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ADDRESSING CITIZENSHIP DISCRIMINATION IN BRUNEI AND KUWAIT CAUSED BY GENDER INEQUALITY IN LAW

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ABSTRACT

The right to citizenship has been recognized since the Universal Declaration of Human Rights in 1948. Children's rights are expressly reinforced in several UN human rights accords and treaties. Statelessness, however, has grown to be a significant global problem with over 15 million people living without a nationality. State succession, technical and administrative shortcomings in the government, and discriminatory legislation are only a few of the factors that contribute to statelessness. From the standpoint of access to school, health benefits, access to property, and house ownership, this discriminatory citizenship law has had several detrimental effects on women and children. There are seven nations where women are not permitted to confer citizenship on their children, with few exceptions. This study focuses on Brunei and Kuwait, two of the seven nations where sufficient, accurate information is available. Citizenship discrimination creates a perception of children's identities as primarily descended from the male line and considers women as second-class citizens, maintaining a sexist and discriminatory framework for women's duties in the home and society. Therefore, this study evaluates the prevalence of statelessness as well as other detrimental effects on women and children as a result of gender-based disparity in citizenship legislation. The persons of concern database maintained by the United Nations High Commissioner for Refugees (UNHCR) is used for graphic analysis of statistics data in Brunei and Kuwait. Furthermore, for these two nations, a qualitative analysis is undertaken utilizing literature from the United Nations, the Institute on Statelessness and Inclusion, a case study, and other academic publications. Indeed, this study will also emphasize the current scenario of statelessness and other negative effects. In addition, this study recommends some proposed solutions or improvements that can be made by the governments of Brunei and Kuwait to address gender inequality in the legal system and societal ecosystem.

Keywords: *Brunei, Kuwait, citizenship discrimination, gender inequality and women.*

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Introduction

According to the Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW), the term discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Salbiah Ahmad has further clarified that gender discrimination, or so-called gender inequality, may also be understood to refer to any distinction, exclusion, or restriction based on sex that has the effect or purpose of impairing or negating the enjoyment of rights, on the basis of equality of men and women, and regardless of marital status. (Ahmad, 2005).

Hence, the term discrimination against women as mentioned in Article 1 of CEDAW 1979 can also be defined as gender inequality which will be discussed from the perspective of discriminatory citizenship law in Brunei and Kuwait that led to statelessness.

Furthermore, regarding the gender inequality that occurs today, citizenship laws in several countries have caused a lot of polemics at the international level. This is because the occurrence of gender inequality in the granting of citizenship leads to statelessness. Regarding the granting of citizenship to minors, there are four groups of nations with discriminatory citizenship laws. First off, there are no or very few exceptions to the rules prohibiting mothers from granting citizenship to their offspring. The nations are Brunei Darussalam, Iran, Kuwait, Lebanon, Qatar, Somalia, and Eswatini; Brunei and Kuwait are the subject of this study.

Second, although there are certain protections against statelessness, the rules governing citizenship do not grant mothers the same rights to citizenship as males. Bahrain, Burundi, Iraq, Jordan, Kiribati, Liberia, Libya, Nepal, Oman, Saudi Arabia, Sudan, Syria, Togo, and the United Arab Emirates are a few examples.

The third is the same as the latter, but to be more precise, the citizenship laws in the Bahamas, Barbados, and Malaysia, where Malaysian mothers are discriminated against in granting citizenship to their children born abroad, also deny fathers the right to confer citizenship on their children born outside of legal marriage on an equal basis with women under the same circumstances. Last but not least, the rules on citizenship forbid mothers from bestowing citizenship on their children on an equal footing with males, although clauses guarantee that statelessness will only occur in a very small number of situations, namely in Mauritania.

Over the past century, children who, due to gender inequality in the law, cannot obtain their mother's citizenship or, in some countries, their father's citizenship, have struggled to obtain the citizenship of the other parent for a number of reasons, including an inability to locate the parent or establish a legal relationship with the parent, the parent's reluctance to assist with the acquisition of citizenship, the parent's status as a stateless person (The Economic and Social Commission for Asia and the Pacific (ESCAP), 2021).

Gender inequality in citizenship laws puts many children around the world at risk of statelessness and can result in a number of children's rights violations, including obstructions to family unity, freedom of movement, access to education, healthcare, and social services, the right to an inheritance, and freedom from child marriage, according to a thorough analysis by UNHCR, The UN Refugee Agency. In addition to causing psychological pain and isolation, the exclusion brought on by gender disparity in citizenship laws and policies prevents youngsters from pursuing their aspirations to work in particular professions. Furthermore, the nations suffer and are hindered in their efforts to attain sustainable development when such youngsters are prevented from contributing fully to society.

Background

Equality is one of the fundamental principles of human rights, along with justice and dignity. The cornerstone of the prevalent conception of equality in today's culture is liberal equality, the principle that "things that are alike should be treated alike (Baderin, 2003)." Formal equality is considered as the absence of discrimination. Men and women are both fellow humans with the same dignity, rank, and grade; they are only distinguishable by fundamental biological distinctions (Kapur, 1996). Women naturally have a preference for being pregnant, giving birth, and nursing, but males do not. Beyond these distinctions, men and women have the same opportunities and chances to reach their full potential as citizens and as people (Nurjanah, N & Fauzan, A & Lestiyorini, R & Ammanaturrahmah, I & Rogibah, & Noviyanto, T & Farihiyah, 2021).

Statelessness is a major result of gender discrimination in nationality laws, which has profound effects on every part of family life. Without citizenship, children and spouses from other countries frequently face a number of limitations on their capacity to travel, open bank accounts, own or inherit property, and fully participate in society. Families may experience severe financial, psychological, and physical hardship as a result of women's incapacity to confer citizenship equitably, which may lead to intergenerational poverty (Concept Note for the virtual High Level Side Event Achieving Gender Equality in Nationality Laws during the 75th session of the UN General Assembly). This clearly shows that gender inequality in citizenship laws has caused the main negative effect, namely the incidence of statelessness in countries that led to other negative effects as well due to the prohibition of women to confer citizenship to their children and spouses as men are allowed to do so.

A stateless person is someone who is not considered as a national by any state under the operation of its law. The 1954 Convention Relating to the Status of Stateless Persons establishes the aforementioned standards as well as a framework for stateless people's protection (complementing the subsequent international human rights treaties). International guidelines for preventing and reducing statelessness are outlined in the 1961 Convention on the Reduction of Statelessness. The protection of stateless people and the prevention or decrease of statelessness are both addressed by several human rights accords.

