

Submission to the OHCHR

Response to Call for Input: Thematic Report for the 78th Session of the UN General Assembly, October 2023 – Nexus Between Violence Against Women and Girls, Nationality Laws, and Statelessness

To: Office of the High Commissioner for Human Rights (OHCHR)

By: Peter McMullin Centre on Statelessness

Date: 29/05/2023

Purpose of the Submission

The Peter McMullin Centre on Statelessness (PMCS) makes this submission to the Office of the High Commissioner for Human Rights (OHCHR) in response to its call for input regarding the Thematic Report for the 78th session of the UN General Assembly, October 2023 – Nexus between Violence against Women and Girls, Nationality Laws, and Statelessness – of the UN Special Rapporteur on Violence Against Women and Girls.

Information about the Contributor

Melbourne Law School's Peter McMullin Centre on Statelessness was established in 2018 with the objective of undertaking research, teaching and engagement activities aimed at reducing statelessness and protecting the rights of stateless people in Australia, the Asia Pacific region, and as appropriate more broadly.

The focus of the Centre is to develop teaching, research and engagement projects with three major aims:

- To properly understand the scope, scale and reasons for statelessness in order to develop targeted and effective responses to it;
- To work towards reducing and, over time, eliminating statelessness; and
- Until statelessness is eliminated, working to protect the human rights of stateless people within the countries in which they reside.

As a Centre working on stateless populations our main interest is in principles and tools that ensure that the concerns of stateless and/or other marginalised populations are appropriately considered in the design and implementation of legal documents. For further information about the Centre, see <https://law.unimelb.edu.au/centres/statelessness#about>.

Response to the Call for Inputs

1. *How do existing legislation and policies related to nationality and civil registration adopted by State and de facto authorities, or their implementation in practice, perpetuate a gender bias and gender-based discrimination in the acquisition, retention, and loss of nationality and in relevant legislations? What grounds, including social and religious norms, do they rely on?*

Twenty-four countries deny women equal rights with men in their ability to confer citizenship¹ on their children. Under these laws, children are at risk of statelessness when a woman's right to pass on her nationality is restricted and the father is unwilling or unable to pass on his citizenship. Furthermore, roughly fifty countries uphold discriminatory nationality laws pertaining to a woman's right to transfer, retain, change, and/or acquire her nationality.² In these countries, women are also at risk of statelessness when their right to retain or acquire a nationality is dependent upon their marital status.

Gender discriminatory nationality laws (GDNL) are upheld both because of historical and socially entrenched ideologies around men as the head of household, and because these laws are viewed as a means to control the demographics of the state.³ For example, in Lebanon, the state prohibits women from conferring their nationality on their children in order to prevent a shift in sectarian demographics that would favour an increase in the Muslim population, in particular.⁴ There are a significant number of Lebanese women married to non-Lebanese men, such as Sunni Muslim Syrian or Palestinian men, and allowing Lebanese women to pass on their nationality is considered a threat to Maronite Christian hegemony. In Nepal, also, women's nationality rights are weaponised as a tool to control border movements. The perceived demographic threat in Nepal relates to the country's open border with India and a fear that allowing women to pass on their nationality will drive an increase in immigration from India. Women are viewed as 'potential co-conspirators in a plot to further Indianize Nepal through their sexual and reproductive capabilities with Indian men'.⁵ As a consequence, the children of single mothers in Nepal, who are unable to prove their father is Nepali, are denied Nepali citizenship by civil registration authorities. The children of single mothers, unable to acquire a nationality, cannot access formal employment, a driving license, a sim card or third level educational opportunities, thus driving intergenerational poverty in lone-parent households. As a final example of demographic control through GDNL, it is important to note that *indirect* gender discriminatory practices also impact the rights of women to pass on their nationality. In the Dominican Republic, efforts are made during birth registration practices to

¹ In this document, the terms 'citizenship' and 'nationality' are used synonymously.

