

A Qualitative Study on Risk of Statelessness Among Indigenous Communities in Sarawak, Malaysia: Some Preliminary Findings

Dayang Hajrayati Binti Awg Kassim^{1,2*} & Noor Azlan Bin Mohd Noor²

¹Department of Anthropology and Sociology, Faculty of Social Sciences and Humanities, University Malaysia Sarawak, Kota Samarahan, MALAYSIA

²Department of Sociology and Anthropology, International Islamic University Malaysia, Selangor, MALAYSIA.

*Corresponding Author

DOI : <https://dx.doi.org/10.47772/IJRISS.2024.806200>

Received: 05 June 2024; Accepted: 22 June 2024; Published: 19 July 2024

ABSTRACT

This qualitative study examines the risk of statelessness among indigenous communities in Sarawak, exploring both the perspectives of stateless persons and relevant stakeholders. The primary aim is to identify the barriers that contribute to the risk of statelessness and to determine the populations most vulnerable to this condition in Sarawak context. Through in-depth interviews and thematic analysis, the research identifies five barriers that heighten the risk of statelessness among indigenous communities: access barriers, administrative barriers, institutional barriers, behavioural barriers, and financial barriers. The study further classifies those at risk into two categories: those who are undocumented and those possessing some form of documents but lack full citizenship rights. The undocumented population encounters substantial obstacles as a result of their overall lack of legal recognition, which greatly restricts their ability to obtain necessary services and legal safeguards. Meanwhile, those who are documented but lack of citizenship rights experiences a precarious legal status that deprives them of the full rights and protections afforded to citizens. This study highlights the critical importance of policy interventions that tackle the systemic and procedural barriers indigenous populations of Sarawak experience in their acquisition of citizenship. In addition to tackling the immediate bureaucratic obstacles, effective solutions must also consider the sociocultural and legal issues that cause the statelessness condition.

Keywords: statelessness, undocumented, indigenous communities, identity, Sarawak, Malaysia

INTRODUCTION

Statelessness, defined as the deprivation of the right to possess a nationality, is considered a serious violation against fundamental human rights. The lack of official identification and state protection at birth leaves stateless individuals vulnerable to continuous risk and hardship, leading to a condition of being without rights that is frequently perpetuated by nation-states and their policies. According to Paret and Gleeson (2016), citizenship status is extremely important because it is closely linked to the unstable nature of employment and livelihood. The heightened insecurity and uncertainty experienced by specific populations is a result of uncertain legal rights that worsens the impact of economic challenges. Evidently, various academic literature on statelessness has noted that the consequences of living with an undetermined legal status are often numerous and profound.

The statelessness crisis has had profound and far-reaching consequences, contributing to the marginalisation of both indigenous and rural communities. Furthermore, indigenous communities in Malaysia are comparatively disadvantaged due to socio-economic status, cultural norms, and institutional factors. It has been reported that indigenous communities in Sarawak are particularly vulnerable to statelessness, even though stateless

communities frequently remain hidden and unrecognised (Berma et.al, 2006; Jayasooria, 2014; Duraisingam, 2016; Liew, 2019).

Statelessness in the context of Sarawak

In 2010, it was estimated that 66,000 out of 2.6 million indigenous people in Sarawak were stateless or undocumented (Siftung, 2020). However, the affected population's demographic profile, including gender and age-disaggregated data, is not yet available in the national housing or population census. While there is currently no official data on the stateless population in Sarawak, the National Registration Department Sarawak has revealed that they received a total of 6,784 applications during the period of 2015 to 2017. These applications were a result of 158 outreach programmes aimed at resolving identity documentation issues throughout the state. Out of the total number, 4,554 applications have been received for processing, while the remaining 2,230 applications have not been approved due to various reasons (SUARAM, 2017). Several task forces, including human rights groups such as SADIA (Sarawak Dayak Iban Association), S4S (Sarawak For Sarawakians), and SAS (Saya Anak Sarawak), are collaborating with the National Registration Department and the Ministry of Welfare, Community Well-being, Women, Family, and Childhood Development to address the issue of statelessness in Sarawak. These groups have reported that this problem is particularly prevalent among indigenous communities such as the Penan, Iban, Bidayuh, and Orang Ulu (see Figure 1).

