



FAMILY FRONTIERS

Navigating Borders, Barriers, and Belonging: How Citizenship, Immigration, and Labour Policies Impact Children in Binational Families



*It's not my illness that worries me. It's the thought of my non-citizen wife being forced to leave Malaysia, and **our children having to grow up without their mother after my death.** It terrifies me.*



- A Malaysian father in a binational family.

Addressing Structural Discrimination and Upholding the "Best Interests of the Child" in Binational Families

This brief outlines the systemic barriers faced by children in binational families in Malaysia. Despite the progress of the **Constitution (Amendment) Act 2025**, significant gaps remain that subject children to legal limbo, statelessness, and family separation.

These issues contravene the **United Nations Convention on the Rights of the Child (CRC)**, specifically regarding non-discrimination (Article 2), the right to nationality (Article 7), and the preservation of family unity (Article 9).



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Structural Barriers to Accessing Citizenship for Children in Binational Families

Update on the Constitutional (Amendment) Act 2025 and remaining gaps

CITIZENSHIP BY OPERATION OF LAW FOR CHILDREN BORN UPON IMPLEMENTATION OF THE AMENDMENT

The Constitution (Amendment) Act 2025 will allow Malaysian mothers to confer citizenship by operation of law to overseas-born children of Malaysian mothers and is expected to be implemented as early as the 1st of June 2026.

On 9 February 2026, in his winding-up speech on the motion of thanks for the Royal Address, the Minister of Home Affairs outlined the remaining processes and implementation timeline for the Constitution (Amendment) Act 2025 moving forward. The key points were as follows:

Projected Timeline: The Minister of Home Affairs announced that the amendment is expected to take effect as early as June 2026, pending the final phase of obtaining royal assent from the Yang di-Pertuan Agong.

CITIZENSHIP BY REGISTRATION FOR CHILDREN BORN PRIOR TO THE IMPLEMENTATION OF THE AMENDMENT

Children born prior to the implementation of the amendment, and who are currently under 21 years of age (18 years upon implementation of the amendment), will be able to apply for citizenship by registration under Article 15(2), in line with the court settlement.

Statistics as of August 4 2025, on citizenship application processing:



1,980

applications for Malaysian children born abroad have been **approved**



ZERO

rejections recorded

NO VIABLE REMEDY FOR ADULT CHILDREN TO APPLY FOR MALAYSIAN CITIZENSHIP

The Amendment does not address the situation of individuals who have reached adulthood after being denied opportunity to apply for citizenship as a child. Adult children who lived in Malaysia on student passes and were not afforded access to Permanent Residence or citizenship pathways as children, now remain in legal limbo, with no application mechanism available to them, including under Article 19 (citizenship by naturalisation). **Those residing overseas are reduced to visiting their Malaysian parent on short-term tourist visas**, underscoring the continued exclusion of adult children of Malaysian parentage from recognition, stability, and equal treatment.



Structural Barriers to Accessing Citizenship for Children in Binational Families

CHILDREN BORN OUTSIDE A LEGALLY RECOGNISED MARRIAGE TO MALAYSIAN FATHERS REMAIN AT HIGH RISK OF STATELESSNESS

Children born outside a legally recognised marriage to Malaysian fathers and non-Malaysian mothers do not have the right to inherit Malaysian citizenship (Section 17, Part III, Second Schedule). This places children in binational families at heightened risk of statelessness, particularly where the mother is stateless, her identity cannot be traced, or the laws of her country do not allow her to confer nationality to her child. This undermines the child's right to acquire citizenship, despite clear and substantive ties to the country, and exposes them to long-term barriers in accessing education, healthcare, and legal protection.

From a child rights perspective, **children should not be placed at risk of statelessness due to their parents' marital status or place of birth.**

Key Impacts

LACK OF ACCESS TO HEALTHCARE AND EDUCATION



Most non-citizen children of a Malaysian parent are designated as 'foreigners' in public medical facilities, which carry additional fees. For example, outpatient treatment for Malaysian citizens cost RM1, while for foreigners it is RM40. Certain services such as **vaccinations and dental checks, which are normally provided for free to Malaysian children in public schools, are not accessible for non-citizen children**, including the National Immunisation Programme. Parents who have children with disabilities or long-term health issues will be faced with exorbitant medical costs.



Non-citizen children also encounter significant barriers to education. In 2018, the Ministry of Education issued a directive allowing non-citizen children of Malaysian parents or guardians to enrol in public schools requiring only relevant documents such as the child's birth certificate, adoption papers, or a court order. **However, reports indicate that this directive has not been fully implemented or consistently enforced.** Non-citizen children are required to obtain a student pass renewed annually, while stateless children face considerable difficulty meeting the extensive documentation requirements.

