

An abstract painting with thick, expressive brushstrokes. The color palette is diverse, featuring warm tones like yellow, orange, and red, as well as cooler tones like blue, purple, and green. The composition suggests a group of people, possibly a family, in a close embrace or walking together. The overall mood is intimate and emotional.

POLICY BRIEF //

TOWARDS A MADANI SOCIETY: ADVANCING AND PROTECTING THE WELFARE OF MALAYSIAN BINATIONAL FAMILIES

Addressing the Socio-economic Challenges Impacting Malaysian Binational Families Through Family-Friendly Immigration Policies and Practices



FAMILY FRONTIERS

2023

The Association of Family Support & Welfare Selangor & KL (Family Frontiers) is a registered entity established to advance, promote and strengthen the family unit so that no family is left behind. It acts as an umbrella body for the Foreign Spouses Support Group (FSSG), which supports and advocates for the rights of foreign spouses married to Malaysian citizens and mobilizes action for the Malaysian Campaign for Equal Citizenship.

Table of Contents

Introduction	3
Thematic Areas	4
Thematic Area 1: Long-Term Social Visit Pass (LTVSP) Or Spouse Visa Application Challenges And Limitations	4
Thematic Area 2: Limited Rights To Employment Among Non-Citizen Spouses Of Malaysians	7
Thematic Area 3: Restricted Access To Permanent Residence Among Non-Citizen Spouses Of Malaysians	11
Thematic Area 4: Limited Access To Legal Status Among Separated, Divorced And Widowed Non-Citizen Spouses Of Malaysians	13
Thematic Area 5: Access To Economic, Social And Cultural Rights	15
Concluding Statement	17

Towards a MADANI Society: Advancing and Protecting the Welfare of Malaysian Binational Families

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"It's not my illness that worries me. It's the thought of my non-citizen wife being forced to leave Malaysia, and our children having to grow up without their mother after my death. It terrifies me."

INTRODUCTION

An estimated average of 164,000 visas are issued by the Immigration Department of Malaysia annually to non-citizen spouses of Malaysians¹ **However, the current immigration policy causes numerous obstacles and drawbacks for non-citizen spouses, adversely affecting their Malaysian families.**

Non-citizen spouses of Malaysians face many restrictions in Malaysia. Despite living here for many years, raising children and establishing permanent homes, their legal status remains uncertain and dependent on their Malaysian spouses. **These restrictions disproportionately impact women in binational marriages, affecting both non-citizen wives married to Malaysians and Malaysian wives married to non-citizens.**

Reviewing and reevaluating the current immigration policy for non-citizen spouses is crucial to ensure that the rights, stability, and wellbeing of these binational families are safeguarded. The integration of non-citizen spouses socially and economically, and the recognition of their contributions and value, will ultimately benefit not just their Malaysian spouses and children, but also the nation as a whole.²

This policy brief was put together after an exhaustive review of Malaysian policies, along with extensive meetings and reports from numerous Malaysian families, non-citizen spouses, and their children. It outlines the critical issues within **five thematic areas** concerning Malaysian binational families:

1. **Long-Term Social Visit Pass (LTSVP)³:** Unpredictable length of validity of the LTSVP, unnecessary trips to the home country, repeated visa runs, state-enforced separation and unemployment are common and frequent in the first year of marriage in binational families in Malaysia.
2. **Limited rights to employment among non-citizen spouses of Malaysians:** Restricted opportunities to work due to statement of prohibition on the LTSVP, burdensome process to obtain permission to work, and limitations to obtaining professional certifications and licences hamper accessibility and participation of non-citizen spouses in the workforce.

¹Statistics for Pengeluaran Pas Lawatan (Sosial) Pasangan Kepada Warganegara, Website

<https://www.imi.gov.my/index.php/statistik-transaksi-perkhidmatan/statistik-transaksi-perkhidmatan-tahun-2022/>

² "Allowing non-citizen spouses the right to work can strengthen Malaysia's economy while protecting families of Malaysians — Family Frontiers" Malay Mail, .30 April 2022. Website <https://www.malaymail.com/news/what-you-think/2022/04/30/allowing-non-citizen-spouses-the-right-to-work-can-strengthen-malaysias-eco/2056452>

³ The term "Long-Term Social Visit Pass (LTSVP)" is commonly referred to as a spouse visa, and these terms may be used interchangeably throughout this document.

3. **Restricted access to permanent residence among non-citizen spouses of Malaysians:** Repeated rejections without any explanation and low approval rates deprive female non-citizen spouses of their autonomy.
4. **Limited access to legal status for separated, divorced and widowed non-citizen spouses of Malaysians:** The lack of viable options for these parents to remain in the country to co-parent their children results in the child being deprived of one parent and disregards the child's best interests.
5. **Access to Economic, Social And Cultural Rights:** Barriers imposed to non-citizen spouses in healthcare, housing, banking, religious facilities, and education, impacting their overall well-being

In the thematic areas addressed below, we have outlined the key issues and provided recommendations. These recommendations aim to ensure that Malaysia aligns itself with global standards by establishing fair and equitable immigration policies for non-citizen spouses. By doing so, the government moves closer to the vision of Malaysia MADANI.

