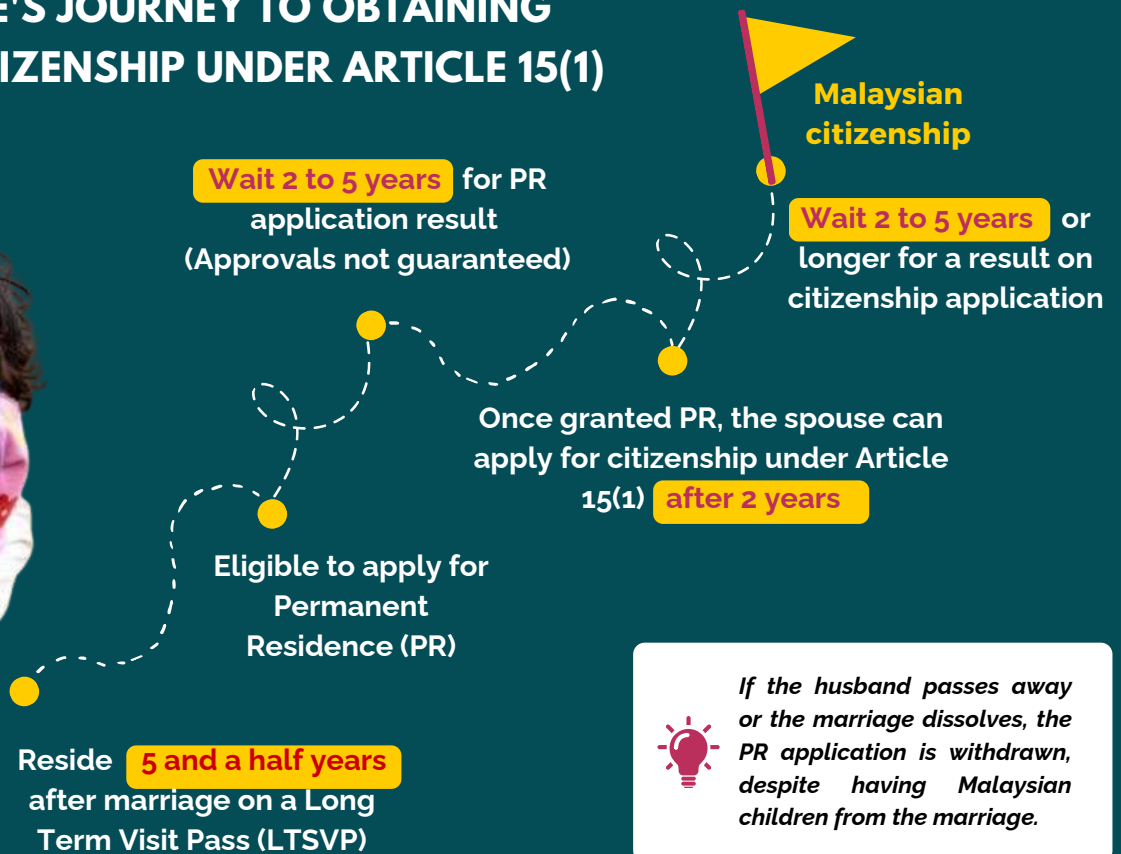


An Evaluation on the Proposed Amendment on Citizenship for Non-citizen Wives of Malaysian Men Under Article 15(1) and Its Implications on Malaysian Binational Families

THE ISSUE

The proposed amendment seeks to **replace the 'date of marriage' with 'date of obtaining citizenship'** in Article 26(2) relating to Article 15(1), enabling the Government to revoke the Malaysian citizenship granted to the non-citizen wife under Article 15(1) if the marriage is dissolved within 2 years of obtaining citizenship.

A FOREIGN WIFE'S JOURNEY TO OBTAINING MALAYSIAN CITIZENSHIP UNDER ARTICLE 15(1)



IMPLICATIONS

This amendment is concerning, as revocation of citizenship can render these wives stateless—as they would be made to relinquish their original nationality as Malaysia does not permit dual citizenship. This places non-citizen wives in precarious situations, having lived in the country they call home for years. The threat of losing their Malaysian citizenship and fear of becoming stateless would make these spouses remain in abusive and toxic marriages for fear of being forced to separate from their Malaysian children if citizenship is revoked.

