act*, ‘foreign brides’ from Southeast Asia and mainland China had largely been excluded from naturalization in Taiwan.¹²²⁴ Before changes were made to the *Nationality Act* in 1999, the only foreigners allowed to naturalize in China were foreign women, who through patriarchal values were deemed to play a role in continuing Taiwanese ‘blood’.¹²²⁵ The increase of immigrant women in the country as a result caused the government

to add barriers for foreign brides to acquire citizenship.¹²²⁶ In order to apply for naturalization, a foreign woman married to a Taiwanese man must undergo medical examinations, reside in Taiwan for a defined time period, renounce their foreign citizenship, pass Chinese language proficiency exams, and prove their financial security.¹²²⁷ The financial requirements of the application process used to present a major barrier for ‘foreign brides’ applying for naturalization.¹²²⁸ This has however been amended by the 2016 Act, where financial self-sufficiency is not required of naturalization based upon marital relations.¹²²⁹ Further, according to the 2016 amendments in the *Nationality Act*, while it does provide for nationality to foreign spouses through naturalisation, the concerned individuals shall be prone to statelessness if found undertaking a fraudulent marriage or adoption.¹²³⁰

Dual citizenship

Dual citizenship is permitted in some cases in Taiwan. Initially, only Taiwanese citizens by birth were allowed to hold dual nationality as well as public office. Through the 2016 amendment in the nationality law, foreign nationals can now apply for dual citizenship in Taiwan, if they have made “special contributions to Taiwanese society” and are “high-level foreign professionals” in fields including technology, economic matters, education, culture or the arts, allowing them to participate more wholly in the civic and political life.¹²³¹ Naturalized citizens do not have access to such rights, according to the *Nationality Act*.¹²³² Those foreign citizens, who do not fall under the narrow categories mentioned above and wish to

apply for naturalization in Taiwan must provide a certificate of loss of previous nationality within one year of being approved for naturalization in Taiwan.¹²³³ If they fail to do so, their naturalized citizenship will be revoked.¹²³⁴

Treaty ratification status

With Taiwan’s sovereignty being contested, the State has a limited role in the UN considering only sovereign States can become members of the UN. Taiwan has also not attained observer status.¹²³⁵ While observer status would allow Taiwan to contribute to the international system, it would also confirm that Taiwan is not a sovereign country.¹²³⁶ However, Taiwan has been seen to robustly participate in the UN specialized agencies for the last 50 years, which shows its commitment and the meaningful contribution made by it to the UN System.¹²³⁷ Despite being unable to be reviewed by UN bodies, Taiwan has created its own unique way of reviewing treaty bodies, in particular ICCPR and ICESCR, and has adopted them into its local laws since 2009.¹²³⁸ It has also voluntarily accepted other major human rights treaties, including ICERD¹²³⁹, CEDAW, CRPD, and CRC.¹²⁴⁰ To maintain the credibility of the review, Taiwan invited independent international experts to conduct the reviews and has increased participation to enhance the voices of local stakeholders, such as CSOs and government officials of Taiwan.¹²⁴¹

The International Review Committee (IRC) in its 2022 concluding observations reiterated

TABLE 29

Status of Accession of International Human Rights Treaties in East Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Republic of China	–	–	–	✓	✓	✓	✓	✓

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

Caution was further displayed by the IRC in the concluding observations for CEDAW by noting the lack of help for non-national mothers with stateless children by the government, particularly social and healthcare services.

its concern about children of foreign and undocumented migrants facing statelessness. It asked the government to look into problems of “acquisition of identity documents, residency rights and/or access to basic services”, keeping in mind the child’s best interest.¹²⁴² Caution was further displayed by the IRC in the concluding observations for CEDAW by noting the lack of help for non-national mothers with stateless children by the government, particularly social and healthcare services. The Report urges the government to provide data on the number of stateless children in the country and the services being provided to them, inclusive of healthcare, education, family, among others.¹²⁴³

Population

Reported stateless persons

UNHCR along with other government sources hold no official data on the exact number of stateless individuals in Taiwan. In 2020, while the National Immigration Agency (NIA) assisted 729 stateless children in obtaining citizenship, sources state that the actual number of stateless children in the country could be as high as 10,000.¹²⁴⁴ Research shows that children born to undocumented migrant workers are particularly vulnerable, for in order to escape the NIA and the fear of deportation, the child-birth has happened at home and the household registration is not

In 2020, while the National Immigration Agency (NIA) assisted 729 stateless children in obtaining citizenship, sources state that the actual number of stateless children in the country could be as high as 10,000.

completed by the undocumented parents, making the child stateless.¹²⁴⁵ Statelessness in Taiwan is also largely experienced by marriage migrants from Southeast Asia who have had to relinquish their citizenship of birth.¹²⁴⁶

Persons at risk of statelessness

Taiwan is a major destination for migrant workers in the region looking for economic opportunities, many of whom are undocumented, often trapped in debt bondage and victims of predatory recruitment fees.¹²⁴⁷ These predatory recruitment fees trap migrant workers into an exploitative cycle of debt which they cannot pay back with their salary, pushing them to flee their original exploitative employer and take illegal jobs with harsh working conditions.¹²⁴⁸ Such persons who are ‘Unaccounted-For Migrant Workers’ as well as their children experience extreme difficulty in accessing basic rights, such as healthcare, that are associated with citizenship.¹²⁴⁹ It is close to impossible for such workers, in particular, those in marine jobs, home assistants, as well as workers in construction industry¹²⁵⁰ to obtain residency as according to Article 52 of the *Employment Service Act*, their employment visas are valid for a maximum of 12 years. Children born to such workers are potentially stateless.¹²⁵¹ It is estimated that there are around 50,000 undocumented migrant workers with unknown whereabouts who have left from their employment with around 800 undocumented children officially.¹²⁵²

Such persons who are ‘Unaccounted-For Migrant Workers’ as well as their children experience extreme difficulty in accessing basic rights, such as healthcare, that are associated with citizenship.

Other populations of note

Further issues of statelessness exist in the territory of Taiwan, specifically among marriage migrants from Southeast Asia who have had to

relinquish their citizenship acquired at birth.¹²⁵³ ‘Foreign brides’ in Taiwan lack a social support system as many do not speak or read Chinese, especially Mandarin.¹²⁵⁴ The language barrier can also cause conflicts in their everyday life which are difficult to resolve without a support system.¹²⁵⁵ Additionally, ‘foreign brides’ experience discrimination and extreme xenophobia, being labeled a ‘social problem’ and accused of deteriorating the quality of Taiwanese generations to come.¹²⁵⁶ This xenophobia largely stems from national public self-perception of Taiwanese people as being of ‘superior quality’.¹²⁵⁷ While the 2016 amendments in the nationality law of Taiwan do provide nationality to foreign spouses through naturalisation, the concerned individuals shall be prone to statelessness if found undertaking a fraudulent marriage or adoption.¹²⁵⁸

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

There is no data available on the exact number of stateless children in Taiwan. Children born in the territory to unknown or stateless parents will be granted citizenship of Taiwan.¹²⁵⁹ As mentioned above, children born to undocumented migrant workers are primarily at the risk of statelessness due to unethical recruitment practices and lack

Jus soli provisions of citizenship are only applicable in a limited manner, providing Taiwanese nationality to both foundlings as well as stateless children.

of protection of migrant workers from debt bondage.¹²⁶⁰ *Jus soli* provisions of citizenship are only applicable in a limited manner, providing Taiwanese nationality to both foundlings as well as stateless children.¹²⁶¹

Citizenship Stripping

Taiwanese laws that require foreign spouses to relinquish their previous nationality to gain Taiwanese citizenship risk causing statelessness. If marriages are considered fraudulent by the Taiwanese government, the government has the power to strip citizenship from foreign spouses, leaving them stateless.¹²⁶²

Administrative barriers

Birth registration in Taiwan is intertwined with the Household Registration System, which determines nationality rights including social services, healthcare, employment, and other welfare benefits for residents in Taiwan. Without completing birth registration, children in Taiwan would not be able to enjoy full nationality rights in Taiwan.¹²⁶³ This requirement puts children born to undocumented migrants, who do not register their children due to fear of deportation at high risk of statelessness.¹²⁶⁴

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.*¹²⁶⁵

The structure and operation of citizenship laws across the Pacific today are varied and fundamentally shaped by colonial legacies.¹²⁶⁶ 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.¹²⁶⁷

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.¹²⁶⁸ 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.¹²⁶⁹

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.¹²⁷⁰ 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.¹²⁷¹ Children born in the Marshall Islands are automatically considered citizens if they are not entitled to any other citizenship.¹²⁷² Children born to citizen parents within or outside of Fiji, the Marshall Islands and Tuvalu can also access citizenship through *jus sanguinis* provisions.¹²⁷³

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.¹²⁷⁴ Foundling children in both Australia and New Zealand are also automatically considered citizens.¹²⁷⁵ 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.¹²⁷⁶ While Tuvalu includes a similar provisions providing citizenship access to foundlings through *jus soli* provisions¹²⁷⁷, the child must have a citizen parent in order to gain citizenship by birth.¹²⁷⁸

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.¹²⁷⁹ 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.¹²⁸⁰

Five States (Australia, Kiribati, the Marshall Islands, Nauru, and New Zealand) provide citizenship to children born on their territories who would otherwise be stateless.¹²⁸¹ 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.¹²⁸² 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.¹²⁸³ 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.¹²⁸⁴

Naturalized citizenship

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

to stateless persons born in the country.¹²⁸⁵ 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.¹²⁸⁶ 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.¹²⁸⁷ 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.¹²⁸⁸ In Palau, only persons of Palauan ancestry are eligible for naturalization.¹²⁸⁹ Further, stateless persons are not included on the list of eligible persons in Fiji.¹²⁹⁰ 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.¹²⁹¹ Due to the requirement of the applicant to submit their passport in the application process, stateless persons are also ineligible for naturalization in Tonga.¹²⁹² 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.¹²⁹³

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.¹²⁹⁴

Dual citizenship

Dual citizenship is permitted in seven States of the Pacific, including Australia, Fiji, Nauru, New Zealand, Palau, Solomon Islands, and Vanuatu.¹²⁹⁵ Three States, Kiribati, Marshall Islands and Tuvalu, prohibit dual citizenship.¹²⁹⁶ In Micronesia and Papua New Guinea, dual citizenship is generally not permitted, but may be accessed through application in Papua New Guinea.¹²⁹⁷ The provision for dual citizenship in Micronesia is only available to individuals having dual citizenship of the United States.¹²⁹⁸ 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.¹²⁹⁹ 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.¹³⁰⁰ 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.¹³⁰¹ 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.¹³⁰² Tuvalu also requires applicants to renounce prior citizenship, however provisions exist to prevent statelessness in this case.¹³⁰³ 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.¹³⁰⁴

TABLE 30

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)).¹³⁰⁵ Between

2021 and 2022, the stateless population in the Pacific increased by 491 persons¹³⁰⁶, a much smaller increase than the reported populations between 2020 and 2021, which increased by 2,468 persons.¹³⁰⁷ The increase between 2020 and 2021 resulted entirely from within Australia.¹³⁰⁸ Nauru saw a significant decrease in its reported stateless population, decreasing from 130 in 2021 to only 6 in 2022.¹³⁰⁹ 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).¹³¹⁰ However, due to the lack of mapping or statistics in New Zealand on statelessness, this remains uncertain.

TABLE 31

Reported stateless population in the Pacific

Country	2019 (year start) ¹³¹¹	2020 (year end) ¹³¹²	2021 (year end) ¹³¹³	2022 (year end) ¹³¹⁴
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”.¹³¹⁵

Two States, Australia and Papua New Guinea, made pledges relating to statelessness at the Ministerial Intergovernmental Event on Refugees and Stateless Persons in 2011.¹³¹⁶ 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”.¹³¹⁷ Regarding the fulfillment of these pledges, Australia has yet to implement a statelessness determination procedure.¹³¹⁸ 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”.¹³¹⁹

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”.¹³²⁰ 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.¹³²¹ Papua New Guinea has also been successful in reducing the fees required for citizenship applications¹³²² and removed the fee entirely for West Papuan refugees.¹³²³

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.¹³²⁴ While communities have internally (and in some instances, externally)¹³²⁵ 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.¹³²⁶

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.¹³²⁷

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.¹³²⁸

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.¹³²⁹ 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 2021.¹³³⁰ It is possible that some of this refugee population is stateless,¹³³¹ 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 boat¹³³², a process which has been condemned by UN bodies, NGOs, and refugee advocates.¹³³³ The last refugee on Nauru as a part of this policy was evacuated in June of 2023.¹³³⁴ At least 14 people died as a result of this offshore processing system, half of which were from suicide.¹³³⁵

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.¹³³⁶ Citizenship by descent is limited to children whose fathers are Kiribati citizens.¹³³⁷ 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.¹³³⁸ 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.¹³³⁹ 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.¹³⁴⁰ 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.¹³⁴¹

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.¹³⁴² 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.¹³⁴³ Another country which has discriminatory citizenship legislation is Tonga which stipulates that children born out of wedlock are registered at birth as ‘illegitimate’¹³⁴⁴ and are, as a result, unable to inherit land or title and experience stigma and marginalization.¹³⁴⁵

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.¹³⁴⁶ 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.¹³⁴⁷ 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.¹³⁴⁸ 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.¹³⁴⁹

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.¹³⁵⁰ 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.¹³⁵¹ 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

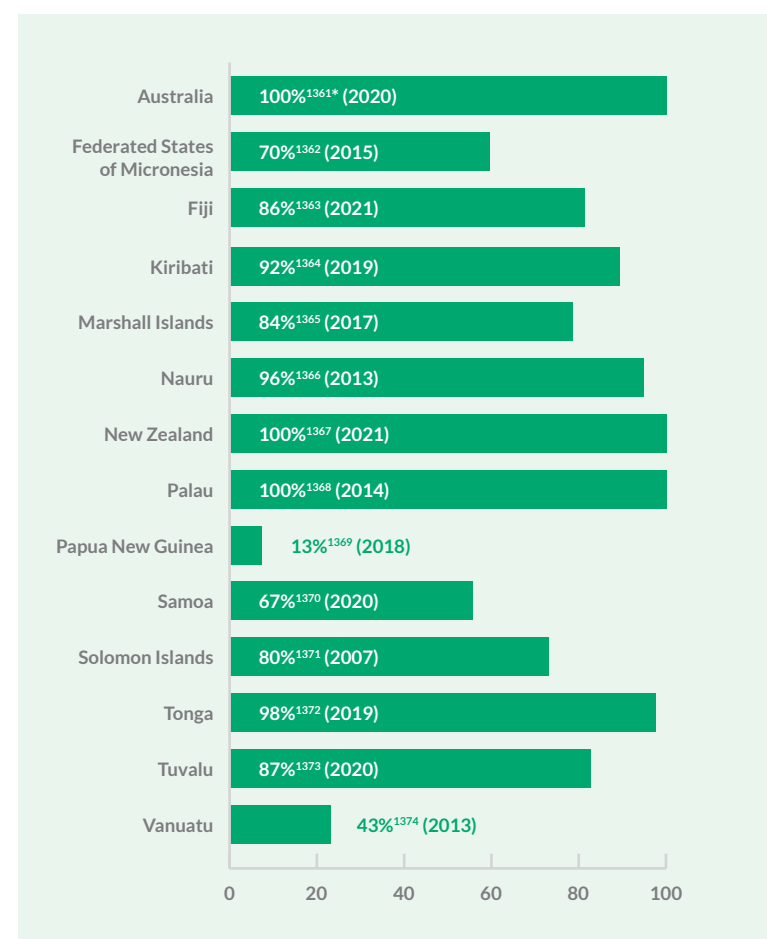
Guinean citizenship through naturalization.¹³⁵² The Immigration and Citizenship Authority of the country has estimated that there are between 10-15,000 Indonesian Papuans living in the country.¹³⁵³ While there have been reports in recent years of some West Papuan refugees accessing citizenship, this does not appear to be universal.¹³⁵⁴ In 2021, the US Department of State reported that no Indonesian Papuans had been granted citizenship that year.¹³⁵⁵ 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.¹³⁵⁶ 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.¹³⁵⁷ 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.¹³⁵⁸

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.¹³⁵⁹ 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.¹³⁶⁰

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.¹³⁷⁵

Source: “Data Warehouse,” UNICEF DATA; UN Statistics Division, ‘Coverage of Birth and Death Registration’ (February 2021)

In several Pacific Islands States, including Fiji¹³⁷⁶, Marshall Islands¹³⁷⁷, Micronesia¹³⁷⁸, Samoa¹³⁷⁹, Solomon Islands¹³⁸⁰, and Tuvalu¹³⁸¹, birth registration access tends to be lower in rural areas. Due to stigmatization towards single mothers, children of unwed mothers in Kiribati¹³⁸², Marshall Islands¹³⁸³, Samoa¹³⁸⁴, Solomon Islands¹³⁸⁵, and Tonga¹³⁸⁶ 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 Kiribati¹³⁸⁷ and Micronesia¹³⁸⁸ respectively. Late registration fees in four States (Fiji, Kiribati, Solomon Islands, and Tuvalu) present a barrier to birth registration.¹³⁸⁹ In Fiji, wealth of households and maternal age and education level are key factors influencing levels of birth registration among Fijian children.¹³⁹⁰ Further, i-Taukei speaking households also demonstrated notable disparities in birth registration rates compared to other groups.¹³⁹¹

Requirement of birth registration for citizenship acquisition

A birth certificate can serve as a form of evidence of citizenship in Australia¹³⁹², Fiji¹³⁹³, Kiribati¹³⁹⁴, Nauru¹³⁹⁵, New Zealand¹³⁹⁶, and Tonga¹³⁹⁷. 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.¹³⁹⁸ In Papua New Guinea¹³⁹⁹, Samoa¹⁴⁰⁰, and Solomon Islands¹⁴⁰¹, 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.¹⁴⁰² 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.¹⁴⁰³ 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.¹⁴⁰⁴ 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.¹⁴⁰⁵ 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.¹⁴⁰⁶ 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.”¹⁴⁰⁷

Australia

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship law of Australia operates broadly through a *jus sanguinis* structure with some variance in treatment based on place of birth. The *Australian Citizenship Act* (2007) stipulates that citizenship by birth is automatic for children born in the territory of Australia to at least one citizen or permanent resident parent.¹⁴⁰⁸ A child born in Australia will be granted citizenship if they are resident in Australia for 10 years following birth.¹⁴⁰⁹ For children born outside of Australia to an Australian citizen parent the child is eligible for citizenship by application but is not automatically considered a citizen.¹⁴¹⁰ At least one parent must be an Australian citizen in order to be granted citizenship by application.¹⁴¹¹ Foundlings in Australia will be granted automatic citizenship unless evidence proves their nationality ties elsewhere.¹⁴¹² Australia’s legislation defines a stateless person as someone who does not have nationality or citizenship of any country which places the burden of proof on the stateless person and does not align with the definition provided by the 1954 Stateless Convention.¹⁴¹³

The citizenship law of Australia operates broadly through a jus sanguinis structure with some variance in treatment based on place of birth.

A child born in Australia will be granted citizenship if they are resident in Australia for 10 years following birth.

Naturalized citizenship

There is a simplified citizenship by conferral process available to stateless persons born in Australia explicitly, outlined in the *Citizenship Act*.¹⁴¹⁴ In order to be eligible, the only requirement is that the stateless person is not and has never been entitled to citizenship of another country.¹⁴¹⁵ Stateless persons not born in Australia may also be eligible for the non-simplified application for citizenship by conferral if they have been legally resident in Australia for four years or as a permanent resident for 12

Industry groups, including Amnesty International¹⁴¹⁶ and the Australia Human Rights Commission¹⁴¹⁷, have called for reform of Australia law, including to:

- ◆ abolish mandatory immigration detention in favour of a discretionary system under which detention is applied as a last resort and only when strictly necessary;
- ◆ restrict immigration detention to a maximum of 30 days without judicial review and six months overall;
- ◆ establish a system of judicial review of immigration detention longer than 30 days, with subsequent reviews carried out at regular intervals if continued detention is deemed appropriate;
- ◆ codify clear criteria for lawful detention and minimum standards of treatment for people subject to immigration detention, in line with UNHCR’s Detention Guidelines; and
- ◆ prohibit the detention of children in closed immigration detention facilities, with community-based support arrangements to be used in place of closed detention.

months prior to the application.¹⁴¹⁸ Despite this, stateless persons not born in Australia cannot access citizenship under the citizenship law due to their visa status. Since 2014, all refugees who arrived in Australia without a valid visa have been placed on temporary visas. Under the current law, persons on temporary visas are not entitled to apply for permanent residency (except for in very limited circumstances) or citizenship, providing almost no avenues for stateless refugees to gain citizenship.¹⁴¹⁹

TABLE 32

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Australia	✓	✓	✓	✓	✓	✓	✓	✓

✓ 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

In November 2023, the Australian High Court ruled that indefinite immigration detention is unlawful and unconstitutional in a landmark decision.¹⁴²⁰ As a result, the solicitor general stated that in cases where there is no possibility of people being returned or deported, the person will “be released immediately into the community”.¹⁴²¹

There is a simplified citizenship by conferral process available to stateless persons born in Australia explicitly, outlined in the Citizenship Act.

Dual citizenship

Since April 2002, it has been permissible for Australian citizens to acquire citizenship of another country without losing their Australian citizenship.¹⁴²² This is due to the now repealed section 17 of the *Nationality and Citizenship Act* (1948), which stipulated cessation of Australian citizenship upon grant of citizenship elsewhere.¹⁴²³

Treaty ratification status

Australia is one of only three states in the Asia-Pacific that is party to both Stateless Conventions, the Refugee Convention and all relevant human rights treaties. Australia made no relevant reservations on these ratified treaties. While party to all relevant treaties, none of the relevant treaties have been implemented directly into domestic law. For example, there is a disjunct between the definition of ‘stateless person’ in Australian citizenship law and the 1954 Statelessness Convention.¹⁴²⁴

Australia has endeavoured to meet its international obligations following ratification of the conventions. For example, as a party to the 1961 Convention, Australia has an international obligation to prevent children from being born stateless.¹⁴²⁵ As such, section 21(8) of the Act provides that a person born in Australia who is not, has never been, and is not entitled to acquire citizenship or nationality of a foreign country (i.e. is stateless), is eligible for Australian citizenship.¹⁴²⁶ However, from a practical view, even when a person has a strong prima facie entitlement to Australian citizenship under section 21(8), they are likely to experience significant delays and administrative barriers throughout the application process, given that there are no fixed timeframes for the acquisition of citizenship even if all criteria are met, and it is in the absolute discretion of the Minister for Immigration, Citizenship and Multicultural Affairs.¹⁴²⁷ As such, while efforts are being made to incorporate the treaties in local law, there are still some gaps in the practical implementation.

Australia is one of only three states in the Asia-Pacific that is party to both Stateless Conventions, the Refugee Convention and all relevant human rights treaties.

Concluding observations by the Human Rights Committee included concerns regarding the revocation of citizenship, among other hastily adopted measures, in counter-terrorism efforts.¹⁴²⁸ In 2019, the CRC Committee's concluding observations recommended that Australia consider revoking the 2015 amendment to the Citizenship Act that allows the loss of citizenship for children under 18 found to have acted inconsistently with their allegiance to Australia.¹⁴²⁹ The Committee also urged Australia to ensure free birth registration and birth certificates for all children, "in particular Aboriginal and Torres Strait Islander children, children living in remote areas and children in child protection services."¹⁴³⁰ This was echoed in the 2018 concluding

observations by the CEDAW Committee, which expressed concerns regarding birth registration for indigenous communities, which has resulted in limited access to services for indigenous women and girls.¹⁴³¹ It was recommended that Australia remove late registration fees and strengthen mobile registration services.¹⁴³² As a party to the CRC, Australia is bound to ensure that every birth in its territory is registered immediately.¹⁴³³

The 2021 UPR submission for Australia stated that several states have recorded an increase in birth registration rates Aboriginal and Torres Strait Islanders.¹⁴³⁴ In the National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21,¹⁴³⁵ it is stated that the Australian government takes seriously its responsibility to the Australian people to administer an orderly migration system, which is an essential facet of national sovereignty. A non-citizen who does not hold a valid visa is an unlawful citizen and must be detained under the [Migration Act (1958)]. It also stated that detention in an immigration detention centre would be the last resort for the management of unlawful non-citizens.¹⁴³⁶ Despite the recommendations by UNHCR, Australia being

Australia's Pledge 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".¹⁴³⁷

a State party to the conventions on statelessness, still has not implemented a statelessness determination procedure, which it has also been recommended to do by UNHCR as a State party to the conventions on statelessness.¹⁴³⁸

Population

Reported stateless persons

Australia has experienced an overall upward trend in the number of reported stateless individuals in the country. In 2022, Australia reported 8,314 stateless persons to UNHCR.¹⁴³⁹ This number has increased significantly over the past 5 years, with 52 stateless persons reported in 2017 and 132 in 2018.¹⁴⁴⁰ In 2020, Australia reported 5,221 reported stateless persons and 7,700 in 2021.¹⁴⁴¹ Notably, it was one of 5 countries that did not submit data to UNHCR's global trends report in 2019, providing no reasoning as to why data reporting was paused that year.¹⁴⁴² No comprehensive mapping of statelessness or statelessness status determination procedure in Australia has been undertaken to date.¹⁴⁴³

The availability of data regarding the number of stateless persons in Australia is contingent upon reports sourced from the Australian Government.¹⁴⁴⁴ These reports only include statistics on those held in detention centres, those involved in the application process or who have been issued an Onshore Humanitarian Visa, and those who self-identify as stateless.¹⁴⁴⁵ Furthermore, Permanent Residents and

Permanent Protection Visa holders and those who arrived through the annual Special Humanitarian Program or the national Migration Program are excluded from these statistics.¹⁴⁴⁶ These gaps in data collection imply that the actual number of stateless individuals in Australia is considerably higher than the reported figures provided by the government.

This is because Australia lacks a comprehensive legal procedure for identifying stateless persons. However, it is noted that Australia has pledged to 'better identify stateless persons and assess their claims. UNHCR has recommended that parties to the 1954 Convention (including Australia) establish a statelessness determination procedure (SDP), which is a formal centralised domestic process for determining the status of stateless persons. Without an SDP, it is difficult to determine who is owed rights and entitlements under the 1954 Convention. By establishing an SDP, there is an opportunity to create a specific visa category for recognised stateless persons, providing for 'permanent protection' with the possibility of naturalisation, which conforms with the 1954 Convention. An SDP would also seek to assist in compiling accurate and comprehensive data about the extent of statelessness in Australia.

Persons at risk of statelessness

Indigenous and Aboriginal communities in Australia have historically faced marginalization, including a lack of access to social services and comparatively lower birth registration, contributing to an increased risk of statelessness

TABLE 33

Reported stateless persons to the UNHCR

Country	2019 (year start) ¹⁴⁴⁷	2020 (year end) ¹⁴⁴⁸	2021 (year end) ¹⁴⁴⁹	2022 (year end) ¹⁴⁵⁰
Australia	-	5,221	7,700	8,314

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

within these populations.¹⁴⁵¹ In response, Queensland implemented the Closing the Registration Gap Strategy Plan 2021-2024 to increase the birth registration rate for Aboriginal and Torres Strait Islander people with a goal to attain an 80% birth registration rate in the first 60 days after birth and 90% rate in the first year after birth by 2024.¹⁴⁵² Barriers to birth registration which this Plan seeks to address include “lack of access to online and paper registration services in remote communities, financial difficulties caused by fees and penalties, confusion between registration and certification processes, language barriers and a shortage of culturally sensitive services, limited understanding of the significance of registration for children, and inconsistent information regarding the registration process”.¹⁴⁵³ Most recently, Queensland reported a 77.2% birth registration rate for Aboriginal and Torres Strait Islander people in 2022.¹⁴⁵⁴

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Most recently, Queensland reported a 77.2% birth registration rate for Aboriginal and Torres Strait Islander people in 2022.

Stateless Refugees

All of the reported stateless persons in Australia are refugees, asylum seekers or stateless persons from countries facing humanitarian conflicts held in immigration detention.¹⁴⁵⁵ UNHCR has noted that these figures are not representative of all stateless persons within Australia as the country lacks a statelessness status determination procedure.¹⁴⁵⁶

In the mid-2010s, stateless individuals who applied for and were granted permanent

residency in Australia predominantly hailed from countries like Iran and Iraq, with a large proportion of individuals being of Kurdish ethnicity.¹⁴⁵⁷ Australia has also seen refugee communities originating from the Democratic Republic of the Congo, Burma, Kuwait, Lebanon, and individuals of Arab, Rohingya, and Tibetan ethnicity.¹⁴⁵⁸ Refugee support services have seen an uptick in the proportion of stateless clients originating from the Middle East.¹⁴⁵⁹

All of the reported stateless persons in Australia are refugees, asylum seekers or stateless persons from countries facing humanitarian conflicts held in immigration detention.

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Undetermined nationalities

Australia does not have publicly available census data that captures persons classified as being “undetermined” or “unknown” nationality. Since 2015, Australian citizenship law has provided Ministerial powers to strip citizenship from dual nationals who had engaged in or were convicted of engaging in terrorist offences which demonstrated a ‘repudiation’ of their allegiance to Australia.¹⁴⁶⁰ These provisions operate extraterritorially, and frequently persons stripped of citizenship have been unaware of the occurrence. While this provision only applied to dual citizens, and contained protections against statelessness, there was at least one instance of citizenship deprivation in which the purported dual citizenship was denied by the second state and the legality of the act was questioned.¹⁴⁶¹ Additionally, as noted below, in June 2022 the legality of some of the citizenship deprivation provisions was rejected by the High Court of Australia, the status of those stripped of Australian citizenship prior

to this decision remains uncertain.¹⁴⁶² At least twelve persons were stripped of their Australian citizenship under these provisions, however the total number is likely much higher.¹⁴⁶³

Additionally, some Australians born in Papua New Guinea prior to its independence from Australia have had their Australian citizenship questioned and applications for renewal of passports denied in recent years after living decades of their life as Australian citizens.¹⁴⁶⁴ One such affected person successfully had their Australian citizenship recognised by the Federal Court of Australia in 2020, however the implication of this decision on others in similar circumstances is unclear.¹⁴⁶⁵

Since 2015, Australian citizenship law has provided Ministerial powers to strip citizenship from dual nationals who had engaged in or were convicted of engaging in terrorist offences which demonstrated a ‘repudiation’ of their allegiance to Australia.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

The citizenship law of Australia provides that stateless children born in Australia are eligible for Australian citizenship.¹⁴⁶⁶ However, this process is not automatic, and the definition of “statelessness” adopted in the citizenship law of Australia acts as a barrier for stateless children to access citizenship. Australian citizenship law requires children 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.¹⁴⁶⁷

Citizenship stripping

Under the *Australian Citizenship Amendment (Allegiance to Australia) Act* (2015), provisions of the *Citizenship Act* regarding cessation of citizenship

due to involvement in terrorist activities were replaced with provisions stipulating cessation if “you engage in various kinds of conduct inconsistent with allegiance to Australia”. It also includes a provision extending the scope of who this applies to, stating that anyone over the age of 14 renounces their citizenship “if the person acts inconsistently with their allegiance to Australia”.¹⁴⁶⁸ Section 10 of the *Counter-Terrorism (Temporary Exclusion Orders) Act* (2019) allows the Minister to make a Temporary Exclusion Order which may prevent an Australian citizen aged 14 years or older who is overseas from returning to Australia for up to two years at a time.¹⁴⁷⁰

In June 2022, the High Court of Australia struck down the power previously held by the Minister for Home Affairs to strip dual nationals of Australian citizenship who had ‘repudiated their allegiance to Australia’ by undertaking suspected terrorist activities in *Alexander v Minister for Home Affairs* (2022).¹⁴⁷¹ The new Albanese Government responded to the decision, stating that in order to “manage the risk posed to Australians by individuals offshore,” an individual may be prohibited from “returning to Australia for up to two years”.¹⁴⁷² According to the High Court’s judgement, the applicant has previously been the subject of such an order. While the citizenship of the applicant in the case was reinstated, the position of those who were stripped of citizenship under the relevant provision prior to this decision remains uncertain. Some powers to strip

In June 2022, the High Court of Australia struck down the power previously held by the Minister for Home Affairs to strip dual nationals of Australian citizenship who had ‘repudiated their allegiance to Australia’ by undertaking suspected terrorist activities in Alexander v Minister for Home Affairs (2022). While the citizenship of the applicant in the case was reinstated, the position of those who were stripped of citizenship under the relevant provision prior to this decision remains uncertain.

citizenship from persons convicted of terrorist offences still stand.¹⁴⁷³

In November 2023, another landmark case was resolved which is likely to trigger the introduction of new legislation to strip terrorists of citizenship.¹⁴⁷⁴ Convicted terrorist Abdul Nacer Benbrika, whose citizenship was cancelled by a former Minister, won a High Court battle allowing him to stay in the country.¹⁴⁷⁵ In the case, the High Court deemed the citizenship stripping provisions related to terrorism in the *Citizenship Act* unconstitutional as it gives judicial powers to the Commonwealth.¹⁴⁷⁶

Administrative barriers

In 2015, Refugee Council of Australia was contacted by a number of refugee community members who raised their concerns about the length of time their citizenship application was taking.¹⁴⁷⁷ The Refugee Council of Australia compiled a report which found that in October 2015, refugees were waiting on average about 215 days to receive citizenship, with most of those affected being people who arrived by boat and had been found to be refugees onshore.¹⁴⁷⁸

A further barrier to citizenship was the reintroduction of Temporary Protection Visas (TPV) and the introduction of Safe Haven Enterprise Visas (SHEV). Refugees who arrived in Australia by boat before July 2013 were only

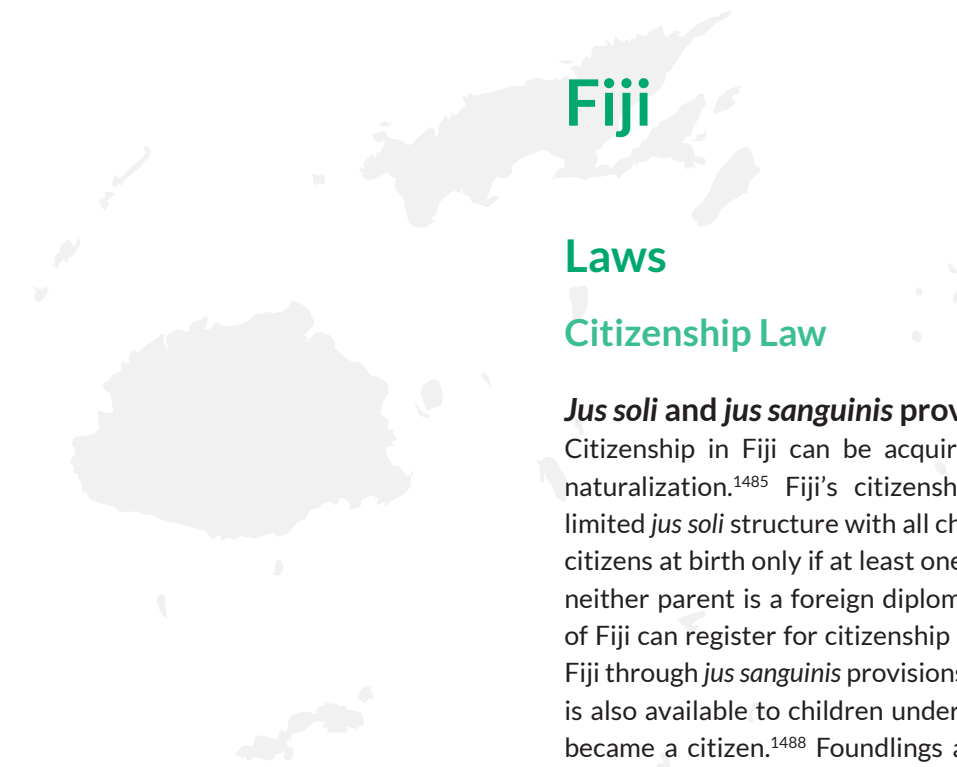
In November 2023, another landmark case was resolved which is likely to trigger the introduction of new legislation to strip terrorists of citizenship. Convicted terrorist Abdul Nacer Benbrika, whose citizenship was cancelled by a former Minister, won a High Court battle allowing him to stay in the country. In the case, the High Court deemed the citizenship stripping provisions related to terrorism in the Citizenship Act unconstitutional as it gives judicial powers to the Commonwealth.

given the choice of a three-year TPV or a five-year SHEV.

In February 2023, the Albanese Government delivered on its election commitment to provide a permanent visa pathway for existing TPV and Safe Haven Enterprise Visa SHEV holders. This means that those who already have a TPV or SHEV will be able to apply for a permanent Resolution of Status (RoS) Visa. Current applications to renew expired TPVs or SHEVs will automatically be converted to RoS visa applications. Those still waiting for a decision will be granted a RoS Visa once their need for refugee protection is determined. To assist TPV and SHEV holders with the visa application process, the Albanese Government has committed \$9.4 million over two years for visa application assistance through specialist legal service providers across Australia. It was reported that nearly 20,000 individuals would be able to apply for permanency under this scheme.¹⁴⁷⁹

Notwithstanding this, administrative barriers still exist as refugees and people seeking asylum may have no documents or documents that Australia accepts. For example, a full birth certificate is required as supporting evidence for acquiring citizenship.¹⁴⁸⁰ While Australia has reported its birth registration rate as 100% as of 2020¹⁴⁸¹, the birth registration rate for Aboriginal and Torres Strait Islander peoples was reported at only 77.2% in the same year.¹⁴⁸² Further, if a person is being persecuted, it is hard to obtain official documents due to loss of official documents while fleeing a country.¹⁴⁸³ Even if an individual can obtain documents, most documents are in regional languages which Australia does not accept, as it requires them to be translated into English.¹⁴⁸⁴

Notwithstanding this, administrative barriers still exist as refugees and people seeking asylum may have no documents or documents that Australia accepts. For example, a full birth certificate is required as supporting evidence for acquiring citizenship.



Fiji

Laws

Citizenship Law

Jus soli and *jus sanguinis* provisions

Citizenship in Fiji can be acquired by birth, registration, or naturalization.¹⁴⁸⁵ Fiji's citizenship laws operate through a limited *jus soli* structure with all children born in Fiji considered citizens at birth only if at least one parent is a citizen of Fiji and neither parent is a foreign diplomat.¹⁴⁸⁶ Children born outside of Fiji can register for citizenship if either parent is a citizen of Fiji through *jus sanguinis* provisions.¹⁴⁸⁷ The registration process is also available to children under the age of 18 whose parent became a citizen.¹⁴⁸⁸ Foundlings are considered to have been born in the territory of Fiji unless evidence proves otherwise.¹⁴⁸⁹ Notably, Fiji's 2013 *Constitution* includes a provision which explicitly states that "a written law shall prescribe provisions for the prevention of statelessness".¹⁴⁹⁰ However, there is no definition of a stateless person in Fiji's national legislation.

Fiji's citizenship laws operate through a limited jus soli structure with all children born in Fiji considered citizens at birth only if at least one parent is a citizen of Fiji and neither parent is a foreign diplomat.

Naturalized citizenship

There is a naturalization process available for those who meet eligibility criteria, which include being lawfully present in Fiji for 5 of the 10 years immediately preceding the application, having good character, and intending to continue to reside in Fiji.¹⁴⁹¹ There is a fee required for the naturalization application.¹⁴⁹² Stateless persons are not included in the list of people who are able to enter and reside in Fiji, which means they cannot meet the eligibility requirements of this naturalization process.¹⁴⁹³ There is no simplified or expedited process for stateless persons or refugees. Applicants navigating the naturalization process, registration process, or any application related to citizenship

Stateless persons are not included in the list of people who are able to enter and reside in Fiji, which means they cannot meet the eligibility requirements of this naturalization process.

TABLE 34

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Fiji	✓	✗	✓	✓	✓	✓	✓	✓

✓ 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

have the right to appeal a negative decision within 14 days of the decision notification.¹⁴⁹⁴

Dual citizenship

Multiple citizenship is recognized in Fiji.¹⁴⁹⁵

Treaty ratification status

Fiji has one of the highest rates of treaty accession in the entire Asia Pacific region and is one of only six states in the Asia-Pacific that are party to the 1954 Statelessness Convention. The only relevant treaty body which Fiji has yet to ratify is the 1961 Convention on the Reduction of Statelessness. Fiji made no relevant reservations on the treaties it has ratified.

In 2014, concluding observations by the CRC Committee expressed concerns regarding the requirement of fees in birth registration, including additional late fees as well as the decline in birth registration in remote islands.¹⁴⁹⁶ It was recommended that Fiji implement an awareness-raising campaign on the importance of birth registration in remote areas as well as remove all fees related to registering births.¹⁴⁹⁷ As a party to the CRC, Fiji is bound to ensure that every birth is registered immediately.¹⁴⁹⁸ Under this treaty, it is also responsible for ensuring that no child is left stateless in its territory¹⁴⁹⁹. However, the national legislation needs improvement to ensure protections for children born to stateless and/or foreign parents in the territory.

Population

In 1945, following the environmental destruction of their Island home by phosphorus mining and conflict during World War II, the Banaban communities from Kiribati were relocated to Rabi Island in Fiji. This decision was undertaken largely without the community's consent. The Banaban community are now considered citizens of Fiji and have rights of residence in Kiribati.¹⁵⁰⁰

According to UNHCR reports, the Pacific Islands host more than 11,800 persons of concern for statelessness, the majority of them residing in Fiji and Papua New Guinea.

Reported stateless persons

Fiji reported zero stateless persons to UNHCR in 2020 and 2021.¹⁵⁰¹ Fiji did not report stateless population data at all in 2019 or 2022.¹⁵⁰² According to UNHCR reports, the Pacific Islands host more than 11,800 persons of concern for statelessness, the majority of them residing in Fiji and Papua New Guinea.¹⁵⁰³

Persons at risk of statelessness

Children born to stateless and/or foreign parents and children proven to be born in Fiji whose nationality is undetermined are at risk of statelessness because of gaps in the citizenship legislation of Fiji.¹⁵⁰⁴

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

In Fiji, the citizenship laws provide that abandoned children are considered to be born in Fiji in absence of proof of the contrary and in turn are able to access citizenship by birth.¹⁵⁰⁵ However, the CRC has noted that this provision does not protect children 'whom it can be proven that they have not been born in Fiji, but whose nationality can nevertheless not be established.'¹⁵⁰⁶ Fiji's citizenship laws do include provisions to provide citizenship to stateless children born in Fiji or to Fijian parents between 1990 and 2009 in what appears to be an attempt to remedy gaps in previous citizenship laws.¹⁵⁰⁷ Due to the requirement of one parent being a citizen in Fiji's *jus soli* provisions, children born to stateless and/or foreign parents within the territory are not protected from statelessness.¹⁵⁰⁸

Due to the requirement of one parent being a citizen in Fiji's jus soli provisions, children born to stateless and/or foreign parents within the territory are not protected from statelessness.

