

# GENDER DISCRIMINATORY CITIZENSHIP LAWS & CHILDHOOD STATELESSNESS IN MALAYSIA



FAMILY FRONTIERS

## Unequal citizenship rights impacting Malaysian women and their children born outside the country

Malaysian women **do not have equal rights** as men to confer automatic citizenship on their children born **outside the country** and have to rely on citizenship by registration, an arbitrary and inconsistent process filled with delays and a slim chance of approval.

While men can confer automatic citizenship on their children through Sections 1(b) and 1(c) of Part II of the Second Schedule of the Federal Constitution, Malaysian women **have to apply for citizenship** via Article 15(2) on 'Citizenship by Registration'.

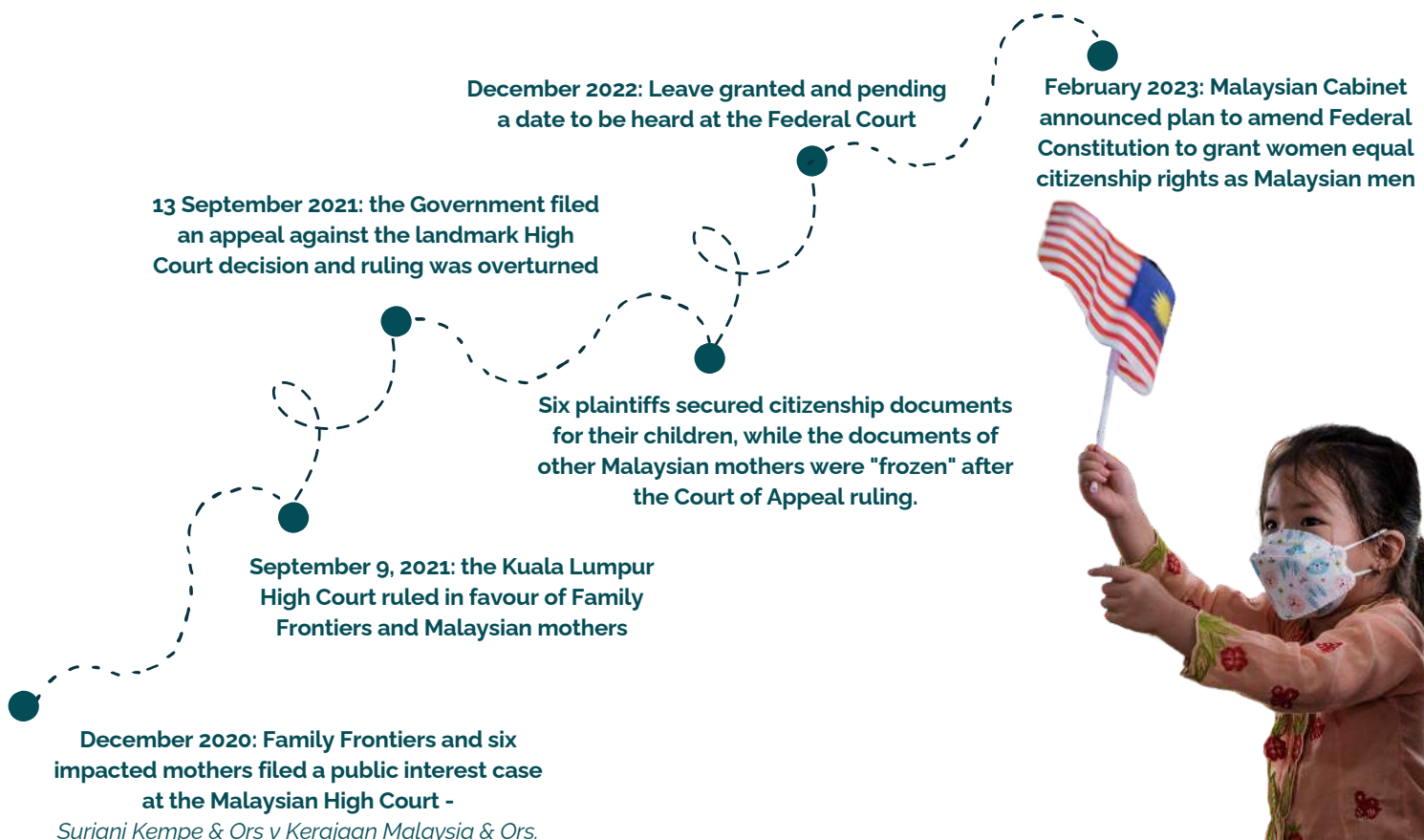
Citizenship applications made under Article 15(2) **lack a guarantee of approval** and often **result in rejections without reason**.



Malaysia is **1 out of 24 countries** that **prevent women from conferring their citizenship to their children born overseas on an equal basis with men**.

Between 2018 and 22 June 2022, out of **3,407 applications** made by Malaysian mothers under Article 15(2), **only 19 were approved, 7 were rejected**, equating to an approval rate of **less than 1%** and less than 100 children securing citizenship by the age of 21.

## Timeline of events: Suriani Kempe Case



# Unequal citizenship rights impacting children born before a legal marriage to Malaysian fathers

Children born outside a legally recognised marriage to Malaysian fathers and non-Malaysian mothers **do not have the right to inherit Malaysian citizenship**. This **contributes to statelessness**, particularly when the children cannot acquire the mother's citizenship due to various reasons, such as the mother being stateless, their country of origin not allowing them to confer citizenship in certain circumstances or their identity is unknown or cannot be traced.

## Childhood statelessness impacting foundlings, abandoned children and adopted children

The Federal Constitution allows for automatic citizenship for foundlings, but this provision is inconsistently applied. However, **many foundling children, including those in welfare homes, have not been granted Malaysian citizenship and remain stateless**. The current SOP by the National Registration Department requires foundling children to prove their parentage or place of birth, which poses difficulties as they often lack this information. This also impacts stateless children who are adopted by Malaysian parents.

## Impacts of unequal citizenship laws



Limited access to education



Limited access to affordable healthcare



Lack of legal status for children above the age of 21 to remain with their Malaysian parents



Excessive administrative process, uncertainty and stress for Malaysian women



Vulnerability to abuse and violence among Malaysian women

## Recommendations

- Amend Sections 1(b) and 1(c) of Part II of the Second Schedule of the Federal Constitution to allow Malaysian women to confer citizenship by operation of law on an equal basis as Malaysian men on their children born overseas without any further delay.
- Reform Section 17 of Part III of the Second Schedule of the Federal Constitution to grant children born before a legal marriage the right to inherit the Malaysian father's citizenship.
- Allow all children in Malaysia equal access to education and healthcare regardless of citizenship status, including stateless children.