Statelessness is a human rights issue; however, the Institute on Statelessness and Inclusion's 2014 World's Stateless Report also outlines the human rights framework's shortcomings in addressing statelessness. In actuality, stateless people suffer difficulties in every aspect of life. Access to markets for employment, housing, healthcare, and education may be difficult for stateless people. They could also have trouble getting vital documents like birth, marriage, and death certificates as well as licenses, passports, and other legal identification, leaving many stateless people without a way to prove their existence or identify themselves in daily contacts.

Due to this, it is practically impossible to travel legally internationally, and their freedom to move about their home state may also be restricted. Stateless persons usually encounter difficulty obtaining the protection of the police or the judicial systems and are vulnerable to arbitrary detention, including long-term or indefinite detention. Stateless people, who are sometimes referred to as foreigners, may face land denial, deportation efforts, and other limitations that do not apply to other locals, even if they have no other State to which they may apply.

In Surah Al-Hujurat, verse 13, Allah S.W.T mentioned that,

Translation "Human beings, we created you all from a male and a female, and made you into nations and tribes so that you may know one another. Verily the noblest of you in the sight of Allah is the most God-fearing of you. Surely Allah is All-Knowing, All-Aware.

(Surah Al-Hujurat, verse 13 (49:13).)

Hence, this research aims to focus on the discriminatory citizenship laws in Brunei and Kuwait that led to statelessness and other negative effects as well due to gender inequality, as these two countries are not allowing their women citizen married to foreign men to confer citizenship to their children, however, Brunei has ratified international human rights instruments that are relevant to the protection of stateless persons, including the CEDAW on 24 May 2006. Meanwhile, Kuwait acceded to the CEDAW on 2 September 1994.

Literature Review

It is necessary to deconstruct the notion of equality put out by the government in order to comprehend the idea of gender disparity. In his book *Political Equality: An Essay in Democratic Theory*, Charles R. Beitz, an American political theorist and Edwards S. Sanford Professor of Politics at Princeton University, defined political equality as a set of standards that apply to the institutions that permit citizens to participate in political decision-making in a constitutional democracy. He thought that a more profound moral viewpoint might be used to explain political equality (Beitz, 1989).

Nonetheless this 'imagined perception of equality' by providing citizens the opportunity to be equally involved in the national policy is doubtful when involving the discriminatory citizenship law whereby this study set out the current scenario of statelessness that led to other negative impacts as well in Brunei and Kuwait due to gender inequality as there are many protests and opposition from the citizens and non-governmental organization (NGO) are not taken seriously by the government in citizenship policy making. Therefore, it is possible that the political structures mentioned above are what create and maintain statelessness in the first place.

There is additional literature accessible that closes the gender and equality disparities. Stratton (1992) discusses the effects of gender dynamics on statelessness. Despite the fact that all countries must abide by customary international law, Stratton emphasizes the many ways that gender inequality in nationality laws may be problematic. Several cases of gender discrimination in nationality laws as well as instances of international law limiting human rights are investigated by Stratton in her study. According to Stratton, among the international laws and conventions created to address these issues, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), founded in 1981, is the most extensive. The agreement requires full parity with men when conferring nationality and clearly forbids gender-based discrimination in nationality laws (Stratton, 1992).

Despite bridging the gender and equality gaps, this article does not evaluate the degree to which these discriminatory citizenship rules might lead to statelessness or have other unfavorable repercussions. Stratton's study focuses solely on the nuances of international law, as opposed to the specific states that implement gender-discriminatory policies or laws and the consequences they have on their particular populations. As a result, the foundation of this study is the introduction of discriminatory citizenship legislation in Brunei and Kuwait that resulted in statelessness and denied women the opportunity to bestow citizenship to their children on the grounds of marrying foreign men.

Not to mention, numerous academics have added to MacKinnon and Stratton's understanding of gender and equality. According to Lee (2005), feminist analyses of domestic and international law have uncovered several instances of sex and gender discrimination. In Western countries, the exclusion of women from full citizenship has been highlighted in the design of institutions and policies that affect economic and social rights, despite advancing civil equality. Statelessness has been overlooked as the other foreign space as a result of the depiction of women as the "other" alien to the citizen. Statelessness appears to be a gender-neutral phenomenon, and the experience of stateless women vanishes from view. Even those by feminists of colour tend to be largely Western and European in nature. The fact that statelessness today is mostly found in Asia and Africa may partly account for the lack of feminist critiques on the topic (Lee, T. L, 2005).

Correspondingly, using the feminist movement as a lens to examine gender disparity in legislation and its application offers a theoretical framework for comprehending the issue of statelessness, which restricts people rights to access free healthcare and education. On this occasion, the study will emphasize the new ideas that go beyond criticism and opposition to urge the government to raise women's rights in citizenship issues, where feminist viewpoints have also affected the interpretation and application of the 1979 CEDAW to numerous concerns affecting women.

In addition, there is more research that discusses gender imbalance in relation to citizenship discrimination. According to Edwards (2009), stateless and internally displaced people who experience gender discrimination are covered by the CEDAW's mission (Edwards, 2009). The background paper just presents an outline of CEDAW's mission and argues that it can assist the UNHCR in overseeing the welfare of internally displaced people and stateless people, it should be noted. Usually, while talking about discrimination and women's rights, CEDAW and UNHCR will be used to highlight the problem, but what is missed is how the world's nations adhere to CEDAW's core principles and what mitigating methods are used to solve this issue.

Because of their nomadic lifestyle and the unequal treatment of men and women in the citizenship laws, the Bidoon minority has been barred from attaining Kuwaiti citizenship, according to studies on statelessness in Kuwait (Beaugrand, C, 2011, April 27). This research by Beaugrand, 2011 has tended to focus on the increase of Bidoon in Kuwait from year to year caused by various factors including gender inequality in the citizenship law but this study, will extend this matter by bringing a new perspective on how the existence of Bidoon can have the negative impacts on women and children have not only the right to obtain citizenship but also mandatory fundamental rights such as to obtain a safe place to live.