Administrative barriers

Fiji reported a birth registration rate of 86% as of 2021.¹⁵⁰⁹ A birth certificate is required for making an application for citizenship by registration as well as naturalization.¹⁵¹⁰ Birth registration must be done within 2 months of the date of birth and can only be done by the father, unless in the case of the death, inability or illness of the father.¹⁵¹¹ There is a fee required for birth registration in Fiji, including a late registration penalty fee.¹⁵¹² UNHCR has recommended that the penalty fee be removed to provide better access to birth registration.¹⁵¹³

UNESCAP researchers found that wealth of households and maternal age and education level are key factors influencing levels of birth registration among Fijian children.¹⁵¹⁴ i-Taukei speaking households also demonstrated notable disparities in birth registration rates compared to other groups.¹⁵¹⁵ The births of children born in rural areas are also less likely to be registered due to the distance and travel costs to administrative offices.¹⁵¹⁶

Fiji reported a birth registration rate of 86% as of 2021.



Kiribati

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

Kiribati’s national citizenship legislation operates through a combined *jus soli* and *jus sanguinis* structure with an additional condition of births in or out of wedlock. Children born in Kiribati to an I-Kiribati parent are automatically entitled to citizenship.¹⁵¹⁷ Those born in Kiribati who are not of I-Kiribati descent are automatically entitled to citizenship by birth if they are not entitled to any other citizenship.¹⁵¹⁸ Citizenship by descent is limited to children whose fathers are Kiribati citizens.¹⁵¹⁹ Children born outside of Kiribati to mothers who are Kiribati citizens are not able to acquire Kiribati citizenship. There is no explicit mention of foundlings or stateless children nor is there a definition of statelessness in the citizenship laws of Kiribati.

Kiribati’s national citizenship legislation operates through a combined jus soli and jus sanguinis structure with an additional condition of births in or out of wedlock.

Kiribati is one of the four countries in the Asia-Pacific with gender discriminatory nationality laws that limit or inhibit the ability of women to pass on their citizenship to children. Citizenship by descent is limited to children whose fathers are Kiribati citizens.¹⁵²⁰ For children born in wedlock, regardless of birthplace, only the father is able to confer citizenship to the child.¹⁵²¹ However, if the child is born out of wedlock, regardless of birthplace, citizenship may be conferred by either parent.¹⁵²² Even for adoption, if the parents are married, the father must be a citizen in order for the adopted child to gain citizenship.¹⁵²³ Women who lost their Kiribati citizenship as a result of gaining citizenship from marrying a foreign citizen must apply for re-acquisition of their citizenship, which is not guaranteed, placing women in this situation at risk of statelessness.¹⁵²⁴ Women are also unable to confer nationality to a foreign spouse upon marriage, but Kiribati citizen men are able to confer nationality to foreign wives.¹⁵²⁵

Kiribati is one of the four countries in the Asia-Pacific with gender discriminatory nationality laws that limit or inhibit the ability of women to pass on their citizenship to children. Citizenship by descent is limited to children whose fathers are Kiribati citizens.

Naturalized citizenship

There is a naturalization process available to anyone who is 18 years old, of good character, who intends to stay in Kiribati, can speak Kiribati, and is financially independent, among other requirements.¹⁵²⁶ With the *Citizenship Amendment Act* (2022), the period of permanent residence required for the application increased from seven to ten years.¹⁵²⁷ Further, the *Amendment Act* added a new eligibility requirement, which states one must also have a permanent residence visa issued under the *Immigration Act* (2019) in order to be eligible for citizenship by application.¹⁵²⁸ In order to get a permanent residence visa, as per the *Immigration Act*, one must be living in Kiribati for a period of seven years and cannot be “liable for deportation”.¹⁵²⁹

There are no provisions providing a simplified or expedited naturalization process for stateless persons or refugees. Kiribati’s laws on naturalization also include gender discriminatory provisions.¹⁵³⁰ In the applications for naturalization, men are able to include their wife and children on the application only if the wife provides written consent to the acquisition of citizenship, but there is no such provision for women to include their husbands or children in their application.¹⁵³¹

Dual citizenship

Dual citizenship is prohibited in Kiribati.¹⁵³² Another eligibility requirement to apply for naturalization is to

renounce any prior citizenship.¹⁵³³ Further, the period of permanent residence required for naturalization does not count until the person has renounced their citizenship.¹⁵³⁴ This means that in order to be naturalized in Kiribati, one must remain stateless for ten years before knowing the citizenship decision.

Dual citizenship is prohibited in Kiribati.

Treaty ratification status

While Kiribati has a low ratification of the core treaty bodies, it has ratified the CRC, CEDAW, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, of which Kiribati has made no reservations. Kiribati is one of only two states in the Pacific, and one of only four states in the entire Asia Pacific to be party to both Statelessness Conventions. The Kiribati government has acknowledged the discriminatory nature of the citizenship provisions and their lack of alignment with the state’s international obligations under CEDAW.¹⁵³⁵

The 2022 concluding observations by the CRC Committee have recommended that Kiribati continue improving its birth registration by strengthening access to online registration, eliminating birth registration fees including late fee penalties, and combatting stigmatization of unwed mothers and their children.¹⁵³⁶ As a party to the CRC, Kiribati is obligated to ensure that every birth in its territory is registered immediately.¹⁵³⁷

Under the 1961 Convention, Kiribati is also obligated to grant citizenship to those born in the territory or outside to a citizen who would

TABLE 35

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Kiribati	✓	✓	✗	✗	✗	✗	✓	✓

✓ 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

otherwise be stateless.¹⁵³⁸ Kiribati's citizenship legislation does not fulfil this obligation due to discrimination based on gender for conferral of citizenship for children born in wedlock.¹⁵³⁹ This also breached Kiribati's CEDAW obligation to ensure gender equality in conferring citizenship to children.¹⁵⁴⁰ In the 2020 concluding observations concerns and recommendations were expressed by the CEDAW Committee for Kiribati to amend its laws to ensure gender equality in conferral of citizenship.¹⁵⁴¹ Kiribati was issued a letter from the Rapporteur in March 2022 stating that the country has yet to provide follow-up to these concluding observations.¹⁵⁴² There has been no follow-up from Kiribati on this to date.

Kiribati breached its obligations of the 1954 Convention relating to the Status of Stateless Persons, particularly Article 3, which regards non-discrimination in the implementation of the treaty's provisions, due to provisions which allow men to include spouses and children in applications for naturalization without allowing the same for women.¹⁵⁴³ Article 8 of the *Citizenship Act* needs to be amended in order to comply with the 1961 Convention as the provision which does not allow citizenship deprivation for "public good" to be included as a reasonable means for depriving someone of citizenship in the Convention.¹⁵⁴⁴

Population

Reported stateless persons

Kiribati has reported no stateless persons to UNHCR.¹⁵⁴⁵

Persons at risk of statelessness

Due to gaps in legislation, persons at risk of statelessness in Kiribati include children born in wedlock to a foreign father and Kiribati citizen mother, women who lost their citizenship as a result of gaining citizenship from marrying a

foreign citizen (re-acquisition not guaranteed), those applying for naturalization who have renounced prior citizenship, foundlings, and children born in the territory to stateless and/or foreign parents.

Undetermined nationalities

In Kiribati's population and housing census 2020 of the reported non-citizen population, eight persons were reported to have "status unknown".¹⁵⁴⁶

Causes of Statelessness

Discriminatory nationality laws

As noted above, Kiribati is one of the five States in the Asia-Pacific with gender discriminatory provisions in their nationality laws that limit the ability for women to confer nationality to their children. Only the father is able to confer citizenship if a child is born in wedlock¹⁵⁴⁷ and children born outside of the territory to mothers with Kiribati citizenship cannot access citizenship automatically. The citizenship laws of Kiribati also deny women the ability to pass on their nationality to foreign spouses, limiting the conferral of nationality through marriage to male citizens of Kiribati.¹⁵⁴⁸ 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.¹⁵⁴⁹ There are no reliable statistics on the number of persons this provision has affected.

Lack of legal safeguards against childhood statelessness

The limited *jus soli* provisions providing for a grant of citizenship to children born on the territory who

The citizenship laws of Kiribati also deny women the ability to pass on their nationality to foreign spouses, limiting the conferral of nationality through marriage to male citizens of Kiribati.

are not entitled to any other citizenship, should in theory provide protection to both foundling and stateless children.¹⁵⁵⁰ However, the lack of explicit protection may limit the applicability of these laws.

Citizenship stripping

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".¹⁵⁵¹ There are no protections against statelessness for those who have lost their Kiribati citizenship in these situations.¹⁵⁵² Citizenship Stripping Kiribati is also in further violation of the 1961 Convention on the Reduction of Statelessness as "public good" is not an acceptable reason to deprive a person of citizenship.¹⁵⁵³ The Citizenship Act stated that "an order made by the Minister [on deprivation of citizenship] shall not be questioned or enquired into by any court of law or be otherwise justiciable."¹⁵⁵⁴

Kiribati is also in further violation of the 1961 Convention on the Reduction of Statelessness as "public good" is not an acceptable reason to deprive a person of citizenship.

Administrative barriers

Kiribati's reported a high birth registration rate of 92% in 2019.¹⁵⁵⁵ Although Kiribati has witnessed a significant increase in birth registration rates since 2008 due to investment in strengthening partnerships, challenges remain that contribute to the remaining 8% of unregistered births.¹⁵⁵⁶ Kiribati's geographical dispersion, consisting of 33 islands spread over a vast distance, poses challenges for capturing all births within the country.¹⁵⁵⁷ Limited and expensive transport systems, coupled with unreliable internet connectivity, hinder the electronic transfer of information to a central database.¹⁵⁵⁸ There

is a recognized need for a more centralized system to manage birth registration data, and reliance on paper-based forms for data capture, particularly from outer islands, results in a lack of completeness.¹⁵⁵⁹ The CRC Committee also highlighted the need to remove penalty fees for late birth registration.¹⁵⁶⁰ Approximately 20% of birth information is estimated to be unaccounted for due to forms not arriving on time.¹⁵⁶¹ Children of unwed mothers have a lower rate of registration due to stigmatization of unwed pregnancy and single mothers.¹⁵⁶²

Kiribati's reported a high birth registration rate of 92% in 2019.

Statelessness and climate change

There are a number of articles and reports written on the risk of statelessness faced by citizens of low-lying Pacific states including Kiribati due to the impact of climate-induced sea-level rise.¹⁵⁶³ With most of Kiribati's land being only two meters above sea level, the potential impact sea-level rise could have could be devastating.¹⁵⁶⁴ Analysis has been undertaken on the impacts of such relocation on the Banaban communities from Kiribati who were relocated to Rabi Island in Fiji in 1945.¹⁵⁶⁵

With most of Kiribati's land being only two meters above sea level, the potential impact sea-level rise could have could be devastating.

This risk of statelessness from 'disappearing states' currently remains a hypothetical question, with a number of composite parts regarding the existence of statehood without territory, the continuation of citizenship without physical attachment and the potential lack of effective governments. 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.¹⁵⁶⁶

Marshall Islands

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The citizenship law of the Marshall Islands operates through both a limited *jus soli* and *jus sanguinis* structure.¹⁵⁶⁷ Persons born in the territory of the Marshall Islands are automatically considered citizens if they are not entitled to any other citizenship.¹⁵⁶⁸ Regardless of birthplace, children born to at least one citizen of the Marshall Islands are entitled to automatic citizenship by descent.¹⁵⁶⁹ There is no explicit mention or definition of statelessness in the Marshall Islands' citizenship legislation.

The citizenship law of the Marshall Islands operates through both a limited jus soli and jus sanguinis structure.

Naturalized citizenship

In order to be eligible for naturalization in the Marshall Islands, the applicant must have been ordinarily resident in the territory for at least 10 years, have good character, language competency in Marshallese, respect for the customs and traditions, financial independence, and renounced their previous citizenship.¹⁵⁷⁰ No more than 10 people can be naturalized in the Marshall Islands per year.¹⁵⁷¹ There is no simplified or expedited process of naturalization for stateless persons or refugees. There are no appeals for negative decisions.¹⁵⁷²

No more than 10 people can be naturalized in the Marshall Islands per year.

Dual citizenship

Dual citizenship is not recognized in the Marshall Islands.¹⁵⁷³ Those applying for naturalization must first renounce their prior citizenship in order to be eligible.¹⁵⁷⁴ The requirement to renounce prior citizenship in order to obtain Marshallese citizenship by naturalization forces applicants into an indefinite period of statelessness during the application processing and places them at risk of statelessness.

TABLE 36

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Marshall Islands	–	–	–	✓	✓	✓	✓	✓

✓ 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

While the Marshall Islands is not a party to either of the Stateless Conventions nor the Refugee Convention and its Protocol, it is a party to all other relevant human rights treaties, making it one of five states in the Pacific to have done so. The Marshall Islands made no reservations on these ratified treaty bodies.

In its 2018 concluding observations, the CRC Committee recommended that the Marshall Islands strengthen implementation of birth registration procedures, introduce mobile birth registration teams in the outer islands, increase awareness of the importance of birth registration, and ensure birth registration for children born to unwed and adolescent mothers.¹⁵⁷⁵ In 2020, the Maldives in the UPR for the Marshall Islands, urged the country to “strengthen its efforts to introduce birth registration procedures and issuance of birth certificates”.¹⁵⁷⁶ By ratifying the CRC, the Marshall Islands committed to ensure that every child’s birth is registered immediately.¹⁵⁷⁷

In 2018, the CEDAW Committee too expressed concerns about the phenomenon of Marshallese women being exploited through marriage by men looking to gain visa-free entry to the U.S. by gaining Marshallese citizenship.¹⁵⁷⁸ Typically, these marriages end in the man filing for divorce and claiming custody of the children once they gain citizenship.¹⁵⁷⁹ In response, the Marshall Islands agreed to consider these recommendations.¹⁵⁸⁰

Population

Reported stateless persons

The Marshall Islands have not reported any stateless persons to UNHCR.

Other Populations of note

Citizens of the Marshall Islands possess a Compact of Free Association with the United States that allows for visa-free travel and settlement within the US, however the status of those living within the US is unclear. The Compact was reached following nuclear testing by the United States on several Marshallese Islands that displaced populations and has continued to have negative health and environmental impacts, now as many as 30,000 Marshallese citizens have migrated to the US.¹⁵⁸¹ While Marshallese citizens who travelled to the US under the compact originally received access to health care and education, entitlement to these services is no longer universal.¹⁵⁸² In 2021, UNHCR recorded 7 refugees whose country of origin was the Marshall Islands.¹⁵⁸³

The Compact was reached following nuclear testing by the United States on several Marshallese Islands that displaced populations and has continued to have negative health and environmental impacts, now as many as 30,000 Marshallese citizens have migrated to the US.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

There is no protection for foundling children in the Marshall Islands' national legislation on citizenship. However, the limited *jus soli* provisions of the Marshall Islands citizenship laws provide citizenship to persons born on the territory who are not entitled to 'be or become a citizen of any other country'.¹⁵⁸⁴ While lacking mention of statelessness, this provision should enable children born to stateless parents to gain citizenship at birth.

There is no protection for foundling children in the Marshall Islands' national legislation on citizenship.

Administrative barriers

In 2017, the Marshall Islands' birth registration rate was at 84%.¹⁵⁸⁵ One of the major challenges causing incomplete birth registration in the country is its centralized system that requires families to physically visit registration offices in either Majuro or Ebeye, which creates geographical and financial barriers for those

residing in the outer islands.¹⁵⁸⁶ Like other countries in the Pacific, birth registration in the outer islands tends to be lower, which can be remedied by implementing mobile registration teams.¹⁵⁸⁷ For unwed and adolescent mothers, it is especially important to ensure accurate birth registration,¹⁵⁸⁸ which could be attributed to social stigma.¹⁵⁸⁹

In 2017, the Marshall Islands' birth registration rate was at 84%.

Statelessness and climate change

There are a number of articles and reports written on the risk of statelessness faced by citizens of low-lying Pacific states including the Marshall Islands due to the impact of climate-induced sea-level rise.¹⁵⁹⁰ This risk of statelessness from 'disappearing states' currently remains a hypothetical question regarding the existence of statehood without territory, the continuation of citizenship without physical attachment and the potential lack of effective governments. 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.¹⁵⁹¹

Federated States of Micronesia (Micronesia)

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship laws of the Federated States of Micronesia (Micronesia) operate through *jus sanguinis* provisions with children born either within or outside of the territory to a citizen parent automatically considered citizens.¹⁵⁹² Children born outside of the territory are considered natural citizens until the age of 21, after which they will only be considered citizens if they established permanent residence before reaching the age of 21.¹⁵⁹³ Micronesia's national legislation also does not include a definition of a stateless person or any explicit mention of statelessness.

The citizenship laws of the Federated States of Micronesia (Micronesia) operate through jus sanguinis provisions with children born either within or outside of the territory to a citizen parent automatically considered citizens.

Naturalized citizenship

A naturalization process is only available to children of a citizen parent who are 18 years or older, of good character, has renounced previous citizenship, and have been permanent residents in the territory for at least five years.¹⁵⁹⁴ Further, in order to apply for naturalized citizenship in Micronesia, the applicant must have already renounced their other citizenship, leaving them in an indefinite period of statelessness.¹⁵⁹⁵ There are no provisions providing stateless persons or refugees the opportunity to apply for naturalization.

There are no provisions providing stateless persons or refugees the opportunity to apply for naturalization.

Dual citizenship

Due to a constitutional amendment passed in 2023, Micronesians can have dual citizenship with the United States.¹⁵⁹⁶ Dual citizenship is not recognized with a state other than the U.S.¹⁵⁹⁷

TABLE 37

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Federated States of Micronesia	–	–	–	–	–	–	✓	✓

✓ 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

Micronesia has only ratified the CRC and CEDAW with no relevant reservations. In its 2020 concluding observations, the CRC Committee recommended that Micronesia improve its data collection system for birth registration with a special focus on increasing access in the outer islands.¹⁵⁹⁸ As a party to the CRC, Micronesia is responsible for ensuring that every birth is registered immediately as well as to ensure that no child is left stateless.¹⁵⁹⁹

living in the US under the compact of free association originally received access to health care and education, recent reports have shown that entitlement to these services is no longer universal for citizens of the Marshall Islands.¹⁶⁰² It is unclear if Micronesian citizens are facing the same barriers.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

The citizenship law of Micronesia provides no explicit protection for foundlings or children born within the territory to stateless and/or foreign parents to access citizenship.

Citizenship stripping

Naturalized citizenship can be cancelled if a person travels to a foreign country (not including the U.S. or Puerto Rico) for the purpose of establishing permanent residence.¹⁶⁰³ This could leave some stateless if they do not have the nationality of another country when their naturalized citizenship is cancelled.

Citizens of Micronesia possess a Compact of Free Association with the United States that allows for visa-free travel and settlement within the US. Persons within the US are considered non-immigrant non-citizens.

Administrative barriers

As of 2015, Micronesia's birth registration rate was reported by the Committee on the Rights of the Child as 70%.¹⁶⁰⁴ Birth registration in Micronesia is required for school enrollment and to obtain a passport.¹⁶⁰⁵ Challenges with birth registration include differing civil registration procedures for each state and the lack of a streamlined national registration system.¹⁶⁰⁶ There is a need to centralize civil registration data.¹⁶⁰⁷ Limited transportation and communication pose significant challenges for recording and registering births, especially in remote areas.¹⁶⁰⁸ Despite a common legal approach to birth registration across the four states of Micronesia, procedural variations exist due to differences in topography and administrative procedures.¹⁶⁰⁹ For example, the island of Kosrae has a direct link between the

Department of Health and Social Affairs and the court, allowing for efficient weekly manual record sharing.¹⁶¹⁰ States with more outer islands, such as Chuuk, Pohnpei, and Yap, face more significant challenges.¹⁶¹¹

Statelessness and climate change

While it remains a hypothetical debate, there are a number of articles and reports written on the risk of statelessness faced by citizens of low-lying Pacific states including Micronesia due to the impact of climate-induced sea-level rise.¹⁶¹²

Birth registration in Micronesia is required for school enrollment and to obtain a passport. Challenges with birth registration include differing civil registration procedures for each state and the lack of a streamlined national registration system.

Nauru

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship law of Nauru operates through *jus sanguinis* provisions with a child born either within or outside of the country to at least one Nauruan citizen will be granted citizenship, as provided by the *Citizenship Act of 2017*.¹⁶¹³ The Act also includes a provision providing automatic citizenship to “a person born in the Republic on or after 31 January 1968” if they would otherwise be stateless.¹⁶¹⁴ In 2017, Nauru amended their citizenship laws to remove gender discriminatory provisions that had limited the ability of women to pass on their citizenship to a spouse.¹⁶¹⁵ There is no definition of statelessness or explicit mention of statelessness in Nauru’s national citizenship legislation.

The citizenship law of Nauru operates through jus sanguinis provisions with a child born either within or outside of the country to at least one Nauruan citizen will be granted citizenship, as provided by the Citizenship Act of 2017.

Naturalized citizenship

An application for citizenship is available to anyone who is 20 years of age and pays the application fee.¹⁶¹⁶ Decisions on naturalization applications are final and there explicitly no methods of appeals or reviews by the Court.¹⁶¹⁷ Citizenship by application may be given to a person born in the Republic to parents who are not citizens and the person has resided in the country continuously for 20 years.¹⁶¹⁸ There is no simplified or expedited procedure for refugees and stateless persons.

Citizenship by application may be given to a person born in the Republic to parents who are not citizens and the person has resided in the country continuously for 20 years.

Dual citizenship

Dual citizenship is recognized in Nauru.¹⁶¹⁹

TABLE 38

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Nauru	–	–	✓	–	–	–	✓	✓

✓ 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

Nauru has acceded to the 1951 Refugee Convention and its 1967 Protocol, the CRC, and CEDAW with no reservations. In its 2016 concluding observations, the CRC Committee expressed concerns regarding the inhumane treatment of refugee and asylum-seeking children, including those who are unaccompanied, sent from Australia for offshore processing.¹⁶²⁰ While there are some legislative safeguards against statelessness for children in Nauru, UNHCR in 2015 expressed concerns in the recent UPR submission that there are no safeguards for foundling children.¹⁶²¹ Nauru’s national citizenship legislation does not include a provision which grants citizenship to foundlings. UNHCR recommended that Nauru amend legislation to ensure that foundling children in the territory are presumed to be a national of Nauru.¹⁶²² In 2021, in the 3rd cycle of UPR, the State was asked to introduce provisions in the Constitution to end “statelessness of abandoned minors and the loss or stripping of nationality”.¹⁶²³

Population

Reported stateless persons

Data on the reported stateless population in Nauru to UNHCR’s global trends report only began at the beginning of 2021, and it has demonstrated significant fluctuations over the past few years.¹⁶²⁴ The number of stateless individuals was reported as 140 at the beginning of 2021 and slightly dropped to 130 by the end of the year.¹⁶²⁵ The most striking decrease occurred over the year of 2022, as by the end of 2022, the reported number had plunged to 6 people.¹⁶²⁶ Based on the available research, the statelessness of the recorded population on Nauru was caused prior to their arrival in the country.¹⁶²⁷

Stateless Refugees

The entire reported stateless population in Nauru comprises Rohingya refugees from Myanmar.¹⁶²⁸ Since 2012, the governments of Australia and Nauru have had a contract allowing for Australia

TABLE 39

Reported stateless persons to the UNHCR

Country	2019 (year start) ¹⁶²⁹	2020 (year end) ¹⁶³⁰	2021 (year end) ¹⁶³¹	2022 (year end) ¹⁶³²
Nauru	–	–	130	6

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

The entire reported stateless population in Nauru comprises Rohingya refugees from Myanmar. Since 2012, the governments of Australia and Nauru have had a contract allowing for Australia to utilise Nauru as a 'regional processing centre' for refugees that arrived in Australia via boat.

to utilise Nauru as a 'regional processing centre' for refugees that arrived in Australia via boat.¹⁶³³ In July of 2013, Australia began forcibly transferring refugees and asylum seekers into Nauru as well as Papua New Guinea.¹⁶³⁴ This process has been condemned by UN bodies, NGOs and refugee advocates.¹⁶³⁵ As part of this contract and a similar contract with the government of Papua New Guinea, more than 4,000 refugees were sent to Nauru and Manus Island, Papua New Guinea by the Australian government.¹⁶³⁶ While Manus Island Detention Centre was closed in 2016, the Australian government has signed a deal with the government of Nauru to keep the detention centre on Nauru open indefinitely for future boat arrivals.¹⁶³⁷ The last refugee on Nauru as a part of this policy was evacuated in June of 2023.¹⁶³⁸ At least 14 people died as a result of this offshore processing system, half of which were from suicide.¹⁶³⁹ The detention facilities have been described as 'prison-like'. Those who were transferred to Nauru spent at least one year in crowded vinyl tents which reached indoor temperatures of 45-50 degrees Celsius (113-122 degrees Fahrenheit) and subjected the detainees to torrential rains and flooding.¹⁶⁴⁰ Further, personal items including food and sewing needles

were routinely confiscated from detainees and sanitation facilities were unsanitary and access to them was restricted.¹⁶⁴¹

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Nauru's legislation provides automatic citizenship to "a person born in the Republic on or after 31 January 1968" if they would otherwise be stateless.¹⁶⁴² Therefore, stateless persons born in Nauru have access to Nauru citizenship. Due to the fact that stateless persons in Nauru became stateless before arriving in Nauru, this legislation does not effectively prevent statelessness in the country.

Administrative barriers

As of 2013, Nauru reported a 96% birth registration rate.¹⁶⁴³ Nauru has consistently reported birth registration rates over 90%, which can be attributed to the fact that births occur predominantly in the main hospital on the main island, which collaborates closely with the Civil Registry Office, facilitated by a well-established process involving the issuance of letters to parents and financial incentives.¹⁶⁴⁴ The small rate of births that remain unregistered require further investigation.¹⁶⁴⁵

As of 2013, Nauru reported a 96% birth registration rate.



New Zealand

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship laws of New Zealand operate broadly through *jus sanguinis* structures. However, there is variance in treatment of children born in and outside of the territory of New Zealand. Children born to citizens of New Zealand in New Zealand are considered citizens at birth.¹⁶⁴⁶ Citizens at birth are able to confer their nationality to their children, even if their child is born outside of the territory of New Zealand.¹⁶⁴⁷ However, children born outside of New Zealand are considered citizens by descent and can only acquire citizenship of New Zealand if their parents are citizens by birth.¹⁶⁴⁸ Children born in the territory who would otherwise be stateless will also be granted citizenship automatically.¹⁶⁴⁹ The citizenship law of New Zealand does contain a safeguard for children born outside of New Zealand to citizens by descent who would otherwise be stateless.¹⁶⁵⁰ Newborn foundlings are provided citizenship by birth in New Zealand if investigations fail to find one of the child's parents.¹⁶⁵¹ The Minister of Internal Affairs may further grant citizenship to anyone in the territory who would otherwise be stateless.¹⁶⁵² No definition of statelessness is included in the citizenship law of New Zealand, and there is no specific statelessness determination procedure.

The citizenship laws of New Zealand operate broadly through jus sanguinis structures.

The citizenship law of New Zealand does contain a safeguard for children born outside of New Zealand to citizens by descent who would otherwise be stateless. Newborn foundlings are provided citizenship by birth in New Zealand if investigations fail to find one of the child's parents.

Naturalized citizenship

There is a process for naturalization available for those who meet the eligibility requirements, which include being 16 years of age, able to legally reside in New Zealand indefinitely

as per the *Immigration Act* (2009), have 5 years of continuous residence prior to application, have good character, have knowledge of English language and intention to continue to reside in New Zealand.¹⁶⁵³ There is no simplified or expedited procedure available for stateless persons. In many cases, stateless persons are unlikely to be eligible for this application due to the requirement of being able to indefinitely legally reside in New Zealand as per the *Immigration Act* (2009).

Dual citizenship

Dual citizenship is permitted in New Zealand.¹⁶⁵⁴ There are no provisions in New Zealand's national legislation which disallow dual or multiple citizenship.

Treaty ratification status

New Zealand has high rates of treaty ratification, being one of only three countries in the Pacific and one of five in the entire Asia Pacific to have ratified the 1961 Statelessness Convention. A 2013 review of the citizenship laws of New Zealand by UNHCR found that they align with the State's obligations under the 1961 Convention.¹⁶⁵⁵ The only relevant treaty body not yet ratified by New Zealand is the 1954 Convention relating to the Status of Stateless Persons. New Zealand has made no relevant reservations on the treaties it has ratified. In New Zealand's 2019 UPR submission, it was recommended that the country accede to the 1954 Convention as well as fully implement the 1961 Convention.¹⁶⁵⁶ New Zealand was also recommended to ensure that mapping studies and data collection on statelessness be

publicly available and that the right to nationality is ensured for those who would otherwise be stateless in the country.¹⁶⁵⁷

By ratifying the CRC, New Zealand is obligated to ensure that no child is left stateless in its territory¹⁶⁵⁸. However, the lack of provisions safeguarding foundlings who are older than newborn but are not yet able to communicate information about their parents places them at risk of statelessness.

Population

Reported stateless persons

New Zealand has continually reported zero stateless persons to UNHCR.¹⁶⁵⁹ However, unlike many Pacific Island states that reported no or single-figure refugee populations, New Zealand reported over 2,500 refugees and asylum seekers to UNHCR in 2021.¹⁶⁶⁰ It is possible that some of this refugee population is stateless,¹⁶⁶¹ however no mapping or statistics are available to confirm this.

Causes of Statelessness

New Zealand's citizenship laws largely align with international guidance on prevention and reduction of statelessness. Due to the limited research regarding statelessness in New Zealand, good-practice structure of citizenship laws and lack of strong stakeholder connections, causes of statelessness are unknown.

Lack of legal safeguards against childhood statelessness

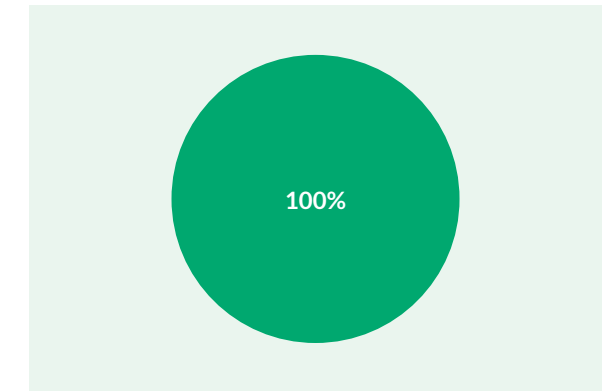
Stateless persons born in New Zealand are entitled to citizenship at birth.¹⁶⁶² For older foundlings who are still unable to communicate identification information about their parents, there are currently limited discretionary safeguards as the legislation only includes provisions protecting newborn foundlings from statelessness.¹⁶⁶³

Administrative barriers

As of 2021, New Zealand has reported a 100% birth registration rate to UNICEF.¹⁶⁶⁴

FIGURE 4

Birth registration in New Zealand



2021 Population Estimates: National Statistical Office of New Zealand

TABLE 40

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
New Zealand	⊖	⊕	⊕	⊕	⊕	⊕	⊕	⊕

⊕ 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

Palau

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship law of Palau operates through *jus sanguinis* provisions with children born either within or outside of the state automatically considered citizens if one of their parents is a citizen.¹⁶⁶⁵ There are no provisions stipulating protections for foundlings or children born to stateless and/or foreign parents within the territory. There is no definition of a stateless person or any explicit mention of statelessness in Palau’s national legislation.

The citizenship law of Palau operates through jus sanguinis provisions with children born either within or outside of the state automatically considered citizens if one of their parents is a citizen.

Naturalized citizenship

A naturalization process is only available to people of Palauan ancestry.¹⁶⁶⁶ There is no simplified or expedited procedure available for stateless persons or refugees.

Dual citizenship

While dual citizenship was previously not recognized in Palau, a 2013 amendment bill was introduced to allow Palauan citizens to hold foreign citizenship without affecting their Palauan citizenship.¹⁶⁶⁷

Treaty ratification status

Palau has the lowest rate of treaty accession to the relevant treaties of any state in the Asia Pacific region. Palau is only a party to the Convention on the Rights of the Child, to which it made no reservations.

In 2018, the CRC Committee in its concluding observations expressed concerns about the “ineffective birth registration procedures” as well as about the lack of legal safeguards against statelessness, especially for children.¹⁶⁶⁸ The Committee

TABLE 41

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Palau	–	–	–	–	–	–	✓	–

✓ 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

recommended adding legislative provisions which provide that any child born in the territory who may otherwise be stateless be granted Palauan citizenship.¹⁶⁶⁹ It was also recommended that Palau strengthen its efforts to implement early birth registration procedures and ensure issuance of birth certificates, especially at the community level.¹⁶⁷⁰ Further, Palau should “consider reviewing the Constitutional provision relating to citizenship to ensure that all children born in Palau are granted access to citizenship if they would otherwise be stateless”.¹⁶⁷¹ By ratifying the CRC, Palau is bound to ensure that every child’s birth is registered immediately and that no child is left stateless.¹⁶⁷²

In Palau’s 38th UPR submission, it was recommended that the country accede to the 1954 and 1961 Statelessness Conventions as well as ensure their full implementation.¹⁶⁷³

Population

Reported stateless persons

Palau has not reported any stateless persons to UNHCR in 2022 or any year prior.

Causes of Statelessness

Discriminatory nationality laws

Provisions allowing only ethnic Palauans to gain citizenship, even through naturalization, can

be discriminatory towards people from other ethnic groups who were born in and are long-term residents of the country.¹⁶⁷⁴ One third of Palau’s population consists of non-citizens.¹⁶⁷⁵ Non-citizens are unable to buy land and often experience discrimination in many aspects of life.¹⁶⁷⁶

Lack of legal safeguards against childhood statelessness

There is no explicit protection for foundlings in the citizenship law of Palau nor is there protection for children born to stateless and/or foreign parents within the territory. The CRC Committee has expressed concern regarding legal safeguards to provide citizenship to children born on the territory to non-citizen parents, noting that this may lead to statelessness.¹⁶⁷⁷

Administrative barriers

Despite the CRC Committee expressing concerns in 2018 about Palau’s ineffective birth registration procedures¹⁶⁷⁸, in 2014, the birth registration rate in Palau was reported as 100%.¹⁶⁷⁹ A 2022 Human Rights Report stated that authorities register births immediately in Palau.¹⁶⁸⁰

Despite the CRC Committee expressing concerns in 2018 about Palau’s ineffective birth registration procedures, in 2014, the birth registration rate in Palau was reported as 100%. A 2022 Human Rights Report stated that authorities register births immediately in Palau.

Papua New Guinea

Laws

Citizenship Law

Jus sanguinis provisions

The *Constitution of the Independent State of Papua New Guinea* (1975) provides that citizenship eligibility operates through a *jus sanguinis* structure.¹⁶⁸¹ A child born in the territory to at least one citizen parent will be a citizen according to Article 66(1) of the *Constitution*.¹⁶⁸² If a child is born outside of Papua New Guinea (PNG) to at least one citizen parent, their birth must be registered to be considered a citizen.¹⁶⁸³ Papua New Guinea's *Constitution* provides foundlings automatic access to citizenship by descent by deeming them to be the child of a Papua New Guinean citizen.¹⁶⁸⁴ There is no definition of a stateless person included in the *Constitution*. Further, PNG's legislation lacks a statelessness determination procedure for identifying stateless persons in the context of migration.¹⁶⁸⁵ For non-refugee stateless persons, there are no existing legislative provisions to provide local residence.¹⁶⁸⁶

The Constitution of the Independent State of Papua New Guinea (1975) provides that citizenship eligibility operates through a jus sanguinis structure.

Papua New Guinea's Constitution provides foundlings automatic access to citizenship by descent by deeming them to be the child of a Papua New Guinean citizen.

Naturalized citizenship

There is a naturalization process available for those who wish to become a citizen of Papua New Guinea with a simplified procedure available for those who are Papua New Guinean descendants and who have married a Papua New Guinean spouse.¹⁶⁸⁷ The standard naturalization process requires that the individual have resided in the country for eight years, be of good character, intend to continue residing in the country, speak and understand Pisin or Hiri Motu or a vernacular of the country, among other eligibility requirements.¹⁶⁸⁸ There is no explicit mention of a simplified or expedited procedure for stateless persons to apply for naturalization in the *Constitution*.

There is no explicit mention of a simplified or expedited procedure for stateless persons to apply for naturalization in the Constitution.

Dual citizenship

According to Article 64 of the *Constitution*, dual citizenship is not recognized, although there is an application process for getting dual citizenship approved by the Minister in special cases.¹⁶⁸⁹ A citizen of Papua New Guinea may not renounce their citizenship unless they already hold citizenship of a different country or are doing so in order to gain citizenship elsewhere.¹⁶⁹⁰

Treaty ratification status

While Papua New Guinea has not ratified either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, it has ratified the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, ICERD, CRC, and CEDAW. In regard to Article 4 of the ICERD, Papua New Guinea made a reservation that the scope of the country's obligations to Article 4 may not go beyond the *Constitution*.¹⁶⁹¹

Papua New Guinea also made reservations on Articles 17(1), 21, 22(1), 26, 31, 32, and 34 of the 1951 Refugee Convention.¹⁶⁹² Of particular note, the reservations on Article 17(1), 21, and 22(1) entail that Papua New Guinea is not obligated to ensure equal treatment to refugees as foreign nationals, aliens (with respect to

housing), or nationals (with respect to elementary education).¹⁶⁹³ Reservations made on Articles 26, 31, and 32 allow that Papua New Guinea is not obligated to ensure freedom of movement for refugees, to ensure that refugees illegally residing in the territory are not issued penalties or movement restrictions, or to ensure that refugees are not expelled from the country without securing entry to another country.¹⁶⁹⁴ Further, the reservation on Article 34 stipulates that Papua New Guinea is not obligated to facilitate assimilation and naturalization of refugees.¹⁶⁹⁵ In the 2010 UPR submission for Papua New Guinea, it was recommended that the country remove the reservation on Article 34, provide citizenship to children born to refugees who would otherwise be stateless, and waive the citizenship application fee for refugees to gain PNG citizenship.¹⁶⁹⁶

In the 2010 concluding observations, the CEDAW Committee expressed concerns regarding birth registration.¹⁶⁹⁷ The concerns were that despite the presence of a compulsory birth and marriage registration programme, there was still only a small percentage of the population registering births.¹⁶⁹⁸ The Rapporteur sent Papua New Guinea two reminders to provide follow-up information regarding these concluding observations, but none were received.¹⁶⁹⁹ Such concerns on strengthening and raising the level of birth registration have been further voiced in the second and third UPR which recommended the complete implementation of the *Child Protection Act* (2015) to prevent abuse and exploitation of children.¹⁷⁰⁰

TABLE 42

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Papua New Guinea	⊖	⊖	✔	✔	✔	✔	✔	✔

✔ 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

Papua New Guinea's Pledges to End Statelessness

In 2011, Papua New Guinea pledged to amend its legislation to be able to remove the reservations made to the Refugee Convention.¹⁷⁰¹ It also pledged to 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".¹⁷⁰² Since 2011, PNG has removed all seven reservations on the Refugee Convention in relation to refugees transferring from Australia, leaving room for legislative improvement in other contexts.¹⁷⁰³ As mentioned in the 2016 UPR submission, PNG has also reduced the fees for citizenship applications for all refugee applicants.¹⁷⁰⁴ For West Papuan refugees, the fee has been waived entirely.¹⁷⁰⁵

Population

Reported stateless persons

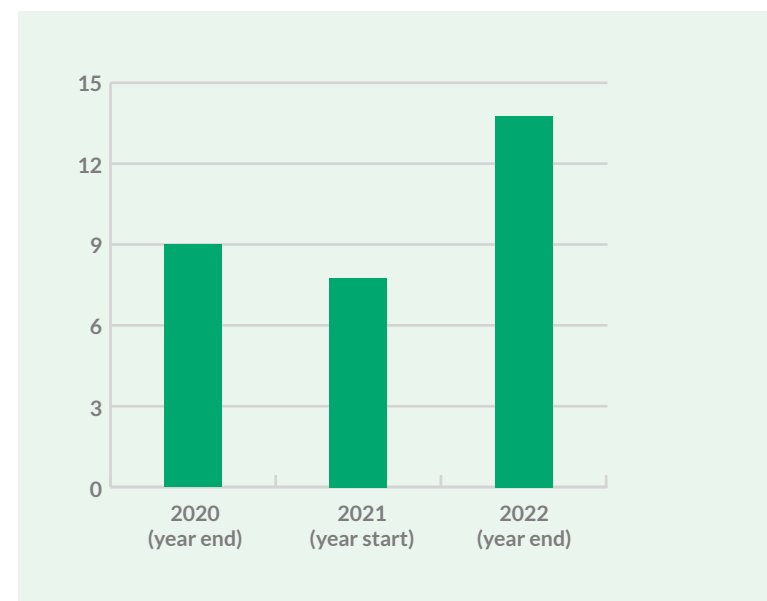
In 2022, Papua New Guinea reported 9 stateless persons to UNHCR, an increase of 1 person since 2021.¹⁷⁰⁶ Papua New Guinea only started reporting population numbers to UNHCR at the start of 2020 at 14 stateless persons.¹⁷⁰⁷ UNHCR noted that for each year, the reported numbers do not estimate the entire stateless population and only constitutes Rohingya refugees in PNG.¹⁷⁰⁸ Without legislation for a stateless identification procedure, data on the number of stateless persons is largely unavailable.

Persons at risk of statelessness

Children born to foreign or non-refugee stateless parents within the territory may be at risk of statelessness, if not eligible for citizenship elsewhere as the country does not have any provisions to provide citizenship to them.

FIGURE 5

Reported stateless persons to the UNHCR



Stateless Refugees

All of the stateless persons reported to UNHCR by PNG are stateless Rohingya refugees.¹⁷⁰⁹

Undetermined nationalities

Concerns have previously been expressed by UNHCR and other civil society organizations 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.¹⁷¹⁰ The Immigration and Citizenship Authority of Papua New Guinea has estimated that there are between 10-15,000 Indonesian Papuans living in the country.¹⁷¹¹ While there have been reports in recent years of some West Papuan refugees accessing citizenship, this does not appear to be universal.¹⁷¹² In 2021, the US Department of State reported that no Indonesian Papuans had been granted citizenship that year.¹⁷¹³

Causes of Statelessness

Discriminatory nationality laws

For children born to foreigners in PNG, there are some gender discriminatory procedures for birth registration.¹⁷¹⁴ In order to register a birth in this case, the parents must provide the father's work permit and only allow the father as a witness.¹⁷¹⁵ This could result in children born to foreign parents unable to register their birth, potentially placing them at risk of statelessness.