THEMATIC AREAS

1. THEMATIC AREA 1: LONG-TERM SOCIAL VISIT PASS (LTSVP) OR SPOUSE VISA APPLICATION CHALLENGES AND LIMITATIONS

Background

The Long Term Social Visit Pass (LTSVP) allows foreigners to reside in Malaysia for a minimum of six months.⁴ The LTSVP, even though used as the primary avenue for non-citizen spouses to reside in Malaysia, significantly falls short in meeting the needs of Malaysian binational families. It imposes substantial restrictions and poses numerous challenges that adversely affect the lives of these families in various ways, subjecting them to precarious situations. These disadvantages permeate their domestic, social, and economic spheres, perpetuating a constant state of vulnerability, particularly among women.

Key Issues

Unpredictable length of validity of the LTSVP, unnecessary trips to the home country, repeated visa runs, state enforced separation and unemployment are a regular feature in the first year of marriage of binational families in Malaysia.

1. **Undue hardships on Malaysian women:** Male non-citizen spouses face a six-month cooling period after marriage before they can apply for initial LTSVP, and another six-month period before they can work. This results in a year-long gap without a reliable source of income. This affects Malaysian wives with non-citizen husbands, placing undue hardships on them.
2. **Prolonged cooling period for Category 3 migrant workers:** They must terminate their work permit and undergo a mandatory cooling period of 6 months outside the country before they can get married. Upon their return to Malaysia to register their marriage, they face additional 6 months cooling periods after the marriage before

⁴ Official Portal of the Immigration Department of Malaysia (Ministry of Home Affairs). "Long-Term Social Visit Pass." Immigration Department of Malaysia. Website. <https://www.imi.gov.my/index.php/perkhidmatan-utama/pas/pas-lawatan/pas-lawatan-sosial/pas-lawatan-sosial-jangka-panjang/>

they can work again (see point 1. above). This prolonged waiting period significantly delays their ability to establish their lives with their Malaysian spouses.

3. **Shorter term visas for childless binational couples:** Couples without children are repeatedly given 6-month visas despite being married for years, which makes it difficult for them to open bank accounts and secure employment.
4. **Inconsistent visa procedures:** Visa application processes often differ across states, and the outcomes depend on the personal discretion and interpretation of immigration officers. This unpredictability puts binational couples into frustrating cycles of additional paperwork and verification, requiring multiple visits to immigration offices and potentially even return trips to their home countries for additional documents. The visa processes exacerbate challenges for couples on time-bound visas and limited finances.
5. **Undisclosed direct-entry visa requirement:** Some Immigration departments impose as a requirement for LTSVP that non-citizen spouses enter Malaysia directly from their home country without stopping to transit in another country, even if the couple has been married for several years. Additionally, non-citizen spouses are also forced to return to their home country if they arrived on an electronic visa or received a visa on arrival, which unnecessarily drains the couple's resources. None of these stipulations are mentioned on the Immigration website.
6. **Lack of transparency in the issuance of LTSVP:** The Long Term Social Visit Pass (LTSVP) issued to non-citizen spouses varies in duration, ranging from three months to five years, although it is rare for spouses to receive the full five years. Typically, spouses are given yearly or two-year visas. Furthermore, the type of visa issued (single or multiple entries) is determined by the Immigration Officer, and there are no clear guidelines, policies, or justifications provided by the immigration department regarding these decisions. This lack of clarity leads to inconsistencies and a lack of transparency in the process of issuing the LTSVP.
7. **Lengthy processing leads to unnecessary visa runs:** The typical processing time for a LTSVP is 2-3 months, but it can take up to 3-4 months or more for approvals, as seen with the Johor Immigration. In the interim, non-citizen spouses are not granted a temporary visa and some even fail to secure a special pass. To avoid overstaying, they are forced to undertake visa runs to neighbouring countries to renew their tourist visas. It seems that Malaysian Immigration has been inadvertently stimulating the tourism industries of these neighbouring countries.
8. **Unannounced immigration checks an invasion of personal privacy:** Binational families may receive unexpected house visits from Immigration officers or naziran. If they are not at home during these surprise visits, they must submit an appeal letter to the Immigration department. Female spouses have expressed their discomfort with these visits, especially when they are alone and asked to show their bedroom and have their cupboards opened and photographed. These unannounced visits by naziran are regarded as unreasonable. This is because binational families, like any other families, may have commitments such as work and everyday responsibilities that prevent them from always being present at home.
9. **Lack of LTSVP for spouses who work overseas:** There are no provisions for non-citizen spouses working overseas (e.g. on a project-basis) or for seafarers or pilots to secure a LTSVP. Non-citizen spouses working on projects overseas have to repeatedly seek short-term tourist visas to visit their Malaysian families when they are spouses of Malaysians and may need to stay for longer durations.