A number of the seven previously stated countries also have external factors that affect their statelessness rates, and a significant share of those problems are brought on by the gender gap in citizenship legislation. P. Brett (2017) provides a summary of the statelessness situation in Asia and the Pacific, noting that while many countries have changed their historically anti-women citizenship laws over the past 15 years, Nepal, Brunei Darussalam, and Malaysia still discriminate against women when it comes to granting nationality to their partners or children. These three countries are among the 27 throughout the globe that forbid mothers from obtaining citizenship on an equal footing with men. Due to this, during the Universal Period Review (UPR) between 2014 and 2016, Asia & Pacific countries received the highest suggestions pertaining to statelessness. These nations included Malaysia, Nepal, and Brunei Darussalam (Beaugrand, 2011).

It is a crystal clear that gender inequality in citizenship laws cause statelessness in the region. However, in his findings, P. Brett only places Brunei as one of the Asian countries that contribute to statelessness in general without any detailed data and statistics. The statistical measure is important to evaluate so that the accuracy of the root cause analysis by gender inequality in the discriminatory citizenship laws that lead to statelessness can be measured through quantitative studies. Therefore, in the Asian region, this study will focus on Brunei's citizenship laws that lead to an increase in the number of stateless people due to gender inequality.

Petrozziello, 2018, with an emphasis on Haitian immigration in the Dominican Republic, also tackles gender discrimination and statelessness. This study looks at how indirect gender inequality limits access to citizenship in the Dominican Republic's political system (Petrozziello, 2018, October 31). The article's main focus is solely on how these discriminatory practices impact people of Haitian heritage and lead to statelessness. Meanwhile, this study will focus on the statelessness scenario in Islamic countries such as Brunei and Kuwait caused by gender inequality in discriminatory citizenship laws and the suggestions for improvement from a legal and moral point of view based on an Islamic perspective will also be highlighted.

Consequently, this study generally attempts to add to the body of knowledge by undertaking a detailed investigation of Brunei and Kuwait, two countries that rigorously ban women from conferring citizenship. This study gathers qualitative literature and statistics on statelessness to assess the degree to which these laws and practices encourage statelessness in the countries that still adhere to them.

Methodology

The key data for this study was gathered utilizing a variety of methodologies by focusing on quantitative analysis which consist of graphical analyses of UNHCR statistics data and qualitative analysis which are case study, textbooks, academic journals, and articles.

i. Quantitative Content Analysis

UNHCR information on the number of stateless people in the relevant countries are used to create a visual representation of the incidence of statelessness through time. The UNHCR provides data on people of concern across the world. This comprises stateless individuals, displaced people inside their own country, refugees, asylum seekers, and others. The database also includes information for each of these groupings for other countries. As was said earlier, it could be difficult to put a number on statelessness. There are several historical gaps in this database, as well as a general lack of data for many countries. It is important to note that refugees are not counted as stateless individuals in UNHCR statistics. Stateless refugees are counted as refugees in order to prevent double counting (UN High Commissioner for Refugees, 2018).

There are graphs for each of the nations with enough data. Brunei and Kuwait are among these nations. Descriptive analyses that will be contextualized with qualitative data are included with the graphics.

ii. Qualitative Content Analysis

When it comes to citizenship, gender-based discrimination takes many distinct forms, each of which has a unique effect on how well-off a nation's residents are able to live. There are 29 nations with rules that make it harder for women to give their children citizenship than it is for males (Stratton, *The Right to Have Rights: Gender Discrimination in Nationality Laws*, 1992). Seven of these nations which are Brunei, Kuwait, Iran, Somalia, Eswatini, Qatar, and Lebanon have laws that entirely restrict women from transferring their citizenship to their children, with no or very few exceptions (Revised Background Note on Gender Equality, Nationality Laws and Statelessness, March 8, 2013).

Due to the scarcity of qualitative and quantitative data on Iran, Somalia, Eswatini, Qatar, and Lebanon, as well as the special geopolitical circumstances surrounding their statehood, these countries will not be included in this research. For instance, Somalia's state collapsed in 1991 when the country's leadership was overthrown by a coalition of opposition parties. The country plunged into civil war for statehood. Despite having a federal government since 2012, the country is still ranked highly, if not first, on the Fragile States Index and is still considered by international organizations to be in a fragile condition (FSI) (Messner, 2014).

With the current degree of data availability, the statehood of Somalia poses confounding variables that this work is unable to adequately address. Furthermore, there is insufficient quantitative or qualitative information on Iran, Eswatini, Qatar, and Lebanon to provide a comprehensive analysis. Due to the availability of relevant data and information, Brunei and Kuwait will serve as the case study for this essay.

A survey of country-specific statelessness literature for the two nations is also used for the bulk of the qualitative analysis. The Institute on Statelessness and Inclusion, and numerous scholarly periodicals are the sources of this material. The primary sources used are covered in more detail below. Country

reports from the US Department of State describe how various countries uphold and defend human rights. This nation report has enhanced our understanding of Brunei (State, US Department of, 2014).

The majority of the information on Kuwait is derived from a study looking at statelessness and discrimination against women in the Gulf Cooperation Council (Fisher, B, 2015). Additional details regarding Kuwait are provided by Middle East Institute study that assesses Kuwait's gender-based policies more generally (Tétreault, M., & al-Mughni, H, 1995). In a report to the Human Rights Council outlining the causes of statelessness in that country, the Institute on Statelessness and Inclusion and other similar organizations looked at Brunei's nationality laws, which violate the fundamental rights of those who are stateless (Institute on Statelessness and Inclusion et, 2019).

Result and Analysis

Brunei

“To be honest, I feel hopeless. I feel hopelessness and powerlessness. I feel discriminated. I feel depressed. I used to have a small hope that this would be solved in the near future...”