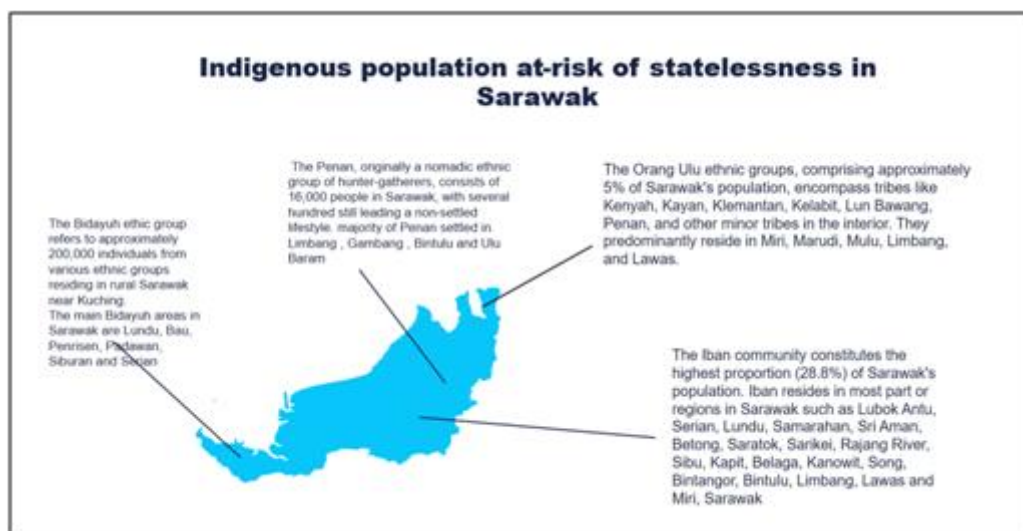


Figure 1: A map of Sarawak showing the distribution of the indigenous population at risk of statelessness.

The high incidence of statelessness among these ethnic groups can be attributed to their residence in rural and isolated areas, which poses challenges in obtaining identification documents (Borneo Today, 2018). The report states that a significant number of isolated communities from Kapit to Ulu Baram are not officially recorded. Therefore, the National Registration Department (NRD) and the Sarawak ministries need to establish a systematic procedure to ensure that all communities have equal access. Suara Rakyat Malaysia (SUARAM), a human rights organization, has emphasized that indigenous people in Sarawak who reside in remote areas lacking roads, transportation, and information about the proper registration process are frequently deprived of their citizenship rights (SUARAM, 2017).

Although numerous reports in newspapers and official NGO documents discuss statelessness among the Sarawak population, these sources typically provide a brief account of the situation. They lack a detailed analysis of the underlying causes and the specific populations at risk in the region. Given Sarawak's notable diversity, with over 40 sub-ethnic groups, it is crucial to identify which groups are most susceptible to statelessness. Furthermore, according to the World Bank (2018), approximately 48% of Sarawak's population lives in rural areas—double the national average of 24%. Sarawak's extensive geographical spread houses the most dispersed rural populations in Malaysia. This dispersion is a critical factor that significantly contributes to the statelessness issue, making it essential to capture data on the statelessness situation among this population

to devise specific approaches to reduce statelessness risks in rural areas. The lack of comprehensive literature and studies on the stateless situation underscores a significant knowledge gap regarding statelessness among the indigenous communities in Sarawak. To further clarify this issue, this research employs a qualitative approach to capture complex social phenomena such as statelessness. This method provides deeper insights into the causes and consequences of statelessness that are directly relevant and responsive to the data gathered from the field, without relying on preconceived notions about the situation. By examining the real-life experiences of people without citizenship, this approach aims to illuminate the specific challenges faced by Sarawak's varied and geographically isolated communities.

In this article, it is important to acknowledge that the perspectives of stateless individuals provide direct accounts of their experience of being stateless, while stakeholder perspectives, such as those from NGO workers and activists, analyses various circumstances encountered by indigenous communities. These observations serve to identify obstacles and circumstances that could potentially lead to statelessness if left unaddressed. Based on this argument, the term "at risk of statelessness population" is used to allow a more thorough and inclusive conversation on the matter. Consequently, the following are the specific objectives of this article:

- a. To identify the barriers that contribute to situations placing the indigenous population at risk of statelessness in Sarawak.
- b. To determine which population categories are most at risk of statelessness.

METHODOLOGY

In total, 10 in-depth interviews were conducted between June 2021 to September 2023. Ten informants participated in in-depth interviews: five of them represented NGOs, activists, and local academics; the rest of the participants were stateless people and their families. The study utilized snowball sampling to identify stateless individuals, gathering data from local activists who have been actively engaged in assisting stateless individuals. Therefore, prior to the fieldwork key informants who are mainly local activists were contacted. Key informants not only important gatekeeper to indigenous communities but also play significant role in providing information regarding stateless situation affecting individuals living in the selected localities. Consequently, through word-of-mouth, internet research, and government department contacts, a number of informants with extensive experience dealing with cases involving statelessness in the Sarawak region, including academics, activists, and NGO employees, were identified.