10. **Physical presence of the Malaysian spouses is required at every visa renewal:** The renewal for the LTSVP is made more cumbersome due to the stipulation that the Malaysian spouse must be physically present for each visa renewal. This requirement persists for years, and even decades, leaving women in a highly vulnerable position as they are wholly dependent on the Malaysian spouse, potentially compounding the effects of domestic violence, including physical, emotional, financial, and social abuse.
11. **Limitations on visits for parents of non-citizen spouses:** There are no options for non-citizen spouses of Malaysians who wish to have their parents join them for extended stay in the country. They are only allowed to bring in one parent who is 60 years or older, under the condition that they can provide evidence of no available siblings to care for the parent in their home country. This limitation can be challenging for non-citizen spouses who wish to bring their parents to Malaysia, particularly in cases where they need additional support during periods of illness or confinement.
12. **Legal exclusion for unmarried couples:** There is no existing provision in the law or policy to accommodate couples with one non-citizen partner who are in a committed partnership, but are not able to enter into a marriage as yet.

Impacts

1. **Economic instability:** Visa restrictions and extended cooling periods prevent non-citizen spouses from working and securing stable employment, creating financial instability for binational families.
2. **Uncertainty and stress:** Inconsistencies in visa procedures, unannounced immigration checks, and undisclosed requirements contribute to an atmosphere of uncertainty, leading to significant stress and anxiety within binational families.
3. **Limited personal freedom:** The requirement of the physical presence of the Malaysian spouse for every visa renewal which continues for decades, limits the autonomy of the non-citizen spouse. Non-citizen spouses, particularly women, may feel vulnerable due to these policies, impacting their personal well-being and freedom.

Lived Realities⁵

A few years ago when my husband's work endorsement was rejected, it was also his third time on a 6-month pass. The reason the officer gave is that we have no children so they refused to grant a one-year pass to my husband. I firmly told the immigration officer, we have been married for a few years, and that my husband is jobless in Malaysia because of your ridiculous rules. Guess what was the response of the officer? "Go back to your husband's country. A woman's place is beside her husband. So let your husband work in his own country!" Upon hearing those words, I was speechless and very disappointed.

⁵ Lived realities are true accounts and taken from anonymised case studies conducted by Family Frontiers

Recommendations

1. Create and implement a standardised and consistent visa application process across all states. The Immigration Department should be transparent and clearly state all rules, regulations, policies, time frames, and payments pertaining to visas of non-citizen spouses to Malaysian citizens. Their website must be maintained regularly, providing the most up-to-date policies and checklists.
2. Consider an immediate provision of a 6-month visa upon marriage and the right to work for couples who have been married for more than 6 months. This should be followed with a subsequent 2-year visa. Upon completion of 5 years on LTSVP, if the marriage is still subsisting, automatic Permanent Residence (PR) should be granted regardless of nationality, educational qualifications, income level, or the number of children.
3. Introduce a Long-Term Social Visit Pass (LTSVP) category;
 - a. For non-citizen spouses working overseas, to facilitate the unification with their family.
 - b. For parents of the non-citizen spouses to provide care and support when required.
 - c. To facilitate preparation of marriage for unmarried couples in committed relationships.

2. THEMATIC AREA 2: LIMITED RIGHTS TO EMPLOYMENT AMONG NON-CITIZEN SPOUSES OF MALAYSIANS

Background

Non-citizen spouses constitute a substantial and unrecognised "latent workforce" of professionals and skilled individuals who can contribute to productivity and brain influx in Malaysia. However, their right to employment is heavily restricted.

Despite the Immigration department's statement that non-citizen spouses are eligible to work in Malaysia, and that they can apply for permission or endorsement to work with an offer letter from an employer,⁶ this creates a perpetual cycle of economic marginalisation. They face a catch-22 situation where they need a job offer to lift the prohibition statement, yet the statement itself hinders their chances of securing employment opportunities.

In a 2021 survey conducted by Family Frontiers, it was revealed that **77.2% of respondents acknowledged having difficulty finding employment and 34.2% of respondents indicated that companies were immensely unwilling to hire them after reading the statement of prohibition from employment.** In the survey, more than 70% of respondents held bachelor's degrees or higher qualifications. Unfortunately, due to the aforementioned employment restrictions, over half of the respondents are unemployed.