Jin, stateless permanent resident of Brunei Darussalam (Global Campaign for Equal Nationality Rights, 2019)

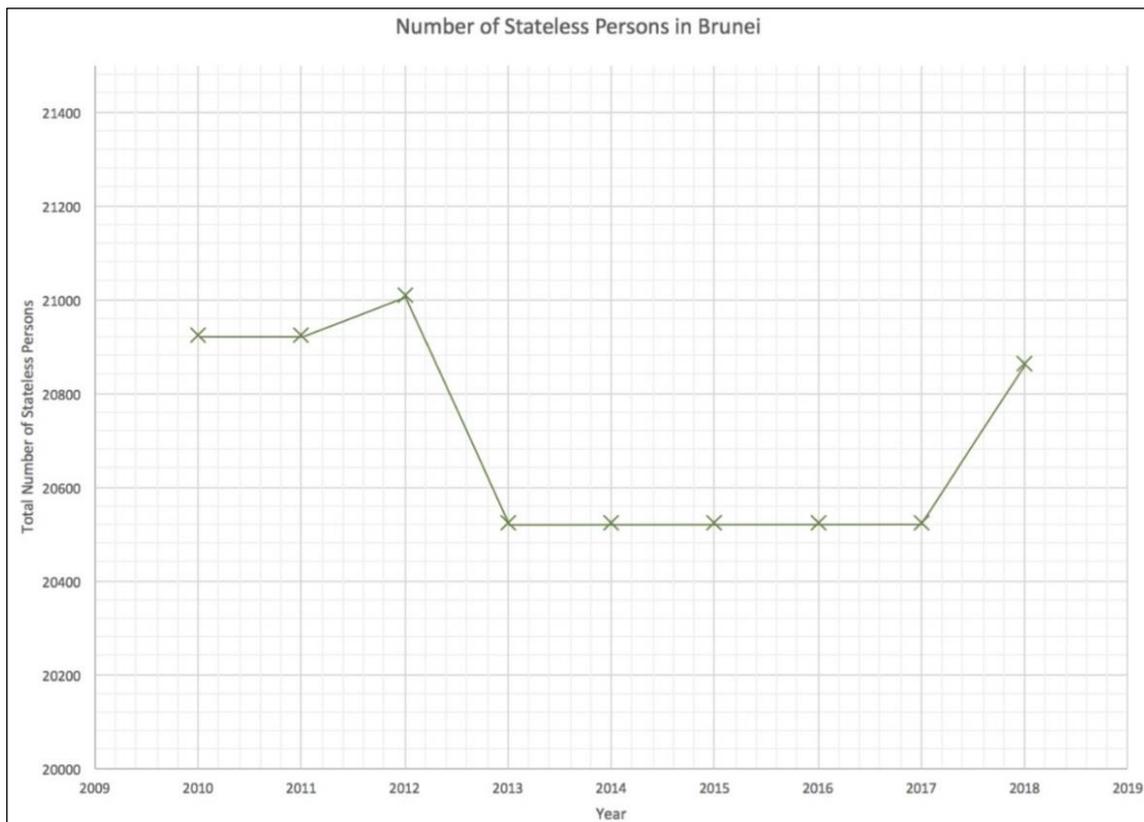


Figure 1 shows the number of stateless people in Brunei since 2010. The graph shows minor swings, but Brunei's stateless population has been fairly stable; nonetheless, unreported data is more common than documented. The most prominent changes were a 485-person decrease from 2012 to 2013 and a 339-person rise from 2017 to 2018. According to UNHCR estimates, there are now 20,863 stateless

people living in Brunei, making up 4.9% of the nation's total population in 2018 (UN High Commissioner for Refugees, 2018).

The data that has been analyzed from 2010 to 2018 indicates that the numbers of statelessness in Brunei are still at a critical level because every year the number exceeds 20,000 stateless people. The influx of stateless people in Brunei can have bad impact not only on the community and the country but also to the stateless people themselves. Statistically, at least 20,000 and above people in Brunei today are stateless whereby they are told that they do not belong anywhere, being discriminated by law, denied citizenship and their basic rights. Therefore, citizenship laws in Brunei have to play a role in this issue.

There Are No Exceptions to The Rule That Only Fathers May Give Their Children Citizenship

The major body of law governing the grant of Bruneian nationality is the Brunei Nationality Act of 1961. Unfortunately, gender inequality in the country's citizenship laws has contributed to the data analysis of statelessness in Brunei as stated above because citizenship in Brunei is derived through descent rather than birth within the country and because this legislation only permits fathers to confer their citizenship to their children without exception.

The Classification of People's Positions That Leads to Discrimination

The government distinguishes between citizens, stateless people with no legal status, and permanent residents due to Brunei's unusually tight citizenship regulations. Stateless permanent residents are recognized as members of Bruneian society who have access to some restricted facilities but do not receive the same level of privileges as citizens. Stateless permanent residents are ineligible for fully supported higher education and healthcare because they lack passports, which allow them to travel internationally and apply for visas for other countries. Stateless permanent residents also are not allowed to own property.

The Bruneian government does not provide any aid to stateless individuals who do not have legal status as permanent residents. Additionally, these persons are unable to get identification documents. The Brunei Nationality Act of 1961 forbids mother citizens from transferring their nationality to their kids and makes no exceptions. Only a citizen father may provide nationality to his offspring. Therefore, when citizen mothers have a child and the father is a foreigner and not present, they must seek for a proof of identification in order to register their child as a stateless permanent resident (Institute on Statelessness and Inclusion, 2019).

Children who are classified as stateless permanent residents would, as was previously noted, only have restricted access to services provided by the government. The classification of citizenship according to restricted specifications practiced in Brunei legislation has caused social injustice to individuals who are discriminated against to obtain basic rights such as obtaining own land, education subsidies, and access to good health. The denial of basic rights stemming from the discriminatory citizenship law has led to other negative impacts such as the threat of crime for instance robbery, student dropout which contributes to the issue of illiteracy and the problem of infectious diseases from the stateless will continue to increase in Brunei.

Prohibited Women from Conferring Their Citizenship to A Foreign Spouse.

Furthermore, women are not authorized to surrender their nationality to a foreign spouse under Brunei's discriminatory citizenship laws; nevertheless, a foreign woman who marries a citizen man will be awarded citizenship. If a woman's spouse already has no nationality, this might prolong his or her statelessness. This system demonstrates the gender disparity that exists in Brunei by prohibiting women from granting citizenship to their foreign husbands and children while allowing males to do so, which contributes to the rising number of stateless children. In general, there has been gender inequality in

two circumstances which are women cannot confer her citizenship to a foreign husband and her child as men can do so thus contributing to the increasing numbers of stateless children.

The unfair treatment of women's citizenship in law and practice hinders the granting of other rights, including the right to citizenship and freedom from statelessness, the right to equality in the family, the ability to participate equally in public and political life, the freedom of movement, access to public services, and other economic, social, and cultural rights.

The Relative Model of The Current Practice of Discriminatory Citizenship Laws Between Brunei and Malaysia.