² For the full list of countries, see Global Campaign for Equal Nationality Rights, 'The Problem' <<https://equalnationalityrights.org/the-issue/the-problem>>.

³ For a historical analysis of the emergence of gender discriminatory nationality laws in eighteenth century France, and the patriarchal ideologies underpinning these laws, see Deirdre Brennan, 'Feminist Foresight in Statelessness: Century-Old Citizenship Equality Campaigns' (2020) 2(1) *Statelessness & Citizenship Review* 43, 47 – 48.

⁴ See Maya Mikdashi, *Sextarianism: Sovereignty, Secularism, and the State in Lebanon* (Stanford University Press 2022).

⁵ Barbara Grossman-Thompson, Dannah Dennis, 'Citizenship in the Name of the Mother: nationalis, Social Exclusion, and Gender in Contemporary Nepal' (2017) 25(4) *Positions: Asia Critique* 795, 810.

exclude the children of Haitian migrants and descendants from accessing citizenship. Like in Nepal, whether direct or indirect, GDNL are instrumentalised ‘as a means of migration deterrence’.⁶

In light of these three examples from Lebanon, Nepal and the Dominican Republic, GDNL ought to be understood not as a single-lens issue of gender bias but also across the intersections of ethnic, religious, and racial discrimination. Although grounded in patriarchal ideologies that consider men the head of household, GDNL are predominantly upheld today as a means of demographic control. Demographic control over who is included and excluded from the state are shaped around the state’s notion of the ideal citizen. The ideal citizen, in the examples provided, mostly reflect the politically and culturally dominant group and excludes minority groups based on either religious, ethnic, racial or cultural grounds. As such, women’s reproductive capacity and, relatedly, their nationality rights, are being controlled by the state in order to control the (internal or external) border and exclude the unwanted ‘other’.

2. *How do women and girls experience situations of collective statelessness in a gendered manner? How do the consequences of a collective situation of statelessness affect women and girls differently, including in emergency and armed conflict settings, post-conflict, and other migration flows?*

Collective statelessness refers to situations of statelessness ‘experienced by entire collectives...with a shared history of denationalisation’.⁷ Such instances of collective statelessness can happen for a number of reasons including armed conflict, climate change, state succession as well as state action and discriminatory laws that render entire groups stateless. In these situations of collective statelessness, frequently, women and girls are affected differently from men.⁸ UNHCR calls conflict, climate change and the Covid-19 as a ‘triple blow to the rights and safety of’ stateless women and girls with increased incidence of violence, forced marriage, child labour, trafficking and exploitation.⁹

In relation to armed conflict, the Committee on the Elimination of Discrimination against Women notes that:

There are heightened risks of abuse faced by stateless women and girls in times of conflict because they do not enjoy the protection that flows from citizenship, including consular assistance, and also because many are undocumented and/or belong to ethnic, religious or linguistic minority populations. Statelessness also results in the widespread denial of fundamental human rights and freedoms in post-

⁶ Allison J. Petrozziello, ‘(Re)producing Statelessness via Indirect Gender Discrimination: Descendants of Haitian Migrants in the Dominican Republic’ (2019) 57(1) International Migration 213, 224.

⁷ Benedikt Buechel, ‘A Typology of Statelessness’ (2022) 4(2) Statelessness & Citizenship Review 237, 238.

⁸ See for instance UN Committee on the Elimination of Discrimination against Women, ‘General Recommendation No 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations’ (01 November 2013) UN Doc CEDAW/C/GC/30, para 53, 68.