Non-citizen spouses from diverse fields, including computer technology, business, education, and engineering, are among those impacted. This deprives Malaysia of the

⁶ Official Portal of the Immigration Department of Malaysia (Ministry of Home Affairs). "Long-Term Social Visit Pass." Immigration Department of Malaysia. Website. <https://www.imi.gov.my/index.php/perkhidmatan-utama/pas/pas-lawatan/pas-lawatan-sosial/pas-lawatan-sosial-jangka-panjang/>

opportunity to fully harness the professional skills and abilities of individuals who choose to remain in the country, which could help mitigate the impact of Malaysian professionals who choose to seek employment overseas—a phenomenon commonly known as 'brain drain'.⁷

Key Issues

1. **Discriminatory statement of prohibition on the LTSVP:** The LTSVP assigned to non-citizen spouses of Malaysians contains the statement '*any form of employment is strictly prohibited*'.⁸ Although Immigration claims that spouses can work with an offer letter from an organisation, employers are generally unwilling to hire a non-citizen spouse upon seeing this statement, therefore restricting employment opportunities for spouses who do not hold Malaysian PR or citizenship.
2. **Cumbersome work endorsement procedures:** The required documents include a contract letter from the employer with paid stamp duty, a business licence to operate (if the business licence is nearing the expiry date, they are made to wait until the licence is renewed), an application letter, copies of company registration forms (which some companies are hesitant to provide), a certified copy of the Director's IC, and a letter from relevant regulatory agencies such as the Malaysia Digital Economy Corporation (MDEC).
3. **Work permission is dependent on the Malaysian spouse:** The mandatory requirement of getting permission to work from the Malaysian spouse is demeaning, when the right to work is considered as an inalienable right of all human beings.⁹
4. **Work endorsement is bound by state of residence:** Non-citizen spouses have to secure employment in the same state as the place of residence. This creates restrictions to job opportunities and an unnecessary burden as a brand-new endorsement is needed for every change of employment and renewal of visa.
5. **Prolonged cooling period:** The application of LTSVP can only be made after 6 months of marriage for non-citizen husbands, and after it is issued they are further prohibited from working for another 6 months. This means a whole year of unemployment for non-citizen husbands, and this disproportionately impacts the Malaysian wife.
6. **Non-standardised work endorsement processes between West and East Malaysia:** Non-citizen spouses in East Malaysia face differing and disparate regulations on employment. In Sarawak, non-citizen spouses may work under the 'Spouse Programme', but only if their basic salary is above RM3000 at a company with a minimum of RM250,000 paid up capital. This restriction limits and narrows their options for employment.¹⁰

⁷ "National 5.5% brain drain higher than global average, says Sivakumar" The Star, 8 March 2023. Website <https://www.thestar.com.my/news/nation/2023/03/08/national-55-brain-drain-higher-than-global-average-say-s-sivakumar>

⁸ "What is a Malaysian Spouse Visa? What is LTSVP for spouse of Malaysian? What is the meaning of a Visit Pass or a Special Pass" LawyerMent Website Malaysia. <https://www.lawyerment.com/answers/questions/14207/what-is-a-malaysian-spouse-visa-what-is-ltsvp-for-spouse-of-malaysian-what-is>

⁹ Universal Declaration of Human Rights. (1948). Article 23. Website: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁰ Senarai Semak Spouse Programme (Jabatan Imigresen Malaysia Negeri Sarawak) Immigration Department of Malaysia

7. **Restricted employment opportunities until PR or citizenship is secured:** Certain sectors remain inaccessible to non-citizen spouses, such as pharmacy, medical, insurance, banking, finance, law and other licensed and professional sectors until PR is secured. This leads to greater economic constraints on women spouses, making them vulnerable and not in the best interest of their Malaysian children.
8. **Restrictions on those employed by foreign companies and permitted to work remotely in Malaysia:** Spouses who are hired by employers overseas and allowed to work remotely in Malaysia are confronted with the requirement from Immigration to present a resignation letter when applying for a spouse visa. This is because work endorsements are only granted to local Malaysian companies. In contrast to their Malaysian spouse, non-citizen spouses do not have the flexibility to select an employment that suits their individual circumstances and skills. Their lack of economic productivity leads to financial hardships that impact the entire family's well-being.
9. **Inadequate social security for non-citizen spouses:** For non-citizen spouses who succeed in securing employment, employers are not mandated to contribute to the compulsory savings and retirement plan, the Employees' Provident Fund (EPF). EPF is a primary retirement fund for many employees in Malaysia, and it also provides withdrawals for housing and education. However the employer only needs to pay RM5 per month for the non-citizen spouse, rather than the mandatory 12% for Malaysian citizens. Non-citizen spouses are here for the long term with their Malaysian families and this drawback could affect their financial security in the long run, and their ability to support their families.
10. **Short LTSVP durations hinder employment prospects:** The short duration of the LTSVP also limits employment opportunities, as the endorsement to work is directly linked to the visa duration.
11. **Lack of job security:** Non-citizen spouses face job insecurity compared to Malaysian citizens. The Employment Act 1955 prioritises the termination of non-citizen workers during redundancy situations.¹¹ Additionally, Malaysian Immigration requires non-citizen spouses to have year-to-year employment contracts, placing them at a disadvantage as employers have the option not to renew their contracts, unlike Malaysian employees who enjoy more permanent employment status.

