



FAMILY FRONTIERS

## UPDATE ON THE SAYA JUGA ANAK MALAYSIA CAMPAIGN

Malaysian mothers devastated: Court of Appeal overturned landmark High Court judgment that granted Malaysian women equal citizenship rights



On 5 August 2022, the Court of Appeal, in a 2-1 decision, overturned the High Court decision on 9 September 2021 that allowed women to confer citizenship on their overseas-born children by 'operation of law' under Article 14(1)(b) of the Federal Constitution.

While the Court of Appeal decision is respected, Malaysian mothers are disappointed with the outcome, as their children have been deprived of stability and access to basic rights such as healthcare and education for years. The Government, in winning this judicial battle, had not taken into consideration the plights and agony of Malaysian mothers and their children.





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# THIS FIGHT IS FOR ALL MALAYSIAN WOMEN, NOW AND IN THE FUTURE!

In light of this Court of Appeal decision, we hope that you can continue to place pressure on the Government to uphold gender equal citizenship rights.

You can speak up and learn about Malaysian women's fight for gender-equal citizenship rights through our resource pack at [bit.ly/FFSpeakUpNow](https://bit.ly/FFSpeakUpNow).

We are also available to organise a screening of our short film 'Saya Juga Anak Malaysia' and briefing on the impacts of gender-discriminatory citizenship laws.



*Impacted Malaysian mother Priscilla has been in the hospital, in pain after her surgery. She was recently diagnosed with breast cancer due to the stress arising from the bureaucratic challenges she faced because of Malaysia's gender-discriminatory citizenship laws.*

***"It should be a birth right, my blood runs through them. They are Malaysians."***





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## While the Court of Appeal's decision is accepted and respected, it is nevertheless a disappointing one.

In allowing the Government's appeal, the Court of Appeal stated that

- the word "father" in Article 14(1)(b) of the Federal Constitution and its related provisions in the Second Schedule is **clear and unambiguous and cannot be construed to include "mother"**.
- the grievances of Malaysian mothers **can only be remedied through an amendment to the Federal Constitution by Parliament, and not via the courts.**

On the other hand, YA Datuk Nantha Balan, who gave the dissenting judgement, viewed that there is a plain and apparent conflict between Article 8(2) and Article 14(1)(b) and its related provisions of the Federal Constitution which **implies that the bloodline of the mother is inferior to that of the father.** He also added that, "it is illogical, perverse and degrading to the dignity of Malaysian women."

For more information, you can refer to [this article](#).








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As a result of this decision, the status quo will be maintained for documents already submitted by Malaysian women under Article 14(1)(b) of the Federal Constitution for the citizenship of their overseas-born children, pending the conclusion of the matter.

Many mothers hoped that the Court of Appeal would side with Malaysian women, but this setback means that the fight for their overseas-born children's safety and well-being goes on; **the legal counsels for Family Frontiers and the six impacted Malaysian mothers will file an application for leave to appeal to the Federal Court.**