⁹ UN High Commissioner for Refugees (UNHCR), ‘Covid-19 and Climate Crisis Worsen Inequalities for Displaced Women and Girls’ (08 March 2022) <<https://www.unhcr.org/neu/76447-covid-19-and-climate-crisis-worsen-inequalities-for-displaced-women-and-girls.html>>.

conflict periods: women may be denied access to health care, employment and other socioeconomic and cultural rights as Governments restrict services to nationals in times of increased resource constraints. Women deprived of a nationality are also often excluded from political processes and from participating in the new government and governance of their country, in violation of articles 7 and 8 of the Convention.¹⁰

In particular, during armed conflict, stateless women and girls could be at risk of gender-based violence.¹¹ For instance, the Rohingya, a group that was collectively rendered stateless by Myanmar's 1982 Citizenship law, experience specific vulnerabilities including gender-based violence stemming from their statelessness.¹² Being part of a 'marginalized gender group and ethnic minority...makes for further oppression of Rohingya women, and they are forced to endure the highest percentage of abuse'.¹³ This includes sexual abuse and exploitation by the *Tatmadaw* (Myanmar's military) within Myanmar as well as gender-based violence during transit to Bangladesh and in refugee camps in Bangladesh.

Within Myanmar, women were assaulted when security officials could not find men whom they wanted to take into custody.¹⁴ Furthermore, the military and the state police 'injured and killed those who were not able to dodge the attacks—often women, children, and the elderly', indiscriminately.¹⁵ The following witness account documented in a 2018 report by the US Department of State best illustrates the link between gender violence and statelessness: "Two police from my village raped me. I know these men by sight, but not their names. After they were done, they told me to leave the country, this is not your country." Female, age 23'¹⁶

In Bangladesh, Rohingya women and girls also face risk of forced marriage, forced prostitution and trafficking.¹⁷

Another example of women and girls experiencing vulnerabilities in situations of collective statelessness is the situation of stateless Palestinian women. For instance, often, stateless Palestinian women in Syria were harassed for travelling without a male guardian based on Syrian Family Law, during the armed conflict in Syria.¹⁸ Furthermore, Palestinian women

¹⁰ General Recommendation No 30, *supra* note 8, para 60.

¹¹ UNHCR, 'Displaced and Stateless Women and Girls at Heightened Risk of Gender-Based Violence in the Coronavirus Pandemic' (20 April 2020) <<https://www.unhcr.org/news/news-releases/displaced-and-stateless-women-and-girls-heightened-risk-gender-based-violence>>.

¹² See UN Human Rights Council, 'Detailed Findings of the Independent International Fact-Finding Mission on Myanmar' (16 September 2019) UN Doc A/HRC/42/CRP.5, para 101-6.

¹³ Grace Priddy *et al.*, 'Gender-Based Violence in a Complex Humanitarian Context: Unpacking the Human Sufferings Among Stateless Rohingya Women' (2022) 22(2) *Ethnicities* 215, 220.

¹⁴ United States of America Department of State, 'Documentation of Atrocities in Northern Rakhine State' (August 2018) 5 <<https://www.state.gov/wp-content/uploads/2019/01/Documentation-of-Atrocities-in-Northern-Rakhine-State.pdf>>.

¹⁵ *Ibid*, 12.

¹⁶ *Ibid*, 14.

¹⁷ Grace Priddy *et al.*, *supra* note 13.

¹⁸ Mette Edith Lundsfryd Stendevad, "What We Lost in Syria, We Had Already Lost in Palestine:" Uncovering Stories Across Generations of Palestinian Women Born in Syria' (*Civil Society Knowledge Centre*, July 2020) <https://civilsociety-centre.org/paper/%E2%80%9Cwhat-we-lost-syria-we-had-already-lost-palestine%E2%80%9D-uncovering-stories-across-generations#footnote35_b5ogci4>.

encountered problems on account of their gender and statelessness when they were attempting to flee Syria during the armed conflict. Scholarship notes the following in this regard:

Some were pushed back due to their Palestinian identity documents and were not allowed to flee the war zone. At borders/checkpoints, all women describe being discriminated against with regards to their gender, nationality, and statelessness. They were subjected to slurs, racialised as Palestinians, presumed to be sex workers, and ultimately denied access, or forcefully separated from their family members. While some of them were able to cross the border, others were pushed back. The women described clandestine border crossings where they were divided into male and female groups, and during which their young male children or grandchildren were forcefully taken from them. It was often the case that the female group would be able to cross the border, while the male group would not, resulting in the separation of mothers, daughters and grandmothers from their husbands, brothers, sons, fathers, and male friends.¹⁹