Impacts

1. **Economic dependency of female non-citizen spouses:** Financial dependency on the Malaysian spouse particularly compromises the economic autonomy and liberty of female non-citizen spouses. Female non-citizen spouses are forced to remain in abusive marriages due to economic dependency and immigration stipulations that require the Malaysian spouse to be physically present at each visa renewal.
2. **Economic insecurity strains female Malaysian spouses:** Female Malaysian spouses are made to bear the financial burden as the sole income earner. This puts them into economic insecurity and increases hardship and stress in the family unit, as these Malaysian families are forced into being a single-income household in the midst of rising cost of living. When parents are in situations of economic instability, the children will ultimately bear the brunt of the impacts.

¹¹ Employment Act 1955, Act No. 265, s. 60M. Website:
<https://www.ilo.org/dyn/travail/docs/1496/Employment%20Act%201955.pdf>

3. **Brain drain:** Highly skilled and professional non-citizen spouses may have to leave the country if they are faced with cumbersome bureaucratic processes in obtaining employment. Malaysia may lose valuable human capital, skills, and knowledge, which are potentially beneficial to the country's economy and development.
4. **Forced migration among Malaysian women leading to more loss of talents and skills:** Malaysian women may experience forced migration when their non-citizen spouses are unable to be gainfully employed, depriving them of the ability to remain in Malaysia to raise their children or to care for elderly parents.

Lived Realities

Gulzhan Musaeva moved to Malaysia in 2006, as a student to pursue a Bachelor's degree in Business Administration, where she met her Malaysian husband and subsequently got married in 2009. Both later obtained a Master's degree in Islamic Finance in 2013 also from a university in Malaysia. While her husband was able to secure lucrative employment, Gulzhan faced significant difficulty in getting employed, despite her qualifications, due to her status as a non-citizen and the statement of prohibition from employment on her visa. She had a brief period of employment from September 2013 to February 2015, working for Kuwait Finance House Research until their office closed. Since then, Gulzhan has been unemployed and is struggling to secure a steady income. She has taken additional courses to enhance her skills in data analytics, programming, and data visualisation, but employers remain hesitant to hire her; moreover those working in the finance and banking sector require permission from Bank Negara, which is not possible until she secures a Permanent Residence, from which she has been rejected twice.¹²

Recommendations

1. Revise the requirement and processes for the work endorsement to make it less burdensome and remove unnecessary paperwork and provide clear guidelines.
2. Remove the statement of prohibition from employment on the Long-Term Social Visit Pass (LTSVP) issued to non-citizen spouses of Malaysians.
3. Permit employment in any state, irrespective of place of residence.
4. Allow Professional licences, practise and employment without restricting any sectors.
5. Extend protection of labour laws to non-citizen spouses including mandatory EPF, entitlement the entire range of SOCSO benefits to the Employee Invalidity Scheme, Employment Insurance System, Voluntary Separation Scheme (VSS), and severance packages.
6. Consider abolishing the letter of permission from the Malaysian spouse, which makes spouses, especially women, very vulnerable.

¹² Case study by Family Frontiers

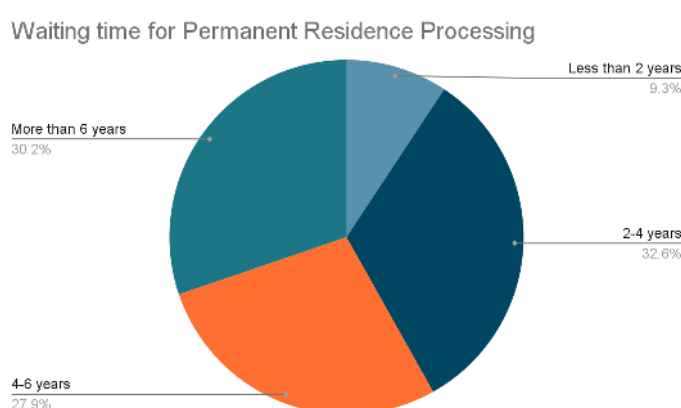
3. THEMATIC AREA 3: RESTRICTED ACCESS TO PERMANENT RESIDENCE AMONG NON-CITIZEN SPOUSES OF MALAYSIANS

Background

Malaysian Permanent Residence (PR), often referred to as the Entry Permit by immigration authorities, is a document permitting non-citizens to reside indefinitely in Malaysia.¹³ This permit is highly crucial for non-citizen spouses of Malaysians as it reduces reliance on their Malaysian spouses and provides autonomy to women in binational marriages. However, the ambiguous process, extensive waiting times, and low approval rates of this application have left many non-citizen spouses in situations of instability, making it difficult for them to plan and secure their future and that of their families.

