

A CALL FOR GENDER EQUALITY

Amend the Federal Constitution to allow women to confer citizenship on their children born overseas.

- The Federal Constitution discriminates on the basis of gender, despite Article 8(2) prohibiting such discrimination.
- Article 14 and its related Schedule **limits the right of Malaysian mothers to confer their citizenship** by operation of the law to their children born overseas. Instead, Malaysian mothers must utilise the process under Article 15(2) to confer their citizenship by registration, a long and arduous process.

CASE STUDIES – The Lived Realities of Malaysian Women

Case Study 1: Tina – Family separated and child rendered stateless

Tina is a Malaysian woman married to a Sri Lankan refugee and residing in France. Her first son was born in 2016 in France. Tina applied for her son's Malaysian citizenship through Article 15(2) of the Federal Constitution and, six months from the date of application, the application was granted. The process was accelerated because Tina had to return to Malaysia with her son to care for her aging father, who was ill.

In 2018, Tina gave birth to her second son in France and once again applied for Malaysian citizenship through Article 15(2). Since she had to return to Malaysia to attend to her father who was severely ill at the time, she received emergency travel documents from the Malaysian Embassy in Paris to enable her second son to fly to Malaysia with her. However, her son was not granted citizenship in Malaysia and therefore could not exit Malaysia to return to France. Tina is now separated from her husband and son, and her second son is currently stateless, as it's not an option for him to obtain the citizenship of his father due to his refugee status.

Case Study 2: Sofia – Child born overseas denied the right to be a Malaysian citizen

Sofia is a Malaysian woman who works in a multinational company and was assigned to an international project in the Philippines. While on secondment, she went into early labour and gave birth to her son in the Philippines.

Sofia visited the Malaysian embassy in the Philippines within a month of her delivery to register the citizenship of her child. To her dismay, she was told that the child would not be granted citizenship by 'operation of law,' and she was made to "apply" for citizenship through Article 15(2). The application was made in November 2017 and there have been no updates to date.

Sofia is currently residing in Malaysia with her son, who is on a short-term visa. Sofia had no choice but to get her son a passport with the father's citizenship, although she had always wanted her son to be raised as a Malaysian citizen.

Case Study 3: Lina – Girl born overseas forced to take foreign citizenship while brothers are Malaysian

Lina is a Malaysian woman married to a Yemeni man. When Lina was pregnant with her second child (a daughter), they visited Yemen as a family and were supposed to return to Malaysia to deliver the child. However, her son fell ill during the trip and was medically unfit to travel.

When Lina contacted the Malaysian High Commission in Jeddah, she was misinformed that her daughter would be given citizenship without hassle upon completion of certain forms after her birth. After the child was born, Lina visited the Malaysian High Commission again and was surprised to hear that her daughter would have to take the nationality of her father, and that in order to obtain Malaysian citizenship, Lina would have to apply in Putrajaya.

Lina later applied for her daughter's Malaysian citizenship through Article 15(2) in 2015; this application was rejected 2.5 years later with no reasons stated. Lina immediately re-submitted the application, which is still under process. Lina's three sons, who were born in Malaysia, are all Malaysian citizens.

Case Study 4: Sara – Child denied citizenship and unable to participate in sports competitions

Sara is a Malaysian citizen married to a British man. She has a son who was born in the UK and holds a British citizenship. Sara and her family have lived in Malaysia for four years. Sara first applied for Malaysian citizenship for her son in 2014, and four years later the application was rejected with no reasons stated. In 2018, Sara submitted another application, which is currently in process. Sara also submitted an application for Permanent Residence for her son in 2014, but this application is still in process five years later.

Sara's son excels in sports and was chosen to represent his school in a swimming competition, only to later have his participation denied as he is not a Malaysian citizen. Subsequently, he was not allowed to represent his school in any Federal Territory of Kuala Lumpur School Sports Council (MSSWP) competitions.

Case Study 5: Anna – Single mother unable to return to Malaysia with her daughter

Anna is a Malaysian woman married to a Chinese man and living in Italy. Anna's daughter was born in Italy and holds a Chinese citizenship. Anna's marriage is unstable, and she is raising her daughter as a single mother in Italy.

Anna wishes to return to Malaysia to raise her daughter with the support of her family. However, she is hesitant to file for divorce as this may produce more issues in terms of custody due to Italy being a Catholic country, and therefore full custody by one parent not being possible.

Anna applied for her daughter's Malaysian citizenship two years ago, but there have been no updates. Anna and her daughter both hold Italian visas with an expiry date and would have an issue re-entering Italy thereafter due to the unstable marriage.

Case Study 6: Rumi – Mother unable to pass on citizenship and maintain professional practice

Rumi is a Malaysian woman married to a Dutch man. Rumi gave birth to her daughter in Barcelona while the family was living there due to her husband's work. Rumi was aware of Malaysia's citizenship laws and had made preparations to return to Malaysia at her 34th week of pregnancy to deliver. However, Rumi subsequently had bad contractions and was put on bedrest, and she ended up giving birth to her daughter at 33 weeks.

Rumi immediately contacted the Malaysian embassy and requested temporary travel documents for her daughter so she could return to Malaysia to apply for the citizenship. However, she was told that she would not be given these documents and that the only option was for the child to receive her father's Dutch citizenship. Rumi proceeded to apply for her daughter's Malaysian citizenship through the Malaysian embassy.

Rumi subsequently flew to Malaysia with her daughter (who had no choice but to fly with a Dutch passport) and visited JPN Putrajaya to check on the status of the application. She was told that the application had been misplaced while it was being transferred between JPN and KDN in Putrajaya. Rumi re-applied at JPN the same day and received a notification of rejection 16 months later. Rumi made a third application and is currently awaiting the results.

Rumi is a veterinarian who owns a veterinary practice in Malaysia. Despite being a professional, she is unable to practice her expertise in Malaysia because of her inability to pass on her citizenship to her daughter.

We must take action now so Malaysia is not left behind.

The lack of gender equality in Malaysia's citizenship laws results in us being one of only **25 countries** in the world that denies women the right to confer nationality on their children on an equal basis with men.

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