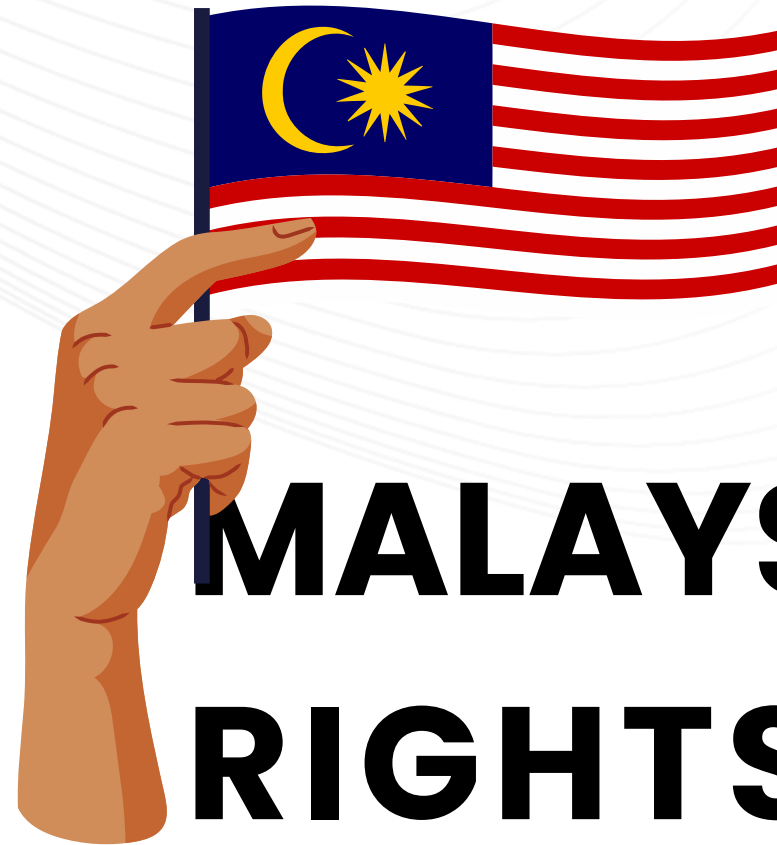


UPR PRE-SESSION

28 Nov 2023

Maalini Ramalo, Director of Social Protection,
DHRRA MALAYSIA



MALAYSIA ROLLS BACK RIGHTS OF CHILDREN

with its Proposed Citizenship Amendment

STATEMENT OVERVIEW

current landscape of Nationality rights and Statelessness in Malaysia

01.