Each of the 10 interviewees was allocated an anonymized identification code, which comprised both a numerical and alphabetical value such as NGO1 for NGOs, A1 for activist, AC for academics, followed by S for stateless persons. It must be noted that the availability of respondents who work with marginalized communities, and knowledgeable about stateless situations among the populations, is limited. Notwithstanding the limited sample size, the quantity proved adequate as the data began to saturate after the tenth interview. In addition to the interviews, the participant observation method was employed to gain more in-depth and firsthand data on the issues being observed. This method required participating in and performing activities with the stateless individuals or groups to better understand how they had lived and experienced stateless conditions on a day-to-day basis. In terms of the scope of research, the study focused on the actual statelessness cases currently experienced by respondents with the following criteria. First, they belonged to an indigenous group residing in Sarawak. Second, they were considered as *in situ*¹ stateless which refers to the status of being without a nationality or citizenship in one's country of habitual residence, typically the country where one has resided for a significant period of time and often the country of one's birth.

The written notes obtained during the interviews were immediately transcribed into written research text. After collecting all the data, a thorough and thematic analysis of the data was conducted, using a systematic and inductive approach across all the cases. The respondents' perspectives were then captured through content

¹ Caia Vlieds, 'Contexts of Statelessness: The Concepts "Statelessness In Situ" and "Statelessness in the Migratory Context"' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge, 2017) 35.

analysis, which was followed by methodological triangulation using the literature's findings. Qualitative assessments of the circumstances in Sarawak were formulated based on the responses, the majority of which were provided in English, Malay and local Sarawak Malay.

RESULTS

Barriers that heighten the risk of statelessness among indigenous people in Sarawak

a. Access Barriers

Interviews conducted with stakeholders and authorities have revealed an alarming prevalence of statelessness among indigenous individuals residing in rural areas. This presents a significant problem concerning citizenship and the absence of proper documentation to establish one's identity. A1, a 45-year-old activist who participated part in the interviews, is active in tackling the issue of statelessness in Lawas and Limbang region. She stated that she dealt with an average of 20 to 30 cases of statelessness per month, primarily concerning the orang Ulu community living in remote areas of these regions. A1 highlighted the significance of geographical location in determining accessibility, especially for individuals residing in border regions. Lawas, for example, is situated next to Sabah in the north, Brunei in the south, and Kalimantan, Indonesia in the west. Stateless individuals in Lawas are frequently prohibited from leaving the area due to their geographical location. Hence, travelling outside Lawas becomes challenging without proper identification documents, as it is subject to strict border and immigration regulations.

Similarly, the Penan residing in the remote areas of Baram and Ulu Belaga encounter difficulties resulting from logistical and accessibility issues. Given that the majority of Penan settlements are situated in remote regions, the process of civil registration poses an enormous challenge. A2, who primarily dealt with the Penan community in the Miri and Bintulu regions, highlighted a practical concern regarding the geographical accessibility of registration offices. He highlights that the majority of these offices are located in major urban areas, with the main headquarters being the national registration department in Kuala Lumpur, while other offices are situated in Kuching, Sibul, Bintulu, and Miri. Despite of the availability of small NRD offices in Belaga and a district office in Kapit, their capacity to make decisions on the issuance and verification of identity documents is either limited or non-existence, which adds to the difficulty of current obstacles faced by the Penan people living in remote areas.

Recognising the challenges faced by remote communities in obtaining birth and identity documents, the National Registration Department (NRD) of Sarawak initiated the Special Mobile Unit (UKB) Outreach Programme in the 1990s. The programme covers different areas, with Kuching serving up to Sarikei, Bintulu serving up to Belaga, Kapit serving up to Baleh and Kanowit, and Miri serving up to Baram, Limbang, and Lawas (Sarawak Tribune, 2017). According to the most recent statistics, 90% of Penan have registered through the NRD mobile registration unit as of 2019 (Dayak Daily, 2019). But getting 100% registration proved challenging because of the size and dispersed nature of the Penan population living in Sarawak's vast interior areas. Hence, despite of NRD commendable efforts to assist the rural population in resolving their documentation issues, there are still unresolved cases. This is primarily due to the reliance on outdated logistical approaches, which weakens the efficiency of the registration process, especially when the registration drives are organized in an ad-hoc manner.

"Because it was very hard to get to remote areas in the forests of Baram and Ulu Belaga, I noticed that NRD officers didn't visit very often, and when they did, it wasn't always at the best time. Also, because of poor communication, news of the visits didn't get to everyone, and many people missed the chance to register because they were looking for food in the jungle". A2

b. Administrative Barriers

In addition to the obstacles to access that are inherent in rural areas, research interviews disclosed a widespread concern surrounding the lack of documentation, which further complicates the process of acquiring citizenship for stateless individuals living in Sarawak. This pertains to the absence of official identification documents,

including birth certificates, which are required to establish legal identity and acquire identity documents such as MyKad. Hence, within this particular framework, administrative barriers comprise the policies and guidelines, operational standards, and regulations pertaining to the acquisition of citizenship and the procurement of identification documents.