In the same fashion, the practice of a system that discriminates against women who married non-citizen men which prohibited them from conferring their citizenship to a child also occurs in Malaysia specifically for children born abroad as provided in Section 1(b) of Part II of the Second Schedule of the Federal Constitution, Malaysian men who are legally married to non-citizen spouses abroad are eligible to obtain Malaysian citizenship for their children automatically.

But the Federal Constitution does not mention the right of women in relation to the same privileges for their children as a result of marriage with foreign men outside Malaysia. In fact, the women have no right to do so as men could do in conferring the citizenship to the children as a result of marriage with foreign men. This gender inequality has created a polemic issue in Malaysia whereby on 29 September 2021, Pengerang Member of Parliament, Datuk Seri Azalina Othman Said raised this issue in Parliament because she stands up the citizenship discrimination and slammed 'sexist' citizenship laws against women had occurred when the Malaysian Government appealed to the Court of Appeal regarding automatic citizenship for children born outside country by a Malaysian mother married to a foreigner while children born to a Malaysian father married to a foreigner can get citizenship (Morden, Zarrah, 2022).

To strengthen this argument, Jin, who was born in Brunei Darussalam to a Malaysian mother and a stateless father who was also born in Brunei, is an example of a Malaysia-Brunei case involving stateless children brought on by gender imbalance. Malaysian males are allowed to provide citizenship to children born in a valid marriage regardless of where the kid was born, but Malaysian women are not given the same privilege. Jin is also stateless as a result of the discrimination against women in Malaysia's citizenship laws and his father's exclusion from citizenship. Jin struggles with a variety of issues due to his lack of citizenship, including difficulties evaluating his access to healthcare, educational possibilities, property rights, and freedom of movement.

Poor Efficiency in Bureaucracy Delays the Citizenship Process.

The Brunei Nationality Act of 1961 states that anyone residing in Brunei who satisfies five requirements which including being of good character, having taken the oath of allegiance, having a working knowledge of the Malay language, and being able to speak it fluently is eligible to register as a Bruneian national (Tolman, 2016).

These language requirements are extremely challenging to achieve, though, as there are many other factors that may be used to disprove a candidate's claims of ability. Due to the language differences between Brunei Malay spoken in public and the standard Malay taught in schools, you must demonstrate a high level of proficiency in both to be registered as a citizen.

The Brunei Times published an article on March 12 on the government calls received from stateless people. The callers were Bruneians by birth and upbringing; they had previously taken citizenship exams. However, they had not yet received word from the Department of Immigration regarding a ceremony for taking an oath. The non-citizens' inability to acquire land in Brunei caused enormous disruption in their commercial, residential, and family prospects while they waited years for an answer.

This demonstrates how, despite the Bruneian government's procedure for helping stateless permanent residents become citizens, the stringent application standards may put them at a disadvantage. For instance, citizenship requires knowledge of both the formal Malay language and the colloquial Malay dialect spoken in Brunei.

There are significant language distinctions between this informal Malay dialect and conventional Malay. As a result, since stateless people have less access to public schooling than others do, they may find it challenging to acquire both varieties of Malay. Additionally, case studies show that many stateless permanent residents who passed the test and completed the requirements for citizenship had to wait between five and ten years before being granted citizenship (Institute on Statelessness and Inclusion et al, 2019).

This proves that even though there is a system that allows stateless permanent residents to change their status to citizens, it is very difficult to get that citizenship due to bureaucracy, poor educational literacy and a complicated process that denies the individual's rights.

The Compliance of Local Citizenship Laws with International Treaties.

The degree of statelessness in Brunei has also remained relatively consistent throughout time, suggesting that little to no effort has been done on the side of the government to address the issue. Brunei is not a signatory state to the 1951, 1954, and 1961 agreements on refugees and statelessness. The country has ratified many other human rights conventions, including CEDAW, the CRC, and the Convention on the Rights of Persons with Disabilities (CRPD). Each of these accords has articles requesting that states confer nationality without discrimination (UN High Commissioner for Refugees, 2014).

For instance, Article 9 of the 1979 CEDAW tackles a significant factor in statelessness discrimination against women in citizenship legislation by declaring that states parties should accord women similar rights to obtain, modify, or keep their nationality as they accord males. They will specifically make sure that neither marriage to an immigrant nor a spouse changing his or her nationality during the marriage would automatically alter the wife's nationality, leave her stateless, or compel her to adopt the husband's nationality.

Moreover, during the Second Universal Periodic Review Cycle in 2014, Brunei received several petitions from other countries to modify its laws on citizenship that discriminate against women. Brunei, on the other hand, rejected these proposals, claiming that, as was previously indicated, there are processes available for stateless permanent residents to seek citizenship.

This study finds that the practice of discriminatory citizenship laws in Brunei shows that Brunei does not fully follow the essence of CEDAW notwithstanding the fact that Article 9 stipulates unequivocally that women should have the same rights as men in matters of citizenship. Brunei's principle to maintain gender inequality that leads to statelessness appears to conflict with international law as provided in CEDAW. Besides that, Brunei's reason for keeping its citizenship law and rejecting proposals to change the citizenship law as suggested by other countries is because there is a procedure that allows stateless permanent residents to change their status to citizenship even though there is no guarantee that the system will be successful.

Finally, Brunei's gender-based discrimination generally comes with complicated administrative processes. As a result of this law, it is possible for a kid to become fully stateless. It is conceivable, for instance, that the child's parents are unaware that birth registration is necessary in order to get permanent resident status. A child's ability to get permanent resident status may also be constrained by administrative obstacles for remote indigenous groups. Even if the kid is granted permanent resident status, they continue to lack citizenship and live-in substandard housing. Sadly, women's inability to provide citizenship to a stateless spouse also perpetuates statelessness. Therefore, Brunei's high level of statelessness is mostly caused by gender disparity or legislation that are discriminatory.