It is pertinent to note in this context that such Palestinian women displaced from Syria had been, in the first place, in Syria as displaced, stateless persons. When these Palestinian women were displaced to Europe, they faced discrimination and rightlessness, particularly because they are stateless.²⁰

Thus, situations of collective statelessness can impact women and girls in a gendered manner, particularly in emergency situations such as armed conflict. In this regard, the Committee on the Elimination of Discrimination against Women recommends that states should ensure that statelessness prevention measures are applied to women and girls, that such measures should be directed towards internally displaced persons, refugees, asylum-seekers and trafficked women who may be at risk of statelessness during armed conflict, that there are measures in place to protect stateless women and girls before, during and after the conflict, that women and girls have equal rights to obtain legal identity documents, that there is individual documentation for women and girls and that there is timely and equal registration of births, marriages and divorces.²¹

3. *How do States and de facto authorities engage with women and girls affected by discriminatory nationality laws and practices as well as situations of statelessness, including in evaluating the impact of these policies at individual, family and societal levels, as well as in promoting meaningful participation in processes for designing and reforming relevant policies?*

There are some examples, in Nepal in particular, of political will to eradicate GDNL, and there are examples of meaningful engagement between politicians and people affected by statelessness or GDNL.²² State authorities are willing to openly support the idea of gender equality. However as noted in *Question 1*, the state's willingness to engage on the subject of

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ General Recommendation No 30, *supra* note 8, para 61.

²² See, for example, the advocacy work by Forum for Women, Law and Development during the constitution-drafting process in Nepal, available at: <<https://fwld.org/works/national-advocacy/>>.

eradicating GDNL is limited by their fears over demographic changes. For example, the 2015 leader of the United Marxist Leninist Party in Nepal was quoted as saying:

We are always in favour of gender equality. Issuing citizenship in the name of father and mother, if both are Nepalis, is not a problem for us. But we have to be cautious while issuing citizenship for children born in districts bordering India in Terai as well as Tibet in the mountain through mothers.²³

Any willingness to evaluate the impacts of GDNL on individuals, family and societal values, or any real commitment to eradicating GDNL is overshadowed by the state's larger project to control the borders via controlling women's nationality rights.

4. *How do policies and/or decisions to strip women and girls of nationality act as a form of punishment, including for terrorism-related charges, and how do these measures differ from similar actions concerning men and boys? How do women and girls experience these policies and decisions differently?*

In recent times, citizenship stripping of individuals by states on national security grounds has become a popular counter-terrorism measure. This measure has been adopted as a response to nationals from states including the UK, the Netherlands, Belgium, Australia, France, Austria and Denmark, joining terrorist groups abroad such as the Islamic State of Iraq and Syria (ISIS).²⁴ In the UK alone, at least 209 individuals have been deprived of their citizenship between 2010 and 2020 as a counter-terrorism measure for affiliation with terrorist groups.²⁵

Often, the family members of these individuals are also deprived of their citizenship. In this regard, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism noted that several women and children who have been subjected to citizenship deprivation measures have been detained in camps and detention centres in North East Syria which includes many single-parent female households.²⁶ The Special Rapporteur notes that most women and children who are undergoing citizenship deprivation process or are likely to undergo such process are accused merely by association with foreign terrorist fighters and not because of crimes committed individually.²⁷ In light of this, their citizenship deprivation may not meet the minimum standards of international law, making such deprivation arbitrary and prohibited under international law.²⁸ In this context, the Special Rapporteur notes that counter-terrorism measures are not gender-neutral.²⁹

²³ Barbara Grossman-Thompason, Dannah Dennis, *supra* note 5, 810.