Gaps in Nationality Law

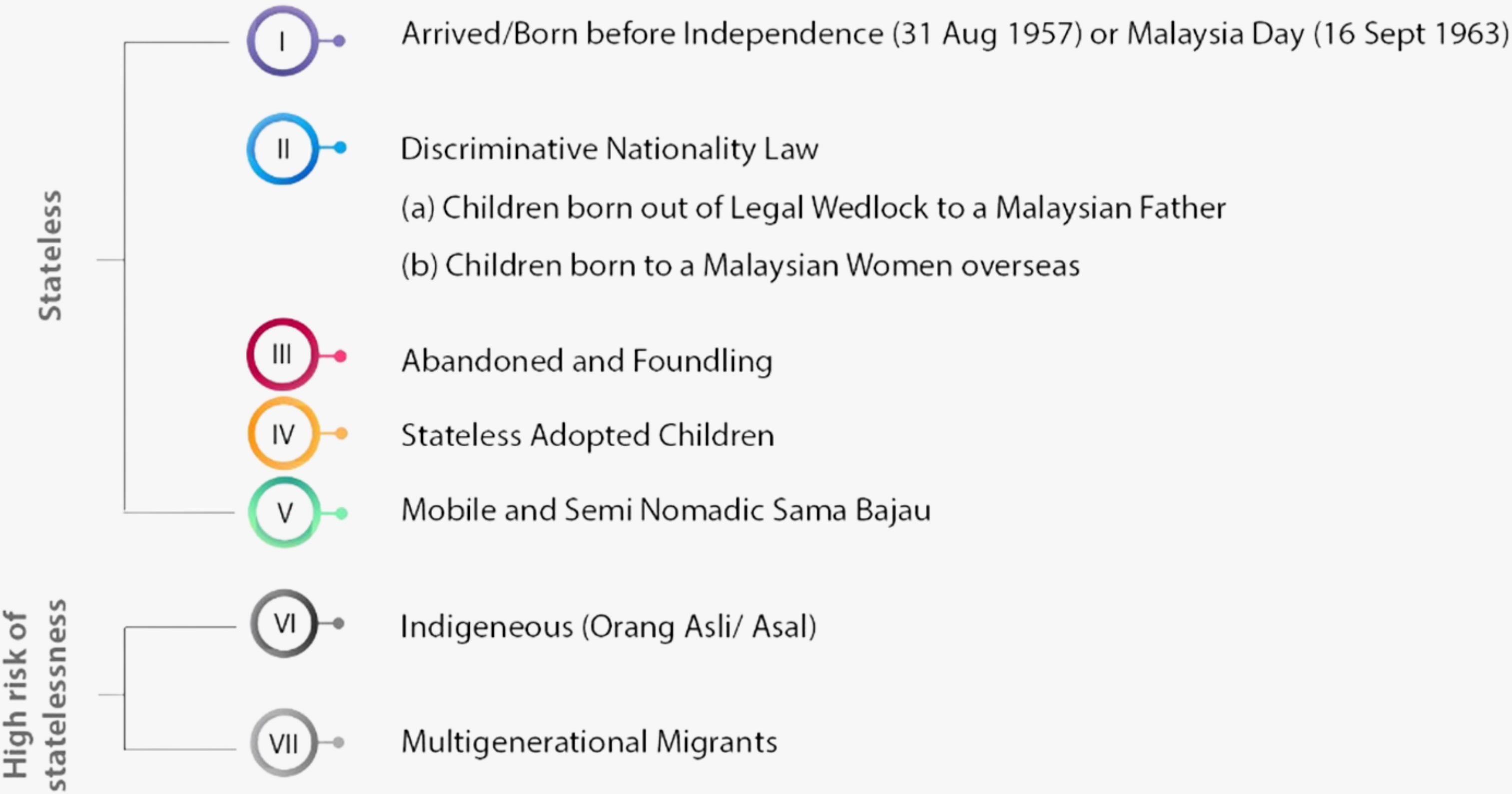
02.

**Progress in addressing
Gender Equality in
Nationality Laws and
Policies**

03.