Kuwait

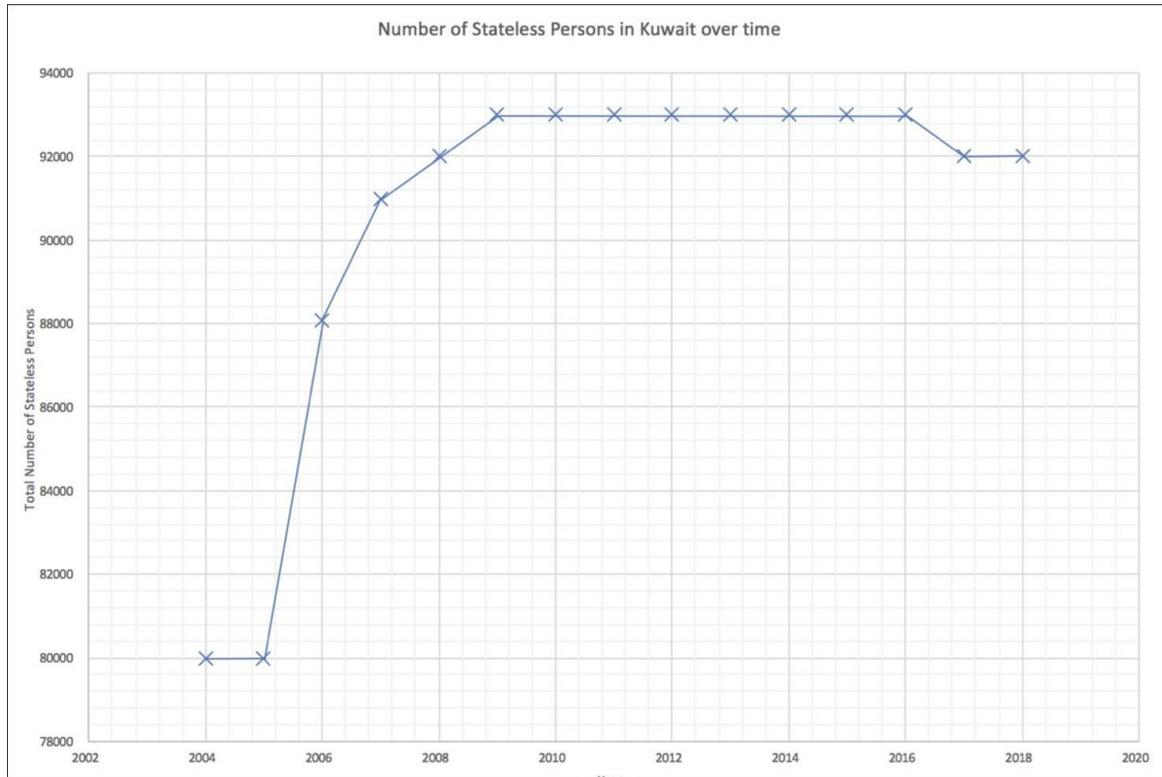


Figure 2 shows the frequency of statelessness in Kuwait from 2004 with an estimated 80,000 people. Kuwait had a sharp rise in the number of stateless people between 2005 and 2009, with rises of 8,086 and 2,914 people, respectively, between 2005 and 2006 and 2006 and 2007. 93,000 persons have remained stateless since 2009, the same amount as before. Kuwait now has 92,000 stateless people, a modest decrease of 1,000 people from 2016 to 2017. This represents 2.27% of the nation's whole population (UN High Commissioner for Refugees, 2018).

From this empirical data of statelessness, the basic cause is contributed by the gender inequality that exists in the legal system in Kuwait. There are four current scenarios of the relationship between gender inequality and statelessness in Kuwait due to the discriminatory citizenship laws.

Only Fathers Can Confer Their Citizenship to Their Children in All Circumstances.

Only fathers, in accordance with Kuwait's Nationality Law of 1959, are permitted to provide citizenship to their children under any conditions. According to the UNHCR, there is one exception to this rule: If a Kuwaiti mother gives birth to a child whose father is absent or whose paternity has not been proved, the infant may qualify for citizenship with the Ministry of Interior's consent.

The fact that this action had to go through a very onerous bureaucratic process and wait for a very long time made it unusual and infrequent, burdening the interested parties' ability to enjoy Kuwait as regular residents. Moreover, the application is not necessarily approved because it is based on the consideration of the ministry and in most cases the application is not approved.

Mothers Are Not Capable of Registering Births.

Furthermore, mothers are unable to register births under Kuwaiti civil registration law, which prevents them from establishing their child's nationality (Fisher, B. L, 2016). It can be seen that this discriminatory legislation has denied the ability and right of a mother to register their child as men can do so due to gender inequality and this factor has a high potential to lead to statelessness if the father is a foreigner, stateless, or the child does not have a father.

A woman who married a Canadian citizen in 1985 gave birth to four children who were all reared and educated in Kuwait but was unable to document their births because she is a woman, according to data obtained by the Global Campaign for Equal Nationality Rights. As a result, her children are stateless. The kids consider Kuwait to be their native country because they have never visited any other nations. Due to the government's recruiting Kuwaitis rather than foreigners, particularly after the Gulf War, her husband lost his job in 1997.

Because of this, she was the family's only provider and did not get any financial assistance from the Kuwaiti government, including money to help with the rent and her kids' daily costs. This was due to the fact that her husband was not a Kuwaiti citizen, and thus, neither were her kids. She eventually began to experience a decline in her financial status and mental state, which finally resulted in the divorce. Her husband and children would not be living this horrible existence if she had been able to pass on her citizenship to them (Global Campaign for Equal Nationality Rights, 2019).

This is only one example of the suffering that hundreds of Kuwaiti women who are married to non-Kuwaiti's experience. Kuwait's discriminatory citizenship laws prevent women from passing on their citizenship to their spouses and children in a manner that is comparable to those of men. Gender inequality in citizenship laws is one of the primary causes of statelessness in the area and can hinder individuals from receiving public services like health and education, in addition to leading to a number of other human rights violations.

By Taking An Oath, The Spouse Has the Chance to Disclaim Having Any Parental Responsibilities for The Kid.

Kuwaiti law also presumes that the mother's spouse is the child's biological father. Unfortunately, the spouse has the option to take an oath and claim he is not the child's father. The father is not required by law to recognize paternity, whether by DNA testing or another method. Children in Kuwait who do not receive their fathers' acknowledgement are therefore highly likely to become stateless (Fisher, 2015).

As a result, this situation is very dangerous to the ecosystem of community well-being in Kuwait because the denial of father-son relationships without DNA verification can result in legitimate children becoming stateless and affecting the rights they should receive such as access to free education, medical health subsidies, and other rights as well. The Kuwaiti government should not allow this discriminatory legislation to continue to be practiced today because greater harm will befall not only the children but also the community. Therefore, this practice of gender inequality needs to be stopped immediately in order to avoid an undesirable outcome in the future.