Lack of legal safeguards against childhood statelessness

While some protections exist in the laws of Papua New Guinea for stateless children to gain citizenship, they are insufficient in providing protection to all stateless children born on the territory of Papua New Guinea. Under the current provisions children born to parents whose citizenship is 'unknown or doubtful' can gain access to citizenship through a similar deeming provision available to foundlings.¹⁷¹⁶ Legislation does not protect children born to foreign citizen parents in Papua New Guinea from becoming stateless if they are not eligible for citizenship elsewhere.

Citizenship stripping and administrative barriers

Under the 1958 citizenship law of Indonesia, Indonesians living abroad for a period of more than five years without registration would be deprived of their citizenship.¹⁷¹⁷ Such citizenship deprivation was the initial cause of the potential statelessness of West Papuan refugees in Papua New Guinea.¹⁷¹⁸ However it is administrative barriers within Papua New Guinea that has

There have been reports that children born to Papua New Guinean women and refugee men who had been detained in the Manus Island detention centre have been denied birth registration and barred from accessing citizenship.

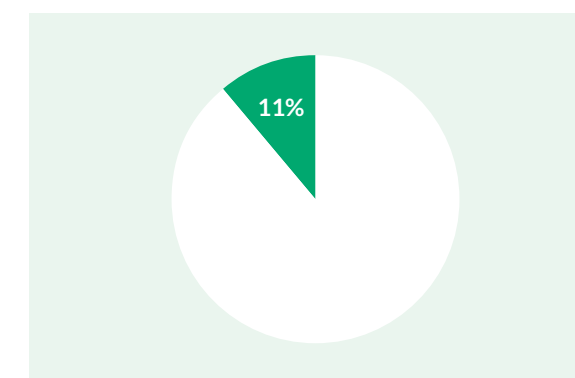
protracted their situation. While eligible for naturalization due to the extended periods of residence of West Papuan refugees in the territory, access to citizenship has been a slow and complex process.¹⁷¹⁹

There have been reports that children born to Papua New Guinean women and refugee men who had been detained in the Manus Island detention centre have been denied birth registration and barred from accessing citizenship.¹⁷²⁰

In 2018, Papua New Guinea's birth registration rate was reported at only 13%, the lowest in the entire Asia-Pacific region.¹⁷²¹ With a population of over 11 million, this lack of documentation and registration leaves thousands at risk of statelessness.¹⁷²²

FIGURE 6

Birth registration in Papua New Guinea



2021 Population Estimates: National Statistical Office of Papua New Guinea



Samoa

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The citizenship laws of Samoa operate through both *jus sanguinis* and *jus soli* structures with an additional condition of permanent residency.¹⁷²³ The *Citizenship Act* (2004) stipulates in Article 6 that children born within the territory only gain citizenship if one of their parents is a citizen of Samoa.¹⁷²⁴ According to Article 7 of the Act, a child born outside of the territory may gain citizenship by descent if they have one parent who is a citizen of Samoa.¹⁷²⁵ However, in order to do so, the parent who is a citizen must have acquired their citizenship “otherwise than by descent” or resided in the territory for three years.¹⁷²⁶ Additionally, a child born outside of Samoa may gain citizenship by descent if they have at least one grandparent who gained citizenship by birth.¹⁷²⁷

The citizenship laws of Samoa operate through both jus sanguinis and jus soli structures with an additional condition of permanent residency.

There are no provisions stipulating citizenship for foundlings or children born within the territory of Samoa to stateless and/or foreign citizen parents.

Article 6(2) of the *Citizenship Act* includes provisions on citizenship for births occurring on a ship or aircraft.¹⁷²⁸ It states that regardless of where the ship or aircraft is registered, a person born on the ship or aircraft is not considered to be born in Samoa.¹⁷²⁹ Further, if the person born on the ship or aircraft is stateless, “the Minister may grant the person Samoan citizenship by birth”.¹⁷³⁰ There are no provisions stipulating citizenship for foundlings or children born within the territory of Samoa to stateless and/or foreign citizen parents. Further, there is no explicit definition of or protection for stateless persons under the citizenship law of Samoa.

Naturalized citizenship

Citizenship may be acquired by naturalization through permanent residency, as stipulated in Article 8 of the *Citizenship Act*.¹⁷³¹ Part of the eligibility criteria is to have continuously held a valid permanent resident permit for five years as well as pay a fee.¹⁷³² There is an expedited process available for investors, but not for stateless persons.¹⁷³³

Dual citizenship

There are no provisions regarding dual citizenship in Samoa’s national legislation.

Treaty ratification status

Samoa has ratified the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, CRC, and CEDAW with no relevant reservations.

Under the ICCPR, Samoa is obligated to ensure every child the right to nationality.¹⁷³⁴ By ratifying the CRC, Samoa is bound to register every birth in its territory immediately.¹⁷³⁵ Samoa’s ratification of CEDAW also requires the Government of Samoa to ensure gender equality in nationality laws.¹⁷³⁶ The CRC Committee expressed concerns in its 2016 concluding observations that birth registration is not implemented equally between national health facilities and traditional birth attendants in villages.¹⁷³⁷ Further, the requirement of a fee for birth registration as well as the stigmatization placed on young and unwed mothers throughout the process is discriminatory.¹⁷³⁸ The Committee

recommended that Samoa ensure free and early birth registration, especially in rural areas where they “consider the use of mobile registration teams to cover remote communities” to ensure the registration details for children of unwed mothers are accurate. The Committee also recommended developing strategies that combat stigmatization of unwed mothers, ensure access to necessary financial, human and technical resources to improve the new online registration system, and raise awareness of the importance of birth registration and its process.¹⁷³⁹

Population

Reported stateless persons

In 2021, Samoa reported zero stateless persons to UNHCR.¹⁷⁴⁰ Both qualitative and quantitative data on statelessness are lacking in the country.

Persons at risk of statelessness

Foundling children as well as children born to stateless and/or foreign parents are at risk of statelessness in Samoa due to lack of legal safeguards in national legislation. Children born in rural areas or to unwed mothers are also at risk due to lower rates of birth registration.¹⁷⁴¹

In 2021, Samoa reported zero stateless persons to UNHCR. Both qualitative and quantitative data on statelessness are lacking in the country.

TABLE 43

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Samoa	–	–	✓	✓	–	–	✓	✓

✓ 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

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

There are currently no legal safeguards for foundlings or children born within the territory of Samoa to stateless and/or foreign citizen parents in Samoa's citizenship legislation.

Citizenship stripping

Naturalized citizens may have their citizenship cancelled if the person is found to be "disloyal or disaffected towards Samoa".¹⁷⁴² Naturalized citizens may also be stripped of citizenship if they reside abroad continuously for two years and are "unlikely to reside in Samoa in the future".¹⁷⁴³ Article 19 of the *Citizenship Act* stipulates a process for appeal of negative decisions on citizenship.¹⁷⁴⁴

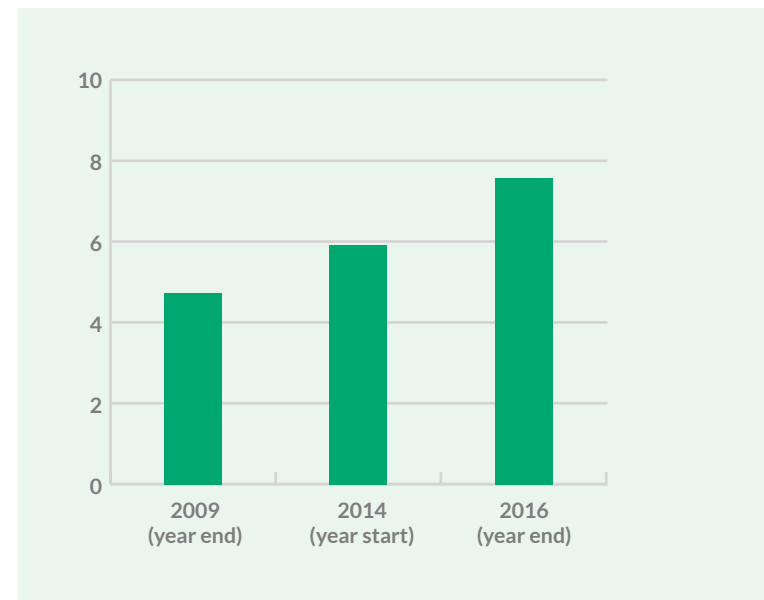
Administrative barriers

Birth registration in Samoa is characterized by the limited scope of relevant national legislation and largely unsuccessful implementation.¹⁷⁴⁵ It was noted in 2016 concluding observations for the CRC that Samoa's birth registration had improved from 48% in 2009 to 59% in 2014.¹⁷⁴⁶ By 2020, birth registration improved to 67%.¹⁷⁴⁷

Due to the stigma placed on young and unwed mothers in Samoa, birth registration for children born to mothers in this situation is often done by the grandparents, making the registration for the child inaccurate.¹⁷⁴⁸ The 2016 concluding observations also noted that birth registration in rural areas needs improvement.¹⁷⁴⁹ Despite being responsible for managing the registry of

FIGURE 7

Birth registration in Samoa



2016 Population Estimates: National Statistical Office of Samoa

births, staff of the Samoa Bureau of Statistics have stated they do not clearly understand the exact roles and responsibilities of the birth registration process.¹⁷⁵⁰ Gaps in the legislation on birth registration (*the Births, Deaths and Marriages Registration Act 2002*) include the lack of a mandate to issue a birth certificate at registration, lack of provisions for late registration, insufficient information required for registration, and the requirement of a fee for issuing certificates.¹⁷⁵¹

Statelessness and climate change

Limitations of citizens by descent transferring citizenship to children born outside of the territory of Samoa could risk statelessness if migration increases as a result of climate change.

Solomon Islands

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship laws of Solomon Islands operate through a *jus sanguinis* structure providing that children born within or outside of the territory to a citizen of Solomon Islands gains citizenship.¹⁷⁵² In 2018, Solomon Islands amended their citizenship laws to remove some gender discriminatory provisions which previously limited the ability of women to confer nationality onto their foreign spouses.¹⁷⁵³ However, gender discriminatory provisions remain in relation to the naturalization of foreign women married to citizens and women's ability to confer citizenship to a jointly adopted child.¹⁷⁵⁴ In order to gain citizenship by naturalization, foreign women married to a citizen of Solomon Islands must renounce their foreign citizenship and can only apply for naturalization after two years of marriage and only with the consent of their husband.¹⁷⁵⁵ For women who have jointly adopted a child, the application for citizenship of the child can only be made by the father, denying the mother equal right to confer nationality.¹⁷⁵⁶

The citizenship laws of Solomon Islands operate through a jus sanguinis structure providing that children born within or outside of the territory to a citizen of Solomon Islands gains citizenship.

However, gender discriminatory provisions remain in relation to the naturalization of foreign women married to citizens and women's ability to confer citizenship to a jointly adopted child.

There are no provisions in national legislation on citizenship stipulating citizenship acquisition for foundlings and children born within the territory to stateless and/or foreign parents. Further, none of the national legislation includes a definition or any explicit mention of stateless persons.

In implementation, a 2022 human rights report for Solomon Islands suggests that children born to citizen parents outside of the territory may face barriers to gaining citizenship compared

to children born within the territory.¹⁷⁵⁷ In 2022, Peter Kenilorea, Member of Parliament, sought judicial review on the negative decision made by the immigration department which denied his US-born children Solomon Islands citizenship.¹⁷⁵⁸ While the Attorney General Chambers issued an appeal on his judicial review, the Chambers later stated that it was wrong in appealing the review of the negative decision and the High Court made a decision to grant Kenilorea’s children Solomon Islands passports.¹⁷⁵⁹ Kenilorea stated that “he knew of many families facing similar situations, affected by poor legal advice given to the Immigration Division.”¹⁷⁶⁰

Naturalized citizenship

There is a process available to apply for citizenship in Solomon Islands.¹⁷⁶¹ In order to apply, one must pay the application fee as well as meet the eligibility requirements.¹⁷⁶² There is no simplified or expedited process for stateless persons or refugees, but there is a simplified process for descendants of Solomon Islands birth citizens.¹⁷⁶³ To be eligible, applicants must be 18 years of age, obtain a residence permit for 10 years before date of application, be conversational in English, Pidgin or a vernacular of Solomon Islands, and respectful of the culture of Solomon Islands.¹⁷⁶⁴ A birth

To be eligible, applicants must be 18 years of age, obtain a residence permit for 10 years before date of application, be conversational in English, Pidgin or a vernacular of Solomon Islands, and respectful of the culture of Solomon Islands.

certificate, passport, or driver’s license and proof of sustainable income, property, investments or economic benefit to Solomon Islands are also required in the application for citizenship, which may bar stateless persons from being able to apply.¹⁷⁶⁵

Dual citizenship

While dual citizenship was previously not allowed in Solomon Islands, a 2018 amendment to the Constitution repealed this provision to allow for dual citizenship.¹⁷⁶⁶

Treaty ratification status

Solomon Islands has ratified the ICESCR, ICERD, CRC, CEDAW, and the 1951 Refugee Convention and its 1967 Protocol with no relevant reservations. However, the country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the ICCPR.

The CRC Committee in its 2018 concluding observations expressed grave concerns regarding the delays caused by the absence of a decentralized birth registration system as well as accuracy of registration details for children born to unwed parents or adolescent mothers.¹⁷⁶⁷ By ratifying the CRC, Solomon Islands is obligated to ensure that every birth is registered immediately and ensure that no child is left stateless.¹⁷⁶⁸ Solomon Islands should build upon its national legislation on citizenship to provide protections for children

TABLE 44

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Solomon Islands	⊖	⊖	⊕	⊖	⊕	⊕	⊕	⊕

⊕ 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

within its territory who would otherwise be stateless. As a party to the 1951 Refugee Convention and its 1967 Protocol, Solomon Islands is bound to facilitate assimilation and naturalization of refugees; however, amendments should be made to its national legislation regarding naturalization to ensure a simplified process for stateless persons and refugees.¹⁷⁶⁹

In Solomon Islands’ 39th UPR session, it was recommended that the country repeal gender discriminatory provisions in its nationality law as well as ratifying the 1954 and 1961 Statelessness Conventions.¹⁷⁷⁰ In the same UPR session, Germany and Iceland both urged Solomon Islands to protect gender equality with respect to the right to nationality.¹⁷⁷¹ As a party to CEDAW, Solomon Islands is obligated to ensure gender equality in its nationality legislation.¹⁷⁷²

Population

Reported stateless persons

Solomon Islands has yet to report any stateless persons to UNHCR.¹⁷⁷³ Solomon Islands is not a major refugee receiving country, despite being a party to the Refugee Convention and its Protocol, reporting zero refugees to UNHCR in 2021.¹⁷⁷⁴

Causes of Statelessness

Discriminatory nationality laws

While the Solomon Islands amended previous discriminatory provisions in its national citizenship legislation with the 2018 *Citizenship Act*, women still do not have full equality with regards to nationality.¹⁷⁷⁵ For foreign women married to a Solomon Islands national, consent must be gained from the husband in order to apply

for naturalization and the woman must renounce her foreign citizenship.¹⁷⁷⁶ Further, citizenship can only be applied for by the father in the case of joint adoption of a child.¹⁷⁷⁷

Lack of legal safeguards against childhood statelessness

There is no protection under the citizenship law of Solomon Islands for foundlings or children born to stateless and/or foreign parents to gain citizenship.

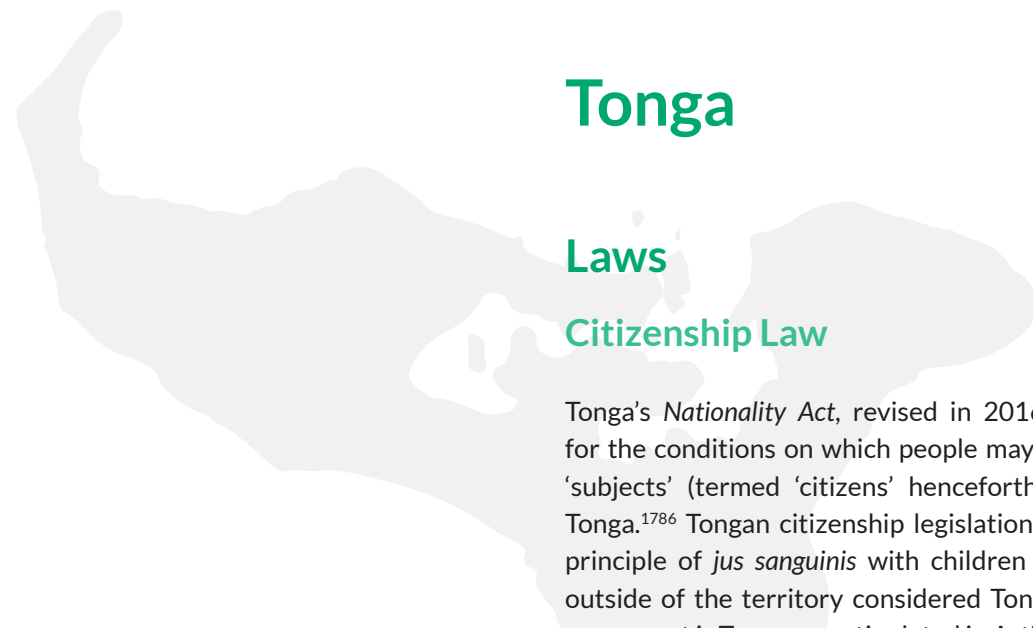
Citizenship stripping

Citizenship may be stripped, regardless of how it was acquired if a person is found guilty of a terrorist crime.¹⁷⁷⁸ If a person’s citizenship is decided to be revoked, they can make a written representation attesting to why their citizenship should not be revoked.¹⁷⁷⁹ A Review Board made up of government officials also has the power to review and amend decisions.¹⁷⁸⁰

Administrative barriers

In 2007, birth registration rates were reported to the UN Statistics Department at 80%.¹⁷⁸¹ An updated birth registration rate has not yet been reported. Registration inaccuracy for children born to unmarried parents and adolescent mothers is common¹⁷⁸² due to stigma and discrimination.¹⁷⁸³ The new Civil Registration database system launched in 2013 improved the rate of birth registration and access in rural areas, however barriers from limited access outside of the capital and late registration fees remained.¹⁷⁸⁴ Especially for remote areas, challenges with infrastructure and geography remain as barriers to birth registration.¹⁷⁸⁵

In 2007, birth registration rates were reported to the UN Statistics Department at 80%.



Tonga

Laws

Citizenship Law

Tonga's *Nationality Act*, revised in 2016, provides provisions for the conditions on which people may be eligible to become 'subjects' (termed 'citizens' henceforth) of the Kingdom of Tonga.¹⁷⁸⁶ Tongan citizenship legislation operates through the principle of *jus sanguinis* with children born either within or outside of the territory considered Tongan citizens if at least one parent is Tongan, as stipulated in Article 2 of the Act.¹⁷⁸⁷ The Act does not explicitly mention stateless persons, children born to stateless parents, or foundlings. There is also no definition of a stateless person included in Tonga's laws.

Tongan citizenship legislation operates through the principle of jus sanguinis with children born either within or outside of the territory considered Tongan citizens if at least one parent is Tongan.

Naturalized citizenship

Article 8 of the *Nationality Act* provides that naturalization can be attained by residing in the territory for 5 years, having good character and knowledge of the Tongan language, and intends to continue to reside in the Kingdom Tonga.¹⁷⁸⁸ The application requires payment of a fee, a birth certificate, medical certificate, and passport.¹⁷⁸⁹ Decisions on certificates of naturalization are made by the King of Tonga.¹⁷⁹⁰ The *Nationality Act* does not include provisions specifically for stateless persons applying for naturalization nor does it stipulate a simplified procedure to do so. In fact, the requirement of a passport in order to apply for naturalization bars stateless persons from eligibility entirely.

Dual citizenship

Tonga's national legislation does not provide provisions stipulating dual citizenship.

TABLE 45

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Tonga	–	–	–	–	–	✓	✓	–

✓ 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

Tonga has very low rates of treaty accession. The only treaty bodies which have been ratified by Tonga are the ICERD and CRC with no relevant reservations.

In 2019, the CRC Committee in its concluding observations has expressed concerns about birth registration for children subject to customary adoption and children on the outer islands.¹⁷⁹¹ The Committee was also concerned about the requirement to re-register a child's birth as "legitimate" after the marriage of the parents.¹⁷⁹² It was recommended that Tonga strengthen the capacity of health services in outer islands and repeal requirements of re-registration under the *Legitimacy Act*.¹⁷⁹³ By ratifying the CRC, Tonga is obligated to ensure that every birth is registered immediately.¹⁷⁹⁴

Population

Reported stateless persons

There is limited to no data on stateless persons in Tonga and no legislation which explicitly mentions statelessness. Tonga reported zero stateless persons to UNHCR in 2021.¹⁷⁹⁵

Persons at risk of statelessness

Those at risk of statelessness in Tonga include children who are registered at birth as 'illegitimate', children born to two foreign and/or stateless parents in the territory, and foundling children due to lack of legal safeguards.

Causes of Statelessness

Discriminatory nationality laws

According to Tonga's *Legitimacy Act*, a child born out of wedlock is deemed 'illegitimate' and their birth is registered as such.¹⁷⁹⁶ 'Illegitimate' children are unable to inherit land or title.¹⁷⁹⁷ If the child's parents marry, the child's birth must be re-registered as 'legitimate'.¹⁷⁹⁸ This legislation is discriminatory, placing stigma on both the child and the parents as well as marginalizing the child.

Lack of legal safeguards against childhood statelessness

There are no legal safeguards in the citizenship law of Tonga to provide citizenship to stateless or foundling children or children born to foreign and/or stateless parents.

Citizenship stripping

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) without protection from statelessness.¹⁷⁹⁹ The King may also revoke certificates of naturalization if the person is convicted of terrorism, treason, sedition, or any sentence of 2 years or more of imprisonment as mentioned in Article 12(2) of the Act.¹⁸⁰⁰

The King may also revoke certificates of naturalization if the person is convicted of terrorism, treason, sedition, or any sentence of 2 years or more of imprisonment as mentioned in Article 12(2) of the Act.

Administrative barriers

While Tonga has notably high rates of birth registration at 98% in 2019¹⁸⁰¹, the Committee on the Rights of the Child has noted with concern the risk of children who are subject to customary adoptions and born to unmarried parents not gaining birth registration.¹⁸⁰² Birth certificates are required for applying for naturalization.¹⁸⁰³

While Tonga has notably high rates of birth registration at 98% in 2019,

Tuvalu

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

As stipulated in *The Constitution of Tuvalu Bill* (2022) enacted in September 2023, Tuvalu citizenship laws operate through both *jus sanguinis* and *jus soli* provisions.¹⁸⁰⁴ Regardless of birthplace, a child born to at least one parent who is a citizen of Tuvalu will be a citizen.¹⁸⁰⁵ Children born outside of Tuvalu to a Tuvalu citizen parent automatically acquire Tuvalu citizenship through *jus sanguinis* provisions.¹⁸⁰⁶ A child cannot gain citizenship by birth in the territory if neither parent is a citizen of Tuvalu.¹⁸⁰⁷ If the child's father (not mother) is a foreign diplomat or a citizen of a country with which Tuvalu is at war, that child will not gain *jus soli* citizenship.¹⁸⁰⁸ Foundling children are in theory protected under Article 44(2), which states that foundlings discovered in Tuvalu will "be considered to have been born in Tuvalu".¹⁸⁰⁹ However, there is no provision protecting such foundling children from becoming stateless as the child must have one citizen parent to gain citizenship by birth.¹⁸¹⁰

Tuvalu citizenship laws operate through both jus sanguinis and jus soli provisions.

Neither the 2023 *Constitution* or the *Citizenship Act* specifically mention or give a definition for stateless persons or statelessness.

Naturalized citizenship

The *Citizenship Act* provides that anyone who is "of full age and capacity" is eligible for citizenship through naturalization.¹⁸¹¹ The conditions for being granted a positive decision through this process are that the person has been "ordinarily resident" in Tuvalu for the past 7 years, intends to stay in Tuvalu permanently, can support themselves financially, understands Tuvalu laws and customs, is not suffering from a permanent communicable disease, or any other conditions identified by the Citizenship Committee.¹⁸¹² The *Act* also states that foreign citizens applying for naturalization must renounce their prior citizenship

before registering as a citizen of Tuvalu.¹⁸¹³ The requirement to renounce foreign citizenship prior to applying for naturalization could cause some people in this process to become stateless if they are refused citizenship of Tuvalu after renouncing their foreign citizenship.¹⁸¹⁴ Explicit protections preventing such instances from occurring should be included in the legislation. There are no provisions in Tuvalu’s national legislation providing a simplified procedure for stateless persons to acquire naturalized citizenship.

The Act also states that foreign citizens applying for naturalization must renounce their prior citizenship before registering as a citizen of Tuvalu.

Dual citizenship

Dual citizenship is not recognized in Tuvalu. While there is no provision explicitly stating this, the naturalization procedure in Article 6 of the Act includes a requirement to renounce prior citizenship in order to gain citizenship of Tuvalu.¹⁸¹⁵ Article 10 of the Act provides some protections from statelessness for foreign citizens renouncing their citizenship in order to gain citizenship of Tuvalu.¹⁸¹⁶ It states that if renouncing citizenship is “impracticable” or is not permitted by the other state of citizenship, the foreign citizen can instead make a declaration of intent to renounce the other state’s citizenship and do so within a defined period after receiving Tuvalu citizenship.¹⁸¹⁷ This ensures that foreign citizens going through this process do not become stateless in the process of application for Tuvalu citizenship and renunciation of other citizenship.

Treaty ratification status

The only international treaties ratified by Tuvalu are the 1951 Refugee Convention and its 1967 Protocol, the CRC, and CEDAW. Of which, Tuvalu has made no reservations.

The CEDAW Committee has previously expressed concerns on the increasing possibility of statelessness in Tuvalu as a result of climate change.¹⁸¹⁸ Increasing rates of emigration to neighbouring countries has increased the risk and reality of displacement which can lead to statelessness.¹⁸¹⁹ It was recommended that Tuvalu develop a mitigation strategy for displacement and proactively address the potential statelessness that could arise from it.¹⁸²⁰ It was further recommended that Tuvalu “ensure that women, including those living on the outer islands, are included and may actively participate in planning and decision making processes concerning their adoption”.¹⁸²¹ Tuvalu was issued two reminders by the Rapporteur in 2017 to provide follow-up information on how they have been working on these recommendations, but Tuvalu has yet to provide this information.¹⁸²² However, in the new *Constitution* enacted in 2023, a new definition of statehood was established for Tuvalu in light of the existential threat of climate change.¹⁸²³ 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”.¹⁸²⁴

TABLE 46

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Tuvalu	–	–	✓	–	–	–	✓	✓

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

In 2020, concluding observations by the CRC Committee noted concerns about low birth registration in the country, in particular in the outer islands.¹⁸²⁵ The Committee recommended ensuring that everyone has access to birth registration, especially in the outer islands and for children of unmarried parents.¹⁸²⁶ It was further recommended to remove the requirement of registration fees for late birth registration.¹⁸²⁷ In the 2023 UPR session, Tuvalu provided that every newborn in the country is “required to be registered either at the General Registrar Office or with Local Government for those in the outer islands” and that a list of newborn babies must be sent to the Register General every 3 months.¹⁸²⁸ As a party to CRC, Tuvalu is bound to ensure that every birth in the territory is registered immediately to prevent statelessness.¹⁸²⁹

Population

Reported stateless persons and persons at risk of statelessness

Tuvalu is not included in UNHCR’s global trends report and has not, as such, reported any stateless persons to the organisation. While this may not place persons at an immediate risk of statelessness, the threats of climate induced sea-level rise and potential forced migration may expose those without identification to a greater risk of statelessness.¹⁸³⁰

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

There are no legal safeguards for foundlings in Tuvalu due to the requirement of having one citizen parent in order to gain citizenship by birth if born in the territory.¹⁸³¹ While the *Constitution* provides that foundling children will be

considered to be born within the territory, there is no provision protecting such foundling children from becoming stateless.¹⁸³²

Citizenship stripping

Under the law of Tuvalu, citizens who acquired citizenship through naturalisation can be deprived of citizenship through extended periods abroad.¹⁸³³ The law does not provide a specific timeframe that triggers deprivation.¹⁸³⁴ Appeals regarding citizenship decisions may be directed to the Citizenship Committee, as detailed in Article 4 of the *Citizenship Act*.¹⁸³⁵

Administrative barriers

There is no legislation which delineates whether birth registration is required for acquiring citizenship. Tuvalu has a notably low birth registration rate, reported to the UN Statistics Division in 2020 as 50%.¹⁸³⁶ The rate of registration tends to be lower in outer islands, calling for increased attention to the implementation of registration in outer islands.¹⁸³⁷ Tuvalu’s *Births, Deaths and Marriages Registration Act* stipulates that births must be registered within 10 days.¹⁸³⁸ If a birth is not registered within 3 months of the date of birth, a fee must be paid in order to register the birth.¹⁸³⁹ This places an unnecessary barrier to birth registration which could be a factor in the low rates of registration seen in Tuvalu.

Tuvalu has a notably low rate of birth registration, reported to the UN Statistics Division in 2020 as 50%.

Statelessness and climate change

Tuvalu faces a fundamental risk from rising sea-levels. Extensive research has been undertaken on the risks of statehood and the threat of statelessness caused in low-lying states including Tuvalu.¹⁸⁴⁰ Climate-induced relocation places naturalized citizens at risk of losing their

citizenship of Tuvalu due to the existing citizenship loss provisions.¹⁸⁴¹ Section 7(6) of the *Citizenship Act* provides that a naturalized citizen may be deprived of Tuvalu citizenship if they do not comply with certain requirements of naturalization,

including remaining financially self-supporting.¹⁸⁴² In the event of climate-induced relocation, the ability to maintain financial self-sufficiency may be reduced, making the naturalized citizen vulnerable to deprivation of citizenship

Vanuatu

Laws

Citizenship Law

Jus sanguinis provisions

The main legislative documents for citizenship in Vanuatu are the 1980 *Constitution of the Republic of Vanuatu* and the 1980 *Citizenship Act of the Republic of Vanuatu*.¹⁸⁴³ Vanuatuan citizenship laws operate through a *jus sanguinis* structure.¹⁸⁴⁴ Regardless of birthplace, a child born to at least one parent who is a citizen of Vanuatu will be a citizen according to Article 11 of the *Constitution*.¹⁸⁴⁵ According to Article 9(b) of the *Constitution*, a stateless person with Ni-Vanuatu (indigenous) ancestry will automatically be a citizen of Vanuatu.¹⁸⁴⁶ There are currently no legal provisions regarding citizenship eligibility for foundlings.¹⁸⁴⁷

In 2014, Vanuatu amended their citizenship laws to remove gender discriminatory provisions which limited the ability of women to pass on their nationality to foreign spouses.¹⁸⁴⁸ There is no definition of a stateless person included in Vanuatu's national legislation. Further, the *Citizenship Act* does not explicitly mention stateless persons.

Vanuatuan citizenship laws operate through a jus sanguinis structure. Regardless of birthplace, a child born to at least one parent who is a citizen of Vanuatu will be a citizen according to Article 11 of the Constitution.

In 2014, Vanuatu amended their citizenship laws to remove gender discriminatory provisions which limited the ability of women to pass on their nationality to foreign spouses.

Naturalized citizenship

Stateless persons are eligible to apply for naturalization on the same basis as other persons not of Vanuatu descent as laid out in Article 12 of the *Constitution*.¹⁸⁴⁹ Article 12 of the *Citizenship Act* lays out further details of the naturalization application process.¹⁸⁵⁰ In order to be eligible, the applicant must be 18 years of age, have lived in the country for the last 10 years, have good character, be fluent in "Bislama, English, French or another

regional vernacular”, and have respect for the country’s cultures, to name a few conditions.¹⁸⁵¹ Additionally, the applicant must pass a citizenship test in Bislama and be of good health.¹⁸⁵² Parliament can attach additional conditions to eligibility and is responsible for providing review and decisions on applications.¹⁸⁵³ Provided that the spouse has given consent, the applicant’s spouse and children may be included in the same application.¹⁸⁵⁴ There is no expedited or simplified process available to stateless persons or refugees.

Dual citizenship

Article 13(1) of the *Constitution* provides that dual citizenship is recognized by Vanuatu.¹⁸⁵⁵ However, there are some political restrictions placed on dual citizens as detailed in Article 13(3), such as inability to serve in a public office or participate in Vanuatu politics.¹⁸⁵⁶ These restrictions only apply for dual citizens who have not applied for naturalization or are not indigenous citizens.¹⁸⁵⁷

Article 13(1) of the Constitution provides that dual citizenship is recognized by Vanuatu

Treaty ratification status

The only relevant treaty bodies ratified by the Republic of Vanuatu are the ICCPR, CRC, and CEDAW with no reservations.

As a party to CEDAW, Vanuatu is bound to ensure gender equality in nationality laws.¹⁸⁵⁸ Vanuatu is also responsible for ensuring that no child is left stateless and that births are registered immediately in Vanuatu, according to Article

7 of the CRC.¹⁸⁵⁹ On this, Vanuatu needs to strengthen national legislation on citizenship to ensure that children born in the territory who do not have parents of Vanuatuan citizenship or Ni-Vanuatuan descent do not become stateless. Birth registration also needs to be improved to ensure that every birth is registered immediately. Further, as a party to the ICCPR, Vanuatu must ensure non-discrimination of ICCPR rights based on nationality.¹⁸⁶⁰ The political restrictions placed on dual citizens should be eliminated to ensure that Vanuatu meets relevant ICCPR obligations.¹⁸⁶¹

Population

Reported stateless persons

To date, there has been no reported stateless population in Vanuatu. This calls for improved data collection and the development of a procedure for identifying persons who are stateless in Vanuatu.

Persons at risk of statelessness

Those at risk of statelessness in Vanuatu could include foundlings and children born to stateless parents within the territory due to gaps in legislation.

Undetermined nationalities

In Vanuatu’s 2020 Census, 27 non-citizen residents in Vanuatu were categorised as having an ‘unknown’ citizenship status.¹⁸⁶²

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Under the laws of Vanuatu, there is no explicit protection of foundling or stateless children born on or found in the territory. For children born to two stateless parents in Vanuatu, there are currently no provisions protecting the child from becoming stateless. This combined with Vanuatu’s low rates of birth registration (43%)¹⁸⁶³ could leave children vulnerable to statelessness.

Vanuatu, there is no explicit protection of foundling or stateless children born on or found in the territory.

Administrative barriers

While the importance of birth registration is unknown for gaining citizenship in Vanuatu, birth registration is low in the country, reported at only 43% in 2013.¹⁸⁶⁴ An updated birth registration rate has yet to be reported. 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.¹⁸⁶⁵

TABLE 47

Ratification of International laws relating to statelessness by the countries the Pacific

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Vanuatu	⊖	⊖	⊖	✓	⊖	⊖	✓	✓

✓ 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

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.¹⁸⁶⁶ 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.¹⁸⁶⁷ 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.¹⁸⁶⁸ 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.¹⁸⁶⁹ 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.¹⁸⁷⁰ For children born outside of Sri Lanka to a citizen parent, their birth must be registered for their citizenship to be recognised.¹⁸⁷¹

*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 discrimination¹⁸⁷², while the laws of India¹⁸⁷³ and the Maldives¹⁸⁷⁴ discriminate on the grounds of religion. The laws of the Maldives also contain some potentially gender discriminatory provisions.¹⁸⁷⁵ 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.¹⁸⁷⁶

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.¹⁸⁷⁷ Conversely, India's *Citizenship Amendment Act* (2019) provided a pathway to citizenship for undocumented migrants which explicitly does not apply to Muslims.¹⁸⁷⁸ 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.¹⁸⁷⁹ 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.¹⁸⁸⁰ 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.¹⁸⁸¹

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.¹⁸⁸² 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.¹⁸⁸³ 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.¹⁸⁸⁴ However, a Supreme Court decision in 2023¹⁸⁸⁵ and a High Court ruling in 2022¹⁸⁸⁶ 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.¹⁸⁸⁷

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.¹⁸⁸⁸

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.¹⁸⁸⁹

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 Afghanistan¹⁸⁹⁰,

Bangladesh¹⁸⁹¹, Bhutan¹⁸⁹², Pakistan¹⁸⁹³, and the Maldives¹⁸⁹⁴. 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.¹⁸⁹⁵ 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'.¹⁸⁹⁶ 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.¹⁸⁹⁷

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 naturalization¹⁸⁹⁸, no such provision exists which allows foreign men married to a Bangladeshi woman to gain citizenship through naturalization.¹⁸⁹⁹ India also contains discriminatory naturalization provisions on the basis of religion as only non-Muslim applicants are eligible for the expedited procedure.¹⁹⁰⁰

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".¹⁹⁰¹

Dual citizenship

Only two States in South Asia, the Maldives and Sri Lanka, allow dual citizenship.¹⁹⁰² 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.¹⁹⁰³ While generally not permitted in Bangladesh¹⁹⁰⁴ or Pakistan¹⁹⁰⁵, both countries offer a list of countries which citizens may have dual citizenship with. Dual citizenship is not recognized in Afghanistan¹⁹⁰⁶, Bhutan¹⁹⁰⁷, India¹⁹⁰⁸, or Nepal¹⁹⁰⁹. In both Bhutan¹⁹¹⁰ and Nepal¹⁹¹¹, 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".¹⁹¹²

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.¹⁹¹³ 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.¹⁹¹⁴ Bhutan has signed, but not ratified the ICERD. The Maldives notably made reservations to Article 18 of the ICCPR¹⁹¹⁵, which ensures the right to freedom of thought, conscience and religion, and Article 14 of the CRC¹⁹¹⁶, which protects the same rights for children.

The gender discriminatory legislation of Bangladesh, Nepal, and Pakistan contravene the ICCPR¹⁹¹⁷ and CEDAW¹⁹¹⁸, 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 ICCPR¹⁹¹⁹, ICERD¹⁹²⁰, or CRC¹⁹²¹ as all three treaties protect the right to a nationality.

TABLE 48

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.¹⁹²² Bangladesh is the largest hosting country both within South Asia and the Asia-Pacific broadly with a population of 952,309 stateless persons.¹⁹²³ Afghanistan, Bhutan and the Maldives did not report stateless populations in the past five years of reporting to UNHCR.¹⁹²⁴ 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'.¹⁹²⁵ Known stateless populations not included in the UNHCR reporting figures include the Lhostshampa of Bhutan,¹⁹²⁶ ethnic Bengalis and long-term Afghan refugees in Pakistan.¹⁹²⁷

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 2022.¹⁹²⁸ 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.¹⁹²⁹

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.¹⁹³⁰ Ethnic minority groups including Dalit and Madheshi communities in Nepal face issues of accessing citizenship and identity documents and are at risk of statelessness.¹⁹³¹ The Hazara ethnic minority community in Pakistan has previously faced discrimination in receiving passports.¹⁹³² The Gypsy (Roma) community may also be at

TABLE 49

Reported stateless population in South Asia

Country	2019 (year start) ¹⁹³³	2020 (year end) ¹⁹³⁴	2021 (year end) ¹⁹³⁵	2022 (year end) ¹⁹³⁶
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

risk of statelessness in Pakistan due to lack of identity documentation and access to services.¹⁹³⁷

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.¹⁹³⁸ There has been an extensive focus on Rohingya in Bangladesh by UN bodies, academics and NGOs, specifically since their mass displacement in 2017.¹⁹³⁹ 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.¹⁹⁴⁰

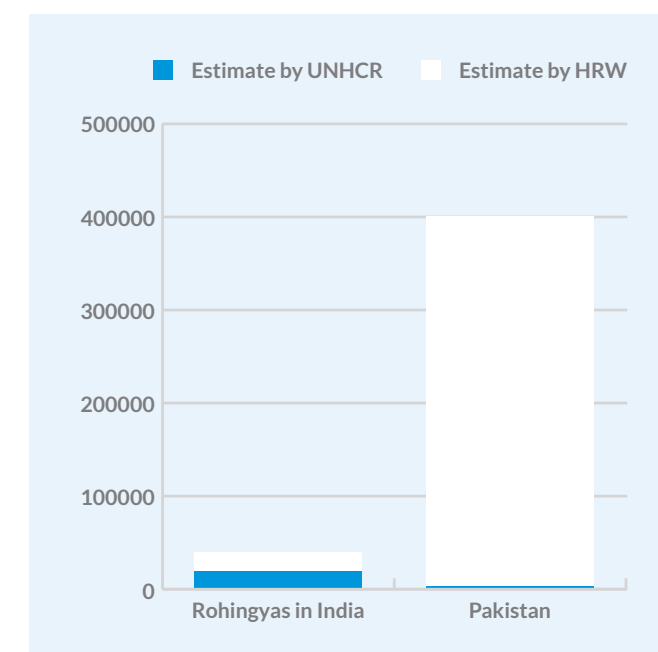
The true scale of the Rohingya refugee population in South Asia is estimated to be thousands higher than reported figures. Human Rights Watch has estimated that Rohingya registered with UNHCR in India in 2021 (20,154) represented only half of the total population of 40,000 Rohingya refugees in India.¹⁹⁴¹ 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).¹⁹⁴² Both Rohingya and Afghan refugees in Pakistan have been excluded from efforts to provide Pakistani citizenship to stateless persons.¹⁹⁴³

FIGURE 8

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.¹⁹⁴⁴ There are also 6,365 Bhutanese Lhostshampa refugees in Nepal, many of whom are stateless.¹⁹⁴⁵

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.¹⁹⁴⁶ 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.¹⁹⁴⁷ Another 123,829 cases remain pending before the tribunals.¹⁹⁴⁸

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.¹⁹⁴⁹ In 2016 the Forum for Women, Law and Development projected that by 2021, as many as 6.7 million people would be without citizenship.¹⁹⁵⁰ 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.¹⁹⁵¹ In the process of digitization of civil registration in Pakistan, Bengali speaking and Bihari individuals were registered as aliens.¹⁹⁵² While registered as 'aliens', they are often denied citizenship under the previous interpretation of Pakistan's *jus soli* provision.¹⁹⁵³

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,¹⁹⁵⁴ 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.¹⁹⁵⁵ 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.¹⁹⁵⁶

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)¹⁹⁵⁷ and the laws of Nepal gender discrimination.¹⁹⁵⁸ 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.¹⁹⁵⁹

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.¹⁹⁶⁰ 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.¹⁹⁶¹ 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.¹⁹⁶²

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.¹⁹⁶³

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.¹⁹⁶⁴

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.¹⁹⁶⁵ 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.¹⁹⁶⁶ 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.¹⁹⁶⁷ 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.¹⁹⁶⁸

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.¹⁹⁶⁹ 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.¹⁹⁷⁰ The

citizenship law of Nepal provides that foundling children are considered citizens by descent until their father or mother is identified.¹⁹⁷¹

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.¹⁹⁷² 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.¹⁹⁷³ 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.¹⁹⁷⁴

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.¹⁹⁷⁵ 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 18.¹⁹⁷⁶ 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”.¹⁹⁷⁷

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.¹⁹⁷⁸ 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.¹⁹⁷⁹

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.¹⁹⁸⁰

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.¹⁹⁸¹

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.¹⁹⁸² Similarly in Nepal, administrative and policy barriers affect the ability of marginalised groups including

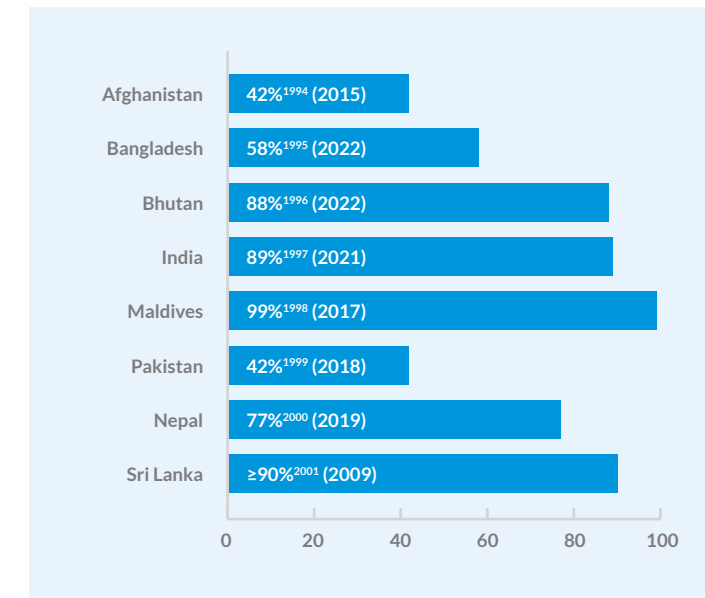
LGBTQIA+ communities and women from accessing citizenship certificates.¹⁹⁸³ Children born to citizen mothers in Nepal continue to face a number of administrative barriers in gaining birth registration and citizenship certificates.¹⁹⁸⁴ The arbitrary levels of discretion applied by authorities, who consist mostly of men, in issuing documentation has often denied women and their children documentation due to discriminatory patriarchal beliefs.¹⁹⁸⁵ 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.¹⁹⁸⁶

Administrative and policy practice have led to the citizenship laws of Bangladesh shifting in application from *jus soli* to *jus sanguinis* in their application.¹⁹⁸⁷ This 'paradigmatic policy shift'¹⁹⁸⁸ 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 2017.¹⁹⁸⁹ 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,¹⁹⁹⁰ 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.¹⁹⁹¹ 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,¹⁹⁹² it is estimated that 70–80% of the Bengali population in Pakistan do not have identity documents.¹⁹⁹³ The position of ethnic Bengalis was worsened

FIGURE 9

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’.²⁰⁰²

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.²⁰⁰³ 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.²⁰⁰⁴

Requirement of birth registration for citizenship acquisition

Birth registration is especially linked to citizenship acquisition in Bangladesh²⁰⁰⁵, Bhutan, the Maldives, while India explicitly provides that a birth

certificate is proof of citizenship.²⁰⁰⁶ In India, there have been multiple conflicting court decisions regarding whether an Indian passport may also prove Indian citizenship.²⁰⁰⁷ 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.²⁰⁰⁸ Bhutan's citizenship identification document is issued immediately after birth registration in the country.²⁰⁰⁹ 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.²⁰¹⁰ A birth certificate can

also serve as evidence of citizenship in Pakistan²⁰¹¹ with Computerized National Identity Cards also serving as de-facto proof.²⁰¹² In Afghanistan, the Tazkera, the principal Afghan identity document, proves Afghan citizenship.²⁰¹³ A citizenship certificate serves as evidence of citizenship in Nepal²⁰¹⁴ and Sri Lanka²⁰¹⁵.