Key Issues

1. **Loss of employment opportunities:** Delay in acquisition of PR results in the loss of employment opportunities, as many professions require PR for a licence to practise. This limits their access to work opportunities in sectors such as banking and insurance, and shuts them out from licensed professions such as law, medical and even the acquisition of a Goods Driving Licence, or employment as an e-hailing driver.
2. **Withdrawal of PR application upon death or divorce of Malaysian spouse:** The current system brings uncertainty and hardship to non-citizen spouses, especially in the event of a divorce or the death of a spouse when the PR application is withdrawn, even though there are children involved.
3. According to a survey conducted by Family Frontiers in 2022, 65 non-citizen spouses of Malaysians who have submitted an application for Permanent Residence since 2014 have experienced varying and inconsistent waiting periods in the processing of their applications. Notably, these lengthy waiting periods do not provide any guarantee of an eventual approval for their residency status. **None of the applications have been approved, and all are still in process.**



4. **Excessive requirements imposed on binational families who have already established their lives for over five years:** While the eligibility for PR is set at 5 years

¹³ Official Portal of the Immigration Department of Malaysia (Ministry of Home Affairs). "Entry Permit." Immigration Department of Malaysia. Website. <https://www.imi.gov.my/index.php/perkhidmatan-utama/pekerja-asing/>

on the LTSVP;¹⁴ The actual process of obtaining PR can extend beyond this timeframe without any guarantee of approval. The process is cumbersome, requiring the presence of 2 referees during the PR application, an interview with the State Immigration Department, and a police background check. Subsequently, the application file is forwarded to the Immigration HQ in Putrajaya for approval, resulting in an additional waiting period with limited updates on the status. Consequently, securing PR is a significant challenge for Malaysians and their non-citizen spouses.

5. **Cumbersome application process with redundant documents:** Applicants must present extensive records such as all previous passports, wedding invites, and wedding photos, some of which would have been previously submitted during the application of the LTSVP.
6. **Alternative pass option hinders full autonomy of non-citizen spouses:** Recently, the government has been offering the Residence Pass, rather than Permanent Residence. However, the Residence Pass comes with restrictions, such as two- five year validity periods. This is not a viable option as the duration is limited, and it still leaves the non-citizen spouse dependent on the Malaysian spouse.

Impacts

The lack of Permanent Residence among non-citizen spouses of Malaysians has critical socioeconomic implications on Malaysian binational families, particularly on female non-citizen spouses. This includes:

1. **Difficulty securing employment opportunities:** Increased economic hardship as many professions require Permanent Residence or citizenship; other economic challenges include difficulty opening bank accounts, securing financial loans and owning properties.
2. **Risk of family separation:** Fear of being removed, and separated from children and family in Malaysia, following the death of the Malaysian spouse or divorce or separation.
3. **Abuse and violence towards women:** Access to Permanent Residence will grant female non-citizen spouses autonomy and financial freedom, which is a step towards eliminating abuse and violence against women.

Lived Realities

After obtaining a spouse visa in 2016, I asked about Permanent Residence (PR). They said I can apply after having 5 years total on the spouse visa. During my last renewal in 2021, when I asked again about PR, I was told that it's 7 years on the spouse visa. I replied that I have actually completed those 7 years, and requested for the checklist as I would like to apply for PR. Then they told me that it's actually 10 years on the spouse visa. When I asked why, they replied that they were doing population control as many Malaysians like to marry foreigners. Yes, that is what the Immigration officer said. I wonder now what they would say after 10 years of being on the spouse visa is completed. The system seems to be broken.¹⁵

¹⁴ Official Portal of the Immigration Department of Malaysia (Ministry of Home Affairs). "Entry Permit." Immigration Department of Malaysia. Website. <https://www.imi.gov.my/index.php/perkhidmatan-utama/pekerja-asing/>

¹⁵ Anonymized case study

Recommendations

1. Establish a streamlined and consistent Permanent Residence process, with a definite processing time of no more than six months and providing reasons for rejections.
2. Grant Permanent Residence automatically upon completion of 5 years on LTSVP, if the marriage is still subsisting and regardless of nationality, educational qualifications, income level, or the number of children as documentation already exists with Immigration.
3. Provide clear, consistent and easily accessible information on the Permanent Residence application process, with a precise timeline for approval, detailed articulation of the policy so as to not allow for broad administrative discretion, and treatment of both male and female citizens equally.
4. Implement proactive measures for spouses who have been in the country for extended periods of time. Some non-citizen spouses have been in Malaysia for over a decade and have yet to receive Permanent Residence. It is worth noting that certain high net worth professionals can secure approval within a remarkably shorter timeframe. This disparity highlights the need for a fair and efficient process that treats all non-citizen spouses equitably, regardless of their professional or financial status.