Kuwaiti Women Lose Some of Their Privileges When They Marry Someone From Other Countries.

Finally, a practice of gender discrimination that is still practiced in Kuwait today is the loss of some of the rights that Kuwaiti women have when they marry someone who are not Kuwaiti nationals. For instance, Kuwaiti women who were married to foreigners were unable to purchase government homes from 1982 until 1993. Over 5,300 Kuwaiti women are said to be married to non-Kuwaiti males (Tétreault, M. al-Mughni, H, 1995).

Hence, these 1959 Kuwait's Nationality Law and Kuwaiti Civil Registration Law systems have created gender inequality against women or mothers in several ways involving the conferring of citizenship to children, the registration of children's births and men can deny the paternal link between father and son without the need to go through a DNA test, thus causing an increase in cases of statelessness. In fact, gender inequality also happens to Kuwaiti women when they cannot own a house or land ownership if they are married to a non-citizen man. Obviously, this is gender inequality in the law that prevails in the local community in Kuwait, and the basic need to get a place to live is also denied.

Women who are married to non-citizen males now have negative effects from home ownership due to gender imbalance in citizenship laws. In accordance with Article 29 of the Kuwaiti constitution, everyone is treated equally before the law in terms of their public rights and duties regardless of their gender, ethnicity, language, or religion. Unfortunately, Sharifa Alshalfan noted in her article *The Right to Housing in Kuwait: An Urban Injustice in a Socially Just System* that the state only accords males housing rights, including plots of land, housing loans, government houses, and housing allowance, and does not provide housing rights for women in the context of marrying foreigners (Sharifa Alshalfan, 2013).

In addition, Kuwaiti activists and individuals who oppose gender inequity in citizenship granting have made requests that would restrict their privileges. As an example, Dr. Rana Al Faris, the minister of housing, met with Alia Al Dulaimi, the head of the Kuwaiti Women's Rights Committee, to discuss some of the needs of Kuwaiti women who are married to non-Kuwaitis. Despite being treated equally by the law and the constitution, men and women face clear discrimination in Kuwait. Al Dulaimi made it clear that he wanted the prime minister to go at the dossier of Kuwaiti women who had been looking for houses since the 1980s. The 150-dinar rent payment that Kuwaiti men get is not received by Kuwaiti women who marry non-Kuwaitis (Samir Salama, 2022).

The fact that Kuwaiti women are not given the same rights to property ownership as Kuwaiti men, and that the house is returned to the government in the event of their death, suggests that the cabinet's decision to put this crucial file on hold is incredibly unfair to Kuwaiti women who are married to non-Kuwaitis and are entitled to housing similar to Kuwaiti men.

As was shown above, Kuwait's discriminatory citizenship laws were put into practice from 1980 until the present, depriving women married to foreign men of basic rights like home or land ownership and rent allowance. As a result of this practice, there are now more stateless persons residing in Kuwait. The moral message that can be learned from this discriminatory legal system is that gender inequality has become the norm in legislation, government commitments, and societal ideologies to the extent that it affects the needs of these women, and indirectly the cycle of statelessness will always occur without the best solution to curb the issue.

Multiple Discrimination Incidence.

Multiple discrimination is discrimination against a person or group of people which usually marginal group in this context is stateless people based on more than ground. It is an important concept because every stateless person has multiple characteristics such as gender, sexual orientation, ethnicity, age, religion, education, family history, and others (Institute on Statelessness and Inclusion, 2014). As can be seen, discrimination against Bidoon men can be linked to Kuwait's statelessness problem and be regarded as multiple forms of discrimination. Gender inequality in Kuwait's citizenship laws causes discrimination, which results in both Kuwaiti women's children and Bidoon men becoming stateless.

Statelessness immediately threatens family life and exposes women to increased risks of exploitation and abuse. Some women are compelled to get divorced in order to attempt to convey citizenship to their offspring; others are compelled to get married in order to try to get citizenship; still others are compelled to remain single in order to prevent statelessness for future generations.

According to earlier research by Beaugrand, the Gulf states classify the bulk of its stateless inhabitants as "Bidoon," which means "without citizenship." Since many Bidoon were originally nomads, they had trouble proving their citizenship. In Kuwait, there are 105,000 Bidoons as of 2006. Since the term "Bidoon" encompasses a wide spectrum of status under Kuwaiti law, the majority of Bidoon people are taken into account when calculating statelessness rates, despite the fact that their socioeconomic and political circumstances are highly diverse. However, due to the ongoing designation of persons as unauthorized residents, many Bidoon are denied access to basic government services and human rights (Beaugrand, C, 2011).

The Suspicion of The Kuwaiti Government Toward Bidoon.

In order to fulfil its commitment to the Constitution and adhere to its commitments under international law, Kuwait has been repeatedly asked by the Global Campaign for Equal Nationality Rights, Kuwaiti Women Without Limits, and Equality Now, a member of the Global Campaign's Steering Committee. The Kuwaiti government nevertheless upholds regulations that are seen as discriminatory against women in the awarding of citizenship to their spouses and children in the face of these requests. Even though Kuwait ratified the CEDAW on 2 September 1994, Bidoon women who are married to foreigners nevertheless face further marginalization.

Above all, it signifies that started with the discriminatory citizenship law caused by gender inequality practice has caused not only statelessness in the children but also a threat to the Bidoon as their human rights are denied just because of the government's suspicion of the Bidoons' identity. It is uncertain how much gender disparity affects statelessness in Kuwait statistically since the Bidoon identity combines so many diverse circumstances. Despite this, one of the main subgroups of the Bidoon people consists of children who were made stateless as a result of gender discrimination.

To summarize, strict action from the legal point of view and existing government policy practice needs to be done effectively to curb the current scenario of statelessness in Kuwait so that the culture of gender inequality can be restrained from becoming a norm in the legal system and society's perception. In accordance with the UNHCR and other human rights groups' requests, Kuwait should at the very least modify its citizenship laws to allow Kuwaiti mothers to pass their citizenship on to their children. In addition to being discriminatory towards women, the present laws cause countless thousands of infants to be born without citizenship.

Recommendations

A series of problems occur, and mitigation measures need to be immediately improved to ensure that gender inequality in citizenship laws that constitute discrimination can be stopped. Strong equality provisions should be the cornerstone of progressive and inclusive human rights strategies for stateless people. Related stakeholders should adopt a range of strategic tools to counter inequality and discrimination which can be overviewed through a few lenses.