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.²⁰¹⁶



Rohingya Project



Rohingya Human Rights Initiative



Afghanistan

Laws

Citizenship Law

Jus sanguinis provisions

Stipulated by the *Law on Citizenship of the Islamic Emirates of Afghanistan*, the citizenship legislation of Afghanistan operates through a *jus sanguinis* structure, providing that a child born within or outside of Afghanistan to two Afghan citizen parents is automatically granted citizenship.²⁰¹⁷ Children born within Afghanistan only need to show that one of their parents is an Afghan citizen, and for those born outside of Afghanistan to one Afghan citizen mutual consent between the parents is needed for the child to be recognised as a citizen.²⁰¹⁸ A child born to two foreign parents in Afghanistan may elect citizenship upon reaching the age of 18, unless their parent is a foreign diplomat or a member of an international organization.²⁰¹⁹ Further if a person who holds no citizenship marries an Afghan citizen, they automatically acquire Afghan citizenship.²⁰²⁰ There is no definition of a stateless person or explicit mention of statelessness in the citizenship legislation of Afghanistan.

Stipulated by the Law on Citizenship of the Islamic Emirates of Afghanistan, the citizenship legislation of Afghanistan operates through a jus sanguinis structure, providing that a child born within or outside of Afghanistan to two Afghan citizen parents is automatically granted citizenship.

Naturalized citizenship

Foreigners or “those who do not have citizenship” may apply for naturalization in Afghanistan, as stipulated by Article 15 of the *Law*.²⁰²¹ Eligibility requirements for the application include being 18 years of age, living for at least five years in the territory, and not having committed any crimes during their stay in the territory.²⁰²² There is no simplified or expedited procedure available to stateless persons or refugees.

Dual citizenship

Dual citizenship is not recognized in Afghanistan.²⁰²³

TABLE 50

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Afghanistan	–	–	✓	✓	✓	✓	✓	✓

✓ 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

Article 22 of the *Law* states that, “the nationality of the IEA [Islamic Emirates of Afghanistan] can also be obtained according to the norms predicted in the international treaties unless they contradict the tenets of Islam.”²⁰²⁴

Afghanistan has the highest rate of treaty ratification of any state in South Asia, notably being the only state in the region that is party to the Refugee Convention and its 1967 Protocol. Afghanistan is yet to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

In 2020, the CEDAW Committee noted that women face barriers to accessing identity cards (*tazkira*) due to “lack of security, restrictions imposed by male family members, limited mobility or the lack of financial means”.²⁰²⁵ It also cited administrative barriers and corruption faced by women when obtaining identity cards, recommending that Afghanistan raise public awareness of the importance of birth registration for women and their children.²⁰²⁶ As a party to the CRC as well as the ICCPR, Afghanistan is obligated to ensure that every child’s birth is registered immediately.²⁰²⁷

In 2021, the Security Council unanimously adopted a resolution that stated “the Islamic Emirate of Afghanistan [the Taliban] is not recognized at the United Nations, and furthermore that the UN Security Council does not support the restoration of the Islamic Emirate of Afghanistan”.²⁰²⁸ Despite

the Taliban not being recognized as the legitimate government of Afghanistan, as a non-state actor, it is still obligated to uphold the international obligations that Afghanistan is bound to.²⁰²⁹

Despite the Taliban not being recognized as the legitimate government of Afghanistan, as a non-state actor, it is still obligated to uphold the international obligations that Afghanistan is bound to.

Population

Reported stateless persons

Afghanistan reported zero stateless persons to UNHCR since 2019.²⁰³⁰ In 2018, UNHCR noted one registered stateless person in Afghanistan.²⁰³¹ UNHCR has noted Afghanistan as a country which possesses information about stateless persons but lacks any reliable data.²⁰³² Some independent reports and commentary from UNHCR are available on the situation of semi-nomadic communities of Jat ethnicity (which includes the Jogi, Chori Frosh and Mosuli groups) who were denied access to Afghan identity documents, *Tazkeras*, and rendered stateless.²⁰³³ In 2019, some members of these communities were granted *Tazkeras*.²⁰³⁴ Discrimination based on their semi-nomadic lifestyle, ancestral origins, and distinct economic practices contributes to their marginalized status, hindering their access to citizenship rights and putting them at risk of statelessness.²⁰³⁵

Afghanistan reported zero stateless persons to UNHCR since 2019. In 2018, UNHCR noted one registered stateless person in Afghanistan.

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 2022.²⁰³⁶ Further, over 1.6 million new Afghan refugee arrivals in neighboring countries have been reported since the Taliban takeover in August, 2021.²⁰³⁷ Overall in 2022, UNHCR noted over 9.5 million persons of concern from Afghanistan, including refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern.²⁰³⁸

Due to loss or denial of identity documents, the children of many Afghan refugees and asylum seekers are at risk of statelessness. Additionally, CSOs have highlighted how low rates of birth registration of refugees within Afghanistan – in 2022, Afghanistan hosted a population of just over 52,000 refugees²⁰³⁹ – places children at risk of statelessness.²⁰⁴⁰

Access to identity documentation has rendered potentially millions of women in Afghanistan at risk of statelessness. A report by the Norwegian Refugee Council in 2016, found that women possessed *Tazkeras* at a rate far lower than men.²⁰⁴¹ Additionally, 52% of women in general held no identity documentation (*Tazkera*, Passport, Birth Certificates, Marriage Certificates), with this rate increasing to 75% among female IDPs (for male IDPs 12% had no identity documents).²⁰⁴² UNHCR recorded 3,254,002 IDPs in Afghanistan at the end of 2021.²⁰⁴³

Causes of Statelessness

Discriminatory nationality laws

Ethnic minority groups including the Mosuli and Jogi (or ‘Magat’) communities who have lived in Afghanistan from generations living a semi-

Further, over 1.6 million new Afghan refugee arrivals in neighboring countries have been reported since the Taliban takeover in August, 2021.

nomadic existence, have been largely excluded from the operation of citizenship laws due to ethnic discrimination based on their historic connections to neighbouring countries.²⁰⁴⁴

Lack of legal safeguards against childhood statelessness

Afghan citizenship law appears to protect foundlings in providing that a child found in Afghanistan will be considered a citizen of Afghanistan if documentation of their parent’s citizenship is not available.²⁰⁴⁵ Children born to one citizen parent and one parent with undetermined citizenship will be citizens of Afghanistan.²⁰⁴⁶ Article 12 of the Law further grants citizenship to children born to parents who have “documents proving their citizenship is not available”.²⁰⁴⁷ Stateless persons may obtain citizenship at the age of 18.²⁰⁴⁸

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.²⁰⁴⁹

Afghanistan reported a birth registration rate of 42% as of 2015.²⁰⁵⁰ Despite legally requiring birth registration, Afghanistan grapples with a low registration rate as a consequence of prolonged conflict and constrained governmental resources.²⁰⁵¹

Additionally, 52% of women in general held no identity documentation (Tazkera, Passport, Birth Certificates, Marriage Certificates), with this rate increasing to 75% among female IDPs (for male IDPs 12% had no identity documents).

Bangladesh

Laws

Citizenship Law

Jus sanguinis and *jus soli* provisions

The citizenship legislation of Bangladesh provides for both *jus soli* and *jus sanguinis* citizenship, stipulated by *The Citizenship Act (1951)*.²⁰⁵² Under the written law of Bangladesh, persons born in the territory will gain citizenship by birth unless their father is a diplomat or an enemy alien.²⁰⁵³ However, in practice, citizenship by birth appears to be provided only when a child is born in Bangladesh to two Bangladeshi citizen parents.²⁰⁵⁴ The *jus sanguinis* provision of the Bangladeshi citizenship law provides that a child born either within or outside of Bangladesh to a Bangladeshi citizen automatically acquires citizenship by descent.²⁰⁵⁵ While most gender discriminatory provisions that barred women from transferring their nationality to their children were removed by amendments in 2009, however, a few still remain in the laws of Bangladesh as women are unable to confer nationality onto their foreign spouses.²⁰⁵⁶ If the parent of the child is themselves a citizen by descent and the child is born abroad, the birth must be registered for citizenship to be obtained.²⁰⁵⁷ There is no definition of a stateless person nor is there explicit mention of statelessness in Bangladesh’s citizenship legislation.

*The citizenship legislation of Bangladesh provides for both *jus soli* and *jus sanguinis* citizenship, stipulated by *The Citizenship Act (1951)*.*

Naturalized citizenship

The Citizenship Act stipulates that any person can apply for naturalization in Bangladesh²⁰⁵⁸, the details of which are stipulated by the *Naturalisation Act (1926)*.²⁰⁵⁹ To be eligible for naturalization, the applicant must not be a minor, must reside in Bangladesh for at least twelve consecutive months as well as for at least four of the seven years before application, and have an adequate knowledge of Bengali, among other requirements.²⁰⁶⁰ There is no simplified or expedited procedure available for stateless persons or refugees. A foreign citizen must renounce prior citizenship upon application.²⁰⁶¹

However, this provision was seen to be discriminatory in the case of Rohingyas. The Government of Bangladesh since 2014 has banned marriages between Rohingya refugees and Bangladeshi citizens in the fear of Rohingyas using marriage to obtain Bangladeshi citizenship.

Citizenship may be acquired through marriage via the naturalization process; however, the laws stipulating this include gender discriminatory provisions denying women the right to pass nationality to their spouses.²⁰⁶² However, this provision was seen to be discriminatory in the case of Rohingyas. The Government of Bangladesh since 2014 has banned marriages between Rohingya refugees and Bangladeshi citizens in the fear of Rohingyas using marriage to obtain Bangladeshi citizenship.²⁰⁶³ In a 2018 Writ Petition filed, the High Court upheld the marriage ban in the case of a Bangladeshi citizen marrying a Rohingya woman.²⁰⁶⁴ Besides Rohingyas, there is no marriage ban against any other community in Bangladesh.

Dual citizenship

Dual citizenship is not recognized in Bangladesh.²⁰⁶⁵ A Bangladeshi citizen by birth automatically loses their Bangladeshi citizenship upon acquisition of citizenship of another country.²⁰⁶⁶ However, as a result of a 1978 amendment to the 1972 Citizenship Order, there are some discriminatory provisions relating to reacquisition of citizenship based on the country of former citizens' citizenship acquisition.²⁰⁶⁷ Citizens of only Australia, Canada, the United Kingdom, and the United States who are of Bangladeshi origin are able to apply for reacquisition of Bangladeshi citizenship.²⁰⁶⁸

Treaty ratification status

While Bangladesh has not yet ratified the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, or the 1951 Refugee Convention and its 1967 Protocol, it has ratified ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations.

In 2016, the CEDAW Committee highlighted that while the 2009 amendments to *The Citizenship Act* removed some gender discriminatory provisions, they did not retroactively apply for children before its entry into force.²⁰⁶⁹ In regard to the lack of access to justice for women in Bangladesh, the Committee recommended that the country ensure that all women and girls, including those who are affected by statelessness, "have effective access to justice by raising their awareness of their human rights and the remedies available to claim them".²⁰⁷⁰

The Committee also expressed concerns over the fact that only 3% of children born in Bangladesh are registered within 45 days of their birth and that only 88% of school-aged children were registered in 2016.²⁰⁷¹ Further, women and children make up a disproportionate percentage of the unregistered Rohingya population (60%).²⁰⁷² It was recommended that Bangladesh ensure that the 2009 amendments apply retroactively and ensure that all children's births are registered immediately.²⁰⁷³ The CRC Committee also recommended that the country "provide birth registration and access to basic rights, such as to health and education, for all undocumented

However, Bangladesh has failed in its commitment to provide formal education to all children, as nearly half a million Rohingya refugee children are banned from access to formal education.

Rohingya children and their families".²⁰⁷⁴ As a party to CRC as well as ICCPR, Bangladesh is obligated to ensure that all births are registered immediately after birth.²⁰⁷⁵

In Bangladesh's recent Universal Periodic Review, it was stated that Bangladesh has been working to ensure education for Rohingya children with the support of international organizations, including UNICEF.²⁰⁷⁶ However, Bangladesh has failed in its commitment to provide formal education to all children, as nearly half a million Rohingya refugee children are banned from access to formal education.²⁰⁷⁷ Further, it was stated that Bangladesh remains committed to the Rohingya population's "right to safe, dignified and voluntary return to their homes in Myanmar".²⁰⁷⁸ While Bangladesh signed a repatriation deal with Myanmar and formed a Joint Working Group on the issue in 2021, Myanmar has yet to follow through in ensuring Rohingya's right to safe, dignified, and voluntary return to Myanmar.²⁰⁷⁹

Population

Reported stateless persons

Bangladesh has the largest population of stateless persons both in South Asia and in the Asia Pacific, reporting 952,309 persons to UNHCR in 2022.²⁰⁸⁰

The reported population has steadily increased by about 10,000-50,000 persons each year.²⁰⁸¹

Stateless Refugees

The entire reported stateless population in Bangladesh, of more than 950,000 persons are stateless refugees.²⁰⁸² There has been an extensive focus on Rohingyas in Bangladesh by UN bodies, academics and NGOs, specifically since the mass displacement which occurred in 2017.²⁰⁸³ 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.²⁰⁸⁴

In June 2020, there were not enough isolation facilities in the overcrowded Cox's Bazaar to stop the spread of the COVID-19 virus.²⁰⁸⁵ Around the same time, during COVID-19 lockdowns, Rohingya refugees headed for Bangladesh on a wooden boat were found stuck at sea by Malaysia.²⁰⁸⁶ The Bangladeshi government announced that they would rescue those on the boat and quarantine them on the remote island of Bhashan Char in the Bay of Bengal, which has been described by experts as "not suitable for long-term human habitation".²⁰⁸⁷ As more numbers of Rohingya were quarantined

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.

TABLE 51

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Bangladesh	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕

⊕ 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 52

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁰⁸⁸	2020 (year end) ²⁰⁸⁹	2021 (year end) ²⁰⁹⁰	2022 (year end) ²⁰⁹¹
Bangladesh	854,704	866,457	918,841	952,309

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

on Bhashan Char, the island has evolved into a permanent alternative settlement for the Rohingya population in Bangladesh, despite major concerns expressed by both the Rohingyas and international community.²⁰⁹² As of February 2022, an estimated 19,000 people had been relocated.²⁰⁹³ In 2023, the population of Bhashan Char was estimated at 30,000 and counting.²⁰⁹⁴

Other populations of note

A population of note in Bangladesh is the Urdu-speaking (Bihari) community who have resided in Bangladesh since independence.²⁰⁹⁵ Historically the Urdu-speaking community were stateless with their status as Bangladeshi citizens denied due to perceived connections to Pakistan. Since the early 2000's their citizenship status has been recognised and community members have progressively been granted citizenship. 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.²⁰⁹⁶ In this sense, while the formal citizenship status of this population has been resolved, Urdu-speaking populations continue to be impacted by the legacies of statelessness.²⁰⁹⁷

Causes of Statelessness

Discriminatory nationality laws

As outlined in the Myanmar chapter, the statelessness of the Rohingya community is largely caused by ethnic discrimination embedded in the citizenship laws of Myanmar.²⁰⁹⁸ Urdu-speaking 'Bihari' communities were excluded from accession to Bangladeshi citizenship until court intervention in 2008 due to discriminatory interpretations of the citizenship law.

Conceptions of the Urdu-Speaking community as owing allegiance to or 'belonging' to Pakistan led to their denial of rights under amendments to the Bangladeshi citizenship laws that were introduced in 1978.²⁰⁹⁹

While 2009 amendments to *The Citizenship Act* removed the gender discriminatory provisions which denied women the equal right to pass citizenship to their children, the *Act*²¹⁰⁰ still contains provisions which deny women the equal right to confer citizenship to a foreign spouse.²¹⁰¹ The *Act* contains a provision allowing foreign women married to a Bangladeshi man to apply for naturalized citizenship through a simplified process²¹⁰², yet there is no such provision allowing the same for foreign men married to Bangladeshi women. In particular, due to the government banning marriages between Rohingyas and citizens, their marriages as a result are unregistered, potentially leaving their children open to statelessness.²¹⁰³

Lack of legal safeguards against childhood statelessness

On the face of the law, the *jus soli* provision of Bangladeshi citizenship law would provide founding children and children born to stateless parents access to citizenship.²¹⁰⁴ However, due to lack of implementation of Bangladesh's *jus soli* provisions, citizenship is predominantly only gained via descent as children born in Bangladesh are typically only granted citizenship if they have at least one Bangladeshi citizen parent.²¹⁰⁵

Administrative barriers

Administrative and policy practices have led to the citizenship laws of Bangladesh shifting in application from *jus soli* to *jus sanguinis* in their application.²¹⁰⁶ While the majority of stateless persons in Bangladesh are Rohingyas whose

stateless status was gained before their arrival in Bangladesh, it is this 'paradigmatic policy shift'²¹⁰⁷ that has compounded intergenerational statelessness among their children born in the country. In 2020, it was estimated that more than 75,000 Rohingya children had been born in the Cox's Bazaar Refugee camp since 2017.²¹⁰⁸ 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,²¹⁰⁹ accounting for this, an additional 70,000 stateless children may have been born in Bangladesh in the past two years.

Bangladesh's birth registration rate was reported as 56% as of 2019²¹¹⁰, increasing to just 58% in 2022.²¹¹¹ Innovations to the CRVS model in 2021

contributed to increasing the birth registration rate to 83% in the first quarter of 2023.²¹¹² The Committee on the Elimination of Discrimination against Women has noted that women and children in the Rohingya community experience lower rates of birth registration, placing them at risk of statelessness.²¹¹³ Local private entrepreneurs involved in the data entry process have been reported to charge informal fees for facilitating the data entry of an application for registration.²¹¹⁴

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, accounting for this, an additional 70,000 stateless children may have been born in Bangladesh in the past two years.

Bhutan

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship law of Bhutan operates solely through *jus sanguinis* provisions, providing that a person is considered a citizen at birth if both of their parents are Bhutanese citizens, regardless of their place of birth.²¹¹⁵ There is no definition of statelessness included in the citizenship legislation of Bhutan.

The citizenship law of Bhutan operates solely through jus sanguinis provisions, providing that a person is considered a citizen at birth if both of their parents are Bhutanese citizens, regardless of their place of birth.

Naturalized citizenship

A person can apply for naturalization in Bhutan if they are 21 years of age, have lived in Bhutan for 20 years while registered in the records of the Department of Immigration and Census, “be able to speak, read and write Dzongkha proficiently”, “have good knowledge of the culture, customs, traditions, and history of Bhutan”, have good moral character, and “no record of having spoken or acted against the King, Country and People of Bhutan in any manner whatsoever”.²¹¹⁶ If the applicant has a Bhutanese parent, they can apply at the age of 15 with a reduced required residency period of 15 years.²¹¹⁷ There is no simplified or expedited process available for stateless persons or refugees.

Dual citizenship

Dual citizenship is not recognized in Bhutan.²¹¹⁸ In order to apply for naturalization, a foreign citizen must renounce their prior citizenship.²¹¹⁹

Treaty ratification status

Bhutan has the lowest rates of treaty ratification in South Asia, and some of the lowest rates across the Asia-Pacific, being one of only five countries that are party to two or less treaties. Bhutan has only ratified the CRC and CEDAW with no reservations. The country has also signed but not ratified the ICERD.

TABLE 53

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Bhutan	–	–	–	–	–	–*	✓	✓

* 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

Bhutan has the lowest rates of treaty ratification in South Asia, and some of the lowest rates across the Asia-Pacific, being one of only five countries that are party to two or less treaties.

In 2017, the CRC Committee recommended that Bhutan “dissociate birth registration from citizenship and simplify the birth registration procedure after the 12-month period”.²¹²⁰ Further, the Committee recommended ensuring that “single mothers can register their children and ensure that children born to either a Bhutanese mother or father, including in cases when the identity of the father cannot be ascertained, are granted Bhutanese citizenship”.²¹²¹ The Committee also stressed the need for negotiations to ensure the return or resettlement of children living in refugee camps in Nepal and reunite them with their families.²¹²² As a party to CRC, Bhutan is obligated to ensure all children the right to acquire a nationality as well as that every birth is registered immediately.²¹²³

During Bhutan’s Universal Periodic Review in 2019, Peru urged the country to eliminate discrimination against ethnic Nepali children, especially regarding access to education and citizenship.²¹²⁴ Germany also urged Bhutan to work with Nepal to resolve the status of Bhutanese refugees of Nepali origin.²¹²⁵ Several other states also provided similar conclusions for Bhutan.²¹²⁶ Bhutan commented on citizenship matters, stating that “there were clear procedures laid down for the acquisition of citizenship, irrespective of ethnicity, gender or religion”.²¹²⁷ The country

further stated that “more than 10,000 applicants had been granted citizenship since the enactment of the Constitution in 2008”.²¹²⁸

Population

Reported stateless persons

Bhutan reported zero stateless persons to UNHCR between the years of 2019 and 2022.²¹²⁹ UNHCR has identified Bhutan as a country which possesses information about stateless persons but lacks any reliable data.²¹³⁰ While there are no formally reported stateless populations there was concerted focus on the denationalisation and expulsion of Nepali speaking communities, the ‘Lhotshampa’, in the 1980s and -90s.²¹³¹ According to the U.S. State Department’s 2022 Human Rights Report, media and civil society have reported the existence of stateless children in Bhutan who are born to unwed mothers and unable to prove the identity of the child’s father.²¹³²

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Bhutanese citizenship law does not address access to citizenship for foundlings or children born to stateless parents. The lack of legal safeguards leaves children – particularly members of ethnic minority groups who have been denied

According to the U.S. State Department's 2022 Human Rights Report, media and civil society have reported the existence of stateless children in Bhutan who are born to unwed mothers and unable to prove the identity of the child's father.

citizenship — vulnerable to statelessness. The requirement under the citizenship law of Bhutan that both parents possess Bhutanese nationality has reportedly left some children born to unwed mothers who were unable to prove the identity of the father at the risk of statelessness.²¹³³

Citizenship stripping and discriminatory nationality laws

In the late 1980s, members of ethnic Nepali communities known as 'Lhotshampas' living in the south of the country were labelled as non-citizens through a census count, stripping them of their Bhutanese citizenship.²¹³⁴ In the early 1990s, the Bhutanese government began expelling persons from their land and the country with as many as 100,000 refugees arriving in Nepal during the 1990s. While most of this population has been resettled in the decades since, in 2022 approximately 6,365 persons remained in refugee camps in Nepal.²¹³⁵ The most recent estimates of the remaining population of Lhotshampas still living in Bhutan puts the population at 250,000.²¹³⁶

In the early 1990s, the Bhutanese government began expelling persons from their land and the country with as many as 100,000 refugees arriving in Nepal during the 1990s.

Administrative barriers

In Bhutan, in order to access services such as "public health care, employment, access to primary and secondary education, enrollment

at institutions of higher education, travel documents, and business ownership", stateless persons often have to show 'no objection certificates' and police security clearance certificates.²¹³⁷ Stateless persons are often unable to obtain such certificates, limiting their access to these services.²¹³⁸ Despite this, Bhutan's National Commission for Women and Children has stated that stateless children do have access to public education and health services.²¹³⁹

Bhutan has reported an 88% birth registration rate as of 2022.²¹⁴⁰ Children are given a Unique Citizenship Identity at birth which is generated immediately after the birth is registered.²¹⁴¹ Births in Bhutan must be registered within the first 21 days of the date of birth.²¹⁴² Documents required for birth registration include a notification of birth or birth document and the parents' Court Marriage Certificate and the child must be at or under one year of age.²¹⁴³ Registering a child after they have surpassed one year of age entails a lengthy process of gaining endorsement by local officials and justifying the reason for late registration.²¹⁴⁴ It appears that parents who are not married or do not have a Court Marriage Certificate are unable to register the birth of their child.²¹⁴⁵ If the parents do not have the Certificate, they must get their marriage endorsed by local authorities to register their child's birth.²¹⁴⁶ This, along with the added procedures for late registration, may present a barrier to birth registration in Bhutan. As the process of birth registration is directly linked to citizenship acquisition in Bhutan²¹⁴⁷, it could leave some children born to unwed parents or requiring late registration vulnerable to statelessness.

As the process of birth registration is directly linked to citizenship acquisition in Bhutan, it could leave some children born to unwed parents or requiring late registration vulnerable to statelessness.

India

Laws

Citizenship Law

Jus sanguinis provisions

Since 1987, access to Indian citizenship has operated 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 undocumented migrant.²¹⁴⁸ 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 considered citizens of another country.²¹⁴⁹ The law, however, fails to provide any *jus soli* safeguards to children who would otherwise be rendered stateless and devoids access to citizenship, by birth or descent, to any child if either parent is an "illegal immigrant" according to the law.²¹⁵⁰ There is no definition of a stateless person included in the citizenship legislation of India.

Since 1987, access to Indian citizenship has operated 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 undocumented migrant.

Further, there has been domestic and international attention regarding the impact of the *Citizenship Amendment Act* (2019) which provides a pathway to citizenship for undocumented migrants of certain religions from enumerated neighbouring countries. Notably, persons of Muslim faith are excluded from the operation of the Act.²¹⁵¹

Naturalized citizenship

Section 6 of the *Citizenship Act* (1955) provides for citizenship by naturalisation. To qualify, an individual must renounce prior citizenship upon acceptance of naturalization to India, have resided in India for 14 years immediately preceding the twelve months before making the application, and must know an Indian language, among other requirements.²¹⁵² India also requires reciprocity, meaning that an Indian citizen should be eligible for citizenship by naturalisation in the other country in order for citizens of that country to naturalize in India.²¹⁵³ The

required period of residence has been reduced to five years for persons from the Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh, or Pakistan as a result of the *Citizenship Amendment Act (2019)*.²¹⁵⁴ Stateless individuals are not eligible for the naturalization process, unless in exceptional cases at the discretion of the Central Government. An individual who has been categorized as an “illegal immigrant” or has renounced or been deprived of his citizenship previously also does not have access to naturalization provisions.²¹⁵⁵

Dual citizenship

India does not currently offer dual citizenship.²¹⁵⁶ A person seeking to become an Indian citizen must renounce citizenship of another country. However, the Government of India introduced a scheme for overseas citizenship in 2006. To reduce and prevent statelessness, the *Citizenship Rules (2009)* provide that an individual acquiring Indian citizenship needs to renounce their foreign citizenship only once their application for Indian citizenship has been sanctioned, providing a safeguard in case their citizenship application does not get approved.²¹⁵⁷

Treaty ratification status

While India has not yet ratified the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, or the 1951 Refugee Convention and its 1967 Protocol, it has ratified the ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations.

During its 4th Universal Periodic Review in 2019, India was advised to ratify the Conventions on Statelessness along with the Refugee Convention and take the necessary steps to implement them domestically.²¹⁵⁸ The recommendations also included a review of the National Register of Citizens to “avoid statelessness, deprivation or denial of nationality, arbitrary detentions or expulsions”.²¹⁵⁹ In the UN’s report submitted prior to the review, India was recommended to establish statelessness determination procedures to strengthen its framework for protection and assistance of stateless persons.²¹⁶⁰ It was also recommended that India expedite the naturalization for certain groups and extend the application of the *Citizenship Amendment Act (2019)* to other persecuted groups.²¹⁶¹ Further, “several special procedure mandate holders called on the authorities to take resolute action to review the implementation of the National Register of Citizens and other similar processes in Assam and in other states, and to ensure that they did not result in statelessness, discriminatory or arbitrary deprivation or denial of nationality, mass expulsion or arbitrary detention”.²¹⁶² Such arbitrary arrests and detention put India in violation of its obligations under ICCPR, which asks for a detention to not just be lawful, but also be “necessary, proportionate and reasonable.”²¹⁶³

In 2019, the CRPD Committee expressed concern about persons with disabilities, particularly Muslim persons with disabilities, detained in camps of Assam and rendered stateless.²¹⁶⁴ It recommended India to adopt measures for

It recommended India to adopt measures for reacquisition of nationality to those persons with disabilities rendered stateless as well as those in detention camps.

reacquisition of nationality to those persons with disabilities rendered stateless as well as those in detention camps.²¹⁶⁵

Children’s citizenship in India is determined by birth and requires at least one parent to be an Indian citizen and the other must not be an undocumented migrant.²¹⁶⁶ The *Citizenship Act* does not provide citizenship to stateless children. The Act is stated to not contain provisions explaining who it considers to be a parent or to clarify whether it includes different sets of parents of a child such as unmarried, adoptive, biological, or surrogate parents. The *Citizenship Act* does not cover foundlings with unknown parentage who are protected by Article 2 of the 1961 Convention which protects such children if there is no proof found to the contrary against them. While India is not a signatory to the 1961 Convention, it is a party to the CRC which requires that children be immediately registered after their birth and have a right to a nationality.²¹⁶⁷ The *Citizenship Act* is in direct contravention to India’s obligations under International Law.

Population

Reported stateless persons

In 2022, India reported a stateless population of 21,591 persons.²¹⁶⁸ UNHCR has noted that this

figure covers only Rohingya refugees registered with the UNHCR and is not an estimate of the entire stateless population in India.²¹⁶⁹

In the Lok Sabha (the lower house of India’s bicameral Parliament) in 2021, the Central Government through the Ministry of Home Affairs has stated that it does not maintain data at a central level of foreigners who have entered India without valid travel documents claiming to be refugees, asylum seekers or stateless persons and that they are governed by the provisions of the *Foreigners Act*.²¹⁷⁰ This is in contrast with the position it took the Ministry took in 2014 when it informed the Lok Sabha that there were 10,340 such persons from Afghanistan, 4,621 persons from Myanmar, 102,241 persons from Sri Lanka and 101,148 stateless persons including Tibetans.²¹⁷¹

In the Lok Sabha (the lower house of India’s bicameral Parliament) in 2021, the Central Government through the Ministry of Home Affairs has stated that it does not maintain data at a central level of foreigners who have entered India without valid travel documents claiming to be refugees, asylum seekers or stateless persons and that they are governed by the provisions of the Foreigners Act.

Persons at risk of statelessness

There are a number of different populations groups in India at risk of statelessness including Tibetan and Sri Lankan refugees, Bengali Muslims in Assam, ethnic minority groups living in border regions (including the Chakma, Hjong and Kutchi communities) and former Kashmiri militants.²¹⁷²

TABLE 54

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
India	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕

⊕ 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 55

Reported stateless persons to the UNHCR

Country	2019 (year start) ²¹⁷³	2020 (year end) ²¹⁷⁴	2021 (year end) ²¹⁷⁵	2022 (year end) ²¹⁷⁶
India	17,730	18,174	20,154	21,591

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

Stateless Refugees

India's entire reported stateless population of 21,591 people consists of stateless Rohingya refugees from Myanmar.²¹⁷⁷ Human Rights Watch has estimated that Rohingya registered with UNHCR represent half of the total population of 40,000 Rohingya refugees in India.²¹⁷⁸ With continually tightening restrictions of refugees within India, many fear that the population will face deportation to Myanmar.²¹⁷⁹ Additionally, based on the most recent census conducted by the Central Tibetan Relief Committee 73,404 Tibetan refugees reside in India.²¹⁸⁰ While some Tibetan refugees in India have gained citizenship through previous schemes, many remain stateless, frequently by choice.²¹⁸¹ More than 92,120 Sri Lanka refugees still reside in India, many of whom lack identity documents and birth registration and may be at risk of statelessness.²¹⁸²

Undetermined nationalities

Enhanced focus has been given in recent years to the situation in Assam following the publication of the state's National Register of Citizens in 2019 which excluded over 1.9 million Assamese, leaving them labelled as foreigners or 'D voters' and the validation of their citizenship left at the hands of the foreigners' tribunals.²¹⁸³ 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.²¹⁸⁴ Another 123,829 cases remain

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, persons of Islamic faith are excluded from the amendment, an act labelled by numerous commentators as being discriminatory on religious grounds.

pending before the tribunals.²¹⁸⁵ There are some recent unverified reports that as of August 2022, this figure may have drastically increased to 30,000 persons.²¹⁸⁶

Causes of Statelessness

Discriminatory nationality laws

As outlined in the Myanmar chapter, the statelessness of the Rohingya community is largely caused by ethnic discrimination embedded in the citizenship laws of Myanmar.²¹⁸⁷ The stateless status of Rohingya in India is further protracted by their discriminatory exclusion from the application of 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, persons of Islamic faith are excluded from the amendment, an act labelled by numerous commentators as being discriminatory on religious grounds.²¹⁸⁸

The *Citizenship Amendment Act* further limits pathways to citizenship for persons of Muslim faith declared foreigners by the NRC process.²¹⁸⁹ The *Passport Act* (1967) also has implications for persons who are stateless or at the risk of becoming stateless. Section 6(2)(a) of the Act allows the issuing authority to refuse to issue a passport if the applicant is not a citizen of India or if the issuance of a passport will be against public interest.²¹⁹⁰ Section 12 of the Act prescribes the offences and penalties for persons who are not citizens of India and who apply for a passport or obtain one by suppressing information about their nationality or hold forged passports or travel documents with imprisonment for a minimum of one year and a maximum of five years, with a fine. This Act also provides the designated customs officer the power to make arrests based on "reasonable

suspicion" and conduct searches at any place and seize a passport or any travel document based on it.²¹⁹¹ The implication of this provision is that a person suspected of being a stateless person residing in India or an undocumented migrant can face harassment, be arrested, sent to jail and be forced to pay a significant fine.

Lack of legal safeguards against childhood statelessness

The citizenship laws of India do not address access to citizenship for foundlings or children born to stateless parents. Avenues to citizenship for children born to stateless persons could provide protection for children born to stateless refugees within India including the Rohingya from Myanmar. The lack of legal safeguards for stateless individuals remain persistent as India has not ratified either of the Conventions on Statelessness, which leaves the status of stateless persons unrecognised. Further, the law groups together all non-citizens, including stateless persons, refugees, and asylum seekers, as foreigners despite their needs being different from each other.²¹⁹²

The citizenship laws of India do not address access to citizenship for foundlings or children born to stateless parents.

Citizenship stripping

The history of the National Register of Citizens in Assam is politically complex and driven by ethnic and religious tension spanning back to the early 1900s.²¹⁹³ The first National Register of Citizens in Assam was undertaken in 1951, and through the modern process residents of Assam have to evidence their family lineage to Assam prior to 1971 (when Bangladesh gained independence from Pakistan) to be included in the registry of citizenship. 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.²¹⁹⁴ As noted above, between 2017 to 2022, 14,346 individuals have been deported from India with 32,381 individuals being declared as foreigners.²¹⁹⁵

The right to appeal a decision given by the Foreigners Tribunal exists, as the individual can file an appeal to the High Courts and Supreme Court, respectively. However, the scope of judicial review in such cases was limited by the case of *State of Assam v. Moslem Mandal* (2013), where the High Court denied reviewing the fact-finding undertaken by the tribunals and limited themselves to reviewing apparent errors of law.²¹⁹⁶ It has been noted that the cases of citizenship involve gross fact-finding errors by investigating authorities and the lack of due process followed by Foreigner Tribunals results in a case where the scope of appeal in cases of citizenship deprivation becomes very narrow.²¹⁹⁷

Administrative barriers

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.²¹⁹⁸ The burden of documentary evidence (which is a non-exhaustive list of documentation) placed on a 'doubtful' individual to prove their citizenship displays the highly arbitrary nature of proceedings in the quasi judicial tribunals. These administrative and documentary requirements placed on persons excluded from the National Register of Citizenship have acted as a barrier to the verification of thousands who have lost or had destroyed relevant documents due to relocation and flooding.²¹⁹⁹ The *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, among other documentation.²²⁰⁰ However, Foreigner Tribunals have often not accepted a birth certificate as proof of birth *ipso facto* in the absence of tangible evidentiary connection to an ancestor whose residence can be traced to Assam prior to 1971. India reported an 89% birth registration rate in 2021.²²⁰¹

These administrative and documentary requirements placed on persons excluded from the National Register of Citizenship have acted as a barrier to the verification of thousands who have lost or had destroyed relevant documents due to relocation and flooding.



Maldives

Laws

Citizenship Law

Jus sanguinis provisions

Citizenship legislation 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.²²⁰² Maldives citizenship laws, however, contain religious discriminatory provisions, as the *Constitution of the Republic of Maldives* states in Article (9)(d) that “a non-Muslim may not become a citizen of the Maldives”.²²⁰³ Despite the apparent gender neutrality of the *Constitution* and the *Maldivian Citizenship Act*, in 2021 the CEDAW raised their concern that the law “established different conditions for women and men as regards the transmission of nationality depending, notably, on religion and marital status”.²²⁰⁴ There is no definition of statelessness included in the Maldives citizenship legislation.

Citizenship legislation 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.

Naturalized citizenship

A person may apply for Maldivian citizenship if they are Muslim and have resided in the Maldives for at least 12 years continuously among other requirements.²²⁰⁵ There is no simplified or expedited process available for stateless persons or refugees.

Dual citizenship

Dual citizenship is permitted in the Maldives.²²⁰⁶ There are no additional conditions imposed for Maldivian citizens to acquire dual citizenship.²²⁰⁷

Treaty ratification status

The Maldives is a party to ICCPR, ICESCR, ICERD, CRC, and CEDAW, but is yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on

TABLE 56**Status of Accession of International Human Rights Treaties in South Asia**

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Maldives	–	–	–	✓	✓	✓	✓	✓

✓ 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

the Reduction of Statelessness, and the 1951 Refugee Convention and its 1967 Protocol. On its ratification of ICCPR, the Maldives notably made a reservation under Article 18, which ensures the right to freedom of thought, conscience and religion.²²⁰⁸ The country also made a reservation on Article 14 of CRC, which ensures the same rights to children.²²⁰⁹

In 2016, the CRC Committee noted concerns over the provision in the *Constitution* which excludes non-Muslims from obtaining Maldivian citizenship.²²¹⁰ On this, the Committee urged the Maldives to “ensure that all children within its jurisdiction enjoy all the rights enshrined in the Convention without discrimination”.²²¹¹ The Committee further recommended that the country amend its citizenship legislation to “eliminate any discrimination against girls, children born out of wedlock or following out-of-court marriages, and lesbian, gay, bisexual, transgender or intersex children”.²²¹² By ratifying CRC, the Maldives is obligated to ensure timely registration of all births and that all children enjoy the right to acquire a nationality.²²¹³

The CEDAW Committee expressed concern in 2021 regarding the different conditions for conferring nationality based on gender and the “lack of information on stateless women and girls” in the country.²²¹⁴ The Committee recommended that the Maldives revise its citizenship legislation to ensure gender equality with regard to conferring citizenship and further develop mechanisms to identify and protect stateless women and girls.²²¹⁵ In 2015, the Committee also

highlighted the issue of legislative provisions that “establish different conditions for women and men as regards the transmission of nationality depending, notably, on religion and marital status, which may have a disparate impact on children born out of wedlock to foreign mothers”.²²¹⁶ In relation to this, the Committee recommended that the Maldives amend citizenship legislation to ensure women and men have equal rights in conferring nationality, especially concerning religion and marital status.²²¹⁷ On CEDAW, the Maldives notably made a reservation on Article 16, which ensures gender equality in marriage and family relations.²²¹⁸ Under Article 9 of CEDAW, which the Maldives is bound to, protects gender equality in nationality laws.²²¹⁹

In a recent joint UPR submission by ISI, the Maldives was recommended to reform legislation to remove provisions that discriminate on the ground of religion; ensure that all children born in the country, including those of non-Muslim parents, are registered at birth without discrimination; take action to address human trafficking and forced labor; withdraw its reservations to the ICCPR, CEDAW, and CRC; and accede to the Statelessness Conventions.²²²⁰

Population

Reported stateless persons

The Maldives has not reported on its stateless population to UNHCR in 2022 or preceding years.²²²¹ There is a lack of comprehensive and

reliable information on the stateless population in the Maldives.²²²² The CEDAW has expressed concern regarding the lack of available information regarding statelessness among women and girls within the Maldives.²²²³

Causes of Statelessness

Discriminatory nationality laws

UNHCR, the CERD, and the Periodic Working Group of the Universal Periodic Review have expressed concern about religious discrimination in the Maldives citizenship laws due to the requirement that all Maldivians be Muslim under the *Constitution*.²²²⁴ As noted above, CEDAW has noted the unequal treatment of women in conferral of nationality.²²²⁵

Lack of legal safeguards against childhood statelessness

Maldivian citizenship law does not provide access to citizenship for foundlings or children born to stateless parents.