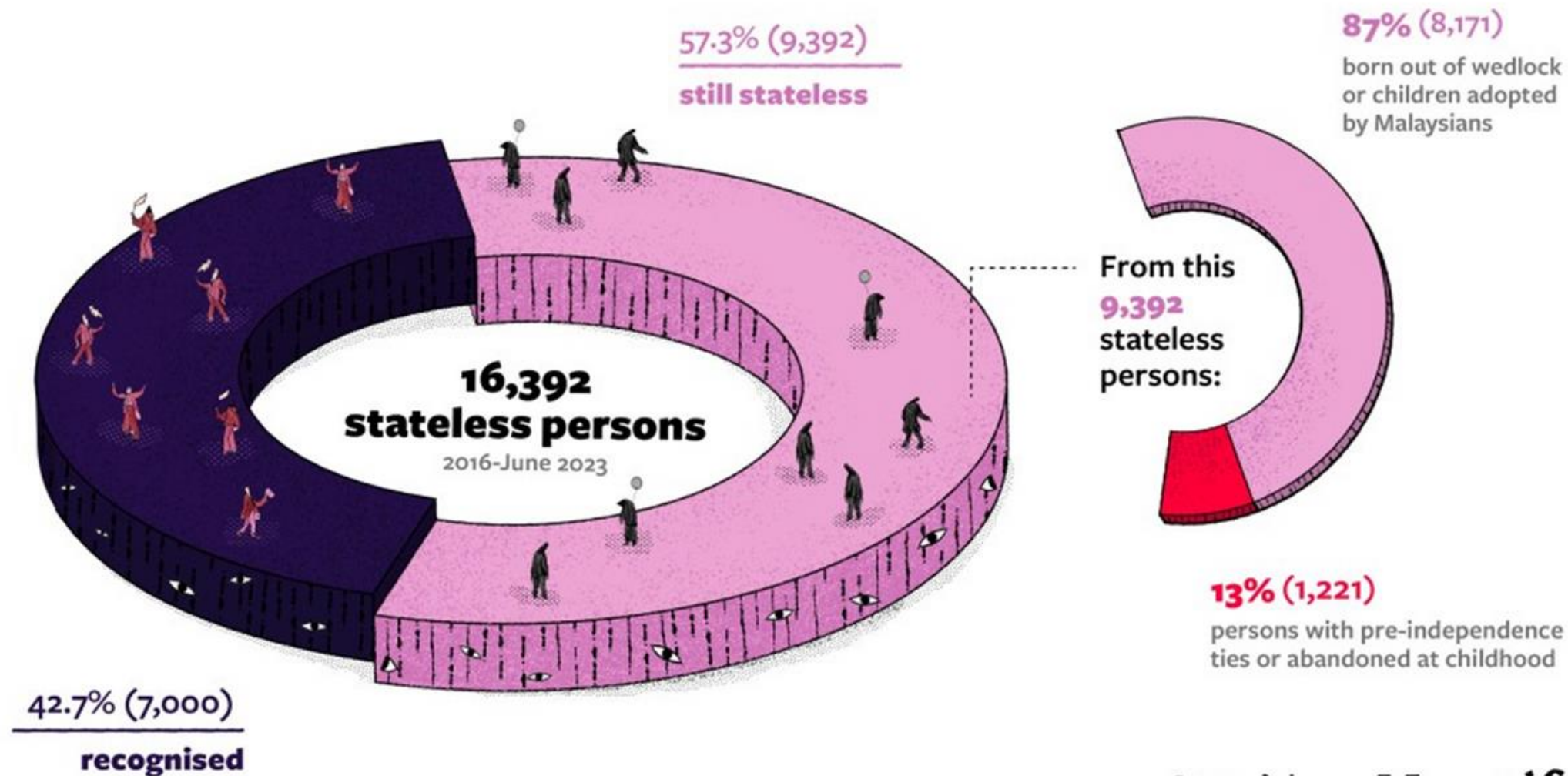
**Proposed Regressive
Amendments to
Nationality Law**

CATEGORIES OF STATELESSNESS



Statelessness in Peninsular Malaysia

Between 2016 - June 2023 there were 16,392 stateless persons in Peninsular Malaysia in DHRRA's database



Source: The Development of Human Resources for Rural Areas (DHRRA) **NewNaratif**

Malaysia DOES NOT have official records of how many stateless persons

Development of Human Resources for Rural Areas (DHRRA) has identified over 16,000 genuinely stateless persons in Peninsular Malaysia from 2016 to June 2023.

Of the 9,392, the biggest proportion is childhood statelessness at 8,223 persons (which covers children born out of wedlock in Malaysia and children adopted by Malaysians); followed by 1,003 under the pre-independence stateless category (those who arrived or were born here even before Malaya's independence in 1957 but are denied citizenship); and 166 cases involving babies or children who were born here but abandoned by their biological parents.