As the findings shown so far, most of respondents indicated that providing certain documents to obtain Mykad can be challenging in the majority of instances. This includes verifying a homebirth occurred in the remote village that will require additional documentation, such as a verification letter of birth issued by the local midwife (Surat Pengesahan Kelahiran oleh Bidan) or confirmation from the head of villages or tuai rumah. It must be noted that village birth or home is a common way of childbirth in remote communities, especially in cases where the nearest medical facility is situated in an urban area.

“One reason why some Penans are still unregistered is that they were born in the forest. And if this happens, NRD will need to make sure this information is correct, which means asking older people for verification. This happens a lot among the Penan people, who are nomads. Still, this is especially hard to do when parents have died (witness). Because of how they live, many of them have lived for generations without any proof of who they are, such as birth or marriage documents.” **NGO1**

“I learned that many people had trouble recording the births of their children, especially those who lived in rural areas and relied on local midwives (bidan kampung) to help them give birth. When they went to the National Registration Department (NRD) to register, they had to show a letter from the local midwife as proof. The name of this letter is Surat Pengesahan Kelahiran oleh Bidan. This proved to be hard to get, especially since they needed to confirm with a witness who had already died.” **NGO2**

According to Datuk Ruslin Jusoh, the Director General of the National Registration Department (NRD) in 2019, Sarawak has the highest number of delayed birth registrations with at least 3,000 registrations occur each year (DayakDaily, 2019). In Sarawak, Section 24 of the Births & Deaths Registration Ordinance (Sarawak Cap. 10) states that any birth occurring after 42 days is considered late for registration. However, in Peninsular Malaysia, the registration deadline is 61 days. Consequently, parents may face administrative obstacles in obtaining their child's birth certificate if the child was born in a village rather than a hospital, hence the registration was delayed.

Although birth certificates are necessary in establishing nationality, the results also emphasise the importance of presenting legitimate proof of marriage in order to secure citizenship for one's children. In accordance with Malaysian nationality legislation, in the absence of proof of lawful marriage registration and with a non-citizen mother, the child would not meet the requirements for citizenship, notwithstanding the paternity of the father. Interviews with NGOs workers and activists highlights the fact that children frequently bear the repercussions of their parents' mistakes, thereby emphasising the burden of proof and revealing inconsistencies in the procedure for acquiring citizenship.

“According to rules set by the National Registration Department (NRD), applications must be accompanied by supporting documents such as marriage certificates. However, some people in the Iban and Bidayuh communities don't have marriage certificates because they were married according to ‘customary law’. As a result, they cannot provide proof of marriage when they register their children, which means that NRD is forced to reject out applications that don't meet these requirements. I know the fact that internal changes have been made by the NRD, allowing fathers to register their children's births using the mother's surname in the absence of a marriage certificate. Yet, this is only helpful if the mother is a citizen, but it gets problematic if the mother is not a citizen or if her passport has ended and she is an Indonesian citizen.” **NGO2**

Although the Malaysian government recognises customary law as a valid form of proof of marriage, there have been reported cases when administrative issues arise, even in circumstances where customary law serves as the evidence of marriage. This is frequently the result of misunderstandings about the reliability of such evidence. According to an interview, a Bidayuh family experienced a protracted situation in which their three children were denied birth certificates due to the invalidity of their parents' customary (adat) marriage certificate.

“Me and my husband were married according to adat in 2004. When we went to get our oldest child's birth certificate in 2005, we were told that our adat marriage documents were not legitimate and that only a marriage certificate registered by NRD could be utilised to provide the birth certificate. Three of our children have not been able to get citizenship since then, with the exception of their youngest, who was born after we had already filed their marriage under the NRD in 2011.” **S1**

The interviews also highlighted a problem related to inadequate documentation for adopted children. AC1 confirmed these circumstances, explaining that if adoptive parents fail to provide adoption documentation or information about the biological parents' citizenship, it can lead to registration issues. She noted that this often occurs in cases of illicit adoptions, where the child is adopted through illegal means such as baby trafficking organizations, or without following a comprehensive and legally authorized adoption process.