²⁴ See Lavinia Spieß, Louise Pyne-Jones, 'Children at Risk of Statelessness in the Fight Against Terrorism' (2022) 4(1) Statelessness & Citizenship Review 33, 34-5.

²⁵ *Ibid*, 34.

²⁶ UN Human Rights Special Procedures: Special Rapporteurs, Independent Experts & Working Groups, 'Position of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on The Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism with a Particular Application to North-East Syria' (February 2022), 3.

²⁷ *Ibid*, 12.

²⁸ *Ibid*, 7-14.

²⁹ *Ibid*, 17.

In this regard, it is pertinent to note that under international law, everyone has a right to nationality and are protected from arbitrary deprivation of their nationality.³⁰ Although deprivation of nationality by states is permitted under limited grounds even when it results in statelessness,³¹ such deprivation becomes arbitrary when it does not serve a legitimate purpose, is not the least intrusive instrument to achieve the desired result and is not proportional to the interest being protected.³² The UN Secretary-General notes:

The consequences of any withdrawal of nationality must be carefully weighed against the gravity of the behaviour or offence for which the withdrawal of nationality is prescribed. Given the severity of the consequences where statelessness results, it may be difficult to justify loss or deprivation resulting in statelessness in terms of proportionality.³³

In general, arbitrary deprivation of nationality has ‘negative effects’ on women.³⁴ The UN Secretary-General notes that:

women are put in a particularly precarious situation, among other others because it heightens the risk that they may become exposed to violence or human trafficking...Stateless women may seek to marry in order to acquire a nationality or better legal status for themselves or their children and may subsequently find themselves trapped in an abusive relationship, because to leave would mean to forfeit this nationality or status.³⁵

Women and children including girls detained in camps in North East Syria face these vulnerabilities. Without the protection of a state and being in indefinite detention, these women and children also face the insecurities that plague the camps including murders, extortion and threats.³⁶ Women also face the risk of having their children forcibly separated from them since

³⁰ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 15; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 24; International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195 (ICERD) art 5; Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW) art 9; Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) art 7; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 (ICMW) art 29; Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD); UN Human Rights Council (UNHRC), ‘Human Rights and Arbitrary Deprivation of Nationality—Report of the Secretary-General’ (19 December 2013) UN Doc A/HRC/25/28.

³¹ See Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975) 989 UNTS 175 (1961 Convention) art 8.

³² UNHRC, ‘Human Rights and Arbitrary Deprivation of Nationality—Report of the Secretary-General’, *supra* note 30, para 4.

³³ *Ibid.*

³⁴ UNHRC, ‘Human Rights and Arbitrary Deprivation of Nationality—Report of the Secretary-General’ (19 December 2011) UN Doc A/HRC/19/43, para 39.

³⁵ *Ibid.*, para 39-40.

³⁶ See Medecins Sans Frontieres, ‘Between Two Fires: Danger and Desperation in Syria’s Al-Hol Camp’ (7 November 2022) <<https://www.msf.fr/sites/default/files/2022-11/Between-Two-Fires.pdf>>.

they may be without a citizenship while some or all of their children may retain the citizenship of the state conducting the citizenship deprivation exercise.³⁷

Thus, nationality deprivation of women and children who are associated with or related to foreigner terrorist fighters could constitute arbitrary deprivation of nationality exposing such women and children to severe vulnerabilities. Not only this, when one considers that many women and children experience such problems through mere association to the foreign terrorist fighter, citizenship stripping could be considered an unjustified punishment.³⁸ Indeed, reports indicate that, often, women who travelled to Syria to join such fighters or the ISIS were trafficked or groomed or forced.³⁹ Such women were also exposed to severe gender-based violence as a result of their association with such fighters or after joining the ISIS, whether by choice or by force.⁴⁰ In light of this, citizenship stripping which frequently results in statelessness could be considered a form of violence against such women rooted in their gender. In fact, deprivation of nationality as a national security measure resulting in statelessness could be considered cruel, inhuman or degrading treatment or punishment, violating international law.⁴¹