Administrative barriers

As of 2017, the Maldives has reported a 99% birth registration rate.²²²⁶ Despite the high reported numbers in the birth registration rate, discriminatory practices on the basis of religion act as a barrier to several groups accessing birth registration. Registered births in the Maldives often only include children born to Muslim parents due

to the lack of religious freedom in the country and the births of children born to non-Muslim parents often remain unregistered.²²²⁷ Further, the lack of recognition for inter-religious marriages and a prevalence of non-recognised unions (including child marriages) leaves children born to parents in these scenarios unregistered.²²²⁸ Children born to one foreign parent have also experienced refusal of birth registration.²²²⁹ The US Department of State included in its 2022 Human Rights Report that there have been reported cases of parents who married outside of the country that are unable to register the birth of their child born in the country.²²³⁰ Children who remain unregistered experience denial of education as they are unable to provide identity documentation in order to enroll in school or access government services.²²³¹

Despite the high reported numbers in the birth registration rate, discriminatory practices on the basis of religion act as a barrier to several groups accessing birth registration.

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.²²³² Given the Maldives comprises low-lying islands, the risk of displacement as a result of climate change and rising sea levels is high.²²³³ In order to engage in solutions to this complex reality, the Maldives could consider ratifying the Stateless Conventions.²²³⁴

Nepal

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship legislation of Nepal operates through *jus sanguinis* provisions, which contain gender discriminatory elements. Nepal citizenship legislation is governed by both the 2015 *Constitution of Nepal* and the 2006 *Nepal Citizenship Act* which provides that a person born to a Nepali father or mother shall have citizenship by descent.²²³⁵ Despite a provision specifically providing men and women equal rights to confer citizenship to their children, the subsequent provisions in the constitution curtail the rights of women and further categorize children based on the nationality or traceability of the father.²²³⁶ There is no definition of statelessness included in Nepal’s citizenship law.

The citizenship legislation of Nepal operates through jus sanguinis provisions, which contain gender discriminatory elements.

The *Nepal Citizenship (First Amendment) Bill (2079)* provided pathways for previously excluded groups to gain citizenship.²²³⁷ Despite the President of Nepal twice refusing to sign the amendment, it was finally enacted in May 2023.²²³⁸ While the amendment has generally ensured wider access to citizenship, it still contains gender discriminatory aspects which are discussed in greater depth below.²²³⁹

Naturalized citizenship

Only foreign citizens who have made a significant contribution to Nepal or foreign women who have married a Nepali man can apply for naturalization.²²⁴⁰ The law also states that a person born to a woman who is a citizen of Nepal and married to a foreign citizen may acquire naturalized citizenship of Nepal.²²⁴¹ There is no process of naturalization available to stateless persons or refugees.

Dual citizenship

Dual citizenship is not recognized in Nepal. A Nepali citizen who acquires another citizenship will automatically lose their

Nepali citizenship.²²⁴² Foreign citizens applying for naturalization must first renounce their foreign citizenship²²⁴³, which could leave them at risk of statelessness if their application is denied and they cannot reacquire the citizenship of their former country, as there are no provisions that prevent such a situation from arising.

Treaty ratification status

Nepal has ratified ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. However, the country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1951 Refugee Convention and its 1967 Protocol.

In 2014, the CRC Committee expressed concerns regarding the low birth registration rate in the country, especially in rural areas and for women who are faced with barriers to registration.²²⁴⁴ The Committee further highlighted that Nepal’s citizenship legislation includes gender discriminatory provisions and that there is no provision providing citizenship for those in Nepal who would otherwise be stateless.²²⁴⁵ It was recommended that Nepal ensure universal birth registration by amending its *Birth, Death and Other Personal Incidents Registration Act*, establish an efficient and free birth registration system, remove barriers to birth registration and eliminate gender discrimination in its nationality legislation.²²⁴⁶ These recommendations were echoed by the CRC Committee in 2016, adding

that Nepal should seek assistance from UNICEF and civil society to fulfil their obligations.²²⁴⁷

The issue of Nepali women’s limited ability to confer citizenship to their children was also mentioned by the CESCR Committee in 2014.²²⁴⁸ The Committee recommended awareness raising among local authorities to ensure that legislation is implemented effectively.²²⁴⁹ The CRC Committee also expressed concerns in 2016 regarding the childhood statelessness of children born to a Nepali mother and foreign father who are unable to gain citizenship until they reach adulthood.²²⁵⁰ It was recommended that Nepal ensure that the acquisition of Nepali citizenship by descent is accessible to children at birth.²²⁵¹

In 2018, the CEDAW Committee also raised concern over denial of citizenship certificate and registration of children born to single mothers, which it added denies such women and their children access to bank accounts, a driver’s license, voting, managing their property, education, acquiring travel documents, applying for employment in the public sector and benefiting from social services.²²⁵² The Committee added that along with a high number of persons at risk of statelessness, Nepal has given no timeline for its ratification of the Stateless Conventions.²²⁵³ Nepal was recommended to conduct citizenship certificate distribution campaigns and accede to the Stateless Conventions.²²⁵⁴ The Committee also recommended that Nepal “amend or repeal all discriminatory provisions in its [*Constitution*] that are contradictory to Article 9(2) of the Convention

TABLE 57

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Nepal	⊖	⊖	⊖	✓	✓	✓	✓	✓

✓ 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

[which ensures gender equality in nationality law²²⁵⁵] to guarantee that Nepali women may confer their nationality to their children, as well as to their foreign spouses, under the same conditions as Nepali men, whether they are in the country or abroad.²²⁵⁶ In Nepal’s 2021 follow-up to the concluding observations, the country stated that “the [Constitution] ensures equality between men and women with respect to acquiring, retaining, and transferring of citizenship” and that “this also equally applies to their children”.²²⁵⁷ Nepal also expressed that the “[Citizenship Amendment Bill] has also been submitted in the Federal Parliament”.²²⁵⁸ In response to this, the Rapporteur stated that Nepal has yet to repeal the discriminatory provisions of the Constitution and found that the recommendation has not been implemented.²²⁵⁹ While Nepal has enacted the *Nepal Citizenship (First Amendment) Bill (2079)* to amend gender discrimination since these concluding observations, as discussed above, remaining gender discriminatory provisions still deny Nepali women equal rights to confer citizenship.²²⁶⁰

While Nepal has enacted the Nepal Citizenship (First Amendment) Bill (2079) to amend gender discrimination since these concluding observations, as discussed above, remaining gender discriminatory provisions still deny Nepali women equal rights to confer citizenship.

In its 2018 concluding observations, the CERD Committee expressed concern over government officials who have reportedly discouraged Dalits from applying for citizenship.²²⁶¹ Further, it highlighted that Madhesis of the Terai region who acquired citizenship by birth prior to the promulgation of the *Constitution* in 2015 have not been able to confer citizenship by descent to their children, which violates article 11(3) of the *Constitution*.²²⁶² Article 11(3) of the *Constitution* states that “a child of a citizen having obtained the citizenship of Nepal by birth prior to the commencement of Nepal shall, upon attaining

majority, acquire the citizenship of Nepal by descent if the child’s father and mother both are citizens of Nepal”.²²⁶³ The Committee recommended that Nepal establish clear procedures for issuing citizenship certificates without discrimination, that applications are decided upon in a timely manner with written notification to the applicant of the reason for denial of citizenship, and that there be a complaint mechanism for those who receive a negative decision.²²⁶⁴ With the enactment of the *Citizenship Regulations* in 2023, some of these concerns have been addressed.²²⁶⁵

In Nepal’s 2020 UPR submission, the country reiterated that its *Constitution* “ensures equality between men and women with respect to acquiring, retaining and transferring of citizenship” and that its *Citizenship Act* “fully recognizes and protects equal status of Nepali women while granting citizenship”.²²⁶⁶ In the same session, four states (Canada, Finland, Germany and Panama) urged Nepal to amend its gender discriminatory provisions with regard to citizenship.²²⁶⁷ In a joint submission for the same session, stakeholders recommended that Nepal:

- ◆ “Take all necessary measures in line with obligations under the CRC and ICCPR to grant Nepali citizenship without delay to all children residing in the State party who would otherwise be stateless, particularly children born to Nepali mothers, and implement adequate safeguards to protect all children from statelessness”;
- ◆ “Review and improve the current application process for citizenship certificates and simplify the process with a view to expediting it and making it more accessible to all applicants”;
- ◆ “Review and enhance the transparency of the system for reviewing and granting applications for citizenship and reduce the discretionary threshold for such decisions, so that citizenship certificates are granted upon meeting the relevant criteria”

- ◆ “Create a process to provide training to District Administration Offices on the provision of citizenship certificates, and establish a complaint or review mechanism in case of denial of citizenship application or discriminatory practices by civil servants”;
- ◆ “Conduct a comprehensive study on the state of statelessness of minority and lower-caste groups, and ensure that caste-based discrimination does not result in denial of citizenship”;
- ◆ “Find durable solutions for the enduring statelessness of intergenerational refugee populations in Nepal”; and
- ◆ “Accede to and fully implement the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness”.²²⁶⁸

not all necessarily stateless, UNHCR has been working closely with the Government of Nepal and partners to address the situation”.²²⁷² In 2021, it was estimated that approximately 6.3 million people in Nepal lacked citizenship documentation, which consists of 25% of the population over the age of 16.²²⁷³

While there is a lack of accurate estimates on the number of persons affected by statelessness in the country, it is likely in the hundreds of thousands.²²⁷⁴ In 2011, UNHCR estimated the population to be as high as 800,000 affected persons, a figure which was rejected by the Government of Nepal.²²⁷⁵ The large number of people affected by statelessness in Nepal can be attributed to patriarchal structures combined with discriminatory attitudes of officials in providing documentation, “a discriminatory, caste-based system, and the failure to provide a durable solution to long-term refugees and protect their children’s right to nationality”.²²⁷⁶

Persons at risk of statelessness

Ethnic minority groups including Dalit and Madheshi communities in Nepal face issues of accessing citizenship and identity documents and are at risk of statelessness.²²⁷⁷ For the Dalit community, discrimination, lack of awareness, and poverty have acted as barriers to accessing citizenship.²²⁷⁸

In 2011, UNHCR estimated the population to be as high as 800,000 affected persons, a figure which was rejected by the Government of Nepal.

Population

Reported stateless persons

Nepal reported 452 stateless persons to UNHCR in 2022, a decrease of 13 people from the reported numbers in 2021.²²⁶⁹ This population is entirely composed of stateless Rohingya refugees, with UNHCR noting that they have information regarding the *in situ* stateless population but lack any reliable data.²²⁷⁰ In 2020, Nepal reported zero stateless persons, however, it was noted that there were 371 reported stateless Rohingya refugees in that year.²²⁷¹ UNHCR has noted that a “large number of individuals lack citizenship certificates in Nepal” and that “while these individuals are

TABLE 58

Reported stateless persons to the UNHCR

Country	2019 (year start) ²²⁷⁹	2020 (year end) ²²⁸⁰	2021 (year end) ²²⁸¹	2022 (year end) ²²⁸²
Nepal	–	–	465	452

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

Undetermined nationalities

UNHCR has noted that “various studies estimate that a large number of individuals lack citizenship certificates in Nepal. While these individuals are not necessarily all stateless, UNHCR has been working closely with the Government of Nepal and partners to address this situation.”²²⁸³ In 2016 the Forum for Women, Law and Development projected that by 2021 as many as 6.7 million people would be without citizenship.²²⁸⁴

Stateless Refugees

All of the 452 reported stateless persons in Nepal are Rohingya refugees from Myanmar.²²⁸⁵ Additionally, the US Department of State reported that 6,365 Bhutanese refugees remain in Nepal, many of whom are stateless.²²⁸⁶

Causes of Statelessness

Discriminatory nationality laws

There has been consistent advocacy and scrutiny around Nepal’s gender discriminatory citizenship laws at a domestic level as well as a focus on international academics and organisations.²²⁸⁷ Despite the 2023 amendment which removed some gender-discriminatory aspects of Nepal’s citizenship legislation, several groups still face discriminatory barriers in accessing citizenship. Previously, a child born to a single Nepali citizen mother would only gain citizenship by descent when the father was not identified only through a court order.²²⁸⁸ The changes provided that children born to single mothers and citizens by birth may obtain Nepali citizenship, however,

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.

extra conditions remain for single mothers to confer citizenship to their children.²²⁸⁹ For children born to a single mother whose husband cannot be traced, citizenship may only be conferred by the mother if she or the child signs a self-declaration to declare that the father is in fact not traceable. The law further dictates that if the details provided are found to be false, they may be punished by 3 years in prison and the citizenship of the child will be revoked.²²⁹⁰

The amendment also stipulated that a child born to a foreign man and Nepali woman can acquire naturalized citizenship even if not born within the territory.²²⁹¹ There are no such provisions allowing Nepali women to confer nationality to a foreign spouse. In instances where a child is born to a Nepali citizen mother and a foreign father, citizenship can only be acquired through naturalisation (where children born to citizen fathers gain citizenship by descent). Such naturalized citizenships depend on the discretion of the Ministry of Home Affairs and till date very few people have received such citizenships.²²⁹² The effectiveness of implementation of the new protective measures included in the amendment are yet to be seen. As many as 400-500,000 persons are estimated to have been rendered stateless due to discriminatory provisions in Nepal.²²⁹³

There are no such provisions allowing Nepali women to confer nationality to a foreign spouse.

Lack of legal safeguards against childhood statelessness

The citizenship law of Nepal provides that foundling children are considered citizens by descent until their father or mother is identified.²²⁹⁴ Nepali citizenship laws do not address access to citizenship for children of stateless parents. Children unable to access citizenship under the gender discriminatory provisions in Nepal’s citizenship law are not protected from statelessness.

Administrative barriers

Administrative and policy barriers affect the ability of marginalized groups, including the LGBTQIA+ community, women, and Dalit and Madheshi communities, from accessing citizenship certificates.²²⁹⁵ Children born to and/or living with single mothers continue to face a number of administrative barriers in gaining birth registration and citizenship certificates.²²⁹⁶

Aside from the discriminatory provisions of citizenship legislation in Nepal, the implementation of such legislation has also been found to be discriminatory.²²⁹⁷ 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.²²⁹⁸ Further, the same discriminatory discretion is seen in distribution of birth certificates, causing a lack of birth certificates among such marginalized

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.

groups which presents another barrier in accessing citizenship.²²⁹⁹ The cost of obtaining the required documents for application of citizenship is also a barrier to some.²³⁰⁰ The lack of a citizenship certificate leads to exclusion from a wide range of political, social, civil, and economic rights as the document is required to participate in many facets of public life as well as to obtain other identity documents.²³⁰¹ For example, a citizenship certificate is the only way to confirm a person’s identity in order to register to vote, which means that those without it do not enjoy the right to vote.²³⁰² Further, children are unable to enroll in the education system without a citizenship certificate.²³⁰³ During the COVID-19 pandemic, citizenship certificates were also required for accessing relief packages, leaving these groups more vulnerable to the impacts of the pandemic.²³⁰⁴

Not having a citizenship certificate can even prevent birth registration of the affected persons children, perpetuating the cycle of lack of documentation.²³⁰⁵ The birth registration rate in Nepal was reported at 77% in 2019.²³⁰⁶

Not having a citizenship certificate can even prevent birth registration of the affected persons children, perpetuating the cycle of lack of documentation.

Pakistan

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The citizenship law of Pakistan, stipulated by *The Pakistan Citizenship Act (1951)*, operates through both *jus sanguinis* and *jus soli* provisions. *Jus sanguinis* provisions provide that a child born outside of Pakistan to a Pakistani citizen by birth automatically acquires Pakistani citizenship, while those born to a citizen by descent must register the birth.²³⁰⁷ There is no definition of a stateless person or statelessness in Pakistan's citizenship legislation.

The citizenship law of Pakistan, stipulated by The Pakistan Citizenship Act (1951), operates through both jus sanguinis and jus soli provisions.

Pakistan's *jus soli* provisions have 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 (despite the terminology used being "enemy aliens").²³⁰⁸ This interpretation has broadly limited the application of the *jus soli* provisions to exclude children born to foreigners (or 'aliens') in the territory.²³⁰⁹ The provision has resulted in discretionary implementation of the *jus soli* provision which has excluded a number of groups from accessing citizenship by birth.²³¹⁰ However, recent court decisions have begun to address these implementation issues. A High Court ruling in 2022²³¹¹ and a Supreme Court decision in 2023²³¹² both ruled that all children born in Pakistan are entitled to Pakistani citizenship by birth. The High Court ruling in 2022 resulted from the hearing of the case of an Afghan refugee born in Pakistan who applied for citizenship in the Court.²³¹³ The Court ordered that the Afghan refugee be granted Pakistani citizenship and that only a birth certificate is needed to certify Pakistani citizenship.²³¹⁴ However, the implementation of this ruling is

A High Court ruling in 2022 and a Supreme Court decision in 2023 both ruled that all children born in Pakistan are entitled to Pakistani citizenship by birth.

highly questionable due to lack of political will.²³¹⁵ The 2023 Supreme Court decision is discussed in further depth below.

Naturalized citizenship

In order to be eligible for naturalization in Pakistan, the applicant must have resided in Pakistan for one year prior to application and during the 7 years before that one year, must have resided in the country for a total of 4 years, among other requirements.²³¹⁶ There is no simplified or expedited procedure available for stateless persons or refugees.

Dual citizenship

Dual citizenship is generally not permitted in Pakistan²³¹⁷. Pakistani citizens who acquire another citizenship renounce Pakistani citizenship.²³¹⁸ However, dual citizenship is permitted for 21 countries which Pakistan has dual nationality agreements with.²³¹⁹ Previously, Pakistani diaspora who had renounced their Pakistani citizenship in order to acquire citizenship of another country who Pakistan later entered into a dual nationality agreement with had no avenue to reacquire their Pakistani citizenship.²³²⁰ With the enactment of the *Pakistan Citizenship (Amendment) Bill (2022)*, Pakistani diaspora can now reacquire Pakistani citizenship in this scenario.²³²¹

Treaty ratification status

Pakistan is a party to all five core human rights treaties (ICCPR, ICESCR, ICERD, CRC, and CEDAW) with no relevant reservations, but has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention

on the Reduction of Statelessness, and the 1951 Refugee Convention and its 1967 Protocol.

In 2017, the Human Rights Committee expressed concerns regarding Pakistan's low birth registration rate, recommending the country to intensify its efforts to ensure all children are registered at birth.²³²² The same concerns were expressed in 2017 by the CESCR Committee and in 2016 by the CRC Committee.²³²³ The CRC Committee recommended that Pakistan ensure the timely registration of births for all children, including those from marginalized groups who experience lower access to birth registration such as children born out of wedlock and refugee and internally displaced children.²³²⁴ The Committee further recommended the country to remove fees required for birth registration, implement mobile registration units, and "ensure that children lacking identity documents are not refused access to education, health and public services".²³²⁵ As a party to CRC, Pakistan is responsible for ensuring that all births are registered immediately, that no child be left stateless, and that all children have the right to acquire a nationality.²³²⁶

With regards to Afghan refugees, the CESCR Committee also recommended that Pakistan allow unregistered Afghans to obtain legal residential status, investigate and bring justice to cases of police abuse against unregistered Afghans, and facilitate the protection of refugees, asylum seekers, and stateless persons through legislation and policy.²³²⁷ The CRC Committee also expressed concern in 2016 regarding the lack of registration of refugee children in Pakistan which limits their access to education and leaves them

TABLE 59

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Pakistan	⊖	⊖	⊖	✓	✓	✓	✓	✓

✓ 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

The CERD Committee highlighted the issue of lack of identity documents among Gypsies (Roma) in Pakistan, which has resulted in their lack of access to “employment, social protection benefits, health-care services, education and other public services”.

vulnerable to abuse, trafficking, and religious radicalization.²³²⁸ The CRC Committee was also concerned about children from Bengali, Bihari, and Rohingya communities who remain stateless and about the “lack of a legal framework for refugees and stateless persons”.²³²⁹ Pakistan was recommended to adopt a national refugee law, ensure that all children born to refugees are registered at birth, include such children in national and provincial education systems, and “ensure the equal implementation of its citizenship laws to extend citizenship to Bengali, Bihari and Rohingya children”.²³³⁰

The CERD Committee highlighted the issue of lack of identity documents among Gypsies (Roma) in Pakistan, which has resulted in their lack of access to “employment, social protection benefits, health-care services, education and other public services”.²³³¹ The Committee further recommended that Pakistan provide information on the situation of this population in its next periodic report.²³³²

In its concluding observations in 2020, the CEDAW Committee expressed concern regarding the extra conditions placed on Pakistani women conferring citizenship to a foreign spouse compared to Pakistani men.²³³³ The Committee recommended that Pakistan amend section 10 of the *Citizenship Act* to ensure gender equality in nationality laws²³³⁴, which Pakistan is obligated to under its ratification of CEDAW.²³³⁵ It was further recommended that Pakistan accede to the Statelessness Conventions.²³³⁶

In a joint UPR submission made in 2023, the co-submitters also recommended that Pakistan accede to the Stateless Conventions, as well as amend section 10 of the *Citizenship Act* to ensure

gender equality in nationality laws, expand the interpretation of Pakistan’s *jus soli* provision, and to ensure equal implementation of its citizenship laws to prevent statelessness among Bengali, Bihari, Rohingya and other stateless groups.²³³⁷

In 2020, UNHCR partnered with a national partner in Pakistan to implement UNHCR Pakistan’s Protection and Solutions Strategy 2019-2021.²³³⁸ The Strategy was intended to implement interventions including improving access to services and rights by granting Pakistani citizenship, “sensitization of diverse stakeholders”, and advocating for Pakistan to accede to the Statelessness Conventions.²³³⁹ These interventions included providing legal advice to affected individuals on how to acquire identity documentation.²³⁴⁰ As a result, a significant number of people have been able to obtain identity documentation.²³⁴¹ However, Pakistan has yet to accede to the Statelessness Conventions.

These interventions included providing legal advice to affected individuals on how to acquire identity documentation. As a result, a significant number of people have been able to obtain identity documentation.

Population

Reported stateless persons

There is a lack of reliable statistics on the stateless population in Pakistan as estimates by government agencies vary widely.²³⁴² Pakistan reported a population of 55 stateless persons to UNHCR in 2022.²³⁴³ Statelessness is prevalent among ethnic Bengalis, Afghan refugees, Urdu-speaking Biharis and Rohingyas²³⁴⁴, with unofficial stateless population estimates contrasting greatly from the government-reported number at as high as 3 million people (comprising approximately 2 million ethnic Bengalis and as many as 1.4 million Afghan Refugees).²³⁴⁵ Pakistan also hosts a large number of undocumented persons, of which many are stateless or at risk of statelessness.²³⁴⁶

TABLE 60

Reported stateless persons to the UNHCR

Country	2019 (year start) ²³⁴⁷	2020 (year end) ²³⁴⁸	2021 (year end) ²³⁴⁹	2022 (year end) ²³⁵⁰
Pakistan	–	–	47	55

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

Persons at risk of statelessness

The Hazara ethnic minority community in Pakistan has previously faced discrimination in receiving passports.²³⁵¹ However, in 2023, the Supreme Court, as a response to growing protest from the Hazara community ruled that all children born in Pakistan have the right to citizenship by birth.²³⁵² Previously, the Hazara community were required to get a signature from a member of the National Assembly in order to be issued a passport.²³⁵³ Over 6 million people of the Hazara ethnic group reside in Pakistan.²³⁵⁴ The Gypsy (Roma) community may also be at risk of statelessness in Pakistan due to lack of identity documentation and access to services.²³⁵⁵

Stateless Refugees

In 2021 Pakistan reported 47 stateless refugees to UNHCR.²³⁵⁶ However, this figure sits far below reported estimates by independent bodies and journalists of between 55,000 and 500,000.²³⁵⁷ A recent statement by a spokesperson for the Pakistani Foreign Office suggested that as many as 400,000 Rohingya refugees may be in Pakistan.²³⁵⁸ A joint UPR submission for Pakistan highlighted that around 400,000 to 500,000 Rohingya refugees have been reported in the country.²³⁵⁹ Much of the Rohingya population in Pakistan have been impacted by the separation of east and west Pakistan and the subsequent creation of Bangladesh.²³⁶⁰

In 2021 Pakistan reported 47 stateless refugees to UNHCR. However, this figure sits far below reported estimates by independent bodies and journalists of between 55,000 and 500,000.

Both Rohingya and Afghan refugees have been excluded from efforts to provide Pakistani citizenship to stateless persons.²³⁶¹ Afghan refugees in Pakistan have experienced harassment and discrimination as well as a lack of citizenship rights in Pakistan.²³⁶² As many Afghan refugees arrived in Pakistan decades ago, much of the population is experiencing intergenerational statelessness and have been born and raised in Pakistan.²³⁶³ However, limited research is available on the current status of Afghan refugees in Pakistan.²³⁶⁴

Both Rohingya and Afghan refugees have been excluded from efforts to provide Pakistani citizenship to stateless persons.

Undetermined nationalities

Bengali speaking and Bihari communities hold an uncertain status in Pakistan, 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.²³⁶⁵ An estimated 3 million Bengali speakers are living in Pakistan, but 70-80% do not hold any identity documentation.²³⁶⁶ The population had been provided with manual ID cards since 1973; however, in the process of digitization of civil registration in Pakistan, Bengali speaking and Bihari individuals were registered as ‘aliens’.²³⁶⁷ While registered as ‘aliens’, they are often denied citizenship under the previous interpretation of Pakistan’s *jus soli* provision.²³⁶⁸ While the National Assembly has promised to provide legal status to

An estimated 3 million Bengali speakers are living in Pakistan, but 70-80% do not hold any identity documentation.

this population by re-verifying blocked ID cards and eventually providing Computerized National Identity Cards, substantial action towards this promise is yet to be seen.²³⁶⁹

Causes of Statelessness

Discriminatory nationality laws

Pakistan's *jus soli* provision which stipulates that all children born in the territory will be citizens unless the father of the child has diplomatic immunity, or is an "enemy alien" is gender discriminatory as no such provisions exist stipulating the same for a child's mother.²³⁷⁰ Further, Pakistani women cannot confer citizenship to a foreign spouse on an equal basis as Pakistani men.²³⁷¹ In the situation of conferral of Pakistani citizenship from a Pakistani man to a foreign Afghan woman, the process is often lengthy and children involved in such situations often only gain citizenship if they do not have another citizenship.²³⁷²

Further, Pakistani women cannot confer citizenship to a foreign spouse on an equal basis as Pakistani men

Lack of legal safeguards against childhood statelessness

It appears that the *jus soli* provision of Pakistani citizenship law would provide foundling children and children born to stateless parent's access to citizenship, however implementation of this law is less generous.²³⁷³ 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.²³⁷⁴ 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.²³⁷⁵ As mentioned above, Bengali speaking and Bihari individuals have also been registered as aliens, and as a result, denied citizenship by birth.²³⁷⁶ This judicial interpretation has broadly limited the application of the *jus soli* provisions to exclude children born to foreigners (or 'aliens') in the territory.

Administrative barriers

Discriminatory administrative barriers are largely the cause of statelessness among ethnic Bengali communities in Pakistan. Most ethnic Bengalis have resided in Pakistan since before the Bangladesh War of Independence in 1971 yet have never had their citizenship fully recognised, despite their right to citizenship existing under the written law.²³⁷⁷ It is estimated that 70–80% of the Bengali population in Pakistan do not have identity documents.²³⁷⁸ The position of ethnic Bengalis was worsened through the introduction of digitized ID cards, with the government discriminating and in some cases stripping persons of citizenship by replacing previously held paper identity documents with registration documents that labelled Bengali community members as 'aliens'.²³⁷⁹

Balochistan and the Federally Administered Tribal Areas experience the lowest rates of birth registration.²³⁸⁰ Lack of public awareness, complicated registration procedures, and high fees present barriers to birth registration.²³⁸¹ Children born out of wedlock and refugee and internally displaced children also experience low access to registration due to the lack of protective measures for the registration of children from such marginalized groups.²³⁸² Pakistan's birth registration rate was reported as 42% in 2018.²³⁸³

The position of ethnic Bengalis was worsened through the introduction of digitized ID cards, with the government discriminating and in some cases stripping persons of citizenship by replacing previously held paper identity documents with registration documents that labelled Bengali community members as 'aliens'

Sri Lanka

Laws

Citizenship Law

Jus sanguinis provisions

Sri Lankan citizenship is provided through *jus sanguinis* provisions allowing automatic citizenship for children born in Sri Lanka to a Sri Lankan citizen parent.²³⁸⁴ For children born outside of Sri Lanka to a citizen parent, their birth must be registered for their citizenship to be recognised.²³⁸⁵ There is no definition of statelessness in the citizenship legislation of Sri Lanka.

Sri Lankan citizenship is provided through jus sanguinis provisions allowing automatic citizenship for children born in Sri Lanka to a Sri Lankan citizen parent.

Naturalized citizenship

To register as a Sri Lankan citizen, one must either be a descendant of a citizen or former citizen who renounced their citizenship to acquire another citizenship, married to or the widow of a citizen, or must have provided a distinguished public service or significant contribution to the country.²³⁸⁶ Foreign citizens or stateless persons who do not meet one of these categories are not eligible for citizenship by registration.

Dual citizenship

Dual citizenship is permitted in Sri Lanka, however, Sri Lankan citizens seeking foreign citizenship will lose their Sri Lankan citizenship if they do not make a declaration to the Minister to retain their citizenship.²³⁸⁷ Foreign citizens applying for Sri Lankan citizenship are not required to renounce their foreign citizenship.

Treaty ratification status

Sri Lanka has ratified ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. However, the country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1951 Refugee Convention and its 1967 Protocol.

TABLE 61

Status of Accession of International Human Rights Treaties in South Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Sri Lanka	–	–	–	✓	✓	✓	✓	✓

✓ 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

In recent concluding observations, the CESCR Committee expressed concerns over the discrimination, “poverty, poor working conditions, inadequate housing conditions, lack of access to health care, lack of quality education and high drop-out rates, child labour and a lack of citizenship or identity documents” experienced by the Tamil population in Sri Lanka.²³⁸⁸ The concern over difficulty faced by Tamils of Indian origin in accessing citizenship and identity documents was echoed in concluding observations by the CERD Committee, which added that this leads to issues with detention and owning a house or opening a bank account.²³⁸⁹ By ratifying ICERD, Sri Lanka is obligated to protect the right to nationality.²³⁹⁰ Further, ICESCR, which Sri Lanka is also obligated to, protects the right to education and freedom from discrimination.²³⁹¹

Concluding observations by the CRC Committee in 2018 raised concern over the large number of births which remain unregistered, especially among marginalized groups, despite reporting a high birth registration rate.²³⁹² It was recommended that Sri Lanka raise awareness of the importance of birth registration and simplify its birth registration procedure to ensure children may register outside of established timelines by

implementing a mobile registration mechanism.²³⁹³ As a party to CRC, Sri Lanka is bound to ensure that all births are registered immediately and all children enjoy the right to acquire a nationality.²³⁹⁴

In a recent UPR submission on Sri Lanka ISI proposed the recommendations of acceding to the Statelessness Conventions as well as “ensure the socio-economic growth and address the marginalisation faced by the formerly stateless Tamils of Indian origin in the country”.²³⁹⁵

Population

Reported stateless persons

In 2022, Sri Lanka reported 36 stateless persons to UNHCR, an increase of one person since reported numbers in 2021.²³⁹⁶ This figure comprises entirely of stateless refugees, with UNHCR noting that they have information regarding the *in situ* stateless population but lack any reliable data.²³⁹⁷

Stateless Refugees

Sri Lanka reported 36 stateless refugees to UNHCR in 2022.²³⁹⁸ Additionally, as noted in the

India chapter, as many as 100,000 Sri Lankan refugees are potentially stateless.²⁴⁰³

Other Populations of Note

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.²⁴⁰⁴ This population consists of persons of Tamil ethnicity brought to Sri Lanka from India during colonial periods largely to work on tea plantations in the Sri Lankan Hill Country and are distinguished from ‘Sri Lankan’ Tamil populations who historically resided in the countries north and east.²⁴⁰⁵ In 2003, in a combined project between the Sri Lankan Government, UNHCR, and the Ceylon Workers’ Congress provided citizenship to an estimated 200,000 members of this community.²⁴⁰⁶

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.

Causes of Statelessness

Discriminatory nationality laws

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.²⁴⁰⁷

Lack of legal safeguards against childhood statelessness

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.²⁴⁰⁸ Sri Lankan citizenship laws do not address access to citizenship for children of stateless parents.

Administrative barriers

The birth registration rate in Sri Lanka was reported at over 90% in 2009.²⁴⁰⁹ Despite the country’s relatively high registration rate, the CRC has noted with concern the low rates of birth registration among marginalised groups in Sri Lanka and the potential impact on their access to nationality.²⁴¹⁰

TABLE 62

Reported stateless persons to the UNHCR

Country	2019 (year start) ²³⁹⁹	2020 (year end) ²⁴⁰⁰	2021 (year end) ²⁴⁰¹	2022 (year end) ²⁴⁰²
Sri Lanka	–	–	35	36

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

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.²⁴¹¹ 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.²⁴¹² In Cambodia, Indonesia, the Philippines, Thailand, and Timor-Leste, children born to a citizen parent will gain citizenship regardless of birthplace.²⁴¹³ Laos and Singapore have *jus sanguinis* structures that differentiate between persons born within or outside of the country.²⁴¹⁴ 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.²⁴¹⁵ 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.²⁴¹⁶ In Malaysia, abandoned children and foundlings will gain citizenship by "operation of the law", meaning that the citizenship acquisition is automatic.²⁴¹⁷ 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,²⁴¹⁸ children born to two stateless parents with permanent residence,²⁴¹⁹ children born to a stateless mother with permanent residence where the father is unknown,²⁴²⁰ and foundling children.²⁴²¹

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.²⁴²²

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.²⁴²³ 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.²⁴²⁴ 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.²⁴²⁵

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.²⁴²⁶ The citizenship laws of Brunei operate largely through *jus sanguinis* structure and contain both racial and gender discriminatory provisions.²⁴²⁷ 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.²⁴²⁸ 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.²⁴²⁹ 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'.²⁴³⁰

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 person²⁴³¹; however, it is not in line with the definition provided by the 1954 Convention relating to the Status of Stateless Persons.²⁴³² 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.²⁴³³

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.²⁴³⁴ 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.²⁴³⁵ 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.²⁴³⁶ 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.²⁴³⁷ 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".²⁴³⁸

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.²⁴³⁹ While 5 States (Brunei, Indonesia, Malaysia, Myanmar, and Singapore) prohibit dual citizenship²⁴⁴⁰, Laos, Philippines, and Viet Nam permit it only in certain cases.²⁴⁴¹ Dual citizenship is generally recognized for those with *jus soli* citizenship in Thailand, although the law tends to be inconsistently implemented.²⁴⁴² Brunei's legislation contains some gender discrimination in this context, as women who acquire foreign citizenship through marriage will cease to be Brunei citizens.²⁴⁴³ 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.²⁴⁴⁴ 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".²⁴⁴⁵

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.²⁴⁴⁶

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.²⁴⁴⁷ Malaysia has also retained a reservation in respect to Article 7 of the CRC which provides the right to a nationality.²⁴⁴⁸ 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 63

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	–	–	–	✓	✓	✓	✓	✓
v	–	–	–	–	–	–	✓	✓
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).²⁴⁴⁹ 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.²⁴⁵⁰ 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.²⁴⁵¹ It is also the only country in the entire Asia-Pacific region to have implemented a statelessness determination procedure, which it established in 2012.²⁴⁵² The Philippines also notably introduced a National Action Plan to End Statelessness in 2015 based on UNHCR's Global Action Plan to End Statelessness.²⁴⁵³ 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.²⁴⁵⁴ 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 2022.²⁴⁵⁵ 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.²⁴⁵⁶

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.²⁴⁵⁷ All countries apart from Laos and Timor-Leste have reported figures on stateless persons in 2022 to UNHCR.²⁴⁵⁸

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 2022.²⁴⁵⁹ 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.²⁴⁶⁰

Ethnic minority groups in Brunei, Cambodia, Indonesia, the Philippines, Thailand and Viet Nam also face protracted and intergenerational statelessness.²⁴⁶¹ 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.²⁴⁶² The entirety of this reported population in Indonesia consists of stateless Rohingya refugees.²⁴⁶³ 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.²⁴⁶⁴

TABLE 64

Reported stateless population in Southeast Asia

Country	2019 (year start) ²⁴⁶⁵	2020 (year end) ²⁴⁶⁶	2021 (year end) ²⁴⁶⁷	2022 (year end) ²⁴⁶⁸
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,²⁴⁶⁹ which has no available data on stateless persons without formalised residency.²⁴⁷⁰

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,²⁴⁷¹ with children of migrant workers and ethnic minorities left especially vulnerable to statelessness.²⁴⁷² 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).²⁴⁷³ 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.²⁴⁷⁴

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.²⁴⁷⁵ In Brunei, children born to a Brunei citizen mother,²⁴⁷⁶ indigenous populations including Dusun and Iban populations²⁴⁷⁷, and foreign wives of citizens as at risk of statelessness.²⁴⁷⁸

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”.²⁴⁷⁹ 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”.²⁴⁸⁰ 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”.²⁴⁸¹

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

Thailand” as part of the 2023 GRF.²⁴⁸² 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”.²⁴⁸³

At the High-Level Segment on Stateless in October 2019, both the Philippines and Indonesia made pledges related to the prevention of statelessness.²⁴⁸⁴

The Philippines committed:

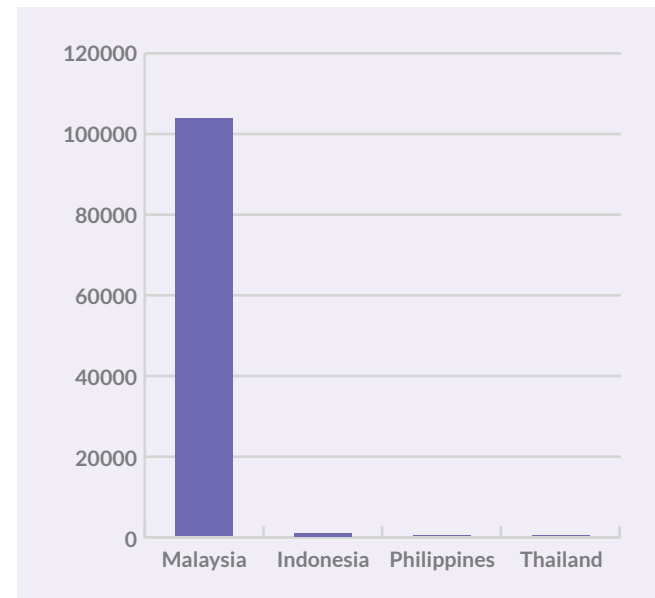
- ◆ To enhance the policy, legal, and operational framework for stateless persons to ensure their full access to rights as guaranteed by the 1954 Convention Relating to the Status of Stateless Persons including their facilitated naturalization and as may be provided by national laws;²⁴⁸⁵
- ◆ To improve access of vulnerable and marginalized populations to documentation through birth and civil registration;²⁴⁸⁶
- ◆ 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;²⁴⁸⁷
- ◆ To continue the process of accession to the 1961 Convention on the Reduction of Statelessness;²⁴⁸⁸
- ◆ 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;²⁴⁸⁹ and

- ◆ To cooperate with UNHCR by supporting projects, continuing fund contributions, and by building or expanding partnerships.²⁴⁹⁰

So far, the Philippines has been successful in ratifying the 1961 Convention on statelessness.²⁴⁹¹ Indonesia also pledged to:

- ◆ increase the scope of operation and the provision of infrastructure related to its national citizenship registry;²⁴⁹²
- ◆ increase the utilisation of a digital platform for citizenship registry and citizenship documentations such as the issuance of birth certificate and single identity number;²⁴⁹³
- ◆ enhance cooperation with UNHCR in handling refugees and asylum seekers²⁴⁹⁴, and
- ◆ to work with all countries, particularly the two Statelessness Conventions, to learn together, increase capacities, and exchange technology in addressing statelessness.²⁴⁹⁵

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

FIGURE 10**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.²⁴⁹⁶ 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.²⁴⁹⁷ 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.²⁴⁹⁸ The citizenship status of other population groups including children of returned marriage migrants in Viet Nam and²⁴⁹⁹ persons of Chinese, Indian and Nepali descent in Myanmar²⁵⁰⁰ 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.²⁵⁰¹ 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.²⁵⁰²

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.²⁵⁰³ 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.²⁵⁰⁴

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.²⁵⁰⁵ 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.²⁵⁰⁶

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.²⁵⁰⁷ 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.²⁵⁰⁸ 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.²⁵⁰⁹ The limitation on the ability of married women to confer nationality to their foreign spouse on the same basis as men²⁵¹⁰ 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".²⁵¹¹ While Thailand's 2008 amendments to its citizenship law allowed for foreign spouses to apply for Thai citizenship without the requirement of permanent residence²⁵¹², the Act still does not allow for full gender equality in the ability to confer citizenship to foreign spouses.²⁵¹³ 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.²⁵¹⁴

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.²⁵¹⁵ In Indonesia, there have been some implementation issues due to the absence of specific guidelines and procedures of the provisions.²⁵¹⁶ 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.²⁵¹⁷ Timor-Leste's citizenship laws provide that a child of 'incognito parents' will be considered an original citizen of Timor-Leste.²⁵¹⁸ Foundlings can acquire Thai nationality through naturalization. However, there are many conditions of naturalization that limit many foundlings from accessing the naturalization process.²⁵¹⁹

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’).²⁵²⁰ The citizenship laws of Indonesia, Laos, Timor-Leste and Viet Nam explicitly provide that children born to stateless parents will be considered citizens.²⁵²¹ In Viet Nam, the parents must have a ‘permanent residence’ in Viet Nam.²⁵²² 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.’²⁵²³ 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.²⁵²⁴ Thailand’s *jus soli* citizenship provisions may provide avenues to citizenship to children of stateless parents who have regularised stay in Thailand.²⁵²⁵ 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.”²⁵²⁶

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.²⁵²⁷

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.²⁵²⁸

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.²⁵²⁹ Myanmar’s citizenship legislation includes vague, overarching provisions allowing for the revocation of citizenship.²⁵³⁰ There are no legislative protections for those who have their citizenship revoked from becoming stateless, which could leave some at risk of statelessness.²⁵³¹ Notably, in Singapore, there is no right to appeal.²⁵³² 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.²⁵³³

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.²⁵³⁴ 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.²⁵³⁵ 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.²⁵³⁶

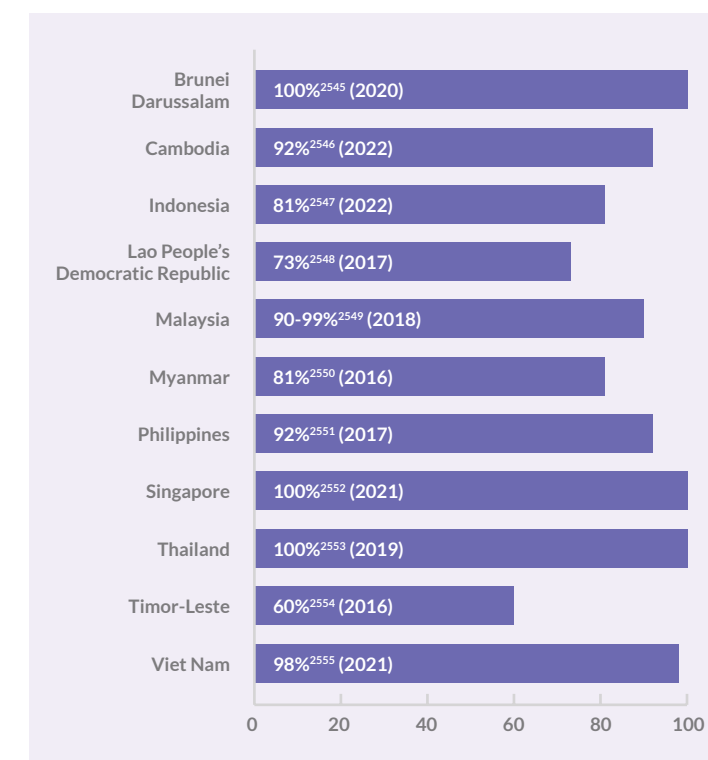
Ethnic minority groups in Brunei, Cambodia, the Philippines and Viet Nam have also faced barriers to gaining civil registration and citizenship, with such barriers leading to protracted and intergenerational statelessness.²⁵³⁷ Ethnic Vietnamese populations in Cambodia have also faced discriminatory barriers to both recognition of citizenship and access to citizenship through naturalization.²⁵³⁸ 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.²⁵³⁹ 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.²⁵⁴⁰ Additionally, lack of documentation, specifically among older populations in Singapore has left persons stateless since the country’s independence in 1965.²⁵⁴¹ 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.²⁵⁴²

Requirement of birth registration for citizenship acquisition

A birth certificate is the primary document proving citizenship in Cambodia, Thailand, and Timor-Leste.²⁵⁴³ In six States (Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Viet Nam), a birth certificate, among other documents, may certify citizenship.²⁵⁴⁴ Information is limited on the required documents for proving citizenship in Brunei and Laos.