c. Institutional Barriers

As to Article 14 of the Federal Constitution, individuals acquire citizenship automatically if at least one of their parents was Malaysian or a permanent resident at the time of their birth, or if they were born in Malaysia and did not possess citizenship in any other nation. It is crucial to take into account the Second Schedule, which imposes limitations on Malaysian women granting citizenship to their children born outside the country using lawful methods. Thus, Malaysian mothers are required to adhere to the specified protocols stated in Article 15(2)4 in order to submit an application for citizenship. Based on a 2019 assessment from the Child Rights Coalition Malaysia (CRCM), these procedures have shown to be mostly ineffective and frequently subject to delays. Although there are discretionary registration laws in place that enable children born outside of Malaysia to get Malaysian citizenship, data from the Ministry of Home Affairs (MOHA) indicates a low rate of success for these applications. According to informants, the reason for this is that Malaysian nationality law, which was influenced by the British Nationality Act, included a paternalistic aspect. Before 2010, Malaysian citizenship was conferred through the paternal lineage (Low, 2007). If a child is born abroad to a Malaysian father, they are eligible to acquire citizenship by descent if their birth is formally recorded at a Malaysian consulate within a year. Nevertheless, Malaysian women who are married to foreigners encounter challenges when it comes to passing on their citizenship. In addition, these women are obligated to go back to Malaysia in order to deliver their offspring (Low, 2007). Among the indigenous populations in Sarawak, it is uncommon for women to travel exclusively to Sarawak to give birth and obtain citizenship for their child.

Due to the absence of specific legislation on citizenship for Sarawak, the aforementioned legal constraint also applies to cases of statelessness involving children born abroad to Sarawakian mothers. Previous research has indicated that cross-border marriages between indigenous communities in Sarawak and Kalimantan, Indonesia, are common due to longstanding socio-historical ties and unregulated border crossings (Bala, 2002; Amster, 2005; Oesterheld, 2016). However, this type of marriage arrangement presents challenges when spouses are unable to provide any documentary evidence of their marriage upon returning to Malaysia. The situation becomes even more complex when the child is born outside of Malaysia, despite the mother being a Malaysian citizen. One of the stateless persons interviewed, S2, a 36-year-old Bidayuh man from Kota Samarahan, encountered this unfortunate legal consequence. He encountered difficulties in acquiring citizenship due to the fact that the law does not permit his mother to pass on her nationality to her children born abroad. Furthermore, his father, who had obtained Malaysian citizenship, was unable to confer his nationality due to the absence of a legally recognized marriage certificate.

“I started applying in the early 1990s when I discovered that I needed my birth certificate to attend school. Five or six times, yet every time my applications were denied. Early in 2022, when I reapplied, the NRD official advised me to obtain my birth certificate from the Indonesian government.” **S2**

S2 and his late older brother are the only stateless individuals out of their three siblings. Their siblings, who were born in Sarawak, automatically received Malaysian citizenship under the Malaysian nationality legislation. According to the law, a child obtains citizenship automatically if their mother is Malaysian, regardless of the legal recognition of the marriage. However, S2 and his brother are considered "illegitimate" children in the eyes of the law because their parents did not have a valid marriage certificate. Another

complicating factor in their citizenship status is that they were born overseas, despite their mother being a Malaysian citizen.

d. Behavioral Barriers

State-level initiatives have been implemented to raise awareness about the importance of civil registration in preventing cases of statelessness among indigenous people in Sarawak. However, these efforts face obstacles due to a significant disparity between the recognition of the importance of birth registration and the possession of nationality documentation, particularly among rural communities. This discrepancy between international standards for promoting birth registration in developing countries and the complex challenges faced by local communities is a widespread problem (Vandenabeele, 2011). Limited knowledge of the processes involved in obtaining nationality documentation is strongly associated with inadequate education and illiteracy, which increases the risk of individuals being unable to obtain identity documents or access the nationality application procedure. The S3 case illustrates how the risk of statelessness can be inherited throughout generations when parents are unaware of the significance of acquiring legal identification for themselves and their children.

“I was able to apply to school with my birth certificate, and I was allowed to keep studying at the private university. But I can't go any further if I can't get my ID card. All of my hard work will be for nothing. My citizenship status is unknown because neither my parents nor my grandparents knew how important it was to get identification papers in the past. My siblings and I are now stateless.” **S3**

Additionally, A2's experience in interacting with the Penan in Belaga and Ulu Baram reveals the following:

“Undoubtedly, part of the problem with documentation among them is the ignorance of community members. It is important to recognize, however, that these opinions stem from the fact that a large number of community members are illiterate, poorly educated, and have no access to information or media. Most Penans I have met do not stay in school for very long”. **A2**

On the other hand, AC1 has encountered situations where couples returning to Malaysia show a lack of interest in undergoing civil registration procedures due to a lackadaisical attitude. However, she has also noticed several cases where individuals lack knowledge about the legal consequences of not registering their marriage and the birth of their child, especially if the child was born outside the country. And in some cases, lack of understanding about adat laws might cause registration issues, particularly for cross-border marriages.