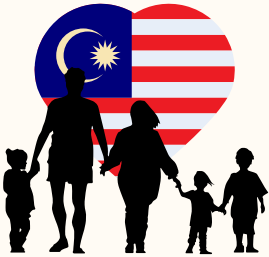


Even when enrolled, non-citizen students remain ineligible for key support programs, including the Textbook Loan Scheme, the Supplementary Food Programme, and health programmes. Furthermore, the necessary documentation and citizenship must be filed with the National Registration Department within two years, or the child may face difficulties continuing accessing public schools.

Notably, this directive does not apply to stateless children who do not have a Malaysian parent or guardian.

Recommendations

CLEAR AND INCLUSIVE REMEDIAL CITIZENSHIP MECHANISM



The Government must introduce a **clear and inclusive remedial citizenship mechanism** to ensure that individuals who have reached adulthood, but were denied any opportunity to apply for citizenship as children due to discriminatory laws, and their continued exclusion from the Citizenship Amendment Act 2025. They should be equally eligible for Malaysian citizenship, recognising that the harm arising from past discrimination continues into adulthood.

This must be effectively remedied in line with the principles of non-discrimination and the right to a nationality under the CRC—the Concluding Observations on the combined second to fourth reports of Malaysia called for the inclusion of children born abroad to Malaysian mothers prior to the amendment of the law.

LIFT THE RESERVATION ON NATIONALITY



There is a need for the **reservation on nationality to be lifted** and to ensure, in law and in practice, that every child and adopted child of a Malaysian parent, acquires Malaysian citizenship without discrimination on the basis of the gender or marital status of the parent or the child's place of birth, and to guarantee that foundlings and children of unknown parentage who would otherwise be stateless are recognised as Malaysian citizens, in full conformity with the Convention, in particular Articles 2, 7, and 8.

CITIZENSHIP FOR CHILDREN BORN OUTSIDE A LEGALLY RECOGNISED MARRIAGE TO MALAYSIAN FATHERS



Laws and administrative practices must be amended to **ensure that children of Malaysian fathers acquire Malaysian citizenship when born outside a legally recognised marriage** to non-citizen mothers, and to ensure that marital status, legitimacy, or the nationality of the mother are not used as grounds for denial of citizenship, in full conformity with CRC—in particular Articles 2, 3, 7, and 8.



Employment Restrictions on Non-Citizen Parents Undermine Malaysian Children's Welfare and Stability

RESTRICTIONS ON THE NON-CITIZEN PARENT'S RIGHT TO WORK DIRECTLY IMPACTS MALAYSIAN CHILDREN'S WELFARE, STABILITY AND DEVELOPMENT

Non-citizen spouses of Malaysians face many restrictions in Malaysia that have a direct impact on their Malaysian children. Despite living here for many years, raising Malaysian children and establishing permanent homes, their legal status remains uncertain and dependent on their Malaysian spouses. **These restrictions disproportionately impact women and Malaysian children in binational families.**

Challenges faced by non-citizen spouses in accessing employment have direct consequences on the welfare of their children. Dependence on the Malaysian parent often leaves binational families reliant on a single income, limiting economic stability and household resilience. This reliance can heighten vulnerabilities, including the risk of domestic tension or abuse, as the non-citizen spouse may have little choice but to remain dependent for legal status and financial security. In turn, these pressures place **children's wellbeing, safety, and development at risk.**



Despite the Immigration department indicating that foreign spouses may work, the Long-Term Social Visit Pass (LTSVP) or the spouse visa, carries an explicit statement for prohibition of employment, creating legal uncertainty and discouraging employers from offering lawful work.

The resulting economic insecurity directly affects children's rights to an adequate standard of living, education, health, and development. The imposition of a lower mandatory employer EPF contribution rate of only 2% for non-citizen spouses weakens long-term financial protection and constrains the family's capacity to fund the child's future tertiary education.



Restricting a parent's right to work undermines Article 27, the child's right to a standard of living adequate for their physical, mental, and social development.

Recommendation



In the best interest of the child and the wellbeing of the family, **grant the right to work and remove all employment restrictions** on the LTSVP for non-citizen spouses to ensure the economic stability of the Malaysian household.



Restrictions on the Non-Citizen Parent's Residence and Legal Status Undermine Malaysian Children's Right to Family Life and Security

Current immigration rules fail to prioritise children's rights to parental care and family unity when a binational marriage ends due to separation, divorce, or death.