RECOMMENDATIONS

Family Frontiers calls on the Government to withdraw the proposed amendment to Article 15(1) and to urgently review the existing Permanent Residence application procedures and processes for non-citizen spouses.

Article 15(1) should treat Malaysian men and women equally in their ability to confer citizenship on their spouses, regardless of gender, in ensuring fairness and upholding the principles of equality and non-discrimination.

Additionally, the government's proposed amendment to Article 26 is acceptable if certain safeguards are included in the Constitution, as set out below.

SAFEGUARD 1: AMENDMENT TO ARTICLE 26B(2) TO READ:

"(2) No person shall be deprived of citizenship under Article 25, 26 or 26A unless the Federal Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of citizenship under Article 25, paragraph (b) of Clause (1) and Clause (2) of Article 26, or Article 26A if the Federal Government is reasonably satisfied that as a result of the deprivation he would not be a citizen of any country."

SAFEGUARD 2: ADDITIONAL PROVISO TO EITHER ARTICLE 26 OR ARTICLE 26B(2) TO READ:

By adding an additional clause or proviso - either within Article 26(2) or Article 26B(2) - that states the following:

- The Government may not deprive any foreign wife of citizenship if:
 - the marriage has subsisted beyond 2 years
 - there are offspring to the marriage

A 'purposive interpretation' is to be applied in the exercise of the Government's satisfaction.

LIVED EXPERIENCES AND THE IMPACTS ON NON-CITIZEN SPOUSES OF MALAYSIANS

1

GULZHAN MUSAeva

Gulzhan is a Kyrgyzstan national who has been living in Malaysia since 2006 when she arrived as a student to pursue a Bachelor's degree in Finance at the Multimedia University. In 2009, she married her Malaysian classmate, Mohammad Yusuf Bin Mohammad Jaffar, and has been on a Long-Term Social Visit Pass since then. Both completed their Master's degree in Islamic Finance, also in Malaysia, and they are now parents to two children. However, even with her qualifications, her career prospects remained bleak. She later discovered that financial institutions required approval from Bank Negara before hiring foreign nationals, a consent rarely granted to recent graduates or those without Permanent Residence (PR) status. In an effort to enhance her employability, Gulzhan applied for PR on December 30, 2015. Unfortunately, her application was rejected on February 7, 2020, without any accompanying explanation for the rejection. She appealed the decision, and the Ministry of Home Affairs responded on 18 December 2020, replying that they are taking action. At present, her career in finance remains on hold until she successfully secures her PR.

2

LALEITHA

Laleitha, an Indian national, married Subramaniyam, a Malaysian man, in 2003. Since then, she has resided in Malaysia under a Long-term Social Visit Pass, and together they have a child. Subramaniyam submitted an application for Permanent Residence for Laleitha 11 years ago and successfully completed an interview with the police on 15th March 2017. Laleitha's situation is dire, as her husband is facing issues with his health. In the unfortunate event of Subramaniyam's passing, Laleitha's PR application would be withdrawn, leaving her on a 6-month pass without the right to work.

3

MA EI THANDAR TIN

Ma Ei Thandar Tin, a Myanmar national, is married to a Malaysian man and has been residing in Malaysia for 18 years. She married her husband in 2005 and together they have three children aged 17, 16, and 11. In 2011, Ma Ei Thandar Tin applied for Permanent Residence (PR) and was granted an approval in 2013. However, due to her unstable living arrangements and frequent relocations, she did not receive the letter informing her of the approval and remained unaware of the approval. When she inquired at the Immigration Department about her PR status, she was told that the approval had expired and her application was deemed unsuccessful. Disappointed, she submitted a new application in 2015 at the Selangor state Immigration office. To date, she has been informed that her application has yet to be sent to the Immigration headquarters in Putrajaya for processing. Her already vulnerable situation is now exacerbated by her husband's declining health.