Amendment of Discriminatory Citizenship Laws.

Litigation is often the primary way of securing redress for infringements of individual group rights. Courts often have the authority to provide redress by awarding compensation. Some courts have more wide-ranging jurisdiction to order restitution, injunct state authorities from acting in a particular way, or order authorities to take concrete action to remedy a violation of the applicant's rights. Some judgments can even compel governments to change laws, policies, or practices. Successful litigation also has a range of auxiliary benefits. It turns a spotlight on the activities of governments and holds them to account for their human rights failures. Important cases can spark public discourse, contribute to public education on significant issues and shape legal policy development.

Litigators in Brunei and Kuwait should adopt the equality framework to protect both stateless people and vulnerable and marginalized groups for example Bidoon who have suffered infringements of their rights in a similar way to stateless populations by amending their discriminatory citizenship laws that

impacted the stateless people and the marginal. Using equality provisions within international law has the potential to protect stateless people and unlock new tools against emerging human rights violations. Governments must amend these laws to provide women the same rights to citizenship as men.

The government formally designates the Bidoon as "illegal occupants" even though many of them have no real links to any country other than Kuwait and despite decades of social discourse associating the Bidoon with Kuwaiti territory. Luckily, there have been some efforts over the decades by the Kuwaiti authorities to resolve the situation of the Bidoon whereby in 2000, a law was passed allowing the naturalization of Bidoon on the condition that they could demonstrate their registration in the 1965 census. In reality, few Bidoon were able to obtain nationality through this method because there hasn't been any real improvement. Moreover, a lack of effective birth registration procedures in Kuwait has led to the statelessness incidence.

Therefore, to ensure that justice can be realized, a transparent and fair legal system needs to be created immediately by amending the discriminatory citizenship law. This can concurrently protect the fundamental rights of stateless people and other marginalized groups, like Bidoon, in terms of having access to housing, health care, and education. The law of any nation also says that all persons are equal before the law and cannot be discriminated against because of their gender, religion, ancestry, skin colour, or ethnicity. Therefore, the legal system should not be utilized as a platform for prejudice against any individual.

Legal Clinics and Paralegal Initiatives.

Facilitating legal clinics that provide information to and improve skills of stateless communities so that they know and can enforce their rights, is a key starting point to ensure their ownership of the stateless agenda. Building the capacity of communities in this way will ensure knowledge and the skills are directly imparted to stateless communities. It will also create a foundation for sustainably protecting rights long term (De Chikera, A. and Whiteman, J, 2016).

Paralegal activities can also play a very effective role in supporting and advising stateless populations to deal with legal applications and proceedings and helping them access documentation and citizenship. Advocacy targeting national and international human rights actors should aim to put stateless research findings and recommendations firmly on the agendas of political, policy and legal stakeholders. Advocacy strategies should always aim to empower stateless communities by ensuring they can directly advocate for their rights in term of access to education, healthcare and a safe place to live.

Advocacy must be underpinned by clear and concise principles to create effective change for stateless communities. This includes providing network and partnership opportunities for national NGOs and affected persons; facilitating connection and collaboration between those working on statelessness and those working on equal rights; using international and regional human rights mechanisms more effectively by engaging the global development, humanitarian, migration, trade and investment discourses and working in a more interdisciplinary and intersectoral way (Laura Bingham , 2018).

Vigorous Community Empowerment by Advocating Gender Equality.

It is important to remember that statelessness is a status that is unlikely to be cherished or evoke pride among most of those who share it. In contrast to some communities, stateless populations are unlikely to celebrate their stateless status, which is often the consequence of discrimination, largely unwanted, and a burden on the individual or community (Brett, 2017).

In this way, stateless people share common ground with other grounds who have acquired an unwanted status. But although stateless people may not want their status like someone who suffers from poverty, they also do not want to be discriminated against because of their acquired status (Clifford, 2013). Therefore, it may also be beneficial for statelessness actors to be guided by strategies used by anti-poverty or harm reduction movements when developing strategies that aim to reduce statelessness and reduce the harmful effects of statelessness.

In the right way, the community must play a crucial part in strengthening the promotion of gender equality in the neighbourhood. When the advocacy of gender equality in society has been applied, society will react to any injustice that occurs especially involving gender and discrimination of rights against any group. In that way, the rights of stateless people or marginalized people can be defended, and they will feel safer enjoying life even though their status is different from ordinary people.

Monitoring, Documentation and Research.

There is a need for increased monitoring, documentation, and research into the impact of discriminatory citizenship laws due to gender inequality in causing statelessness and discrimination of their rights (Schiek, 2007).

So far, monitoring, documentation, and research tools have mainly focused on how certain forms of discrimination. Less well understood is how more covert forms of inequality and discrimination contribute to the overall stateless problem globally. The government has yet to gather comprehensive information on the full impact of issues such as discrimination by proxy, and indirect or multiple discrimination.

Brunei dan Kuwaiti governments have yet to gather comprehensive information on the full impact of statelessness on their countries and on the 'discussed person' itself. Detailed research on the current discriminatory legal practice is very necessary. Today's government cannot simply look at things through the perspective and view of legislation made in the past. The government should take into account the changing times and also require legislative reforms to meet current conditions and needs.

By having systematically monitoring, documenting, and researching these issues as well as the risks of statelessness who are vulnerable to discrimination of basic rights would improve the understanding of the wider impact of equality, statelessness, and citizenship in this field.

Conclusion

One of the main causes of statelessness is gender inequality in laws that discriminate against citizenship. These laws continue to treat women as second-class citizens and uphold the assumption that a child's identity is mostly derived from their father's bloodline.

Governments must amend these laws to provide women the same rights to citizenship as men. Additionally, stateless people should be able to apply for naturalization, and simpler birth registration procedures should be used. But there were several drawbacks in this study as well. Stateless people are challenging to quantify, which precludes doing a more detailed quantitative examination.

It is so challenging to pinpoint the precise extent to which gender discrimination contributes to statelessness, although gender imbalance under discriminatory citizenship legislation often contributes to statelessness. In fact, due to their stateless status has caused limitations on access to health care, higher education subsidies, ownership of land for residence and other basic needs that ordinary citizens can enjoy.

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