Threat of Separation

Non-citizen spouses who are widowed or divorced risk having their visas revoked if they do not hold full custody. Existing "widow" or "divorce" visas are time-limited, do not allow work, and typically expire when the child turns 18. These parents are barred from applying for Entry Permits, and have any pending applications automatically withdrawn. This abruptly removes pathways to Permanent Residence, **placing children at risk of separation from a primary caregiver.**

Gendered exclusion

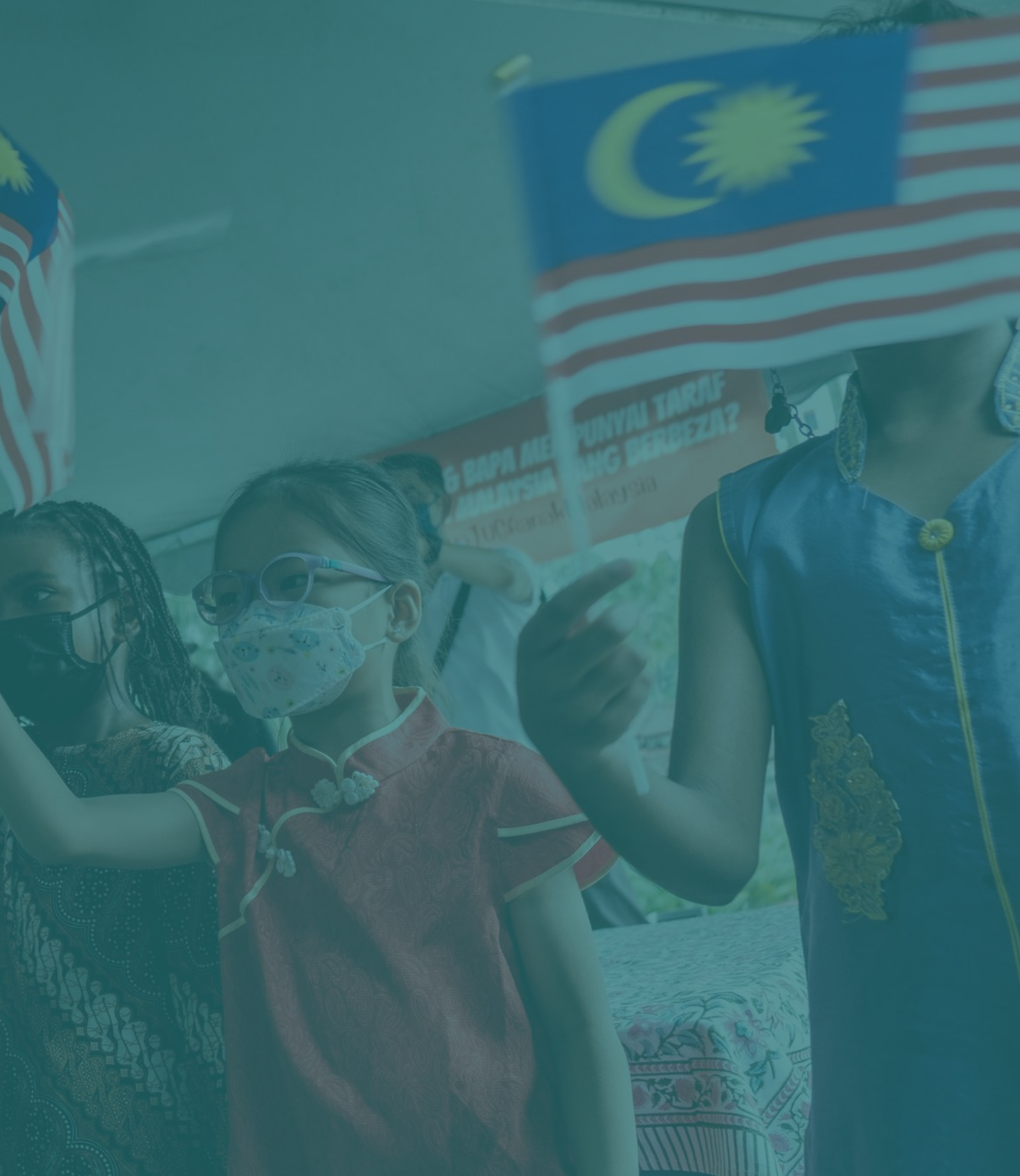
Non-citizen fathers face even harsher exclusions, often lacking any lawful basis to remain in Malaysia to parent their children following divorce or the loss of a spouse. **For affected children, the constant threat of separation causes prolonged insecurity, psychological distress, and disruption to emotional development, education, and a sense of belonging.** Such outcomes are inconsistent with CRC obligations to prioritise the best interests of the child, prevent family separation, and ensure that children are not penalised on the basis of their parents' marital or immigration status.

These policies risk violating **Article 9** (separation from parents against their will) and causing prolonged psychological distress and disruption to the child's sense of safety and belonging.

Recommendations



Protect family permanency by providing non-citizen parents—including fathers, divorcees, and widows—access to a **Residence Pass** or **Permanent Residence** to guarantee the child's right to parental care without the threat of forced separation.



FAMILY FRONTIERS

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