4. THEMATIC AREA 4: LIMITED ACCESS TO LEGAL STATUS AMONG SEPARATED, DIVORCED AND WIDOWED NON-CITIZEN SPOUSES OF MALAYSIANS

Background

In Malaysia, a sobering reality exists for non-citizen spouses who find themselves widowed or divorced. They are trapped in a complex system of immigration policies that force them to leave the country they consider their home. Amidst the emotional turmoil of grief and separation, they must also grapple with the possibility of losing their right to reside, to work, and most crucially, to be a part of their children's lives. These issues, which will be delved further in the points below, highlight a pressing need for policy reform.

Key Issues

1. **Lack of legal status:** Childless non-citizen spouses who are divorced or widowed are forced to leave Malaysia. Even in cases where non-citizen husbands share custody of their children, they are not granted any visa to remain in the country and provide and fulfill their responsibilities towards their ex-wife and children. This rule not only hampers shared parenting but also unfairly burdens the Malaysian mother with the sole responsibility of childcare.
2. **Dependency of non-citizen spouses on irresponsible Malaysian spouses:** Separated and abandoned non-citizen spouses also face difficulties staying in the country since the physical presence of their Malaysian counterpart is mandatory during the spouse visa renewal procedure.

3. **Denial of work rights and economic autonomy:** The Immigration Department does provide the Long Term Social Visit Pass (LTSVP) for widowed or divorced non-citizen spouses, but it is not always accompanied with the right to work, making it challenging for them to financially support their children after their spouse's demise. This often leads to a cycle of dependency and precariousness.
4. **Trapped in abusive marriages:** The LTSVP is made available to non-citizen wives who are victims of domestic abuse. However, the absence of the ability to work while on this visa may force them to stay in harmful, abusive marriages to avoid being separated from their children.
5. **Restrictive Residence Pass option:** The Immigration Department website lists Residence Passes as a potential option for divorced or widowed non-citizen spouses. However, only a select few are able to secure this pass. This pass permits employment but it is only issued for a maximum of ten years. Once the Residence Pass expires, they are not allowed to renew it, and they are forced to leave Malaysia and their children behind.
6. **Inability for shared parenting and to provide proper child support:** Divorced male non-citizen spouses' inability to live in Malaysia after a divorce also hampers their ability to co-parent and provide child support if they are residing overseas, resulting in the alienation of these parents from their children's lives.
7. **Manipulation and control by irresponsible Malaysian spouses:** In some cases, the Malaysian spouse may cancel the visa or send the non-citizen spouse and children home on a one-way ticket.
8. **Nullification of PR application:** The PR applications of non-citizen spouses are nullified in the event of divorce or the death of the Malaysian spouse, irrespective of its impact on their Malaysian-born children.

Impacts

1. **Risk of domestic violence:** Female non-citizen spouses are particularly and disproportionately affected by this. Focus group discussions conducted by Family Frontiers have revealed many non-citizen spouses have felt compelled to stay in abusive situations to safeguard their own or their children's legal status, or due to the lack of economic independence. These individuals face the difficult choice of prioritising their safety and well-being or maintaining their legal status and financial stability.
2. **Limited rights to child custody:** Inability of the non-citizen spouse to continue to be present and parent their children after a divorce or separation. Due to immigration restriction and the severe lack of avenues for them to remain in the country, they struggle to maintain close relationships with their children.

Lived Realities

I divorced in 2021 and have one child in joint custody. My Malaysian ex-husband was good enough to not cancel my spouse visa. In March this year, my spouse visa will expire after 17 years of renewing it. I went to Shah Alam Immigration to request a checklist to apply for a Residence Permit (RP). They said I could only apply for a widow

visa, and after 3 years, I can apply for an RP as a custodian of a Malaysian citizen (my child).

They gave me the forms and the checklist for this widow visa, stating that it is a short-term visa for widows and divorce cases. However, I would still need a Malaysian sponsor with a minimum salary of RM2000 a month. I prepared all the documents and found a sponsor who went to the Immigration office with me. There, I was shocked to learn how ridiculous the law is. I am not allowed to work. If I want to work, I have to apply for an employment pass. So, what is the meaning of having custody of my child if I can't work to make a living?

This is frustrating. Once my spouse visa expires, everything will come to an end. My legal stay will end, and my work permit under the spouse visa will also end.

Recommendations

1. Allow separated, divorced and widowed non-citizen spouses of Malaysians (upon provision of relevant supporting documents) to reside and work independently of the former Malaysian spouse, without discrimination on the basis of nationality, ethnicity, gender, income, custody status, and number of children.