The baseline provided excludes 4 out of 14 states in Malaysia – due to resource limitations. It is estimated the largest proportion of statelessness is within Sabah – East Malaysia (no data collection has been done till date)

Gaps in Nationality Law

2018 UPR, Malaysia received the following recommendations:

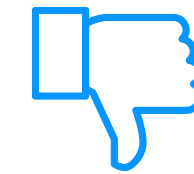
- 3** on ensuring gender equality within its national legislation and policies concerning conferral of nationality to children and/or spouses (Belgium, Haiti, Iceland),
- 1** on protecting the right to nationality and the prevention of statelessness among children born to Malaysian citizens (Kenya).
- 3** on withdrawing reservations, including those related to Article 9 of CEDAW on the right to nationality (Turkey, Sweden, Norway)

Malaysia took note of all these recommendations.

NATIONAL ACTION: LAWS, POLICIES AND MEASURES IN PROGRESS



February 2023, the government announced its decision to amend the Constitution to grant women the right to confer automatic citizenship on overseas-born children, ensuring equality with men. **However, the amendment has been bundled with other regressive amendments.**



Remains unaddressed:

- Malaysian father's right to confer nationality on children born outside legally recognised marriages contributes significantly to childhood statelessness in Malaysia.
- Malaysian women, unlike Malaysian men, also lack the right to confer nationality on foreign spouses through registration.

5 REGRESSIVE AMENDMENTS TO NATIONALITY LAW

1



Constitutional safeguard against statelessness

Second Schedule Part II, Article 14(1)(b), Section 1(e):
To amend from citizenship by 'operation of law' to
citizenship by 'registration and Section 2(3): To repeal

Stateless persons will no longer be
constitutionally protected against
statelessness

2



Foundling

Section 19(b), Part III of the
Second Schedule

depriving foundlings of their right
to automatic citizenship

3



Children of Malaysian (PR) Holders

Second Schedule Part II, Article 14(1)(b)
Section 1(a):
To delete the words "permanently resident

Children of PR access citizenship by
registration process

4



Age Limit to acquire citizenship

P.15 (A) & P.19 (2)

To amend and reduce the age limit from
"21 years" to "18 years"

Stateless children will have reduced
years to apply for citizenship

5



Foreign Spouse to Malaysian Men

Article 26(2) as it relates to Article 15(1): To
replace the word "date of the marriage" with
"date of obtaining citizenship"

To replace the word "date of the marriage"
with "date of obtaining citizenship"

'CRUEL' & 'HEARTLESS' CITIZENSHIP AMENDMENTS

”

"These alleged proposals will augment the suffering and deprivation of many helpless, dehumanised and victimised persons and groups, namely abandoned children, children born out of wedlock (even if the parents then marry), adopted children, children of generational undocumented families, and stateless persons and their offspring whose statelessness will spiral down the generations,"

Constitutional expert Shad Saleem Faruqi

PROPOSED AMENDMENTS PERPETUATE THE SUBORDINATION OF CHILDREN'S RIGHTS TO THOSE OF THEIR PARENTS

”

the proposed amendments as “seemingly detached” and ignoring the circumstances that cause individuals, particularly children, to become stateless in the first place.

**The Human Rights Commission of Malaysia
(Suhakam), children commissioner, DR
Farah Nini Dusuki**

- **Identify, recognize and prioritise stateless persons among Malaysian families that are entitled to citizenship**
- **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.**

MALAYSIA IS ONE OF **25 COUNTRIES IN THE WORLD THAT DENIES WOMEN THE RIGHT TO CONFER NATIONALITY ON THEIR CHILDREN ON EQUAL BASIS AS MEN**

MALAYSIA IS ONE OF **2 REMAINING COUNTRIES GLOBALLY THAT DENIES MEN EQUAL RIGHTS IN CONFERRING NATIONALITY TO THEIR CHILDREN BORN OUT OF WEDLOCK**

We call upon the government to **separate** the proposed package of amendments:

- **Proceed** with the amendment to enable Malaysian mothers to confer automatic citizenship to their overseas-born children.
- **Defer** the 5 amendments that propose to take away existing rights to citizenship to study the full implications and impact, so as to ensure that amendments are just and centre on the best interests of the child.

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.

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.

- **Raise the minimum age for marriage to 18 without exceptions.**
- **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.**

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THANK YOU