“No problem if one understands adat marriage correctly. However, if an Iban man marries a Muslim based on native customary law, the marriage is not legitimate as Muslims are not permitted to marry under native law”. **AC1**

AC1 provided an explanation for the recurring occurrence of this issue, attributing it to individuals who actively evade proper marriage registration. Herein, adat marriages are conducted as a result of the stringent documentation requirements imposed by civil law, which some couples are unable to fulfil. This is particularly pertinent in cases involving transborder marriages or unions with foreign partners. If the authorities such as Head of Villages or known as Ketua Masyarakat Ketua Kampung (KMKK) remains either oblivious to or endorses adat marriages, despite their prohibition for native individuals seeking to wed non-native partners or, in some instances, Muslim-non-Muslim couples, the issue will persist upon the couple having children. The indeterminate citizenship status of the couple's offspring will hereby come into question.

e. Financial Barriers

Sarawak remains considered as one of the most impoverished states in Malaysia. A significant number of rural populations express discontent due to the lack of basic necessities such as healthcare, education, clean water, infrastructure, and electricity. Consequently, registration is not considered a top concern in the majority of rural regions in Sarawak. For the vast majority of the population, survival is their first priority.

“It's not reasonable to expect people who live 578 KMs away from even Belaga, which takes about five to ten hours by four-wheel drive, to make the trip just to document their births. It not only costs a lot of money, but

they also have to take money away from transportation to pay for things like food and milk for their children.”A2

“Most Penan people are members of low-income families whose lives are impacted by extreme poverty. To this community, acquiring identity documents is less important than earning money to purchase basics like food. As such, they have to put food first rather than spending on things like travelling to town which would cost RM300 per trip in order to arrange their identity document application. There is no proper road connecting the villages to the town, and some are still linked by logging roads, making the cost of transportation to charter a private 4-wheel vehicle from Baram interior to Miri even higher, at about RM1800.” NGO1

Acquiring nationality documentation, particularly via the costly procedure of birth registration, poses considerable obstacles for impoverished communities with limited means of subsistence. Several days' worth of earnings may be forfeited by rural residents as a consequence of the expenses associated with this procedure, including lodging, food, and transportation. Even this ostensibly uncomplicated process frequently results in rural communities lacking legal documentation. It is noteworthy that this concern transcends rural areas, affecting families belonging to the B40 socioeconomic stratum who reside in close proximity to urban centres. This scenario underscores the interdependence that exists among low-income households' financial status, income, and eligibility for registration in civil services.

Categories of population at risk of statelessness in Sarawak

The preceding discussion identifies two main categories of stateless individuals: those with official documentation and those without official documentation. Every category is distinguished by a distinct range of challenges and structural barriers that contribute to their precarious status and impede the chance to acquire citizenship and their associated rights.

a. Documented Stateless Individuals

Stateless people may have local documents such as birth certificates, IDs, or ration cards, but are considered stateless if the state does not recognise them as proof of citizenship (Lori, 2017). The study shows that documented stateless persons are not entitled to the same privileges and benefits as Malaysian nationals, although they possess some kind of identification or documentation, such as MyKas (temporary residents with undetermined citizenship) or MyPR (permanent residents) cards. Within the context of Sarawak's statelessness issue, the MyKas, also referred to as Green IC, provide a striking illustration of the difficulties encountered by legally recognised stateless people. Under the Regulation 5 (3) of the National Registration Regulations 1990, MyKAS is a temporary resident identity card that requires renewal every five years and allows its holders to legally register marriages with the National Registration Department (NRD) without conferring citizenship. It has been initially introduced to legally recognized children born in Malaysia who were abandoned and raised in the government welfare system without clear parental nationality or documentation, such as foundlings.

In addition to Mykas and MyPR, there are cases where individuals face citizenship complications despite holding a Malaysian birth certificate. In this case, the acquisition of a Birth Certificate alone does not confer Malaysian citizenship. In actuality, on July 1, 2011, the Home Ministry implemented separate birth certificates for citizens and non-citizens to dissuade parents from assuming that their children automatically become citizens upon acquiring a Malaysian birth certificate. As a result, the National Registration Department began issuing red birth certificates to children of noncitizens.