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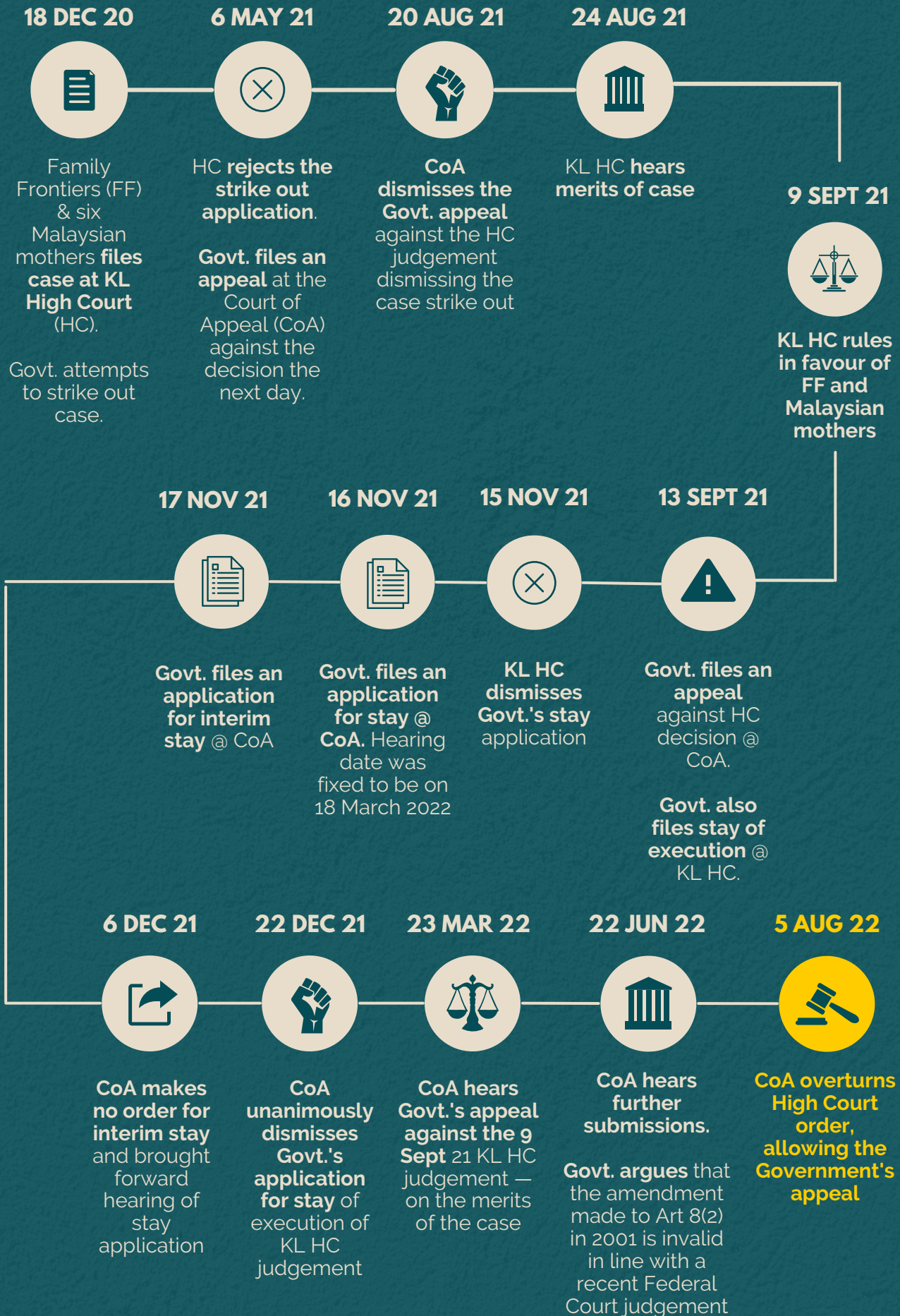
*Aniza is a single Malaysian mother of 3 daughters, two of whom were born overseas and are thus non-Malaysians. She used up her savings for her eldest daughter's tertiary education as an international student.*

*After her applications for their citizenship were rejected 3 times, her biggest fear is separating from her children after she can no longer put in their applications once they turn 21. This limits their options to remain in Malaysia with her.*





# TIMELINE







# BACKGROUND

For over 60 years, while Malaysian men married to foreign women have enjoyed the right to automatically confer citizenship on their overseas-born children, Malaysian women have not been accorded the same right.

The children of **Malaysian men are citizens by 'operation of law'** under Article 14(1)(b) of the Federal Constitution. On the other hand, Malaysian women must rely on 'citizenship by registration' under Article 15(2) to "apply" for their overseas-born children's citizenship.

This is an arbitrary process fraught with delays, inconsistencies and repeated rejections **without reason**. As a result, Malaysian women and their children are disproportionately impacted.

**The inability to confer citizenship on a child, on the basis of gender, is both disheartening and dehumanising; women and children are forced to endure prolonged hardships.**

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*Sarabjeet Kaur, overseas-born child of a Malaysian mother, was torn apart from her family when she was forced out of Malaysia in March 2021 as she was caring for her ill mother, unable to sit for her SPM examination. As such, her Student Pass could no longer be extended.*

*On 19 July 2022, she finally returned on a 30-day tourist pass, unable to withstand the separation. Now an 18-year-old, she is scheduled to sit for her SPM this year, but is facing difficulties to remain in Malaysia on a permanent basis in order to continue her studies.*





Malaysia is one of only 24 countries worldwide that do not grant women the right to confer citizenship on their children on an equal basis as men. Since the turn of the century, 20 countries have amended discriminatory citizenship provisions towards equality in citizenship rights.

International human rights law is clear in its prohibition of gender-based discrimination and views **citizenship as a fundamental right**. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC)—to both of which Malaysia is a party—exemplify the steps that have been taken by the global community to ensure equality, progress and justice for all members of society.

**The consequences of unequal citizenship laws do not solely affect families, but also the State. When a portion of Malaysia's population is excluded from fully contributing and participating in society, global and economic development is stifled and sustainable growth is stunted.**



*23-year-old Afique Danial Bogers Izzad Bogers is an overseas-born child of a Malaysian mother. He constantly speaks of contributing to Malaysia by representing the nation as a bike racer and rapper, and hopes to hold a Malaysian identification card before his student visa expires this month, the same month as the country's Independence Day.*







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**By abolishing gender-based discriminatory citizenship laws, an inclusive society, family harmony and the wellbeing of children are respected and protected.**

Take action at [bit.ly/FFSpeakUpNow](https://bit.ly/FFSpeakUpNow)

If you have any enquiries, please contact us by email or mobile:

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