

STATEMENT

UPR Pre-Session on Malaysia

Slide 1: This statement is delivered on behalf of a joint submission involving 9 national Malaysian organizations, a regional and 2 global organizations working on nationality rights and statelessness.

Slide 2: This statement provides an overview of the current landscape of nationality rights and statelessness in Malaysia. It highlights Malaysia's promises to ensure equal citizenship rights for Malaysian women. However, it raises concerns about the Government's intention to simultaneously introduce regressive constitutional amendments that would threaten existing citizenship rights leaving vulnerable stateless individuals without administrative or judicial recourse.

Gaps in Nationality Law

Slide 3: Gaps in nationality laws have given rise to various categories of stateless persons in Malaysia. This includes individuals who were born or arrived in Malaysia before Independence/Malaysia Day, those who have become stateless due to gender-unequal nationality laws, abandoned children, adopted children, and foundlings. In the East Malaysian state of Sabah, the indigenous seafarers mainly from the Bajau Laut community have also remained stateless.

Slide 4: Yet, the government does not recognise that stateless persons exist in Malaysia. The National Registration Department does not keep records on the numbers of in situ stateless persons in the country. The government only keeps track of the number of citizenship applications made and which category they were applied under. This doesn't accurately reflect the number of stateless individuals. Some applicants may be foreigners seeking citizenship, while eligible stateless individuals might not have applied, leading to a potential gap in citizenship statistics.

Malaysia's Commitment to Address Gender Equality in Nationality Laws and Policies

Slide 5: During the 2018 UPR, Malaysia received three recommendations on ensuring gender equal laws concerning conferral of nationality to children and/or spouses (Belgium, Haiti, Iceland), three recommendations on withdrawing reservations, including those related to Article 9 of CEDAW on the right to nationality (Turkey, Sweden, Norway) and one recommendation on protecting the right to nationality and prevention of statelessness among children born to Malaysian citizens (Kenya). Malaysia took note of all these recommendations.

Slide 6: In a progressive move, in February 2023, the government announced its decision to amend the Constitution to grant Malaysian women, equal rights as Malaysian men, to confer automatic citizenship to children born overseas. Meanwhile, the issue regarding Malaysian fathers' right to confer nationality on children born outside legally recognised marriages which contributes significantly to childhood statelessness in Malaysia, remains unaddressed. Additionally, unlike Malaysian men, Malaysian women also lack the right to confer nationality on foreign spouses by way of registration.

Regressive Amendments to Nationality Law

Slide 7: In June 2023, the government announced additional constitutional amendments, five of which are regressive and will exacerbate statelessness by creating new categories of stateless persons, while removing existing safeguards that protect abandoned children from statelessness.

1. The first amendment is on the removal of a Constitutional safeguard to protect against statelessness, in situ stateless persons, children born out of wedlock, adopted or abandoned stateless child will no longer have access to citizenship.
2. Secondly, foundlings and abandoned children will no longer be entitled to automatic citizenship.
3. Thirdly, children born to permanent residents (PR) will no longer have access to automatic citizenship, risking multi-generational statelessness among children born to PR holders who are stateless
4. The fourth amendment reduces the age limit for applying for citizenship from "21 years" to "18 years". Given current bureaucratic delays and subsequent rejections, this could further limit the time available for processing and appeals, restricting the path to citizenship for stateless individuals above 18 years old.
5. Lastly, the fifth is an amendment aimed at deterring marriage of convenience through citizenship revocation, foreign wives of Malaysian men will not be protected against statelessness based on the limitation of protection offered in Article 26B(2).

Slide 8: The absence of engagement and input from affected communities and civil society is evident in the proposed amendments, which do not reflect a humanitarian approach. Briefings with civil society organisations seem to fulfill an obligation to inform us rather than seek meaningful input from those directly affected by statelessness.

Recommendations

Slide 9: We urge the reviewing States to recommend Malaysia to:

1. Identify, recognize and prioritise stateless persons among Malaysian families that are entitled to citizenship.
2. Reform Malaysia's gender-discriminatory citizenship laws and policies, ensuring automatic citizenship to children of either parent Malaysian, regardless of the Malaysian parent's gender, marital status of the parents or the child's place of birth.

Slide 10:

3. Proceed with gender-equal nationality rights reform while halting regressive citizenship constitutional amendments that could remove constitutional safeguards and exacerbate statelessness in the country.

4. Lastly, conduct genuine consultations with affected communities and stakeholders to comprehensively address the issue of statelessness in Malaysia, meeting the needs of both the government and affected communities.

Slide 11: On a separate note, on behalf of colleagues working on child Marriage:

School dropout rates for girls in secondary schools increased from 2019 (0.4%) to 2022 (0.72%), with marriage among the attributable main reasons. We take this opportunity to reviewing states to recommend Malaysia to:

1. Raise the minimum age for marriage to 18 without exceptions.
2. Fully implement all 17 strategies and 58 programmes listed in the National Strategic Plan in Handling the Causes of Child Marriage 2020-2025 by 2025.

Thank you