5. *What are some examples of good practices of legislative reform processes, policies, initiatives, and court rulings that demonstrate approaches by State and de facto authorities to address gender-discriminatory nationality laws and practices, reduce and end statelessness, as well as to mitigate the gendered impacts on stateless women and girls?*

There are several examples of positive outcomes at different high courts, or supreme courts, in favour of eradicating GDNL across the twenty-four countries where these laws persist today. For example, in 2021, thanks to the fervent activism in Malaysia (one of the twenty-four countries continuing to restrict women's rights to pass on their nationality to their children) the High Court ruled that women should be allowed to pass on their nationality to children born

³⁷ See for instance Ben Doherty, 'Australian Mother of Five Stripped of Citizenship, Leaving Two Children Potentially Stateless' (*The Guardian*, 18 January 2020) <<https://www.theguardian.com/world/2020/jan/18/australian-mother-of-five-stripped-of-citizenship-leaving-two-children-potentially-stateless>>.

³⁸ See UN Human Rights Special Procedures: Special Rapporteurs, Independent Experts & Working Groups, 'Position of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on The Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism with a Particular Application to North-East Syria', *supra* note 26, 16.

³⁹ Reprieve, 'Trafficked to ISIS: British Families Detained in Syria After Being Trafficked to Islamic State' (2021) <https://reprieve.org/wp-content/uploads/sites/2/2021/04/2021_04_30_PUB-Reprieve-Report-Trafficked-to-Syria-British-families-detained-in-Syria-after-being-trafficked-to-Islamic-State-1.pdf>.

⁴⁰ See generally, *Ibid*.

⁴¹ Institute on Statelessness and Inclusion, 'Principles on Deprivation of Nationality as a National Security Measure' Principle 9.3 <<https://files.institutesi.org/PRINCIPLES.pdf>>; Christophe Paulussen, 'Stripping Foreign Fighters of their Citizenship: International Human Rights and Humanitarian Law Considerations' (2021) 103(916-917) 605, 617.

abroad.⁴² The government of Malaysia subsequently filed an appeal which overturned the High Court order in 2022. In Nepal, a number of Public Interest Litigation cases have been filed by stateless individuals, or mothers unable to pass on their nationality, to the Supreme Court. The Supreme Court in turn has made multiple landmark decisions on citizenship directing the government/civil registration authorities to provide individuals with a citizenship certificate. However, despite the Supreme Courts' favourable view towards eradicating GDNL, legislation has remained unchanged, and only those few individuals involved in the legal proceedings were able to acquire their citizenship after lengthy legal battles.⁴³

Good practices and important lessons can however be learned from Indonesia where GDNL were removed in 2006 thanks to the combined efforts of civil society and parliamentarians committed to its eradication.⁴⁴ For other countries moving towards legal reform, important lessons, such as the regulation of the retrospective application of the law, should be noted. Only children under 18 years of age were permitted to acquire Indonesian citizenship, by application, and it had to be done by 2010. The limited retroactive application meant some did not benefit from the law during the four-year window.⁴⁵

Lessons can also be learnt from Austria. For instance, an individual born to an Iranian father and Austrian mother could only acquire Iranian nationality through his father due to gender discriminatory Austrian laws. Later, he acquired Austrian nationality through a court decision. In 2018, when he wanted to acquire US nationality and retain his Austrian nationality, the Austrian authorities refused this request on grounds that he was not a national by descent. The Austrian Constitutional Court found that this refusal violated the principle of equality among nationals.⁴⁶ In another case, the Constitutional Court recognised the vulnerability upon return for a single mother who was a stateless Palestinian asylum-seeker and for her minor children. The Court found the decision of the Austrian Federal Administrative Court rejecting their asylum applications arbitrary given the vulnerability of the applicants and in light of UNHCR's assessment against returning Palestinian refugees to the Gaza Strip.⁴⁷

6. *What kind of measures can be taken to establish and strengthen comprehensive civil registration systems and/or to identify and remove procedural, administrative, financial, physical, and other barriers that impede access to the provision of legal identity, including ensuring independent access to civil documents without*

⁴² Family Frontiers, 'Update on the Saya Juga Anak Malaysia Campaign', <https://files.institutesi.org/Decision_in_Family_Frontiers_Case.pdf>.