FIGURE 11
Birth Registration rates of countries in Southeast Asia



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

Brunei Darussalam (Brunei)

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship laws of Brunei Darussalam (Brunei), stipulated by the *Brunei Nationality Act*, operate largely through *jus sanguinis* structure and contain both racial and gender discriminatory provisions.²⁵⁵⁶ Persons born in Brunei who “are commonly accepted as belonging to one of seven ‘indigenous groups of the Malay race’” are automatically considered citizens of Brunei if their father or both parents are citizens of Brunei.²⁵⁵⁷ Further, children born outside of Brunei to a father who was born in Brunei and belonged to one of the seven Indigenous groups are considered citizens.²⁵⁵⁸ Children who have both a father and mother born in Brunei who are members of one of an additional 15 ethnic groups ‘considered to be Indigenous’ to Brunei are considered citizens of Brunei whether they were born in or outside of the country.²⁵⁵⁹ There is no definition of a stateless person or explicit mentioning of a stateless person in the citizenship legislation of Brunei.

The citizenship laws of Brunei Darussalam (Brunei), stipulated by the Brunei Nationality Act, operate largely through jus sanguinis structure and contain both racial and gender discriminatory provisions.

Naturalized citizenship

A naturalization process is available to non-citizens in Brunei. In order to be eligible, one must have resided in Brunei for at least twenty of the twenty five years prior to application as well as continuously for the two years immediately prior to the application, among other requirements.²⁵⁶⁰ Any time in which a person is residing illegally in Brunei will not count towards their years of residence.²⁵⁶¹ Stateless persons may make an application for citizenship if they were born in the country and have been resident for at least twelve of the last fifteen years and pass a test of Malay culture and language.²⁵⁶² However, stateless persons in Brunei have reported waiting five to ten years after passing the culture and language test without gaining citizenship.²⁵⁶³ An ethnic Chinese applicant stated that they waited twelve years after passing the citizenship test to receive citizenship.²⁵⁶⁴

Dual citizenship

Dual citizenship is not recognized in Brunei as a citizen who voluntarily acquires citizenship of another state will “cease to have” Brunei citizenship.²⁵⁶⁵ If a woman who is a Brunei citizen acquires a foreign nationality through marriage, she will cease to have Brunei citizenship.²⁵⁶⁶ There exists no provision stipulating the same for Brunei citizen men.

Treaty ratification status

Brunei has notably low rates of treaty ratification, being one of the two countries in Southeast Asia to be party to two or fewer of the relevant treaties. The two relevant treaties ratified by Brunei are the CRC and CEDAW. The country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, and ICERD.

While a party to CEDAW, Brunei maintains reservation to Article 9(2) of the convention which provides women with equal rights regarding the nationality of their children.²⁵⁶⁷ The CEDAW Committee has called on Brunei to withdraw its reservation and to amend the citizenship laws of Brunei to provide women the equal right to transfer their nationality to their children.²⁵⁶⁸

In 2016, the CRC Committee in its concluding observations to Brunei expressed concerns over the persistence of discrimination against certain groups of children, including stateless

children.²⁵⁶⁹ The Committee also pinpointed the issue of access to citizenship for children born to Bruneian women married to foreign nationals who can currently only access citizenship by application, while children of Bruneian fathers in the same situation are granted automatic citizenship.²⁵⁷⁰ Echoing the CEDAW Committee’s concluding observations, the CRC Committee also recommended that Brunei amend the *Brunei Nationality Act* to ensure Bruneian women equal rights to confer citizenship to their children as well as “strengthen measures to naturalize stateless children”.²⁵⁷¹ Further, the CRC Committee identified that there is a lack of disaggregated data available for stateless persons in Brunei, including stateless children.²⁵⁷² The Committee encouraged Brunei to ensure universal birth registration, especially for stateless families and children, to be able to access basic rights.²⁵⁷³ Regarding birth registration, the Committee also expressed its concern over the “considerable disparities in birth registration in rural and urban areas, and that children in migration circumstances, including irregular migration, as well as children in Kampong Ayer (the “water village”), are not always registered at birth”.²⁵⁷⁴ As a party to the CRC, Brunei has committed to ensuring that every birth is registered immediately as well as that every child has the right to acquire a nationality.²⁵⁷⁵

It was noted in a Joint Submission of Brunei’s UPR in 2014 that there is limited engagement by civil society on statelessness in Brunei, which could be attributed to “limitations on the right to freedom of information, opinion and expression”.²⁵⁷⁶

TABLE 65

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Brunei Darussalam	⊖	⊖	⊖	⊖	⊖	⊖	⊕	⊕

⊕ 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

Brunei reported 20,863 stateless persons to UNHCR in 2022.²⁵⁷⁷ This is a sizable portion of the population, which was 455,400 persons as of 2022.²⁵⁷⁸ This reported figure has remained at a similar level for the last 10 years since the 2011 Brunei census reported 20,500 stateless persons in the country.²⁵⁷⁹ The reported population is likely to only include stateless persons who are regularised and have a certificate of identity.²⁵⁸⁰ International stakeholders noted with concern in a Joint UPR Submission over the lack of transparency on how the reported population data was acquired, making it difficult to monitor how the situation of statelessness in the country is evolving.²⁵⁸¹ In particular, the US Department of State reported in its 2012 Human Rights Report for Brunei that there could be as many as 150,000 stateless persons in Brunei, whereas the Brunei government again reported only around 20,000 persons.²⁵⁸² The 2022 Human Rights Report also notes that recent statistics on the stateless population in Brunei are unreliable.²⁵⁸³ There is also no available data on stateless persons without formalised residency.²⁵⁸⁴

According to the US Department of State's 2021 Human Rights Report for Brunei, most stateless persons in Brunei were born in the country from families of Chinese heritage who have resided in Brunei for multiple generations and have permanent residence in Brunei.²⁵⁸⁵ As of 2014, only half of the ethnic Chinese population in Brunei

Brunei reported 20,863 stateless persons to UNHCR in 2022. This is a sizable portion of the population, which was 455,400 persons as of 2022.

TABLE 66

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁵⁹⁴	2020 (year end) ²⁵⁹⁵	2021 (year end) ²⁵⁹⁶	2022 (year end) ²⁵⁹⁷
Brunei Darussalam	20,863	20,863	20,863	20,863

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

had acquired Brunei citizenship.²⁵⁸⁶ Barriers to their access to citizenship include being excluded from the eligible ethnicities for citizenship in legislation, not being able to provide evidence of legal residence, and inability to pass the Malay language test.²⁵⁸⁷

Persons at risk of statelessness

Children of a Brunei citizen mother and non-citizen father are at risk of statelessness due to gender discriminatory provisions which limit women's ability to confer nationality to their children on the same basis as men.²⁵⁸⁸ Also at risk are indigenous groups which experience significant barriers to birth registration, including the Dusun and Iban populations.²⁵⁸⁹ The US Department of State also identified the foreign wives of citizens as persons at risk of statelessness.²⁵⁹⁰ Between 2017 and 2021, 1,975 stateless persons gained citizenship, with most of this group being foreign wives, not ethnically Chinese persons.²⁵⁹¹

Causes of Statelessness

Discriminatory nationality laws

As noted above Brunei's citizenship laws contain both racially and gender discriminatory provisions, with Malay ethnicity and citizenship being deeply entwined.²⁵⁹² The limitation of nationality to certain prescribed ethnic groups, or "indigenous groups of the Malay race" is the primary cause of statelessness in Brunei.²⁵⁹³

Barriers to their access to citizenship include being excluded from the eligible ethnicities for citizenship in legislation, not being able to provide evidence of legal residence, and inability to pass the Malay language test.

As noted above Brunei's citizenship laws contain both racially and gender discriminatory provisions, with Malay ethnicity and citizenship being deeply entwined.

The largest registered stateless group in the country is persons of Chinese heritage who are not considered one of the prescribed groups. Most of the affected population hold regularised permanent residence in Brunei and hold identity certificates that provide rights to travel, access education and health care.²⁵⁹⁸ However, their permanent resident status does not allow them to hold passports, restricts freedom of movement, excludes them from accessing fully subsidized healthcare or higher education, and prohibits them from owning property, land or a business, among other restrictions.²⁵⁹⁹ Despite the regularised status persons are still denied citizenship and UNHCR has called on Brunei to amend the racially discriminatory provisions with retrospective effect.²⁶⁰⁰

Gender discriminatory provisions further fundamentally limit a female citizen of Brunei to confer nationality to her children, essentially terming them stateless, requiring a registration process to be undertaken for citizenship to be recognised (whereas children born to male citizens receive automatic citizenship).²⁶⁰¹ Women are also limited in their ability to confer nationality onto foreign husbands (while male citizens of Brunei can pass on nationality to foreign wives).²⁶⁰²

Lack of legal safeguards against childhood statelessness

The citizenship legislation of Brunei does not provide any right to nationality for foundling children or children born to stateless parents. It also does not provide any safeguards to children whose nationality will be passed by their mothers, where albeit such children will be provided with identity documents and will go through an application process, but are yet considered stateless.²⁶⁰³

Citizenship stripping

Brunei citizenship may be lost if the citizen resides outside of Brunei for five continuous years without providing satisfactory proof of maintaining a "substantial connection with Brunei".²⁶⁰⁴ Citizenship may only be deprived of citizens by registration or naturalization.²⁶⁰⁵ Notably, if a person who has gained citizenship by registration or naturalization acts or speaks in a way is "disloyal or disaffected towards His Majesty the Sultan", they will be stripped of Brunei citizenship.²⁶⁰⁶ However, an individual shall not be stripped of their citizenship according to the law if such would lead to the individual being stateless.²⁶⁰⁷

However, an individual shall not be stripped of their citizenship according to the law if such would lead to the individual being stateless.

Administrative barriers

Stateless persons in Brunei can seek citizenship through naturalization where certain residence standards are met and a Malay language and cultural test is passed.²⁶⁰⁸ However, there are reports that persons who have met the requirements and passed the relevant tests still have not been granted citizenship 5 to 10 years after completing the requirements, pointing at administrative barriers to accessing citizenship through this process.²⁶⁰⁹

Universal birth registration is required for all children born in the territory of Brunei, as stipulated by the *Birth and Deaths Registration Act* (2013).²⁶¹⁰ Brunei has reported a 100% birth registration rate to UNICEF as of 2020.²⁶¹¹ Despite this, indigenous groups, including the Dusun and Iban, experience significant barriers to birth registration, placing them at risk of statelessness.²⁶¹² Residing mostly in rural areas of Brunei, access to registration is low, despite the government's stated efforts to improve access.²⁶¹³



Cambodia

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

Cambodia’s citizenship legislation contains both *jus sanguinis* and *jus soli* citizenship provisions for individuals to gain “Khmer nationality”.²⁶¹⁴ Regardless of the place of birth, a child born to a citizen parent automatically obtains Khmer citizenship.²⁶¹⁵ Children born in Cambodia to parents who are both foreigners and were both born and living legally in Cambodia gain Khmer nationality/citizenship through *jus soli* provisions.²⁶¹⁶ Cambodia’s citizenship legislation does not include a definition of a stateless person nor does it specifically mention statelessness.

Cambodia’s citizenship legislation contains both jus sanguinis and jus soli citizenship provisions for individuals to gain “Khmer nationality”.

Naturalized citizenship

Foreigners may apply for Khmer citizenship if they have been continuously residing in Cambodia with a residence card for at least seven years, have never been convicted of a felony or misdemeanor and can speak Khmer, among other requirements.²⁶¹⁷ There is an expedited process available to foreigners who were born in Cambodia as well as foreigners investing in or donating to Cambodia.²⁶¹⁸ There is no simplified or expedited procedure available to stateless persons or refugees.

There is an expedited process available to foreigners who were born in Cambodia as well as foreigners investing in or donating to Cambodia.

Dual citizenship

While dual citizenship is recognized in Cambodia, recent constitutional amendments have made dual citizens ineligible for top posts in the country, including prime minister.²⁶¹⁹

Treaty ratification status

Cambodia has comparably high rates of treaty accession compared to other states in Southeast Asia. Cambodia has

TABLE 67

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Cambodia	–	–	✓	✓	✓	✓	✓	✓

✓ 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

ratified the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. It has not ratified the two Statelessness Conventions, despite accepting to do so in 2019 during its third UPR cycle.²⁶²⁰

In its 2020 concluding observations, the CERD Committee expressed concerns regarding the lack of legal safeguards for children in Cambodia who would otherwise be stateless.²⁶²¹ Article 5 of ICERD, which Cambodia is obligated to, protects the right to nationality.²⁶²² The Committee also raised concerns over the lack of identity documents for Khmer Krom, who are often denied identity documents or forced to record a name and place of birth other than their true name and place of birth on identity documents.²⁶²³ This has led to the community facing discrimination and an inability to access land, employment, education, health care and basic services.²⁶²⁴ The Committee recommended that Cambodia ensure that the National Strategic Plan of Identification (2017-2026) amends the lack of access to identity documents and registration for the Khmer Krom in particular.²⁶²⁵ Concerns over barriers to accessing identity documents by Khmer Krom and ethnic Vietnamese women as well as birth certificates for their children were also

included in recent concluding observations by the CEDAW Committee.²⁶²⁶ Concluding observations by the CRC Committee in 2022 recommended that Cambodia expand its electronic registration system, “prohibit the practice of informal fees for the issuance of birth certificates”, and “ensure that all children, including Khmer Krom, ethnic Vietnamese and migrant children, have access to birth registration and identity documents”.²⁶²⁷ As a party to the CRC and CERD, Cambodia is obligated to ensure that every birth is registered immediately, without discrimination, and that no child is left stateless.²⁶²⁸

Population

Reported stateless persons

In recent UNHCR Global Trends reports, Cambodia reported 75,000 stateless persons in both 2021 and 2022.²⁶²⁹ This is a 17,000 person increase from the 57,444 reported stateless persons in both 2019 and 2020.²⁶³⁰ The majority of this population are ethnic Vietnamese long-term residents.²⁶³¹ With a wide range of differing estimates for the stateless population in Cambodia, data in the country is unreliable.²⁶³²

TABLE 68

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁶³³	2020 (year end) ²⁶³⁴	2021 (year end) ²⁶³⁵	2022 (year end) ²⁶³⁶
Cambodia	57,444	57,444	75,000	75,000

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

While the Cambodian government has since 2019 reported stateless persons to UNHCR (with the reported population increasing from 57,444 in 2019 to 75,000 in 2021 and 2022), the true size of the population of ethnic Vietnamese in Cambodia without citizenship has been estimated by CSOs to be as high as between 400,000-700,000 persons.

While the Cambodian government has since 2019 reported stateless persons to UNHCR (with the reported population increasing from 57,444 in 2019 to 75,000 in 2021 and 2022), the true size of the population of ethnic Vietnamese in Cambodia without citizenship has been estimated by CSOs to be as high as between 400,000-700,000 persons.²⁶³⁷ The complex history of colonisation, war and tensions between Vietnam and Cambodia has led to ethnic Vietnamese residents in Cambodia facing discrimination, social exclusion and denial of citizenship, despite many being entitled to nationality under the letter of the law.²⁶³⁸ Largely due to the French colonial period which influenced Cambodia's early formation of the concept of nationality based on "cultural identity, historical heritage and religion", ethnic Vietnamese communities in Cambodia were left with neither Cambodian nor Vietnamese nationality.²⁶³⁹ Today, much of the population is either stateless (especially for long-term residents who have resided in Cambodia since before 1975 when the Khmer Rouge regime took over and mass deportations and migrations occurred²⁶⁴⁰) or at risk of statelessness.²⁶⁴¹ Ethnic Vietnamese constitute the largest ethnic minority in Cambodia and experience a severe lack of access to birth registration.²⁶⁴² The ethnic Vietnamese population in Cambodia constitutes a variety of groups, including ethnic Vietnamese married to Cambodians, Cambodians of Vietnamese origin, recent immigrants from Vietnam to Cambodia and descendants of ethnic Vietnamese with intergenerational links to Cambodia.²⁶⁴³ Ethnic Vietnamese with intergenerational links to Cambodia are particularly at risk of denial of

identity documentation and Khmer citizenship.²⁶⁴⁴ While some of this population has gained identity documentation and been 'integrated' into society, a large number of ethnic Vietnamese living in Cambodia remain unregistered and reside within floating villages on the Tonle Sap Lake.²⁶⁴⁵ A study in 2016 found that of 414 Vietnamese surveyed in three provinces, only 5% had a birth certificate.²⁶⁴⁶ Other studies have estimated that 90% of the ethnic Vietnamese population in Kampong-Chhnang province do not have a birth certificate and/or identity card.²⁶⁴⁷

Other studies have estimated that 90% of the ethnic Vietnamese population in Kampong-Chhnang province do not have a birth certificate and/or identity card

Persons at risk of statelessness

Members of the Khmer Krom ethnic group - ethnic Khmer originating from Southern Vietnam - in particular also face barriers to obtaining birth registration for children and identity documents for adults, with both the CRC and CEDAW calling on the government of Cambodia to address the barriers that they face.²⁶⁴⁸ There have been reports of authorities delaying the processing of applications for citizenship coming from members of this community as well as "incidents of restrictions by local authorities on the rights of freedom of expression and association".²⁶⁴⁹

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

A newborn child found in Cambodia with unknown parents will be considered to have been born in Cambodia, and therefore, automatically acquires Khmer citizenship by birth.²⁶⁵⁰ It is important to note that the conception of 'Khmer citizenship' in

Cambodia is based on a historical and continual connection between ethnicity and citizenship.²⁶⁵¹ 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'.²⁶⁵² While this provision may provide some protection from inter-generational statelessness in Cambodia, its scope is limited and implementation tends to be absent in practice. While many Vietnamese long-term residents should technically be able to resolve their status under this provision, the inability to provide documentary proof bars them from attaining Cambodian citizenship.²⁶⁵³ Children born to parents who themselves were born outside of the country or who were born within the country but are considered to be illegally residing in the country will not be able to gain citizenship.

Citizenship Stripping

The lack of a birth certificate bars members of the ethnic Vietnamese community with intergenerational ties to Cambodia from accessing a wide range of basic services and rights, including access to citizenship.²⁶⁵⁴ In 2014, the government implemented a 'foreigner census' which was intended to identify and deport people illegally residing in the country, which resulted in over 10,000 ethnic Vietnamese being deported to Vietnam.²⁶⁵⁵ Another national registration campaign was implemented after this, intended to issue permanent residence cards, but targeted Vietnamese communities.²⁶⁵⁶ This campaign issued new residence cards which are only valid for two years for a fee equating to \$60 USD, which identified the cardholders as 'immigrant aliens' with 'Vietnamese nationality'.²⁶⁵⁷ This alludes to the fact that the government of Cambodia does not view these ethnic Vietnamese residents as Khmer nationals, but rather 'immigrants' of Vietnamese nationality.²⁶⁵⁸ However, much of

this community has never lived or even been to Vietnam.²⁶⁵⁹ Despite this, the marginalization that members of the community have experienced in Cambodia have forced some to immigrate to Vietnam in hopes of a better life.²⁶⁶⁰

While this provision may provide some protection from inter-generational statelessness in Cambodia, its scope is limited and implementation tends to be absent in practice.

Later on, documentation that this community did hold was "systematically confiscated" by the government, stating that the documents were 'irregular', which the government identified were held by around 70,000 Vietnamese 'foreigners'.²⁶⁶¹ An official of the Ministry of Interior stated in relation to this that the government was simply taking away Cambodian documents from Vietnamese citizens.²⁶⁶² The inability to provide documentary proof of their eligibility for Cambodian citizenship remains the primary reason this population continues to be subjected to statelessness and systematically denied basic rights and services.²⁶⁶³ Further, widespread evictions of floating houses over rivers and lakes have disproportionately affected Vietnamese residents in Cambodia, with many being forcibly relocated to housing sites with grave sanitation issues.²⁶⁶⁴

Later on, documentation that this community did hold was "systematically confiscated" by the government, stating that the documents were 'irregular', which the government identified were held by around 70,000 Vietnamese 'foreigners'.

Administrative barriers

Birth registration rates within Cambodia are reported at 92% in 2022.²⁶⁶⁵ While long-term Vietnamese residents who have resided in Cambodia prior to 1975 may be entitled to nationality under the letter of the law,

Birth registration rates within Cambodia are reported at 92% in 2022.

discriminatory administrative processes have led to the denial of identity documents, birth registration and any recognition of their status as citizens, leading to an inability to provide required proof of identity and other documentation.²⁶⁶⁶ Additionally, although the citizenship law of Cambodia – in providing children born to foreign parents who themselves were born in Cambodia access to citizenship – may on paper provide an avenue for children born to ethnic Vietnamese who have been denied citizenship, in practice citizenship continues to be denied.²⁶⁶⁷ Children born to ethnic Vietnamese communities face frequent barriers to birth registration, disproportionately unlikely to have birth registration and, in turn, access to citizenship.²⁶⁶⁸ Finally, long-term ethnic Vietnamese residents who may seek citizenship through naturalization also face barriers in meeting residency requirements due to their frequent lack of

identity documents to prove their status, language requirements and governmental discretion.²⁶⁶⁹

In June 2023, Cambodia adopted a new law on Civil Registration, Vital Statistics, and Identity, planned to enter into force in 2024, which is intended to ensure universal birth registration.²⁶⁷⁰ The new law is also intended to remove previous barriers to registration as well as establish a universal right to an identity card.²⁶⁷¹ The success of this law will depend largely on implementation, for which there is actively monitoring and advocacy being undertaken by stakeholders and experts. This contributes to the National Strategic Plan of Identification (2017-2026) which Cambodia implemented to increase the birth registration rate and achieve its long-term goal of ensuring that everyone in the country has a legal identity.²⁶⁷²

The success of this law will depend largely on implementation, for which there is actively monitoring and advocacy being undertaken by stakeholders and experts

Indonesia

Laws

Citizenship Law

***Jus sanguinis* and *jus soli* provisions**

Indonesian citizenship law operates through a *jus sanguinis* structure, stipulated by the *Law of the Republic of Indonesia on Citizenship of the Republic of Indonesia (2006)* ('*Law on Citizenship*'), providing that children born to a citizen parent or parents within or outside of the country will be considered a citizen.²⁶⁷³ Children born in Indonesia to an Indonesian mother, even if the father is stateless or from a country that does not grant citizenship to such children, are also considered as Indonesian citizens.²⁶⁷⁴ Further, children born out of wedlock to an Indonesian mother or acknowledged by an Indonesian father before they turn 18 or married can be granted Indonesian citizenship.²⁶⁷⁵ Indonesia lacks a definition of a stateless person in its citizenship legislation.

*Indonesian citizenship law operates through a *jus sanguinis* structure, stipulated by the *Law of the Republic of Indonesia on Citizenship of the Republic of Indonesia (2006)* ('*Law on Citizenship*'), providing that children born to a citizen parent or parents within or outside of the country will be considered a citizen.*

Indonesia also uses a restricted *jus soli* principle for certain cases of citizenship acquisition. Children born in Indonesia when their parents' citizenship status is unclear, 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.²⁶⁷⁶ Lastly, children born outside Indonesia to Indonesian parents in countries granting citizenship and those born to parents whose citizenship applications were approved but one parent passes away before taking an oath or declaring allegiance can also be considered Indonesian citizens.²⁶⁷⁷

Naturalized citizenship

There is a naturalization process available for those who are 18 or are married, have resided in Indonesia for five consecutive years or ten years intermittently, are physically and mentally healthy, able to speak the Indonesian language, have a steady

income, do not have prior citizenship, and have not been convicted of a criminal offense amounting to one year or more imprisonment.²⁶⁷⁸ A stateless person may be eligible for this procedure if they meet these requirements; however there is no simplified or expedited procedure available to stateless persons and refugees.

Dual citizenship

Dual citizenship is not recognized in Indonesia. Foreign citizens applying for naturalization must renounce their prior citizenship upon acquiring Indonesian citizenship.²⁶⁷⁹ Citizens of Indonesia may lose their citizenship through renunciation or through the acquisition of another foreign citizenship.²⁶⁸⁰ Though there are exceptions for children under the age of 18 to maintain dual citizenship, due to the principle of *jus soli* which applies birthplace as the determining factor of citizenship, once the child reaches the age of 18, they must choose one citizenship.²⁶⁸¹

Treaty ratification status

While Indonesia has not yet ratified the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, or the 1951 Refugee Convention and its 1967 Protocol, it has ratified the ICCPR, ICESCR, ICERD, CRC, CEDAW with no relevant reservations.

In 2014, the CRC Committee expressed concerns in its concluding observations regarding the requirement of indicating a child's religion on their identity card, which could lead to discrimination,

Indonesia's Pledges to End Statelessness

At the High-Level Segment on Statelessness in 2019, Indonesia pledged to:

- ◆ increase the scope of operation and the provision of infrastructure related to its national citizenship registry²⁶⁸²
- ◆ increase the utilisation of a digital platform for citizenship registry and citizenship documentations such as the issuance of birth certificate and single identity number²⁶⁸³
- ◆ enhance cooperation with UNHCR in handling refugees and asylum seekers²⁶⁸⁴ to work with all countries, particularly the two Statelessness Conventions, to learn together, increase capacities, and exchange technology in addressing statelessness²⁶⁸⁵

as well as the risk of statelessness for children born in the territory to two foreign parents who are not eligible for nationality elsewhere.²⁶⁸⁶ In its 2022 concluding observations, the CEDAW Committee noted concerns over Article 41 of the *Law on Citizenship*, which “excludes children who were born to an Indonesian and a non-Indonesian parent before 2006 from obtaining Indonesian nationality”.²⁶⁸⁷ It was recommended that Indonesia amend this provision to ensure that nationality is conferred to children in this scenario.²⁶⁸⁸ As a party to the ICCPR, Indonesia is obligated to ensure the right to acquire a nationality.²⁶⁸⁹

Further, the Committee on Migrant Workers recently expressed concern regarding a large number of unregistered births of Indonesian migrant workers abroad, particularly those born out of wedlock, which it attributed to lack of information, bureaucratic obstacles and financial barriers.²⁶⁹⁰

TABLE 69

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Indonesia	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕

⊕ 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, Indonesia reported 925 stateless persons to UNHCR.²⁶⁹¹ The entirety of this reported population consists of stateless Rohingya refugees.²⁶⁹² UNHCR also noted that there is a potentially large number of unreported non-displaced stateless persons which there is currently no reliable data on.²⁶⁹³ The reported stateless population has fluctuated since the beginning of 2019, increasing by a total of 343 persons.²⁶⁹⁴

In 2022, Indonesia reported 925 stateless persons to UNHCR. The entirety of this reported population consists of stateless Rohingya refugees.

English-language research into the non-displaced stateless population in Indonesia is limited.²⁶⁹⁵ UNHCR Indonesia, however, has previously identified five population groups outside of Rohingya refugees who are affected by statelessness in Indonesia. These groups include:²⁶⁹⁶

- ◆ Indonesians of Chinese Origin, due to different historical circumstances and legal complications, some Indonesians of Chinese origin are stateless.
- ◆ Indonesians of Indian Origin, due historical and legal reasons where individuals of Indian origin may also be affected by statelessness in Indonesia.
- ◆ Indonesian Migrant Workers who confront documentation challenges or have their citizenship status questioned may find themselves stateless.

- ◆ Exiled Indonesians who were forced to leave Indonesia for political or other reasons face difficulties re-establishing their citizenship upon their return, leading to statelessness.
- ◆ Undocumented Chinese Migrants who are stateless Chinese individuals who have migrated to Indonesia without sufficient papers or legal standing may face statelessness.

Persons at risk of statelessness

A 2012 survey found that over 24 million children were living without birth certificates which the Ministry of Home Affairs in 2014 suggested that this figure may be as high as 50 million.²⁶⁹⁷ In 2021, birth registration rates were reported to the UN Statistics Department to be 78%.²⁶⁹⁸ UNHCR, treaty bodies, and academics have all expressed concern over the risk of statelessness faced by children excluded from birth registration in Indonesia.²⁶⁹⁹

A 2012 survey found that over 24 million children were living without birth certificates which the Ministry of Home Affairs in 2014 suggested that this figure may be as high as 50 million.

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

In 2006 Indonesia introduced a new citizenship law removing provisions that discriminated on both gender and ethnic grounds.²⁷⁰⁰ Under this law both founding children and children of stateless

TABLE 70

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁷⁰¹	2020 (year end) ²⁷⁰²	2021 (year end) ²⁷⁰³	2022 (year end) ²⁷⁰⁴
Cambodia	57,444	57,444	75,000	75,000

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

parents born in Indonesia are considered citizens of Indonesia under the *Law on Citizenship*.²⁷⁰⁵ Although the *Law on Citizenship* now recognizes both founding children and those born to stateless parents as citizens of Indonesia²⁷⁰⁶, the absence of specific guidelines and procedures to ensure the effective implementation of these provisions has resulted in difficulties concerning verification, documentation and access to basic rights.²⁷⁰⁷ Without a process to verify their citizenship, there is a risk of cases where people may be denied citizenship. Additionally, without documentation confirming their citizenship, they may encounter difficulties in accessing fundamental rights such as education, healthcare and legal protection.²⁷⁰⁸ Efforts made by the government and relevant stakeholders to address these challenges have been relatively limited. There is a need for an approach that includes establishing transparent procedures to verify citizenship, providing necessary documentation and ensuring the protection of rights for these individuals.

Citizenship Stripping

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.²⁷⁰⁹ 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.²⁷¹⁰

Administrative barriers

The main cause of statelessness in Indonesia has been attributed by UNHCR to be administrative barriers to birth registration²⁷¹¹, affecting as many as 50 million people.²⁷¹² Concern has been raised by a number of academics,²⁷¹³ and both the CRC and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families regarding the large number of children born in Indonesia to migrant worker parents who have not been able to access birth registration and risk statelessness.²⁷¹⁴ Additionally, while ethnically discriminatory nationality laws were revoked in 2006,²⁷¹⁵ some persons of Chinese and Indian descent still face administrative barriers to accessing citizenship due to a lack of identity documents or where persons have identity documents which include an incorrect recording of their citizenship status.²⁷¹⁶

The CEDAW recently commended Indonesia for increasing the number of children with birth certificates from 32.25% to 90.56% between 2014 and 2019.²⁷¹⁷ Despite this, Indonesia has reported an 81% birth registration rate as of 2022.²⁷¹⁸

Lao People's Democratic Republic (Laos)

Laws

Citizenship Law

Jus sanguinis provisions

Citizenship legislation of the Lao People's Democratic Republic (Laos) operates through *jus sanguinis* provisions, as stipulated by the *Law on Lao Nationality* (2004).²⁷¹⁹ Lao citizenship provides that children born to two citizen parents are considered citizens regardless of their birthplace.²⁷²⁰ When a child has a single Lao parent and is born in Laos they will gain automatic citizenship by descent²⁷²¹; however, if born outside of the country, at least one parent must be a permanent resident in order for the child to gain Lao citizenship.²⁷²²

Citizenship legislation of the Lao People's Democratic Republic (Laos) operates through jus sanguinis provisions, as stipulated by the Law on Lao Nationality (2004).

While Laos's citizenship legislation does not include a definition of statelessness specifically, it uses the term 'apatrid', translated from Lao, which constitutes an individual residing in Laos who is not a Lao citizen and who is unable to certify their nationality, which can be interpreted as stateless persons or persons with undetermined nationality.²⁷²³ This does not align with the definition provided by the 1954 Convention relating to the Status of Stateless Persons, which determines the status of a potential stateless person by referring to national legislation on the citizenship of the country the person has or had ties with.²⁷²⁴

Naturalized citizenship

Foreigners and 'apatrids' can gain Lao citizenship by request.²⁷²⁵ To be eligible, the applicant must be continuously resident in Lao for at least ten years, relinquish prior nationality, be able to speak, read, and write fluently in Lao, and be financially independent, among other requirements.²⁷²⁶ While stateless persons and refugees may be eligible for this process, there is no simplified or expedited process of naturalization available to them.

Dual citizenship

Dual citizenship is only recognized for those of Lao race who acquire citizenship by request.²⁷²⁷ In order to do so, a person who has a prior nationality must be a permanent resident in Laos for 5 years.²⁷²⁸ Lao citizens applying for citizenship elsewhere must first renounce their Lao citizenship.²⁷²⁹ Similarly, a foreign citizen applying for Lao citizenship must agree to renounce their other citizenship.²⁷³⁰ This could lead to temporary statelessness if the applicant's citizenship application is denied after they have renounced their other citizenship. However, the foreign citizen could re-acquire their former citizenship if the law of the former country allows them to.

Treaty ratification status

While Laos has ratified the ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations, the country has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Refugee Convention and its 1967 Protocol.

In 2018, the CRC Committee in its concluding observations expressed concerns regarding the fact that 75% of children under five years of age are unregistered and that only 33% of children have a birth certificate.²⁷³¹ The Committee identified that costs of registration are a barrier to universal birth registration and that children in rural areas have disproportionately lower access to birth registration.²⁷³² It was recommended that Laos raise awareness of the importance of

In 2018, the CRC Committee in its concluding observations expressed concerns regarding the fact that 75% of children under five years of age are unregistered and that only 33% of children have a birth certificate.

birth registration, establish a mobile registration system, and eliminate costs associated with birth registration.²⁷³³ In 2018, the CEDAW Committee also cited concerns over the country's low birth registration rate, especially in rural areas and among ethnic minority groups.²⁷³⁴ By ratifying the CRC, Laos has committed to ensure that all births are registered immediately and that all children have the right to acquire a nationality.²⁷³⁵

The Human Rights Committee in its concluding observations has raised concern regarding the enforced disappearances of members of the Hmong ethnic minority community²⁷³⁶, who were forcibly returned to Laos from Thailand in 2009.²⁷³⁷

Population

Reported stateless persons

Laos has not reported any statistics of stateless persons living within its territory to UNHCR.

Persons at risk of statelessness

There are over 500,000 persons of Hmong ethnicity living in Laos.²⁷³⁸ The Hmong ethnic group face continual discrimination (including the denial of passports) and have low birth-registration rates, placing them at risk of statelessness.²⁷³⁹ In

There are over 500,000 persons of Hmong ethnicity living in Laos. The Hmong ethnic group face continual discrimination (including the denial of passports) and have low birth-registration rates, placing them at risk of statelessness.

2009, around 4,000 Hmong people from Thailand were forcibly returned to Laos.²⁷⁴⁰ While UNHCR has requested access to this population, the Laos government has yet to provide it, aside from a government-escorted visit to one returnee site.²⁷⁴¹ Information on the condition and treatment of this population remains limited.

Undetermined nationalities

While no detailed breakdown is available of persons with undetermined nationality in Laos, the most recent Population Census held in 2015 recorded 375 foreigners in Laos whose citizenship was unknown.²⁷⁴²

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Due to the lack of in-country partners and available research, the causes of statelessness within Laos are largely unknown. Lao citizenship laws provide that foundling children will be considered citizens.²⁷⁴³ Laos's citizenship legislation further provides that children born to stateless parents are considered Lao citizens if the parents are permanently residing in Laos and have 'integrated to the Lao society and culture'.²⁷⁴⁴ However, the US Department of State has noted that this process is not automatic, requiring multiple levels of administrative and government approval and does not protect all stateless children born in the territory of Laos.²⁷⁴⁵ A child born to one Lao citizen parent and one 'apatrid' parent will be a citizen no matter their birthplace.²⁷⁴⁶ In the *Law on Lao Nationality*, an 'apatrid'²⁷⁴⁷ is defined as an individual residing in Laos who is not a Lao citizen

and who is unable to certify their nationality, which can be interpreted as stateless persons or persons with undetermined nationality.²⁷⁴⁸ A child born to two 'apatrid' parents may gain citizenship if the parents are both permanent residents, integrated into Lao society, and the parents request the child to gain citizenship.²⁷⁴⁹

Citizenship stripping

If a Lao citizen migrates to another country for 7 years without authorization, their Lao citizenship can be forfeited.²⁷⁵⁰ This can also occur if the citizen's authorization to reside overseas expires while not under the administration of the Lao embassy or consulate in their country of residence.²⁷⁵¹ Citizenship may also be forfeited if a citizen "has not maintained any legal connection with the Lao People's Democratic Republic for more than ten years".²⁷⁵²

Administrative barriers

Low birth registration rates and barriers to birth registration, especially among the Hmong ethnic minority population may place persons in Hmong at risk of statelessness.²⁷⁵³ In 2014, Laos stated in a Report of the Working Group that a national action plan had been developed calling it the Strategic Plan for Civil Registration, to explore a digital birth registration system.²⁷⁵⁴ This Plan began in 2017 and set a vision to reach universal birth registration for Lao people by 2030.²⁷⁵⁵ Three goals are included in the Plan, which includes universal and effective civil registration, legal documentation of civil registration for all individuals, and compilation and dissemination of vital statistics based on registration records.²⁷⁵⁶ Laos set a specific target to achieve 70% birth registration rate by 2024²⁷⁵⁷, which they have been successful in achieving.²⁷⁵⁸ However, the country has yet to reach a universal birth registration rate, which was reported as 73% in 2017.²⁷⁵⁹

However, the country has yet to reach a universal birth registration rate, which was reported as 73% in 2017.

TABLE 71

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Lao People's Democratic Republic	⊖	⊖	⊖	⊕	⊕	⊕	⊕	⊕

⊕ 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



Malaysia

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

The *Federal Constitution of Malaysia* regulates citizenship in Malaysia through the combination of both *jus soli* and *jus sanguinis* structures²⁷⁶⁰. While children born in Malaysia to one citizen parent or one parent with permanent residence gain automatic citizenship by descent²⁷⁶¹, children born to a foreign citizen in Malaysia are not eligible for automatic citizenship unless they would otherwise be stateless.²⁷⁶² For children born out of wedlock, the child may only gain citizenship by descent from the mother, with the father's nationality being irrelevant in this case.²⁷⁶³ Malaysia's citizenship legislation does not provide a definition of a stateless person nor does it explicitly mention statelessness.

The Federal Constitution of Malaysia regulates citizenship in Malaysia through the combination of both jus soli and jus sanguinis structures.

Malaysia's citizenship legislation contains gender-discriminatory provisions. While a child born in Malaysia to one citizen parent will gain citizenship by descent²⁷⁶⁴, a child born outside Malaysia must be born to a citizen father in order to gain citizenship by descent, meaning they cannot gain citizenship through their mother even though they would if they were born in the territory.²⁷⁶⁵

Malaysia's citizenship legislation contains gender-discriminatory provisions.

Naturalized citizenship

Apart from obtaining citizenship by operation of law, a person may also acquire citizenship through the naturalization process.²⁷⁶⁶ The government may, upon application made by any person over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person, subject to the fulfilment of certain requirements.²⁷⁶⁷ In order to be eligible, one must have been resident in Malaysia for ten of the twelve years before application, be of good character, and have adequate

knowledge of the Malay language.²⁷⁶⁸ While stateless persons could be eligible for naturalized citizenship, there is no simplified or expedited procedure for stateless persons or refugees.

Dual citizenship

Malaysian citizenship legislation does not recognize dual citizenship.²⁷⁶⁹ A Malaysian citizen wishing to gain another country's citizenship may renounce their Malaysian citizenship.²⁷⁷⁰ For a foreign citizen who wishes to gain Malaysian citizenship by naturalization, there are no provisions stipulating the process of renunciation of foreign citizenship.

