



## **Global Campaign for Equal Nationality Rights Statement at the Pre-session to the UPR of Brunei**

The Global Campaign for Equal Nationality Rights and its partners welcome this opportunity to participate in the pre-session for the UPR of Brunei Darussalam. Our statement will focus on gender discrimination in the nationality law of Brunei Darussalam and resultant human rights violations.

Brunei is one of twenty-five countries that denies women the right to confer nationality on their children on an equal basis with men. Citizenship is automatically conferred to children born to male citizens, but the *Brunei Nationality Act of 1961* does not grant female citizens this same right. While an application may be filed to request citizenship for a child born to a female citizen, citizenship is only granted at the discretion of the state, even if the child is stateless without acquiring his or her mother's citizenship. This denies both the mother's equal nationality rights and the child's right to acquire a nationality.

Further, the *Brunei Nationality Act 1961* does not allow female citizens to confer nationality on their foreign husbands. However, a foreign woman married to a male citizen can acquire Brunei Darussalam citizenship through naturalization.

Brunei Darussalam received recommendations from eight Member States during the second UPR Cycle, to review or withdraw its reservations to CEDAW – specifically its reservations to Article 9 which enshrines women's equal nationality rights. After stating that it would examine these recommendations, Brunei Darussalam rejected all of these recommendations. Brunei accepted the recommendation from the government of Mexico to "*adopt reforms allowing women the transmission of citizenship as a measure in favour of gender equality and the reduction of cases of statelessness.*" However, though Brunei Darussalam accepted this recommendation, it has yet to take action in this regard.

Brunei Darussalam has implied justification for women's inability to confer nationality on children on an equal basis with men due to the country's policy of single nationality. However, this ignores the fact that children of male citizens are automatically conferred nationality, regardless of whether the child has a foreign mother that also automatically confers nationality on the child. The desire to maintain a policy of single nationality is not a legitimate justification for denying citizens equal nationality rights due to their gender; a principle clearly established in international human rights law including the core human rights conventions.

Such gender-discriminatory nationality laws establish women as second-class citizens and promote an understanding of children's identity as primarily derived from the male line, further exacerbating a sexist and discriminatory framework for women's role in the family and society. Female citizens' unequal ability to confer nationality on their children and spouses also negatively affects women's ability to freely choose a spouse and to form a family. Furthermore, the law exacerbates women's unequal status in society and contributes to an environment where women's economic and other opportunities are constrained because of their gender. These are the root causes and vulnerabilities linked with gender-based violence.

Gender-discriminatory nationality laws can perpetuate statelessness in circumstances when the child of a female citizen cannot acquire the father's nationality, which can occur for a variety of reasons, and in

circumstances when the husband of a female citizen is himself stateless or at risk of statelessness. This is particularly of concern in Brunei Darussalam where a notable percentage of the population is stateless.

Gender discrimination in the nationality law also results in other wide-ranging human rights violations. Children of female citizens denied their right to nationality, are also denied equal access as citizens to fully subsidized healthcare and higher education. Without Brunei Darussalam citizenship, these children and spouses cannot own, inherit or acquire property – including the family home – or own a business. The children of citizen mothers and non-citizen fathers are not entitled to a passport, impeding their freedom of movement. Those stateless children and spouses of female citizens who lack permanent residency cannot access government services, including the provision of identity documents, which inhibits their ability to access formal employment. The hardships, combined with their lack of legal status, result in stateless children facing an increased risk of human trafficking. Stateless children and spouses of female citizens may also be unable to access justice, due to their lack of legal status.

We therefore urge reviewing States to make the following recommendations to Brunei Darussalam:

**1. Reform provisions S4(1)(c)(i), S4(1)d and S5(6) of the *Brunei Nationality Act 1961* to allow women to enjoy equal rights as men in conferring citizenship to their children and spouse, through the following amendments:**

S. 4(1): ...the following persons, and no others, shall be subjects of His Majesty the Sultan...–

(c) any person born outside Brunei Darussalam

(i): “whose **mother or** father was, at the time of birth of such person, a person born in Brunei Darussalam...”

(d): any person born in Brunei Darussalam...whose **mother or** father was, at the time of the birth of such person, a subject of His Majesty the Sultan...

S. 5(6): Subject as hereinafter provided a woman **or man** who –

... (b) is or has been married to a subject of His Majesty the Sultan...

**2. Remove reservations to CEDAW Article 9.**

Furthermore, in light of developments on April 3:

The Global Campaign for Equal Nationality Rights is deeply troubled by the government’s enactment of the new Syariah penal code – including punishments of amputation, a dramatic expansion of the death penalty, including death by stoning for consensual sex by adults – in flagrant violation of universal human rights standards and the country’s own commitments under international law, including under the Convention Against Torture. Though the law provides for nationals to apply for their minor child to acquire citizenship, women could now face the death penalty by alerting the authorities to any children born out of wedlock. We are also especially troubled by the penal code’s targeting of sexual and gender minorities. Such a system further undermines gender equality and exacerbates the wide-ranging human rights violations experienced by those in the state territory, as a result of the Brunei’s highly discriminatory legal system and horrific Syariah penal code.