“Although their citizenship status is unknown, they still have birth certificates proving that they were born in Sarawak. Therefore, I would refer to them as "status-less." However, on their birth certificates, they are marked as "undetermined" or as non-citizens due to their parents' status.” NGO2

“When my son was born, the NRD gave him a red birth certificate, which is usually given to babies born in Malaysia to foreigners. This is because I wasn't legally married to my son's biological mother at the time, so I couldn't give him my citizenship.” S3

The red birth certificate currently determines a child's nationality status as "bukan warganegara" (non-citizen) or "belum ditentukan" (unknown). It should be highlighted that red birth certificates are issued to children of foreign nationals born in Malaysia, as well as those born out of wedlock to Malaysian parents or who are unable to prove their Malaysian parentage. Hence, the red birth certificate shows that the bearer does not have access to citizenship through either parent, putting them at risk of statelessness. Similarly, adopted children face the same challenges in obtaining legal identification, such as Mykad, despite having documents such as an extract from the central register record of birth and adoption certificate, also known as sijil anak angkat, which was a legal record that included information about the child and biological parents, such as names and addresses. However, due to missing facts in both documents, one of the informants, who was adopted as a baby, is having difficulty getting legal identity and has been registering for school solely through her sijil anak angkat.

"I applied for Mykid in 2015 before the UPSR exam. However, I was informed that I couldn't proceed without a birth certificate. The NRD authorities advised me to return in a few years to process the application. Meanwhile, as I was getting ready for my PT3 exam three years later, my adoptive mother visited the NRD. During her visit, the NRD officer informed us that they were facing difficulties with my application. Consequently, we were instructed to contact the NRD headquarters in Kuching. Unfortunately, the Kuching NRD officer encountered similar issues while trying to process my application. Eventually, we were left with two options: either locate my biological mother or wait for a few years before reapplying." **S4**

b. Undocumented Stateless Individuals

On the other end of the spectrum are those who are stateless, meaning they lack official documentation from the government and are undocumented. The challenges faced by this group are exemplified by the cases managed by NGO workers and activists in this study. They emphasise the various interconnected factors that contribute to obstacles in obtaining registration and citizenship, including access, administrative, institutional, behavioural, and financial barriers. These barriers ultimately lead to undocumented status, thereby exposing them to the risk of statelessness. These individuals face overwhelming barriers while trying to obtain education, healthcare, and career prospects, which leads to a continuous cycle of poverty and marginalisation. The existence of the undocumented stateless category highlights the inherent flaws in fulfilling the requirements of Sarawak's diverse communities.

DISCUSSION AND CONCLUSION

Based on interviews with key stakeholders and stateless individuals, it is clear that indigenous communities in Sarawak face significant challenges when trying to follow the standard procedures of the National Registration Department (NRD). These challenges stem from limited access to civil registration services and the complex social and cultural dynamics that affect their daily lives. Documenting births in these remote areas often proves difficult for indigenous communities, as they struggle to provide clear and verifiable evidence such as witness statements. This raises concerns about the applicability of bureaucratic procedures in situations where the conditions do not align with the underlying assumptions and expectations.

The findings demonstrate a misalignment between formal identification systems and traditional practices (adat), resulting in an inconsistent and arbitrary state. Not only are the current practices illegible (Cheva-Isarakul, 2020), but they also lack consistency and stability in the context of political membership. This study shows that these practices are far from neutral. The findings highlight how legal and bureaucratic complexities can unintentionally render individuals and entire communities stateless, despite their strong connection to their land and heritage. In this context, one could argue that the existing legal structure, shaped by historical progressions and legal revisions, fails to adequately consider indigenous customs and traditions, such as adat marriage. The findings indicate that the conflict between adat marriages and formal legal requirements often leads to situations where individuals are married under one system but not recognized by the other. Cross-border matrimonial unions, recognized as lawful within indigenous communities, may be invalidated under nationality laws. The results show that individuals who do not understand the importance of documentary evidence and struggle to grasp the complex legal and evidentiary requirements for obtaining identification may unknowingly get caught in a legal limbo. These individuals are being denied citizenship due to inconsistencies

and contradictions that arise when legal rules intersect with local customs and way of life. Additionally, the findings suggest that there are barriers to accessing civil registration services among the indigenous population in Malaysia, which operates a demand-based system. This indicates that there are challenges faced by this population that may be caused by geographical factors, lack of education, financial issues, and procedures that hinder their ability to obtain legal identity.

According to Sadiq (2017), the complicated administrative citizenship system poses obstacles for those entitled to claim citizenship by birth and descent. People on the margins of society, such as undocumented natives, immigrants, minorities, and the economically disadvantaged, often face systematic marginalization. The contradiction between the universal system of legal identification and the lived realities of the indigenous population demonstrates that their complex circumstances cannot be easily categorized according to the state's standardized norms. This leads to a concerning situation of in situ statelessness among individuals who should technically be recognized as legal citizens. The state's strict adherence to recognizing only legitimate marriages, for example, excludes and stigmatizes children born outside of such unions, further highlighting the deep-seated inequalities perpetuated by these norms. These evidentiary issues draw attention to the conflict between the perceived nature of citizenship and its reality (Bhabha, 2017).