Treaty ratification status

Malaysia has a comparatively low ratification rate of the treaty bodies relating to statelessness. The country has not ratified any of the relevant treaties other than the CRC and CEDAW, to which it made reservations on provisions relating to statelessness. Malaysia notably has yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1951 Refugee Convention and its 1967 Protocol, the ICCPR, ICESCR, and ICERD. On the CRC, Malaysia made a reservation to Article 7, which ensures that every birth in the territory is registered immediately as well as protects the right of children to acquire a nationality.²⁷⁷¹ However, Malaysia did not make a reservation to Article 8 of the CRC which stipulates that, "every child has the right to preserve his or her identity, including nationality".²⁷⁷² It has been

argued by the UN Secretary General that arbitrary deprivation of nationality can include arbitrarily preventing someone from obtaining or keeping their nationality. This would result in Malaysia being required to ensure the timely acquisition of Malaysian citizenship for children who would otherwise be stateless in its territory.²⁷⁷³ Malaysia has also made a reservation on Article 9(2) of CEDAW, which stipulates that State parties shall grant women equal rights with men concerning the nationality of their children.²⁷⁷⁴

The CRC Committee recommended in its concluding observations in 2007 that Malaysia ensure birth registration for those at risk of non-registration, including non-Malaysian children (especially asylum-seeking and refugee children and children born to undocumented parents), children of single mothers, and children born in remote areas.²⁷⁷⁵ The Committee also expressed concerns regarding the absence of legal protections for refugee and asylum-seeking children, particularly in relation to being subject to detention, prosecution, imprisonment, and deportation.²⁷⁷⁶ Further, the Committee is concerned with the lack of access to formal education for these children which include "Rohingya refugee children who have lived in Malaysia since [the] 1990s".²⁷⁷⁷

In 2018, the CEDAW Committee recommended in its concluding observations that Malaysia amend provisions of the *Federal Constitution* that deny women equal rights as men to confer nationality to their children.²⁷⁷⁸

TABLE 72

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Malaysia	⊖	⊖	⊖	⊖	⊖	⊖	✓	✓

✓ 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

Malaysia has the third largest reported stateless population in the Southeast Asia sub-region, reporting 115,169 stateless persons to UNHCR in 2022.²⁷⁷⁹ The reported stateless population has steadily increased in the last 5 years.²⁷⁸⁰ UNHCR outlines that this figure comprises 103,380 stateless Rohingya in Malaysia along with 9,040 non-displaced stateless persons in West Malaysia 'who may be entitled to Malaysian nationality under the law.'²⁷⁸¹ In February 2023, the Home Minister stated that based on statistics from 2013 to 2023, there are 132,272 applications nationwide to become Malaysian citizens.²⁷⁸²

Malaysia has the third largest reported stateless population in the Southeast Asia sub-region, reporting 115,169 stateless persons to UNHCR in 2022.

Persons at risk of statelessness

A number of groups at risk of or affected by statelessness have been recognised in Malaysia 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.²⁷⁸³

TABLE 73

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁷⁸⁹	2020 (year end) ²⁷⁹⁰	2021 (year end) ²⁷⁹¹	2022 (year end) ²⁷⁹²
Malaysia	108,332	111,289	112,420	115,169

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

Stateless Refugees

In 2022, of the 115,169 reported stateless persons, 103,380 were stateless Rohingya refugees in Malaysia.²⁷⁸⁴ While previously welcomed and supported by Malaysia, the Rohingya population has never gained full protection due to Malaysia not being a party to the Refugee Convention and its protocol and in recent years have faced discrimination, arrest, detention and boat pushbacks.²⁷⁸⁵

Undetermined nationalities

In March 2022 the Chief Minister of Sabah announced that 810,443 residents of Sabah are non-citizens.²⁷⁸⁶ This figure is almost double the UNHCR 2019 estimate of 450,000 stateless persons in Sabah.²⁷⁸⁷ Most of this population has lived in Sabah for multiple generations yet lacks documentary proof of their connection to their country of origin (the Philippines and Indonesia). It is unclear whether this population is stateless or entitled to citizenship of either Malaysia, the Philippines or Indonesia.²⁷⁸⁸

In March 2022 the Chief Minister of Sabah announced that 810,443 residents of Sabah are non-citizens. This figure is almost double the UNHCR 2019 estimate of 450,000 stateless persons in Sabah.

Causes of Statelessness

Discriminatory nationality laws

Children born in Malaysia out of wedlock (or in situations where the marriage is not recognised by the state, notably non-Islamic customary or

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.

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.²⁷⁹³

Malaysia's gender discriminatory nationality laws place a number of children at risk of statelessness. Notably, children born outside of Malaysia to Malaysian citizen mothers and foreign fathers do not immediately gain citizenship of Malaysia.²⁷⁹⁴ Malaysia's most notable gender discriminatory provision denies Malaysian mothers equal rights to confer citizenship to men.²⁷⁹⁵ While policy exists which provides some pathways to citizenship to children in this situation, DHRR Malaysia has noted that in practice, the process continues to discriminate and remains largely discretionary.²⁷⁹⁶

In December 2020, Family Frontiers, a nationality rights advocacy group, and six affected Malaysian mothers challenged the constitutionality of this gender discriminatory provision in *Suriani Kempe & Ors (2021)*.²⁷⁹⁷ A new parliamentary committee was formed in December 2021 in order to amend the constitution to the benefit of Malaysian mothers.²⁷⁹⁸ In September 2021, the High Court of Malaysia had ruled that the discriminatory

In December 2020, Family Frontiers, a nationality rights advocacy group, and six affected Malaysian mothers challenged the constitutionality of this gender discriminatory provision in Suriani Kempe & Ors (2021).

provision breached the constitution, and that Malaysian women shall have equal right as men to confer citizenship to their children.²⁷⁹⁹ Despite the fact that the decision was later overturned in August 2022, which was condemned by UN experts and rights advocates²⁸⁰⁰, new amendments to the constitution were announced in June 2023 which were posited to improve the situation of Malaysian mothers.²⁸⁰¹ However, while the new amendment would grant equal rights to women in conferring citizenship, an analysis from the University of Melbourne Peter McMullin Centre on Statelessness has identified that the new amendments are likely to actually increase, not decrease, the number of people affected by statelessness.²⁸⁰² Perhaps most notably, the amendments would remove the provision (Schedule 2, Article 1(e)) which grants citizenship to children born in Malaysia who would otherwise be stateless, which will be especially detrimental to childhood and intergenerational statelessness in Malaysia.²⁸⁰³

However, while the new amendment would grant equal rights to women in conferring citizenship, an analysis from the University of Melbourne Peter McMullin Centre on Statelessness has identified that the new amendments are likely to actually increase, not decrease, the number of people affected by statelessness.

While the legislation allows that any person who is not eligible for automatic citizenship may seek citizenship by registration, safeguarding children from statelessness, very few applicants are accepted as the process is highly discretionary.²⁸⁰⁴ On the provision of Schedule 2, Article 1(e), the proposed amendments would also change the wording of granting citizenship to those who would otherwise be stateless from "by operation of law" to "by registration", which would not only make the eligibility of citizenship, in this case, up to the discretion of the Home Minister but would also remove the potential for applicants to seek judicial review by the courts.²⁸⁰⁵ This means that

those who may have been able to seek redress through citizenship by registration would be unable to access such redress with the passing of the proposed amendments.²⁸⁰⁶

The proposed amendments would also remove the right to citizenship for children born to two stateless parents who are permanent residents of Malaysia, which could perpetuate intergenerational statelessness for groups that have resided in Malaysia since before independence.²⁸⁰⁷ Further, foundling children would no longer have access to citizenship due to the assumption that foundlings are born to a permanent resident mother and the proposed amendments removing the eligibility for citizenship by children of permanent residents.²⁸⁰⁸ The amendment would further perpetuate childhood statelessness carrying over into adulthood due to the administrative barriers it would place on stateless children applying for citizenship by registration upon becoming an adult.²⁸⁰⁹ To add to this, if the amendments are passed, foreign women who have gained Malaysian citizenship by registration through marriage could be deprived of citizenship in the first two years of the marriage if the marriage dissolves.²⁸¹⁰ In sum, the new amendments would decrease the right to appeal citizenship decisions in courts and increase the government's discretionary power over Malaysian citizenship.²⁸¹¹ While the amendments have not yet been tabled, the Malaysian cabinet has stated that it "plans to table a bundle of constitutional amendments..."²⁸¹²

Lack of legal safeguards against childhood statelessness

Abandoned children and foundlings will gain citizenship by "operation of the law", meaning

that the citizenship acquisition is automatic and must be upheld by the government, which if not upheld, can be appealed through the courts.²⁸¹³ Malaysian law does not explicitly provide for citizenship for stateless children yet does consider citizens to be those born in Malaysia who are "not born citizens of any country" which may provide some protection.²⁸¹⁴ Despite the inclusion of the provision which grants citizenship to any child who is born in the territory who does not gain citizenship of another country within one year of birth, the government tends not to implement them in practice due to the absence of administrative procedures for granting citizenship in this way.²⁸¹⁵ Often children who are entitled to citizenship under this provision must seek recourse through the courts.²⁸¹⁶

Administrative barriers

A large population of persons of Indian and Chinese heritage who were born in Malaysia prior to its independence and their descendants, while entitled to citizenship under the law of Malaysia did not gain citizenship due to rural isolation, limited knowledge of its importance, and administrative barriers due to lack of documentation.²⁸¹⁷ The mobile maritime Sama Bajau (Bajau Laut) community also faces barriers to accessing citizenship due to a lack of documentation, which combined with their semi-nomadic lifestyle (which at times leads them to reside in neighbouring states) has led to the denial of their status as citizens.²⁸¹⁸

Malaysia reported a 90-99% birth registration rate in 2018.²⁸¹⁹ Birth registration may be a prerequisite for citizenship, especially for children born outside of Malaysia as registration at a consulate is required within one year in order for the child to become a citizen.²⁸²⁰

Myanmar

Laws

Citizenship Law

Jus sanguinis provisions

Citizenship of Myanmar, stipulated by the *Burma Citizenship Law*, 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.²⁸²¹ Article 3 states that members of the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan and ethnic groups who have resided in Myanmar since 1823 are Burma citizens.²⁸²² Article 4 further provides that "the Council of State may decide whether any ethnic group is national or not".²⁸²³ Myanmar's citizenship legislation does not include a definition of a stateless person nor does it explicitly mention or address statelessness.

Citizenship of Myanmar, stipulated by the Burma Citizenship Law, 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.

Naturalized citizenship

The citizenship legislation of Myanmar provides for two other categories of citizenship: associate citizenship and naturalized citizenship, which the government may confer on any person 'in the interest of the State'.²⁸²⁴ Citizenship by naturalization is only available to those with at least one citizen parent or who can prove sufficient links to the country at the time of its independence.²⁸²⁵ While this may offer a way for persons outside of the designated ethnic groups to acquire citizenship in Myanmar, citizenship acquired by naturalization does not provide the same quality and security of citizenship as is granted to indigenous groups. For example, an associate or naturalized citizen's citizenship may be stripped²⁸²⁶ or they may be blocked from enjoying certain rights available to citizens of the designated ethnic groups.²⁸²⁷ This distinction between citizens contradicts Article 21(a) of the 2008 *Constitution*, which states that "every citizen shall enjoy the right to equality."²⁸²⁸ There is no scope in the legislation for naturalization through marriage or long-term residence.²⁸²⁹ Stateless persons are not eligible for naturalization in Myanmar.

Dual citizenship

Dual citizenship is not permitted in Myanmar.²⁸³⁰ Foreign citizens applying for naturalization must renounce prior citizenship upon acceptance to citizenship of Myanmar.²⁸³¹

Treaty ratification status

Myanmar has only ratified three relevant treaty bodies, that includes ICESCR, CRC and CEDAW. In its 2012 concluding observations, the CRC Committee expressed concerns regarding the large portion of the population without access to citizenship, the lack of protective legislation for stateless children and the overall strict citizenship laws which leave many stateless.²⁸³² The Committee was also concerned that ethnicity and religion are marked on identity cards, exposing minority populations to discrimination.²⁸³³ The large number of children, particularly Rohingya children, whose birth remain unregistered was also noted, citing multiple administrative barriers to registration.²⁸³⁴ It was recommended that Myanmar remove such barriers and ensure effective registration of all children in the territory.²⁸³⁵ As a party to the CRC, Myanmar is obligated to ensure that every child's birth is registered immediately as well as that all children enjoy the right to acquire a nationality.²⁸³⁶

In its 2019 concluding observations, the CEDAW Committee also raised extreme concern over the repeated warnings given to Myanmar regarding its regressive *Citizenship Law* and 'citizenship verification' exercises conducted in northern Rakhine State.²⁸³⁷ These verification exercises have resulted in the "arbitrary deprivation of

The Committee was also concerned that ethnicity and religion are marked on identity cards, exposing minority populations to discrimination.

nationality and statelessness of Rohingya women and girls".²⁸³⁸ Further, Rohingya women and girls who refuse to identify as 'Bengali' are "arbitrarily excluded from the verification process".²⁸³⁹ The Committee recommended that Myanmar amend its discriminatory laws on citizenship, ensure the registration of Rohingya children, and recognize Rohingya individuals' and communities' right to self-identify.²⁸⁴⁰

In Myanmar's Universal Periodic Review, the 1982 *Citizenship Law* was identified to be discriminatory on the grounds of race, placing several groups, including the Rohingya, at risk of statelessness.²⁸⁴¹ The UPR further adds that while groups outside of the 135 listed ethnic groups in citizenship legislation may be eligible for citizenship under certain provisions, implementation has been arbitrary and discriminatory.²⁸⁴²

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) ICJ GL No 178

In 2019, The Gambia filed a case against Myanmar in the International Court of Justice

In its 2019 concluding observations, the CEDAW Committee also raised extreme concern over the repeated warnings given to Myanmar regarding its regressive Citizenship Law and 'citizenship verification' exercises conducted in northern Rakhine State.

(ICJ) accusing Myanmar of violating the 1948 Genocide Convention and its intention to "destroy the Rohingya as a group".²⁸⁴³ The Gambia also requested that the Court grant measures to protect the Rohingya from the ongoing genocide.²⁸⁴⁴ Albeit Myanmar denied these allegations,²⁸⁴⁵ the ICJ ruled in 2020 that Myanmar is now legally bound to "take measures to protect the Rohingya from genocide; prevent the Military from committing genocide; take steps to prevent the destruction of evidence of genocide; and file a report with the ICJ in four months, and every six months that follow until the closure of the case, documenting what they have done to ensure these measures are met".²⁸⁴⁶

Objections by the Myanmar government in 2021 that the Court did not have jurisdiction for the case were thwarted by the Court's judgement in 2022.²⁸⁴⁷ In 2002, a rare occurrence for the U.S., Anthony Blinken, U.S. Secretary of State, explicitly stated that the Rohingya have, in fact, been subjected to crimes against humanity constituting genocide by the State of Myanmar, essentially expressing its support for the Gambia's case.²⁸⁴⁸ The U.S.'s statement is said to be based on the findings of experts appointed by the U.S. State Department which supports the findings of the Independent International Fact-Finding

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Mission on Myanmar.²⁸⁴⁹ On November 15, 2023, the United Kingdom, Canada, Denmark, France, Germany, and the Netherlands filed a joint declaration of intervention, supporting the accusations that Myanmar's systematic 'clearance operations' amount to acts of genocide intended to destroy the Rohingya as a group.²⁸⁵⁰ A separate declaration of intervention was received by the ICJ from the Maldives on November 10, 2023.²⁸⁵¹ The ICJ has set May 2024 and December 2024 as time limits for written pleadings from The Gambia and Myanmar respectively.²⁸⁵²

Population

Reported stateless persons

Within Southeast Asia, Myanmar has the largest reported stateless population (and the second highest in the Asia Pacific), reporting 630,000 stateless persons to UNHCR in 2022.²⁸⁵³ This reported figure represents UNHCR's estimate of the number of Rohingya as well as stateless Internally Displaced Persons (IDPs) in Myanmar in Rakhine State alone.²⁸⁵⁴ Data in other states of Myanmar are unavailable.²⁸⁵⁵ The estimate also includes 156,600 internally displaced Rohingyas.²⁸⁵⁶ This represents an increase of 30,000 stateless persons in the last year after three years of no change in the reported estimate at 600,000.²⁸⁵⁷

The Rohingya population, a largely Muslim ethnic group with roots in the Rakhine state in west Myanmar²⁸⁵⁸, has faced discrimination, persecution and oppression at the hands of the government of Myanmar over the past decades.²⁸⁵⁹ Not included in the list of 135 ethnic groups eligible for

TABLE 74

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Myanmar	⊖	⊖	⊖	⊖	✓	⊖	✓	✓

✓ 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 75

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁸⁶⁰	2020 (year end) ²⁸⁶¹	2021 (year end) ²⁸⁶²	2022 (year end) ²⁸⁶³
Myanmar	600,000	600,000	600,000	600,000

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

Within Southeast Asia, Myanmar has the largest reported stateless population (and the second highest in the Asia Pacific), reporting 630,000 stateless persons to UNHCR in 2022.

citizenship in Myanmar, they have been systematically excluded from citizenship in their home country.²⁸⁶⁴ Since the military coup in February 2021, Rohingya populations in Myanmar have continued to face persecution, insecurity and restrictions on freedoms.²⁸⁶⁵

In 2017, the brutal ‘clearance operations’ conducted by the military, which constitute genocide, involved “arbitrary arrests and torture, indiscriminate killings, mass gang-rape of women, enforced disappearances, forced labour, and the destruction by fire of entire villages”.²⁸⁶⁶ In the ‘clearance operations’, upwards of 40,000 structures, including over 200 Rohingya settlements, were completely destroyed in just two years.²⁸⁶⁷ Despite the denial of the Myanmar government of such crimes, they have been well documented.²⁸⁶⁸ The government does not allow any monitoring or access by humanitarian aid or human rights organizations.²⁸⁶⁹

While many have fled to neighboring countries, such as Bangladesh, Malaysia, Indonesia, Thailand, Saudi Arabia, India, and Pakistan, and beyond in search of refuge from persecution²⁸⁷⁰, those who remained after the 2017 ‘clearance operations’ are subject to apartheid conditions.²⁸⁷¹ The Rakhine State, where much of the Rohingya population in Myanmar reside, is subject to severe restrictions of freedom of movement, which is largely targeted at Rohingyas.²⁸⁷² Often Rohingyas, including Rohingya children, are arrested while traveling anywhere within and outside of the country.²⁸⁷³ The movement restrictions are so severe that Rohingyas in internment camps are unable to leave the camps.²⁸⁷⁴ If they attempt to do so, they are likely to be apprehended and subject to abuse by military or police at the many checkpoints in the area.²⁸⁷⁵ The only way to access health services for those living in camps is to apply for permission

to leave the camps, which entails a security escort to the hospital where Rohingyas are segregated from others in the hospital and closely monitored.²⁸⁷⁶ For grave or complex illnesses, it is unlikely that an individual would be able to get to the hospital in time to save their life.²⁸⁷⁷ Further, internet blackouts were imposed on townships in Rakhine and Chin States, which affected more than one million people in 2019²⁸⁷⁸ just before the COVID-19 pandemic began, barring them from accessing life-saving information about the virus. The Rohingyas have notably not been included in consultations for an MoU between UNHCR and UNDP with the Myanmar government.²⁸⁷⁹ Rohingya leaders shared a statement in 2019 regarding the lack of proper consultation:

“As the victims of these crimes, our demand is for justice and accountability, and the right to return to our country to live in security and dignity, as equal citizens. The international community must hear our voices and do everything in its power to uphold international law and bring the perpetrators to justice. Please include us in these processes, which are ultimately about us. We are available to be consulted and to share our perspectives, experiences and solutions with you.”²⁸⁸⁰

Persons at risk of statelessness

Any group or individual who does not match the 135 included ethnic groups in Myanmar’s citizenship legislation is at risk of statelessness.²⁸⁸¹ This includes, but may not be limited to, Rohingyas, individuals of ‘Nepali’ or ‘Indian’ descent, Tamils, Hindu speakers of Bengali-dialects, groups at the Myanmar border, minority groups of Rakhine State, and Muslim and Hindu communities.²⁸⁸² People born to parents of different or mixed religions or ethnicities are also at risk due to exclusion within Myanmar’s citizenship legislation.²⁸⁸³ IDPs and refouled refugees, largely from Bangladesh and Thailand, have also been identified to be at risk.²⁸⁸⁴ Children born to refugee parents in Thailand are also at risk of statelessness as Myanmar does not recognize birth certificates issued by Thai authorities to refugee children.²⁸⁸⁵

Stateless Refugees

It is important to note that stateless Rohingyas account for the largest stateless population in the world.²⁸⁸⁶ The majority of stateless Rohingya refugees reside in neighbouring Bangladesh, which in 2022 was reported to host over 900,000²⁸⁸⁷ of the 1.2 million stateless Rohingyas.²⁸⁸⁸ This number is contradicted by other statistics reporting 2.5 million stateless Rohingya refugees who have fled Myanmar, with over 2 million reported among the top four receiving countries alone²⁸⁸⁹ – Bangladesh (952,309²⁸⁹⁰), Pakistan (400,000-500,000²⁸⁹¹), Saudi Arabia (558,000²⁸⁹²) and Malaysia (103,380²⁸⁹³). However, this number is expected to be even higher as Rohingya refugees in Pakistan and Saudi Arabia are often not counted due to the fact that they are not registered with the UNHCR or the UNHCR has no clear data on them.

Undetermined nationalities

The true figure of statelessness in Myanmar likely extends beyond the reported figure and encompasses other ethnic minority groups excluded from the 1982 citizenship law. A 2014 Census showed that over 11 million people in Myanmar did not have valid identification documents.²⁸⁹⁴ The US Department of State noted that a ‘significant number’ of persons of Chinese, Indian and Nepali descent living within Myanmar were either stateless or of undetermined nationality, facing restrictions on their freedom of movement and rights.²⁸⁹⁵

Causes of Statelessness

Discriminatory nationality laws

Ethnic discrimination in nationality law, leading to the denial of citizenship to Rohingya populations has been the key cause of statelessness in Myanmar. Ethnic discrimination within Myanmar citizenship law was codified in the 1982 *Citizenship Law* which

This number is contradicted by other statistics reporting 2.5 million stateless Rohingya refugees who have fled Myanmar, with over 2 million reported among the top four receiving countries alone – Bangladesh (952,309), Pakistan (400,000-500,000), Saudi Arabia (558,000) and Malaysia (103,380).

limited citizenship to certain ‘national races’ (which did not include the Rohingya).²⁸⁹⁶ Denial of citizenship of the Rohingya was a key component of the systemic oppression and persecution of the Rohingya people by the government and military of Myanmar before the 2017 ‘clearance operations’.²⁸⁹⁷ The Rohingya are not the only victims of this discriminatory nationality law as any group not included on the list of 135 ethnic groups is denied the right to citizenship.²⁸⁹⁸ Decision making for granting citizenship does not have a time limit or mechanism for review or appeal.²⁸⁹⁹ The lack of avenues for redress have led to “arbitrariness, corruption and bribery to speed up decisions or secure a positive outcome”.²⁹⁰⁰

Lack of legal safeguards against childhood statelessness

The citizenship law of Myanmar does not provide any right to nationality for foundling children or children born to stateless parents.²⁹⁰¹ This lack of legal safeguards further cement intergenerational statelessness within the country.²⁹⁰²

Citizenship stripping

Myanmar’s citizenship legislation includes vague, overarching provisions allowing for the revocation of citizenship.²⁹⁰³ An associate or a naturalized citizen’s citizenship may be stripped under the broad grounds of being “in the interest of the State”.²⁹⁰⁴ This provision has also been used to strip citizenship of opposition and resistance politicians in recent years.²⁹⁰⁵ Many Rohingya are referred to as naturalized citizens on citizenship applications, essentially denying them full citizenship rights.²⁹⁰⁶ There are no legislative protections for those who have their citizenship revoked from becoming

stateless.²⁹⁰⁷ Since dual nationality is prohibited in Myanmar, many people could become stateless as a result of revocation of citizenship.²⁹⁰⁸

Administrative barriers

Aside from discriminatory legislation and lack of legal safeguards, corruption perpetuates the issue of statelessness in Myanmar.²⁹⁰⁹ The processing of citizenship applications has lacked transparency and consistency.²⁹¹⁰ In some cases, citizenship applications have required Rohingyas to have their ethnicity listed as 'Bengali', which is not only a stigmatizing term, but can lead to denial of citizenship as 'Bengali' is not included on the list of 135 ethnic groups.²⁹¹¹

Field research has shown that both majority and minority ethnicities experience difficulties in processing citizenship applications, including having to pay bribes to the Ministry of Labour, Immigration and Population (MoLIP), attend several appointments with MoLIP, and provide extensive documentation of their identity, their parents' identities, and their grandparents' identities in order to process an application.²⁹¹² It is extremely difficult for poor communities to be able to fulfil these requirements of this process, effectively excluding them from accessing citizenship.²⁹¹³ Muslims are particularly targeted for being forced to pay higher charges for citizenship applications.²⁹¹⁴ While legislation stipulates that the fee for a citizenship card costs around 4 cents in USD, Rohingyas have been reported to pay upwards of 350-420 USD.²⁹¹⁵ The extensive documentation required for the process also excludes a third of the population in Myanmar (54% being women) who do not possess a legal identity or identity documentation.²⁹¹⁶

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.²⁹¹⁷ It has been argued that it is the

Aside from discriminatory legislation and lack of legal safeguards, corruption perpetuates the issue of statelessness in Myanmar. The processing of citizenship applications has lacked transparency and consistency. In some cases, citizenship applications have required Rohingyas to have their ethnicity listed as 'Bengali', which is not only a stigmatizing term, but can lead to denial of citizenship as 'Bengali' is not included on the list of 135 ethnic groups.

implementation of the 1982 *Citizenship Law* and 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 (not simply the discriminatory law alone).²⁹¹⁸

The CRC identified that administrative barriers such as lack of awareness of "the importance of birth registration; a non-user-friendly system; a lengthy process to obtaining birth certificates at the township level; unofficial fees associated with the birth registration system; the existence of the local order restricting marriages for Rohingya people; and the practice aimed at reducing the number of their children" contribute to a large number of Rohingya children remaining unregistered.²⁹¹⁹ Children born to parents of unregistered marriages are considered illegitimate and are excluded from receiving official documentation.²⁹²⁰ Administrative barriers to marriage registration, such as lengthiness of the process, corruption and discrimination, have lowered access to marriage registration for many Rohingyas.²⁹²¹ The inability to register a marriage perpetuates the lack of registration for Rohingya children and has led to women resorting to dangerous abortions and couples fleeing the country.²⁹²²

People living in remote areas in Myanmar also experience barriers to accessing birth registration.²⁹²³ Myanmar's birth registration rate was reported to UNICEF as 81% as of 2016.²⁹²⁴

Philippines

Laws

Citizenship Law

Jus sanguinis provisions

The citizenship law of the Philippines operates through a *jus sanguinis* structure with children born to a citizen parent or parents within or outside of the territory considered citizens.²⁹²⁵

Naturalized citizenship

In March 2022, the Supreme Court of the Philippines introduced a new policy to facilitate and streamline the naturalization of stateless persons and refugees,²⁹²⁶ an act supported by several UN agencies and representatives.²⁹²⁷ The *Rule on Facilitated Naturalization of Refugees and Stateless Persons*, the first of its kind in the world, provides both a simplified and expedited naturalization procedure for stateless persons and refugees.²⁹²⁸ Included in the *Rule* are provisions ensuring protection against discrimination for refugees and stateless persons²⁹²⁹ and protecting family unity of refugees and stateless persons²⁹³⁰. A stateless person or refugee is eligible to apply for naturalized citizenship through this process if they 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.²⁹³¹ Under the *Rule*, a joint petition may be filed by a refugee or stateless person together with his or her spouse and children.²⁹³² The *Rule* also provides that unaccompanied minors may apply for citizenship with the aid of governmental agencies, such as the Department of Social Welfare and Development (DSWD) or other relevant agencies.²⁹³³ This is in line with the Philippines's commitment to uphold children's right to nationality under international agreements.²⁹³⁴ It appears that no petition has yet been filed under the *Rule* as of May 2022,²⁹³⁵ but it is said that more than 800 people are expected to benefit from it.²⁹³⁶

The Rule on Facilitated Naturalization of Refugees and Stateless Persons, the first of its kind in the world, provides both a simplified and expedited naturalization procedure for stateless persons and refugees.

A reduced period of 5 years is available for those who are married to a Filipino, have introduced a new industry or invention to the Philippines, are a school teacher for at least two years, or were born in the Philippines.²⁹³⁷ A person may be disqualified from this process if they are opposed to organized governments, endorse violence, are a polygamist, convicted of a morally compromising crime, suffering a “mental alienation or incurable contagious diseases”, have not socialized with Filipinos during their residence, or are a subject of a nation with which the Philippines is at war.²⁹³⁸ Documents required for the application include a birth certificate, marriage certificate (if applicable), proof of recognition of refugee or stateless status, a moral endorsement from two Philippine citizens, among others.²⁹³⁹

Dual citizenship

The right for Philippine citizens to maintain dual citizenship is available only to natural-born citizens who have earlier lost their Philippine citizenship by reason of acquisition of foreign citizenship.²⁹⁴⁰ While the renunciation process for foreigners is not stipulated in legislation, the oath to be taken upon issuance of Certificate of Naturalization states that the foreign citizen relinquish allegiance to any foreign state.²⁹⁴¹

Treaty ratification status

Following accession to the 1961 Statelessness Convention in March 2022,²⁹⁴² Philippines is the only country in Southeast Asia and one of only three countries in the entire Asia-Pacific to be party to all the relevant Statelessness, Refugee and Human Rights Conventions. While it is

commendable that the Philippines has ratified all treaty bodies relating to statelessness, reservations were made to the 1954 Convention relating to the Status of Stateless Persons. The reservations are on Article 17(1), which ensures stateless persons equal rights as aliens in wage-earning employment and Article 31(1), which protects stateless persons lawfully residing in the territory from expulsion unless for national security reasons.²⁹⁴³ On this, the Constitution disallows stateless persons from practicing their profession in the Philippines under the provisions which states, “the practice of all professions in the Philippines shall be limited to Filipino citizens”.²⁹⁴⁴

In 2023, the CERD Committee included in its concluding observations concerns over the “lack of comprehensive and reliable publicly available statistics on demographic composition of the population”, including for stateless persons.²⁹⁴⁵ Further, the Committee also highlighted the concerning absence of protective legislation against statelessness, particularly regarding “unregistered children living in the context of forced displacement”.²⁹⁴⁶ It was recommended that the Philippines improve civil and birth registration mechanisms in geographically remote and conflict-affected areas.²⁹⁴⁷ In 2016 concluding observations by the CESCR Committee, the Committee expressed concerns regarding the lack of birth registration of indigenous children, Muslim children, and children of overseas Filipino workers.²⁹⁴⁸ These concerns were echoed in the 2022 concluding observations by the CRC Committee, which expressed that while these affected children remain unregistered, they are at

TABLE 76

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Philippines	✓	✓	✓	✓	✓	✓	✓	✓

✓ Signifies that the country is 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
 ✗ Signifies that the country is not a party to the convention

In the Plan, the Philippines shared its intentions to abide by the following action points²⁹⁴⁹:

- ◆ Resolve existing situations of statelessness;
 - ◆ No child is born stateless;
 - ◆ Remove gender discrimination from nationality laws;
 - ◆ Grant protection status to stateless migrant and facilitate their naturalization;
 - ◆ Ensure birth registration for the prevention of statelessness;
 - ◆ Accede to the UN Statelessness Conventions;
- Improve quantitative and qualitative data on stateless populations.

The Philippines is one of few countries in the entire Asia-Pacific region to have implemented a statelessness determination procedure having established the procedure in 2012.

risk of “statelessness and deprivation of the right to a name and nationality and of access to basic services”.²⁹⁵⁰ As a party to the CRC, the Philippines is obligated to ensure that every child’s birth is registered immediately as well as to ensure all children the right to acquire a nationality.²⁹⁵¹

The *Rule on Facilitated Naturalization of Refugees and Stateless Persons* defines a stateless person as “a person who is not considered as a national by any State under the operation of its law,” which is directly aligned with the definition included in the 1954 Convention on the Status of Stateless Persons.²⁹⁵² The Philippines is one of few countries in the entire Asia-Pacific region to have implemented a statelessness determination procedure having established the procedure in 2012.²⁹⁵³ The Philippines introduced a National Action Plan to End Statelessness in 2015 based on UNHCR’s Global Action Plan to End Statelessness.²⁹⁵⁴

TABLE 77

Reported stateless persons to the UNHCR

Country	2019 (year start) ²⁹⁶³	2020 (year end) ²⁹⁶⁴	2021 (year end) ²⁹⁶⁵	2022 (year end) ²⁹⁶⁶
Philippines	383	387	260	267

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

Further, the Philippines declared the years 2015 to 2024 as the “Civil Registration and Vital Statistics (CRVS) Decade” as well as committed to universal birth registration.²⁹⁵⁵

Population

Reported stateless persons

The Philippines reported 267 stateless persons to UNHCR in 2022, an increase of 7 persons since 2021.²⁹⁵⁶ UNHCR has noted that this reported population reflects improved information on persons of Indonesian descent who have acquired nationality.²⁹⁵⁷ The reported number also includes 11 stateless Rohingya refugees.²⁹⁵⁸ The reported stateless persons were drastically higher before 2019, at 2,678 persons in 2017²⁹⁵⁹ and 1,068 persons in 2018²⁹⁶⁰.

Persons at risk of statelessness

Six populations groups within the Philippines have been identified by the Philippines Government and a UNHCR supported mapping report as at risk of statelessness, including the 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.²⁹⁶¹

Stateless Refugees

In 2021 there were 5 reported stateless refugees in the Philippines, all of whom were Rohingya refugees from Myanmar.²⁹⁶²

The Philippines' Pledges to End Statelessness

At the 2023 Global Refugee Forum, 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.”²⁹⁶⁷ 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.”²⁹⁶⁸ 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.”²⁹⁶⁹

The Government of the Philippines also submitted the below pledges during the High-Level Segment on Stateless in October 2019 where it 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.²⁹⁷⁰
- ◆ To improve access of vulnerable and marginalized populations to documentation through birth and civil registration.²⁹⁷¹
- ◆ 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 2011.²⁹⁷²
- ◆ To continue the process of accession to the 1961 Convention on the Reduction of Statelessness.²⁹⁷³
- ◆ 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.²⁹⁷⁴
- ◆ To cooperate with UNHCR by supporting projects, continuing fund contributions, and by building or expanding partnerships.²⁹⁷⁵

So far, the Philippines has been successful in ratifying the 1961 Convention on statelessness.²⁹⁷⁶

Undetermined nationalities

One notable population of Filipinos reside outside of the Philippines but are unable to confirm their citizenship status. This including as many as 55,000-97,000 residents of Sabah²⁹⁷⁷ as well as migratory workers in Gulf countries who while largely entitled to citizenship under the *jus sanguinis* law of the Philippines yet are unable to prove their connection to the country.²⁹⁷⁸

Causes of Statelessness

Discriminatory nationality laws

A population affected by statelessness in the Philippines are persons of Japanese descent who were born in the Philippines between the 1930's and 1970's (as well as their descendants).²⁹⁷⁹ Previous discriminatory barriers that existed in the citizenship law of the Philippines limited the ability of Filipino mothers to transfer their nationality to their children that were born to Japanese fathers. Children were also unable to gain Japanese citizenship as administrative procedures requiring household registration were not met due to the impact of the Second World War (including the death of their father or deportation).²⁹⁸⁰ The statelessness of this population has since been largely resolved.²⁹⁸¹ In August 2023, the Philippine government waived the fines (at times amounting to tens of thousands of dollars) previously imposed on the group as a result of decades of being deemed illegal residents, which have prevented many nikkei-jins, especially of the older generation, from being able to travel to Japan.²⁹⁸² As of September 2023, it is estimated that around 400-500 second-

In August 2023, the Philippine government waived the fines (at times amounting to tens of thousands of dollars) previously imposed on the group as a result of decades of being deemed illegal residents, which have prevented many nikkei-jins, especially of the older generation, from being able to travel to Japan.

generation nikkei-jins may still be left in the Philippines.²⁹⁸³ Surveys and interviews for nikkei-jins' Japanese citizenship acquisition are planned to be conducted in early 2024.²⁹⁸⁴

Currently, there are calls to review *Commonwealth Act No. (CA) 473* or the *Revised Naturalization Law* which provides for what is known as “derivative naturalization.”²⁹⁸⁵ Under this law, any woman who is married to a citizen of the Philippines and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.²⁹⁸⁶ Hence, an alien woman marrying a Filipino, native born or naturalized, becomes a Filipina by operation of law provided she is not disqualified to be a citizen of the Philippines under Section 4 of CA 473.²⁹⁸⁷ Likewise, an alien woman married to an alien who is subsequently naturalized here follows the Philippine citizenship of her husband the moment he takes his oath as a Filipino citizen, provided that she does not suffer from any of the disqualifications under said Section 4.²⁹⁸⁸ Therefore, foreign women who are married to Philippine citizens do not need to prove that they possess other qualifications for naturalization at the time of their marriage nor do they have to submit themselves to judicial naturalization.²⁹⁸⁹ There does not appear to be any law granting similar ability for Philippine women to confer nationality to a foreign spouse.

Lack of legal safeguards against childhood statelessness

In May 2022, the Philippines introduced a law providing that foundlings discovered in the Philippines and/or in Philippine embassies, consulates and territories abroad are to be presumed natural-born Filipino citizens.²⁹⁹⁰

Therefore, foreign women who are married to Philippine citizens do not need to prove that they possess other qualifications for naturalization at the time of their marriage nor do they have to submit themselves to judicial naturalization.

²⁹⁹¹ This law can have a notable impact due to its retroactive application²⁹⁹² on thousands of children registered as foundlings in the years prior to the enactment.²⁹⁹³ As of December 2021, the Philippine Statistics Authority has recorded 6,580 certificates of foundlings.²⁹⁹⁴ Given the retroactive nature of the foundling law, this would mean that at least 6,580 formerly stateless children are now considered natural-born citizens.

This law can have a notable impact due to its retroactive application on thousands of children registered as foundlings in the years prior to the enactment.

On September 9, 2022, the Department of Social Welfare and Development (DSWD) Secretary, Erwin T. Tulfo, and the National Authority for Child Care Undersecretary led the signing of the *Implementing Rules and Regulations (IRR) of Republic Act No. 11767* or the *Foundling Recognition and Protection Act*.²⁹⁹⁵ The *IRR Act* institutionalizes the process and mechanism to be followed once a foundling is discovered.²⁹⁹⁶ Under the measure, diligent and exhaustive efforts must be undertaken in determining the foundling's facts of birth and parentage through inter-agency cooperation and the use of quad-media.²⁹⁹⁷ The *IRR Act* also recognizes foundlings as presumed natural-born citizens,²⁹⁹⁸ and, thus, accorded all the inherent rights of being a Filipino,²⁹⁹⁹ including the benefit of expedited adoption.³⁰⁰⁰ However, there remains to be no explicit protection for stateless children (who are not foundlings) born in the Philippines to access citizenship through administrative proceedings, which are deemed to be much simpler, inexpensive, and more expeditious.³⁰⁰¹

Citizenship stripping

While the citizenship status of the majority of the population has been largely resolved, it has been reported that there remains a small number of persons of Indonesian descent who resided in the Philippines and were stripped of their Indonesian citizenship.³⁰⁰² Under the operation of Indonesia's

Law of the Republic of Indonesia on Citizenship of the Republic of Indonesia (2006), 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). In 2006, Indonesia's citizenship law was reformed to make sure that statelessness would no longer occur in this way and to offer those who had lost Indonesian nationality a way to reacquire it. However, a mapping study conducted by UNHCR and the governments of Indonesia and the Philippines in 2012 and 2013 revealed that more than 6,000 people of Indonesian descent still had undetermined nationality in the southern Philippines.³⁰⁰³ The status of almost all identified population has been resolved,³⁰⁰⁴ still leaving as many as 4,000 persons not reached or identified yet for the mapping of their citizenship status.³⁰⁰⁵

Administrative barriers

Administrative and practical barriers to accessing birth registration have placed as many as 130,000 Sama Bajau (Bajut Laut) community members at risk of statelessness.³⁰⁰⁶ As noted previously in our Malaysia chapter, the sea-faring populations' semi-nomadic lifestyle and residence across the borders of multiple countries combined with their lack of civil registration documentation places them at risk of statelessness.³⁰⁰⁷

Birth registration rates have been recorded to be as low as 38% in the Bangsamoro Autonomous Region of Muslim Mindanao – compared to the reported national rate of 92% as of 2017³⁰⁰⁸ – with children in this region, especially those displaced due to armed conflict in the region at risk of statelessness.³⁰⁰⁹ It must be noted that birth

Birth registration rates have been recorded to be as low as 38% in the Bangsamoro Autonomous Region of Muslim Mindanao – compared to the reported national rate of 92% as of 2017 – with children in this region, especially those displaced due to armed conflict in the region at risk of statelessness.

registration is not a mode of acquiring citizenship. Birth registration is evidence of citizenship. Birth certificates are accorded high evidentiary value³⁰¹⁰ and are a vital marker of identity³⁰¹¹, especially citizenship acquired by birth.

Philippine law provides that acts and events concerning the civil status of persons, including birth and nationality,³⁰¹² must be recorded in the civil register,³⁰¹³ through the local civil registrar.³⁰¹⁴ Birth is registered upon the declaration of the physician or midwife in attendance at the birth or, in default thereof, the declaration of either parent of the newborn child.³⁰¹⁵ Such declaration is sent to the local civil registrar not later than 30 days after the birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.³⁰¹⁶ One of the facts declared by such persons and contained in a birth certificate issued upon registration is the infant's nationality.³⁰¹⁷ Upon registration, the local civil registrar issues the birth certificate, which already contains information regarding a person's nationality,³⁰¹⁸ rather than a separate citizenship certificate.³⁰¹⁹ Birth registration is a prerequisite in acquiring a certification of a person's citizenship, *i.e.*, the birth certificate.

Philippine citizenship may be determined by birth on the basis of blood relationship. The Philippine Constitution provides that those whose father or mother are citizens of the Philippines³⁰²⁰ or those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority,³⁰²¹ are Filipino citizens. A *prima facie* proof of a person's filiation is his or her birth certificate.³⁰²² Therefore, while birth registration may not be vital in acquiring citizenship, it is a piece of supporting evidence of acquiring citizenship. Consequently, children with unregistered births are at risk of being stateless due to lack of evidence as to proof of their filiation.³⁰²³

Birth registration is a prerequisite in acquiring a certification of a person's citizenship, i.e., the birth certificate.