⁴³ Forum for Women, Law and Development, 'Legal Analysis of Citizenship Law in Nepal' (2016) 20 <<https://fwld.org/publications/legal-analysis-of-citizenship-law-of-nepal/>>.

⁴⁴ Equal Rights Trust, 'My Children's Future: Ending Gender Discrimination in Nationality Laws' (September 2015) 15 <<https://www.equalrightstrust.org/ertdocumentbank/My%20Children%27s%20Future%20Ending%20Gender%20Discrimination%20in%20Nationality%20Laws.pdf>>.

⁴⁵ *Ibid*, 19

⁴⁶ Statelessness Case Law Database, 'Austria – Constitutional Court Case of 17 June 2019' <<https://caselaw.statelessness.eu/caselaw/austria-constitutional-court-case-17-june-2019>>.

⁴⁷ Statelessness Case Law Database, 'Austria – Constitutional Court, Case E 761-766/2018-18' <<https://caselaw.statelessness.eu/caselaw/austria-constitutional-court-case-e-761-7662018-18>>.

discrimination on the basis of gender or marital status? How could these measures help prevent and reduce statelessness, as well as discrimination against women and girls?

An important recent example of the kinds of procedural and administrative barriers that face women, stemming from their historical exclusion from the public sphere, are cases of statelessness arising in Assam, India. Several reports on the impacts of the 2019 National Register of Citizens and the Foreigners Tribunal in Assam have pointed out the disproportionate impacts on women and girls. Women and girls, especially those from marginalised communities, poor, and illiterate, are being arbitrarily deprived of their citizenship via indirect discrimination as they ‘do not and cannot possess documents that can prove their citizenship’.⁴⁸ Citizenship laws, and the implementation of such by civil registrars, need to ‘account for gendered social norms’ which have excluded women from ‘participation in the public arena’ thereby decreasing the likelihood of their access to necessary legal documents, such as land records or electoral rolls.⁴⁹

7. *What recommendations would there be for stakeholders to address discriminatory nationality laws and practices, including based on sex and gender, as well as the harmful consequences of statelessness for women and girls?*

GDNL should be understood as an intersectional issue that weaponizes the rights of women, and their reproductive capabilities in order to control state borders and demographic changes. In most cases, GDNL, whether indirect or direct discrimination, are used to drive particular nationalistic projects by the state that exclude a certain unwanted ‘other’. Although it adds more complexity, sensitivity and nuance, viewing GDNL as more than an issue of women’s equality, will broaden how the issue is approached, campaigned against and ultimately eradicated.

Signed

Deirdre Brennan

PhD Candidate and Research Fellow

Peter McMullin Centre on Statelessness

Andrea Marilyn Pragashini Immanuel

PhD Candidate and Research Fellow

Peter McMullin Centre on Statelessness

⁴⁸ Bidhayak Das, ‘Women Worst Affected by Assam’s NRC / Indian citizenship tests’ (*HL Senteret Minority Network*, 2020) 3 <<https://www.inclusive-citizenship.no/wp-content/uploads/2021/01/Women-worst-affected-by-Assams-RCA.pdf>>.

⁴⁹ Gayatri Gupta, “‘Utterly Failed To Prove Linkage’: The Discriminatory Barriers To Women’s Citizenship Claims in Assam” (*The Parichay Blog*, 9 August 2022) <<https://parichayblog.org/2022/08/09/utterly-failed-to-prove-linkage-the-discriminatory-barriers-to-womens-citizenship-claims-in-assam/>>.