It must be noted that the introduction of the Native Marriage Electronic Systems (NAMES) in Sarawak marks a notable advancement in recognising customary marriages and streamlining the registration procedure with the National Registration Department (NRD). However, it is critical to supplement this system upgrade with targeted educational programmes for both community members and NRD officers. Hence, this study recommends that legal reforms be implemented in conjunction with legal aid mechanisms and advocacy programs. These should be tailored to address the unique needs of stateless individuals. In order to strengthen the social fabric and guarantee that every member of society is able to participate fully in the political process as recognised citizens, this strategy is crucial for bridging the gap between customary practices and existing legal requirements.

ACKNOWLEDGMENT

This study is part of the Ph.D. research titled "Statelessness among the Indigenous Community in Rural Sarawak," supported by the International Islamic University Malaysia and the Faculty of Social Sciences and Humanities (FSSK). Here, the author would like to express gratitude for the financial support received from the Ministry of Higher Education Malaysia (MOHE) and Universiti Malaysia Sarawak under the Bumiputera Academic Training Scheme (SLAB). Gratitude is extended to all the families and stateless individuals who kindly shared their narratives, and to the government officials, advocates from civil society, and dedicated researchers who generously devoted their time and expertise to this research.

REFERENCE

1. Amster, M. H. (2005). Cross-Border Marriage in the Kelabit Highlands of Borneo. In *Anthropological Forum* (Vol. 15, No. 2, pp. 131-150). Routledge.
2. Bala, P. (2002), Changing borders and identities in the Kelabit Highlands :anthropological reflections in growing up near an international border. *Dayak Studies Contemporary Society Series* . Universiti Malaysia Sarawak, Kota Samarahan.
3. Berma, M., Shahadan, F., & Gapor, S. A. (2006). Alleviating Bumiputera poverty in Sarawak: Reflections and proposal. In *Malaysian Research Conference 4th International Conference* (pp. 19-21).
4. Bhabha, J. (2017). Arendt's children: Do today's migrant children have a right to have rights?. *Migrants and Rights*, 221-262.
5. Child Rights Coalition Malaysia (CRCM). (2019). Status Report on Child Rights in Malaysia 2019. Protect and Save the Children Association of Selangor & Kuala Lumpur. Available at <https://wao.org.my/wp-content/uploads/2020/11/CRCM-STATUS-REPORT-2019-FINAL.pdf>
6. Duraisingam, T.J. (2016) 'Stateless persons of Malaysia – the causes and consequences', *Int. J. Public Law and Policy*, Vol. 5, No. 4, pp.291–304.
7. Jayasooria, Denison (2014) "Human Rights concerns & Indigenous people of Sabah & Sarawak. *Malaysia Journal on Human Rights* (2014). SUHAKAM: KL pg 1-18

8. Liew, J. C. Y. (2019) Homegrown Statelessness in Malaysia and the Promise of the Principle of Genuine and Effective Link. *Statelessness & Citizenship Rev.*, 1, 95.
9. Low, Choo Chin (2017). Report on Citizenship Law: Malaysia and Singapore (Report). European University Institute.
10. Oesterheld, C. (2016). (Un) becoming Dayak: Intermarriage and the Dynamics of Identity and Belonging in East Kalimantan. *The Asia Pacific Journal of Anthropology*, 17(2), 138-156.
11. Paret, Marcel & Gleeson, Shannon. (2016). Precarity and agency through a migration lens. *Citizenship Studies*. 20. 277-294. 10.1080/13621025.2016.1158356.
12. Sadiq, K. (2017). When states prefer non-citizens over citizens: Conflict over illegal immigration into Malaysia. In *Immigration* (pp. 219-240). Routledge.
13. Siftung, R.S (2020), Atlas of the Stateless: Facts and Figures about Exclusion and Displacement, available at: <https://www.rosalux.de/en/publication/id/43022/atlas-of-the-stateless>.
14. SUARAM (2017), Annual Human Rights Report 2017 Ed. 1. Available at <https://www.suaram.net/wp-content/uploads/2018/06/SUARAM-Annual-Human-Rights-Report-2017-Ed.-1.pdf>
15. Vandenabeele, C. (2011). To register or not to register? Legal identity, birth registration, and inclusive development in Bhabha, J. (Ed.), *Children without a state: A global human rights challenge*. MIT Press.
16. World Bank (2018). GINI index (World Bank estimate). Available at: <http://data.worldbank.org/indicator/SI.POV.GINI>.