Singapore

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

Singaporean citizenship legislation, covered by the *Constitution of the Republic of Singapore*, operates mostly through *jus sanguinis* principles with some differentiation between persons born within or outside of the state. Individuals born in Singapore are considered citizens by birth if at least one of their parents is a citizen of Singapore.³⁰²⁴ Children born to two parents who are not citizens of Singapore will not be citizens; however, eligibility in this case can be left to the discretion of the government.³⁰²⁵ Foundlings are considered to be Singaporean citizens at birth.³⁰²⁶ There is no definition or explicit mention of a stateless person or statelessness in the citizenship legislation of Singapore.

Singaporean citizenship legislation, covered by the Constitution of the Republic of Singapore, operates mostly through jus sanguinis principles

Citizens are able to confer their nationality to their children even if their child is born outside of the territory of Singapore. However, children born outside of Singapore are considered citizens by descent and can only acquire citizenship of Singapore if either of their parents is a citizen by birth, by descent, or citizens by descent who have met certain residence requirements. Prior to a 2004 amendment to the *Constitution*, citizenship by descent could only be conferred by the father of a child, who was himself a citizen by birth or registration, not descent.³⁰²⁷ Additionally, the births of children outside of Singapore must be registered before they gain Singaporean citizenship by descent, and such children will cease to be citizens if they do not take Singapore's Oath of Renunciation, Allegiance and Loyalty³⁰²⁸ within one year of their 21st birthday.³⁰²⁹

Foundlings are considered to be Singaporean citizens at birth.

It is important to note that Singapore's citizenship legislation still contains some gender-discriminatory provisions. The law provides that children born in Singapore whose father (not

mother) is a foreign diplomat or enemy alien (and the birth occurred during the occupation from that enemy state) are not considered citizens by birth even if their mother is a citizen of Singapore.³⁰³⁰ Singaporean citizenship law further limits the ability of married women to confer their nationality onto foreign spouses on the same basis as men.³⁰³¹

Naturalized citizenship

Foreigners or stateless persons may gain Singaporean citizenship by registration, which is different from the process of naturalization.³⁰³² Any foreigner of 21 years or more may apply and be registered as Singaporean citizen if the government is satisfied of their good character, of their meeting certain past residence requirements (in practice, having been a Permanent Resident of Singapore for at least two years³⁰³³), of their intention to reside permanently in Singapore, and of their elementary knowledge of one of the country’s four official languages.³⁰³⁴ There is a simplified procedure for the acquisition of citizenship by registration for foreign women married to a Singaporean citizen.³⁰³⁵

Foreigners and stateless persons are able to apply for citizenship by naturalization through a more stringent process than that afforded to citizens by registration. If the government is satisfied that the applicant is of good character, they meet more stringent past residence requirements³⁰³⁶, they intend to reside permanently in Singapore, and they have adequate knowledge of the national language (Malay), the applicant will be

granted naturalized citizenship.³⁰³⁷ No simplified or expedited process of either citizenship by registration or by naturalization is available for stateless persons or refugees.³⁰³⁸

Dual citizenship

Whilst Singaporean citizens also enjoy the status of citizens of the Commonwealth³⁰³⁹, Singapore does not recognise or accept dual citizenship for its citizens. A child born of Singaporean parents outside of Singapore must renounce any *jus soli* rights to citizenship in the country of their birth if they want to become a citizen by descent.³⁰⁴⁰ Any citizen of 21 years or more may renounce their citizenship if they are also citizens of another state or are about to become so.³⁰⁴¹ Further, the government may deprive a Singaporean citizen of their citizenship upon their acquisition of foreign citizenship or on their exercise of certain rights as foreign citizens, such as the use of a foreign passport or the exercise of their voting rights.³⁰⁴²

Treaty ratification status

To date, Singapore has ratified ICERD, CRC, and CEDAW. Singapore is not party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness. In addition, Singapore is one of 13 UN states which have not signed or ratified either the ICCPR, or ICESCR. Singapore has signed the non-binding ASEAN Human Rights Declaration, as one of the ten countries that drafted and adopted it in 2012.

The effect of this reservation can be seen in the fact that one’s nationality can directly affect one’s eligibility for specific forms of immigration to Singapore.

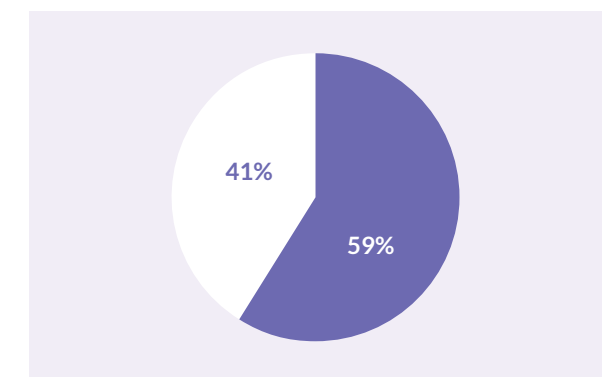
One of Singapore’s notable reservations on the ICERD is that it reserves the right to “apply its policies concerning the admission and regulation of foreign work pass holders, with a view to promoting integration and maintaining cohesion within its racially diverse society”.³⁰⁴³ The effect of this reservation can be seen in the fact that one’s nationality can directly affect one’s eligibility for specific forms of immigration to Singapore.³⁰⁴⁴ In 2022, the CEDAW Committee in its concluding observations raised concerns which stated that “insufficient measures have been taken to reduce wage discrimination based on nationality”.³⁰⁴⁵ It was recommended that Singapore ensure that employment restrictions on workers’ countries of origin do not constitute discrimination based on nationality as well as work “to eliminate wage discrimination based on nationality”.³⁰⁴⁶ The Committee also urged Singapore to ensure comprehensive data collection for ethnic groups, including non-citizens such as migrants, refugees and stateless persons.³⁰⁴⁷ By ratifying the ICERD, Singapore has committed to ensuring non-discrimination on the basis of nationality and the right to a nationality.³⁰⁴⁸

Further concerns were expressed regarding lack of legal safeguards against childhood statelessness to which Singapore was recommended to amend its citizenship legislation to ensure that children who would otherwise be stateless are granted Singaporean nationality.³⁰⁴⁹ These concerns were echoed by the CRC Committee in 2019, which recommended that Singapore amend Article 122 of the *Constitution* in order to ensure no child is or becomes stateless.³⁰⁵⁰ As a party to CRC, Singapore is obligated to ensure that no child is left stateless.³⁰⁵¹ However, one relevant reservation Singapore made in its ratification of CRC argues that Singapore’s national law sufficiently protects

children’s rights, meaning that Singapore will not accept any obligations beyond those prescribed in its *Constitution*.³⁰⁵² This has been criticised by other State parties as well as the CRC Committee. The Committee added that in order to eliminate discrimination towards children without Singaporean citizenship, Singapore should adopt a comprehensive strategy to end discrimination towards children, including by collaborating with mass media, social networks, and community leaders to change dominating discriminatory attitudes.³⁰⁵³

In 2017, the CEDAW Committee recommended that Singapore publish updated statistics on the number of stateless persons in the country as well as to ensure that children born in the territory who would otherwise be stateless be granted citizenship, echoing concerns expressed in concluding observations made by the CRC Committee and the CERD Committee.³⁰⁵⁴ Although Singapore reduced the number of reservations made to CEDAW in 2011, reservations remain in relation to Article 2.³⁰⁵⁵ Crucially, Article 2 commits states to take steps to eliminate all discrimination against women through anti-discrimination laws, public institutions and tribunals, and repeal all discriminatory provisions

FIGURE 12
Classification of stateless individuals, 2016



Source: ReImagining Singaporeans, ‘Handbook on Statelessness in Singapore’

TABLE 78

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Singapore	–	–	–	–	–	✓	✓	✓

✓ 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

of domestic legislation.³⁰⁵⁶ As a result of these reservations, the UN Committee which oversees the Convention has stated that the reservations are “impermissible since these articles are fundamental to the implementation of all the other provisions of the Convention.”³⁰⁵⁷

In the 2022 UPR submission for Singapore, the High Commissioner for Human Rights highlighted the need to ensure that children born in Singapore who cannot acquire another nationality are able to automatically acquire Singaporean nationality.³⁰⁵⁸

Population

Reported stateless persons

Singapore has consistently reported 1,109 stateless persons to UNHCR in the years 2020, 2021, and 2022.³⁰⁵⁹ As of February 2019, Singapore’s Immigration and Checkpoints Authority reported 1,303 persons.³⁰⁶⁰ This number has improved slightly since January 2016, when the Minister for Home Affairs and Minister for Law reported that 1,411 stateless persons were living in Singapore.³⁰⁶¹ Of that figure, 59% were reported to be male, and 41% female.³⁰⁶² Recent recommendations from the CERD Committee, as discussed above, indicate that reported data on the number of stateless persons in Singapore may not be updated or comprehensive.³⁰⁶³

In 2016, it was reported that 85% of stateless persons were Permanent Residents.³⁰⁶⁴ In 2020, the Minister for Home Affairs reported that 76%

of Singapore’s current stateless population are Permanent Residents of Singapore, meaning that the percentage of stateless persons with access to benefits conferred by being a Permanent Resident diminished significantly between 2016 and 2020.³⁰⁶⁵ While Permanent Residents can access healthcare, educational benefits and Certificates of Identity which facilitate travel, stateless persons who are not Permanent Residents do not receive the same benefits.³⁰⁶⁶ They are issued a Special Pass, which must be renewed every six months to continue their residency in Singapore.³⁰⁶⁷

Singapore’s stateless population consists primarily of three groups: persons born in the country before independence who did not meet the requirements of citizenship which were in effect at that time, permanent residents who have lost their foreign citizenship, and children born to foreign nationals not recognised as citizens in their home countries.³⁰⁶⁸ In particular, the separation in 1965 between Singapore and Malaysia was a key contributor to the complication of proving one’s citizenship, as individuals were displaced and at times did not have the necessary paperwork to document their right to citizenship.³⁰⁶⁹

In 1957, the *Citizenship Ordinance* offered all residents born in Singapore or the Federation of Malaya, and British citizens, the ability to register for a Singapore citizenship.³⁰⁷⁰ It also offered naturalisation to residents living in Singapore for more than ten years who were ready to take an oath of allegiance and renounce their allegiance to other countries.³⁰⁷¹ However, the *Ordinance* also inevitably made it possible for the Government to

However, the Ordinance also inevitably made it possible for the Government to deny citizenship to those deemed as displaying dissatisfactory representations to the Constitution or the Queen.

deny citizenship to those deemed as displaying dissatisfactory representations to the *Constitution* or the Queen.³⁰⁷⁶ During this time of significant change, some residents were not able to or did not register themselves as citizens of the new nation of Singapore.³⁰⁷⁷ After the separation between Singapore and Malaysia in 1965, individuals who were displaced and did not have the appropriate paperwork to prove their place of birth were then left to face significant complications in proving their citizenship.³⁰⁷⁸

Causes of Statelessness

Discriminatory nationality laws

A constitutional provision stipulates that a child born in Singapore to a citizen mother and a father who is a foreign diplomat will not be a citizen. This is despite the fact the child should be eligible for citizenship by descent through their citizen mother.³⁰⁷⁹ The limitation on the ability of married women to confer nationality to their foreign spouse on the same basis as men³⁰⁸⁰ also constitutes gender discrimination.

Finally, 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 these “illegitimate” children.³⁰⁸¹ References in the citizenship constitutional law to children’s fathers or parents are to be construed as references to their mothers only.³⁰⁸² This means that for children whose father is a Singaporean citizen yet their mother is not, they may not acquire Singapore citizenship by birth or descent.

Lack of legal safeguards against childhood statelessness

Citizenship laws of Singapore provide explicit protection to foundling children, deeming them citizens at birth.³⁰⁸³ However, there is no explicit protection provided to stateless children, leaving the children of stateless people in Singapore at a greater risk of becoming/remaining stateless themselves, and potentially perpetuating the stateless status through several generations. This risk can, in theory, be tempered by the Government’s exercise of its discretionary power to grant citizenship by birth or registration to any child in Singapore.³⁰⁸⁴ Children of migrant workers and foreigners within Singapore are at risk of statelessness due to this lack of protection.

Citizenship laws of Singapore provide explicit protection to foundling children, deeming them citizens at birth. However, there is no explicit protection provided to stateless children, leaving the children of stateless people in Singapore at a greater risk of becoming/remaining stateless themselves, and potentially perpetuating the stateless status through several generations.

Citizenship stripping

The government may deprive citizens by registration or naturalization (or those enrolled as citizens prior to Singapore’s 1965 independence) of their citizenships under a series of circumstances, most notably if they resided outside of Singapore for five continuous years without registering annually at the Singaporean consulate.³⁰⁸⁵ When a citizen renounces their citizenship or is deprived thereof, their citizen children of under 21 years may also be deprived of their citizenship.³⁰⁸⁶ According to Article 140(2) of the *Constitution*, decisions made by the government regarding citizenship “shall not be subject to appeal or review in any court.”³⁰⁸⁷

TABLE 79

Reported stateless persons to the UNHCR

Country	2019 (year start) ³⁰⁷²	2020 (year end) ³⁰⁷³	2021 (year end) ³⁰⁷⁴	2022 (year end) ³⁰⁷⁵
Singapore	1,303	1,109	1,109	1,109

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

Administrative barriers

While there are many varied experiences and causes of statelessness in Singapore, administrative barriers due to a lack of documentation (which was either lost, destroyed or never possessed) are a major cause of statelessness, specifically among older populations who were born in pre-Independence Singapore.³⁰⁸⁸ In 2016, it was reported by a member of Parliament that 74% of the stateless population in Singapore were over 50 years of age.³⁰⁸⁹

While there are many varied experiences and causes of statelessness in Singapore, administrative barriers due to a lack of documentation (which was either lost, destroyed or never possessed) are a major cause of statelessness, specifically among older populations who were born in pre-Independence Singapore.

Additionally, the criteria considered by the Immigration & Checkpoints Authority when evaluating applications for citizenship are intentionally opaque. The Minister for Home Affairs & Minister for Law, K. Shanmugam, commented in October 2016 that “we do not reveal the detailed criteria for granting PR and SC as it is not in our interest to do so”.³⁰⁹⁰ However, it is clear that “family profile” will be considered a factor, and it is therefore likely that a birth registration will be a piece of supporting evidence

for acquiring citizenship. Media reports over the recent years raising the profile of stateless persons have highlighted a considerable number of profiles of people whose applications have failed due to lack of documentation, for instance, because of an inability to provide parents’ identity documents due to no longer being in contact with them, or because of an inability to provide a birth certificate, either as a result of not being registered at birth because parents did not provide their marriage certificate, or simply because it was lost.³⁰⁹¹ These examples, of which there are many, highlight that a lack of administrative documentation remains an important barrier for stateless persons seeking to obtain citizenship.

With regard to birth registration, failure to register a child’s birth within 42 days of the date of birth can result in a fine and/or imprisonment.³⁰⁹² These late penalties present a major barrier to ensuring universal birth registration. Further, Singapore does not register births that occurred overseas.³⁰⁹³ If a child is born overseas, the parents must register the child’s birth and obtain a birth certificate from the foreign authorities in the country where the child is born.³⁰⁹⁴ Despite these barriers, Singapore reported a 100% birth registration rate in 2021.³⁰⁹⁵

Despite these barriers, Singapore reported a 100% birth registration rate in 2021.

Thailand

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

Thai nationality laws, stipulated mainly by the *Nationality Act* (1965), operate through *jus sanguinis* and limited *jus soli* provisions.³⁰⁹⁶ The law provides that children born to a Thai national parent or parents will be considered citizens no matter the location of their birth.³⁰⁹⁷ 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.³⁰⁹⁸ In 2008, the citizenship law was amended to remove some gender discriminatory provisions that denied women the right to confer citizenship to their children on an equal basis as men; however, there still exists a discriminatory provision that is detailed in the administrative barriers section below.³⁰⁹⁹ There is no definition of or explicit mentioning of a stateless person or statelessness in Thailand’s national citizenship legislation.

Thai nationality laws, stipulated mainly by the Nationality Act (1965), operate through jus sanguinis and limited jus soli provisions.

Naturalized citizenship

Aliens may apply for naturalization as Thai citizens if they have a domicile in Thailand for at least five years before the date of application, have knowledge of the Thai language, have a steady occupation and good behavior.³¹⁰⁰ A simplified process is available to those who have provided a distinguished service to Thailand, are a child or spouse of a Thai citizen, or previously had Thai citizenship.³¹⁰¹ There is no simplified or expedited procedure for naturalization for stateless persons or refugees specifically.

Dual citizenship

Dual citizenship is generally recognized for those with *jus soli* citizenship in Thailand, although the law tends to be inconsistently implemented.³¹⁰² There are no requirements to renounce prior nationality upon naturalization.

TABLE 80

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Thailand	–	–	–	✓	✓	✓	✓	✓

✓ 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

Thailand has ratified ICCPR, ICESCR, ICERD, CRC, and CEDAW; however, the country notably is yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1951 Refugee Convention and its 1967 Protocol. Thailand has made one notable reservation relating to statelessness on Article 22 of CRC, which affords the rights set out in the Convention to refugee and asylum-seeking children.³¹⁰³

In 2017, the Human Rights Committee expressed concerns in its concluding observations about the high number of stateless persons in Thailand, especially considering the lack of access to basic services, lack of access to education for stateless children, and increased vulnerability of stateless persons to human trafficking.³¹⁰⁴ This concern was echoed in 2022 concluding observations by the CERD Committee.³¹⁰⁵ It was recommended that Thailand ensure that rural and isolated populations are informed of and have access to processes that relate to citizenship acquisition.³¹⁰⁶ The Committee also raised concern over “reports of discrimination and violence against” groups including stateless people as well as travel restrictions enforced on migrants with regularized status.³¹⁰⁷ Further, it was mentioned that the lack of protection for indigenous persons and communities causes them to endure discrimination, specifically with regard to acquisition of citizenship.³¹⁰⁸ The CESCR Committee also expressed concerns in its

concluding observations over Thailand’s lack of recognition of indigenous peoples.³¹⁰⁹ As a party to ICCPR, Thailand is committed to ensuring that every child has the right to acquire a nationality as well as to guarantee non-discrimination in the enjoyment of rights.³¹¹⁰

In its 2022 concluding observations, the CERD Committee recognized the lack of disaggregated data on population demographics, in particular for indigenous peoples, ethnic and ethno-religious groups, migrants, refugees, asylum seekers and stateless persons, to be able to evaluate the protection of the rights enjoyed by these groups.³¹¹¹ The Committee was also concerned about “reports of collection of DNA samples from stateless persons living in southern border provinces and remote areas as a means to prove their right to citizenship”.³¹¹² It was recommended that Thailand abolish this discriminatory practice and instead increase efforts to ensure access to birth registration and citizenship for all.³¹¹³ By ratifying the ICERD, Thailand has committed itself to ensure no discrimination based on nationality or legal status as well as the right to a nationality.³¹¹⁴

Due to barriers including language, living in remote areas, and limited awareness of Thai laws, ethnic and ethno-religious groups, indigenous peoples, migrants, refugees, asylum seekers and stateless persons are often unable to access legal aid, which Thailand could amend by eliminating such barriers.³¹¹⁵ Further, during COVID-19, Thailand did not provide socioeconomic relief packages to those without identity documents, compounding

Further, during COVID-19, Thailand did not provide socioeconomic relief packages to those without identity documents, compounding the disproportionate impact of the pandemic on stateless persons.

the disproportionate impact of the pandemic on stateless persons.³¹¹⁶ In response, Thailand stated that two health care schemes were available to stateless persons during the pandemic³¹¹⁷; however, the CERD Committee found this response unsatisfactory as the mentioned groups included in the health schemes are not included in the primary public health service system.³¹¹⁸

Concluding observations by the CEDAW Committee in 2017 cited concerns over the remaining gender discriminatory provisions in Thailand’s citizenship legislation which applies “stricter conditions for Thai women to confer their nationality on foreign spouses”.³¹¹⁹ As a party to CEDAW as well as ICCPR, the country is obligated to ensure gender equality in its nationality laws.³¹²⁰

The CEDAW Committee was also concerned that men are prioritized to register for citizenship over women in ethnic minority and indigenous communities, leaving many women in these communities stateless.³¹²¹ This results in affected women having “restricted freedom of movement and limited access to education, employment, health care, and social protection”.³¹²² Further, the Committee highlighted that a significant number of children lack birth registration documents or their births are unregistered, leaving them at risk of statelessness.³¹²³ This was also mentioned in concluding observations by the CRC Committee in 2012, which added that children living in poverty, children of indigenous groups, and migrants are especially vulnerable to non-registration.³¹²⁴ As a party to CRC, Thailand has committed to ensuring that every birth in its territory is registered immediately and that all children have the right to acquire a nationality.³¹²⁵

Thailand’s Pledge to End Statelessness

Thailand has endorsed the #IBelong campaign by UNHCR to end statelessness by 2024 as well as committed to ensuring that stateless people have a path to obtaining legal status.³¹²⁶ As a part of the 2023 Global Refugee Forum, on December 21, 2023, Thailand pledged to “resolve statelessness, with priority being given to children born in Thailand”.³¹²⁷ 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”.³¹²⁸

Population

Reported stateless persons

Thailand has the second largest stateless population in Southeast Asia, reporting 574,219 stateless persons to UNHCR in 2022.³¹²⁹ This figure includes 573,900 stateless persons reported by the Royal Thai Government who are registered in the national civil registration system as well as 321 stateless Rohingya refugees counted by UNHCR.³¹³⁰ This notably does not include those groups whose births have not been registered.

There has been extensive focus from UN agencies, the Thai government and academics on the situation of statelessness in Thailand.³¹³¹ Statelessness in Thailand largely affects ethnic minority groups ('Hill Tribe' populations) in northern Thailand, specifically near the Thai-Myanmar border.³¹³² In 2021, it was estimated that 81% of the stateless population in Thailand resides in border areas.³¹³³

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.³¹³⁴ 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 443,862 in 2015 to 574,219 in 2022.³¹³⁵ There was a significant spike in the population between 2020 and 2021, increasing by a total of 80,832 stateless persons in just one year.³¹³⁶

In a recent qualitative study on the experiences of stateless persons in Thailand, four types of perceived stigma were identified, including difficulty requesting that their needs be met, being unequal to others, being ineligible for healthcare services, and "being ranked below other hill tribe people who have IDs".³¹³⁷ The study noted that "the phrase 'life is nothing' was presented by the participants, who reported that they felt like an invisible population in Thailand".³¹³⁸ Participants of the study reported that they felt they experience

Between October 2020 and September 2021, 2,740 stateless persons were granted citizenship. 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 443,862 in 2015 to 574,219 in 2022.

less stigma if they do not leave their village, if they have a Thai ID, and if they can speak the Thai language, with having a Thai ID being perceived as of the utmost importance in avoiding stigma.³¹³⁹

Persons at risk of statelessness

Children of migrant workers, including ethnic Shan from Myanmar risk statelessness due to low levels of birth registration and exclusion from the mainstream campaigns run by the government of Thailand to identify and register stateless populations.³¹⁴⁰ Children born to stateless parents as well as foundlings may also be at risk due to gaps in protective legislation.

Stateless Refugees

In 2022, Thailand reported 321 stateless refugees, all of whom were Rohingya from Myanmar.³¹⁴¹ It is estimated that there are additionally 3,000 long-term Rohingya refugees who have resided in Thailand for more than two decades.³¹⁴² Rohingya and other Muslim groups with historic ties to Myanmar, including populations who have lived along the Thai-Myanmar border for generations have been excluded from government programs to identify stateless persons and provide access to citizenship.³¹⁴³

Causes of Statelessness

Discriminatory nationality laws

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 North West of the country were largely excluded from recognition as citizens (excluded from earlier *ius soli* citizenship provisions), access to services and official citizen surveys until the mid-to-late 20th Century.³¹⁴⁸ Following extensive activism and advocacy led by affected communities in the late 1990's and early 2000's thousands of members of 'highland' communities have gained citizenship, however distribution of citizenship across ethnic groups is not unanimous and thousands still lack access to citizenship.³¹⁴⁹ Today, members of these communities continue to be denied freedom of movement and lack access to a wide range of rights including voting, ability to own land, access to bank credit, and employment.³¹⁵⁰

While the 2008 amendments to the *Nationality Act* allowed for foreign spouses to apply for Thai citizenship without the requirement of permanent residence³¹⁵¹, the Act still does not allow for full gender equality in the ability to confer citizenship to foreign spouses.³¹⁵² An alien woman married to a Thai man applying for citizenship will be granted citizenship by birth; however, an alien man married to a Thai woman will gain citizenship by naturalization only, which warrants different political rights.³¹⁵³ Citizenship acquired through naturalization is less secure than citizenship by

While the 2008 amendments to the Nationality Act allowed for foreign spouses to apply for Thai citizenship without the requirement of permanent residence, the Act still does not allow for full gender equality in the ability to confer citizenship to foreign spouse.

birth with the decision to revoke citizenship by naturalization being up to the discretion of the government.³¹⁵⁴

Before the 2008 amendment to the *Nationality Act*, many Thai women lost their nationality as a result of provisions that stipulated that a Thai woman who marries a foreign man voluntarily loses her Thai citizenship.³¹⁵⁵ As a result, some women who became stateless as a result of losing Thai citizenship and being unable to acquire their husband's citizenship may still be resolving their cases.³¹⁵⁶

Lack of legal safeguards against childhood statelessness

Thailand's citizenship legislation may provide avenues to citizenship to children of stateless parents who have regularised stay in Thailand but this does not apply for those children whose parents are residing in the country illegally or on a temporary basis.³¹⁵⁷ An amendment to civil registration legislation in 2019 allowed foundlings to acquire Thai nationality through naturalization; however, there are many conditions of naturalization that limit many foundlings from accessing the naturalization process.³¹⁵⁸

Administrative barriers

Administrative barriers have continued to limit the ability of members of 'highland' communities 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.³¹⁵⁹ The application process has been reported to take 4.5 years on average,

Administrative barriers have continued to limit the ability of members of 'highland' communities to gain citizenship.

TABLE 81

Reported stateless persons to the UNHCR

Country	2019 (year start) ³¹⁴⁴	2020 (year end) ³¹⁴⁵	2021 (year end) ³¹⁴⁶	2022 (year end) ³¹⁴⁷
Thailand	475,009	480,695	561,527	574,219

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

delaying stateless persons' enjoyment of rights.³¹⁶⁰ Additionally, travel to offices to process citizenship applications is long and costly, creating further barriers to accessing the application process.³¹⁶¹ Stateless persons have only been allowed to travel within and outside of their province freely since 2016.³¹⁶² There are also reports that village heads, district officials, and police often demand a bribe to process a stateless person's application for citizenship as well as to pass through checkpoints during travel.³¹⁶³

A 2008 amendment to the *Civil Registration Act* increased access to birth registration for many hill tribe members.³¹⁶⁴ Before the amendment,

Stateless persons have only been allowed to travel within and outside of their province freely since 2016.

identity documentation, household registration, and official birth notifications were required for birth registration, which the hill tribe members were mostly unable to provide.³¹⁶⁵ Now, such documents are not required and births can be registered in any District Office, regardless of birthplace.³¹⁶⁶ However, while Thailand reported a birth registration rate of 100% in 2021,³¹⁶⁷ a study the same year supported by UNICEF found that among a sample group of Thai-born children of migrant's birth registration rates were only 50.2%.³¹⁶⁸

However, while Thailand reported a birth registration rate of 100% in 2021, a study the same year supported by UNICEF found that among a sample group of Thai-born children of migrant's birth registration rates were only 50.2%.



Timor-Leste

Laws

Citizenship Law

Jus sanguinis provisions

Timor-Leste's citizenship law, stipulated by the *Law on Citizenship* (2002), operates through the principle of *jus sanguinis*, providing that children born to at least one citizen parent, regardless of birthplace, will be considered a citizen.³¹⁶⁹ A child born to "incognito parents", stateless parents or parents with undetermined nationality are granted citizenship, according to Section 1(b) of the *Law*.³¹⁷⁰ There is no interpretation or definition of "incognito parents" provided in Timor-Leste's legislation.³¹⁷¹ Children born to a foreign parent who "declares to become an East Timorese national of his or her own accord" will also be citizens.³¹⁷²

Timor-Leste's citizenship law, stipulated by the Law on Citizenship (2002), operates through the principle of jus sanguinis, providing that children born to at least one citizen parent, regardless of birthplace, will be considered a citizen.

Further, the *Law on Citizenship* defines a stateless person as "an individual who is not able to demonstrate a legal bond of citizenship with any State".³¹⁷³ This definition does not align with the definition provided by the 1954 Convention relating to the Status of Stateless Persons, which determines the status of a potential stateless person by referring to national legislation on the citizenship of the country the person has or had ties with.³¹⁷⁴

Further, the Law on Citizenship defines a stateless person as "an individual who is not able to demonstrate a legal bond of citizenship with any State". This definition does not align with the definition provided by the 1954 Convention relating to the Status of Stateless Persons

Naturalized citizenship

Citizenship may also be acquired by naturalization in Timor-Leste.³¹⁷⁵ To be eligible for this process, one must "be a usual and regular resident" for at least ten years before December 7, 1975, or after May 20, 2002, as well as speak one of the official

languages, among other requirements.³¹⁷⁶ While stateless persons may be eligible for this process, there is no simplified or expedited procedure for naturalization available for stateless persons or refugees in Timor-Leste.

Dual citizenship

Dual citizenship is recognized in Timor-Leste, as stipulated by Section 5 of the *Law on Citizenship*.³¹⁷⁷

Treaty ratification status

While Timor-Leste has yet to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, the country has ratified the 1951 Refugee Convention and its 1967 Protocol, ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations. In its 2023 concluding observations, the CEDAW Committee expressed concerns regarding the lack of data on stateless women and girls in Timor-Leste.³¹⁷⁸ In 2015, the CRC Committee highlighted the low birth registration rate, especially in rural areas, of which costs for documents remained a barrier.³¹⁷⁹ As a party to CRC, Timor-Leste is obligated to ensure that every birth is registered immediately and that all children enjoy the right to acquire a nationality.³¹⁸⁰

In 2014, Timor-Leste committed to the principle of universal birth registration and to improve its CRVS systems.³¹⁸¹ A program to fulfill this commitment was launched in 2020³¹⁸², which is elaborated on in the administrative barriers section.

Population

Reported stateless persons

Timor-Leste reported zero stateless persons to UNHCR in 2022.³¹⁸³

Causes of Statelessness

The limitations on available research and data on statelessness in Timor-Leste undermines our knowledge of the causes of statelessness in the country. As a nation with relatively recent Independence (2002) and a long colonial history it is likely that certain groups may be at risk of statelessness due to state succession and transitions in nationality laws.³¹⁸⁴

Lack of legal safeguards against childhood statelessness

Timor-Leste's citizenship laws provide that a child of 'incognito parents, stateless parents or parents of unknown citizenship' will be considered an original citizen of Timor-Leste.³¹⁸⁵ While this provision explicitly protects stateless children, it is less clear if foundling children can gain citizenship through it.³¹⁸⁶

Administrative barriers

Reported birth registration rates in Timor-Leste are the lowest in the Southeast Asian region, at only 60%³¹⁸⁷ with only 30% possessing a copy of their birth certificate.³¹⁸⁸ The CRC expressed concerns

in 2015 regarding the low birth registration rate, especially in rural areas, of which costs for documents remained a barrier.³¹⁸⁹ In 2018, Timor-Leste's government partnered with UNICEF to strengthen the birth registration, with funding provided by Japan.³¹⁹⁰ The program intended to implement a mobile registration system to improve access in rural areas and establish "local coordination mechanisms to improve [the] birth registration system in Timor-Leste".³¹⁹¹ The birth registration project ended in December 2022, and visited a total of 114 villages and 490 sub-villages

in 7 municipalities, registering a total of 37,511 children.³¹⁹² However, the CEDAW expressed concerns over the program's lack of information on the impact of the campaign.³¹⁹³ The Committee also recommended that the mobile registration units be strengthened to ensure universal birth registration.³¹⁹⁴

Reported birth registration rates in Timor-Leste are the lowest in the Southeast Asian region, at only 60% with only 30% possessing a copy of their birth certificate.

TABLE 82

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Timor-Leste	⊖	⊖	⊕	⊕	⊕	⊕	⊕	⊕

⊕ 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

Vietnam

Laws

Citizenship Law

Jus sanguinis and jus soli provisions

Vietnamese citizenship law operates through a *jus sanguinis* structure, providing that children born to two citizen parents are considered citizens whether born within or outside the country.³¹⁹⁵ Where a child has a single Vietnamese parent, regardless of whether the other parent is a foreign citizen, is unknown, or is stateless, the parents must provide a written statement upon birth registration for their child to gain Vietnamese nationality.³¹⁹⁶

Vietnamese citizenship law operates through a jus sanguinis structure, providing that children born to two citizen parents are considered citizens whether born within or outside the country.

Children may gain *jus soli* citizenship if:

- ◆ One of the parents is Vietnamese, the other is a foreigner and the two parents cannot reach an agreement on the citizenship for the child upon birth registration;³¹⁹⁷
- ◆ Both parents are stateless but have permanent residence in Viet Nam;³¹⁹⁸ or
- ◆ The mother is stateless but has permanent residence in Viet Nam and the father is unknown.³¹⁹⁹ Foundlings are also eligible for citizenship by birth.³²⁰⁰

Viet Nam’s citizenship legislation defines a stateless person as “a person who has neither Vietnamese nationality nor foreign nationality”, which is consistent with the definition in the 1954 Convention on the Status of Stateless Persons.³²⁰¹

Naturalized citizenship

A foreigner or a stateless person who has permanent residence in Viet Nam is eligible to apply for Vietnamese nationality if they have resided in Viet Nam for five years, are financially

Viet Nam’s citizenship legislation defines a stateless person as “a person who has neither Vietnamese nationality nor foreign nationality”, which is consistent with the definition in the 1954 Convention on the Status of Stateless Persons.

independent, have capacity to exercise full civil act rights³²⁰² and can integrate into the Vietnamese community, among other requirements.³²⁰³ A simplified naturalization procedure is available for applicants who are the spouse, natural parent, or natural offspring of Vietnamese citizens or have made a significant contribution to Viet Nam.³²⁰⁴ One must have a Vietnamese name to apply for naturalization in Viet Nam, which can be selected by the applicant.³²⁰⁵ Stateless persons are eligible for a simplified process, where they may apply for naturalization without adequate personal identification papers if they have resided in Viet Nam for at least 20 years by 2009, when the new law became effective.³²⁰⁶

Dual citizenship

Dual citizenship is only recognized in some cases. Dual citizenship is permitted for a person who is a spouse, a natural parent, or natural offspring of Vietnamese citizens.³²⁰⁷ Those who 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.³²⁰⁸ Naturalized citizens who are not eligible to retain prior citizenship must renounce such citizenship.³²⁰⁹

Treaty ratification status

While Viet Nam is yet to ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1951 Refugee Convention (and its 1967 Protocol), it has ratified ICCPR, ICESCR, ICERD, CRC, and CEDAW with no relevant reservations.

In its 2014 concluding observations, the CESCR Committee expressed concerns regarding children of returned marriage immigrants in Viet Nam who remain stateless and unable to access education and other services.³²¹⁰ The Committee recommended that Viet Nam “recognize and register children of marriage immigrants who are currently stateless”.³²¹¹ Due to its ratification of ICESCR, Viet Nam is obligated to protect freedom from discrimination, including on the grounds of nationality.³²¹²

The 2015 concluding observations by the CEDAW Committee included concerns over the 800 stateless women who lost Vietnamese citizenship as a result of failed attempts to acquire a different nationality.³²¹³ However, Article 23 of the *Law on Vietnamese Nationality* provides that anyone who has renounced Vietnamese citizenship to gain citizenship elsewhere is eligible to reacquire Vietnamese citizenship and many of these women have been able to do so.³²¹⁴

Concluding observations by the CRC Committee in 2022 recommended that Viet Nam develop a procedure to determine the stateless status of children as well as work towards universal birth registration by raising public awareness of the importance of birth registration.³²¹⁵ As a party to CRC³²¹⁶ and ICCPR³²¹⁷, Viet Nam is obligated to ensure the right to acquire nationality as well as that every birth in its territory is registered immediately. Further, Article 2 of the *Law on Vietnamese Nationality* provides that in Viet Nam every individual has the right to nationality.³²¹⁸ Article 8 further provides that Viet Nam enables children born in the territory of Viet Nam to have nationality and stateless people permanently residing in Viet Nam to acquire Vietnamese nationality in accordance with applicable law.³²¹⁹

TABLE 83

Status of Accession of International Human Rights Treaties in Southeast Asia

Country	Stateless 1	Stateless 2	Refugee	ICCPR	ICESCR	ICERD	CRC	CEDAW
Vietnam	⊖	⊖	⊖	✓	✓	✓	✓	✓

✓ 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 84

Reported stateless persons to the UNHCR

Country	2019 (year start) ³²²⁰	2020 (year end) ³²²¹	2021 (year end) ³²²²	2022 (year end) ³²²³
Viet Nam	30,581	32,890	35,475	26,811

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

Population

Reported stateless persons

Viet Nam reported a population of 26,811 stateless persons to UNHCR in 2022³²²⁴, a significant decrease from the 35,890 reported in 2021³²²⁵. Groups affected by statelessness in Viet Nam include ethnic Hmong, female marriage migrants who have returned to Viet Nam after the breakdown of marriages, and persons of Cambodian heritage who fled to Viet Nam during the Khmer Rouge regime.³²²⁶

The H'mon and Montagnard ethnic and religious minority communities experience significant discrimination in Viet Nam, including harassment, arbitrary arrest and detention by authorities.³²²⁷ These communities also experience refusal of civil registration and documentation such as birth registration and have at times resorted to avoiding authorities due to fear of repercussions taken by authorities against them.³²²⁸

Persons at risk of statelessness

Former Cambodian refugees and Vietnamese women have historically experienced statelessness as a result of renouncing prior nationality without acquiring an alternative nationality.³²²⁹ Article 23 of the 2008 *Law on Nationality* allows those who had renounced Vietnamese citizenship to gain another citizenship are now able to reacquire Vietnamese citizenship, which has resolved the status of many women.³²³⁰ There is limited information on the extent to which statelessness may still be affecting this population today.³²³¹

The H'mon and Montagnard ethnic and religious minority communities experience significant discrimination in Viet Nam, including harassment, arbitrary arrest and detention by authorities.

Undetermined nationalities

The nationality status of children of returned marriage migrants who themselves have lost their Vietnamese nationality remain uncertain. While many of these children have the right to the nationality of their fathers (usually South Korean or Chinese/Taiwanese) under their country of birth's *jus sanguinis* provisions, many returned to Viet Nam (following relationship breakdowns) prior to gaining household registration or any documentary proof of their citizenship status.³²³²

Causes of Statelessness

Lack of legal safeguards against childhood statelessness

Viet Nam's citizenship law explicitly provides that foundling children will be considered citizens.³²³³ For children born to stateless parents, the parents must have a 'permanent residence' in Viet Nam for the child to gain citizenship.³²³⁴ Persons deemed temporarily residing in the country appear to be excluded by this provision and the application of the provision, and the application for persons illegally residing within the country remains unclear. A stateless person can only apply for a confirmation of permanent residence in Viet Nam if that person has "temporarily resided" in Viet Nam since 2000 or earlier.³²³⁵ To apply for the confirmation of permanent residence, the applicant must submit to the local police the relevant temporary residence certificates issued by the competent authority of Viet Nam to prove his or her temporary residence in Viet Nam since 2002 or earlier.³²³⁶ If both parents of a child born in Viet Nam are stateless and not qualified to have permanent residence in Viet Nam, there

For children born to stateless parents, the parents must have a 'permanent residence' in Viet Nam for the child to gain citizenship.

would not be any legal basis for the child to acquire Vietnamese nationality.

Citizenship stripping

In principle, a Vietnamese citizen cannot be stripped of their Vietnamese nationality unless they are a Vietnamese national living overseas or a naturalized citizen who has committed acts that are harmful to the state of Viet Nam.³²³⁷

Due to barriers to dual nationality in the laws of receiving countries including South Korea and Taiwan, marriage migrants from Viet Nam had to relinquish citizenship to naturalize as citizens. As discussed in the chapters on China and South Korea, where a relationship is determined to be a 'sham' or fraudulent, women have been stripped of their nationality without protections from statelessness.³²³⁸ While the exact number of persons affected by citizenship stripping is unknown, the CEDAW noted in 2015 that there were 800 stateless returned marriage migrants in Viet Nam.³²³⁹ However, Article 23 of the Law on Vietnamese Nationality provides that anyone who has renounced Vietnamese citizenship to gain citizenship elsewhere is eligible to reacquire Vietnamese citizenship and many of these women have been able to do so.³²⁴⁰

Administrative barriers

In order to apply for restoration of Vietnamese nationality, a person must submit the judicial record issued by the provincial Department of Justice of the province where he or she is residing or to the diplomatic representative office in the foreign country where he or she is residing.³²⁴¹ However, while the legislation on judicial records sets out the procedures for Vietnamese or foreign nationals to obtain the judicial records from competent Vietnamese authorities, there is no guidance on how a stateless person can do so, presenting a barrier for stateless persons to restore their Vietnamese nationality.³²⁴²

However, while the legislation on judicial records sets out the procedures for Vietnamese or foreign nationals to obtain the judicial records from competent Vietnamese authorities, there is no guidance on how a stateless person can do so, presenting a barrier for stateless persons to restore their Vietnamese nationality.

A birth certificate, people's identity card, or a Vietnamese passport may be used to certify Vietnamese citizenship.³²⁴³ Children cannot access education in Viet Nam without a birth certificate.³²⁴⁴ While Viet Nam's birth registration rate is high, at 98%³²⁴⁵, some groups experience disproportionately low birth registration.³²⁴⁶ Those at risk of non-registration (and, in turn, at risk of statelessness) in Viet Nam include children born in remote areas, children born to ethnic and religious minorities, street children in urban areas, undocumented migrant families who are not registered under the "household registration system", children born out of wedlock (especially to parents under the legal age for marriage), children born to two older siblings due to the unofficial "two-child policy" and associated social stigma, and children with undetermined nationality.³²⁴⁷

Ethnic H'mong communities continue to face administrative barriers to accessing civil registration documents and citizenship with reports of discriminatory applications of policy among these communities.³²⁴⁸ It has been reported that the denial of documentation and the implementation of administrative barriers have been utilized to discriminate against ethnic H'mong on the ground of their conversion to Christian faith and to deny as many 10,000 ethnic H'mong citizenship.³²⁴⁹ Without access to civil registration, these groups largely do not have the documentation required to prove their identity or nationality or access basic human rights and services.³²⁵⁰

It has been reported that the denial of documentation and the implementation of administrative barriers have been utilized to discriminate against ethnic H'mong on the ground of their conversion to Christian faith and to deny as many 10,000 ethnic H'mong citizenship.

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 Luitai, 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.

Endnotes

- ¹ See Regional Overview chapter.
- ² Ibid.
- ³ "Global Trends: Forced Displacement in 2022."
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