5. THEMATIC AREA 5: ACCESS TO ECONOMIC, SOCIAL AND CULTURAL RIGHTS.

Background

Non-citizen spouses face significant obstacles in accessing their economic, social, and cultural rights. These barriers exist in various aspects of their lives, including healthcare, housing, banking, religious facilities, and education, which will impact their overall well-being. These challenges restrict their opportunities and create dependencies, creating an environment that perpetuates inequality and exclusion. To address these issues, it is crucial to implement inclusive policies that guarantee equal rights for all individuals, irrespective of their citizenship status.

Key Issues

1. **Right to healthcare:** We commend the Government of Malaysia for the positive steps taken in granting non-citizen spouses of Malaysians the same medical treatment rates as locals at Government hospitals, subject to providing proof of marriage through marriage certificates or cards. However, it is important to address the issue that non-citizen spouses still face challenges in accessing affordable healthcare at University Hospital like HUKM and PPUM, which fall under the Ministry of Education.
2. **Right to housing:** Non-citizen spouses and Permanent Residents who wish to purchase housing/property are subjected to foreign investment directives and limitations on property purchase or ownership, such as RM 1 million in most states, RM 2 million in Selangor, and RM 1.8 million in Penang.¹⁶ This rule applies even when buying property jointly with their Malaysian spouses. This policy has a direct impact

¹⁶ "Malaysia property buying guide for foreigners in 2023" iProperty, Updated: 28 Feb 2023. Website <https://www.iproperty.com.my/guides/foreigners-buying-property-malaysia-complete-guide-12332>

on middle or low-income Malaysian families, especially if the Malaysian spouse's income is insufficient to purchase property solely under their name.

3. **Subjection to new laws applicable to foreigners:** Non-citizen spouses and Permanent Residents are subject to any new laws and regulations that specifically apply to foreigners in Malaysia. For instance, non-citizen spouses have been excluded from petrol rebates in 2008, or required to pay higher entry fees at tourist attractions such as zoos, water parks, and aquariums.
4. **Access to religious facilities:** Muslim non-citizen spouses cannot register with Tabung Haji to fulfil their religious duty under Islam together with their Malaysian spouses, as this facility is only available to Malaysians.¹⁷
5. **Banking and financial services:** Unemployed non-citizen spouses, particularly homemakers, are not permitted to open individual bank accounts, keeping them financially dependent on their Malaysian spouses. Spouses from nationalities like Nigeria, Pakistan, Syria, and Iran have been informed that they were not allowed to open joint accounts with their spouses, and some have even experienced account closures. Non-citizen spouses are required to deposit RM 10,000 to secure a credit card. This situation of dependency persists until the non-citizen spouse attains Permanent Resident status.
6. **Education:** Spouses are not allowed to study in Malaysia, unless they withdraw from the spouse visa (LTSVP) and apply for a student visa. Forcing them to do this jeopardises their Permanent Residence eligibility as they are required to restart their five years on LTSVP.

Recommendations

1. Consider allowing non-citizen spouses to purchase housing based on rules that apply to Malaysians. The security of housing is a fundamental human right that protects individuals against the risk of ill health, disability and physical harm. As such, non-citizen spouses should be allowed to acquire the security of housing on par with Malaysians.
2. Consider excluding non-citizen spouses of Malaysians from overarching policy and regulations governing foreigners.
3. Give non-citizen spouses the same treatment as Malaysians in all social, economic and cultural spheres, in the interest of the well-being, security, and future of their Malaysian families.

¹⁷ Official Portal of Tabung Haji Malaysia. Website
<https://www.tabung haji.gov.my/en/hajj/general-info/hajj-registration-off>

CONCLUDING STATEMENT

More needs to be done to alleviate the suffering and difficulties that non-citizen spouses and their Malaysian families have faced for decades. Exclusionary and inequitable immigration policies place non-citizen spouses in situations of harm and uncertainty, which inevitably trickles down to their Malaysian spouse and children, making it detrimental to their stability and welfare.

The current policies on employment for non-citizen spouses are a significant hindrance to them accessing work opportunities and having adequate protection under labour laws. Many binational families have been forced to migrate, or are unable to return to live in Malaysia due to these obstacles. Addressing this pressing issue will ensure the livelihood and financial stability of binational families, which will benefit them socioeconomically and allow their children to thrive. It will also be a remedy to the 'brain drain' that Malaysia is now facing. The experiences and skills of non-citizen spouses are diverse and extensive, with the potential to make meaningful and profitable contributions to this nation.

The Government's gatekeeping of Permanent Residency with very low approval rates and excessive waiting times means that non-citizen spouses have no viable routes to stay in Malaysia for longer, and undisrupted durations. Professionals will remain without their licences to practise. These non-citizen spouses have left their countries to make Malaysia their home and to raise families here. The lack of stability and guarantee of long-term legal stay causes families to be in constant limbo about their future, as they are unable to make plans or key decisions. These families also live in constant fear should something untoward happen, on top of the stress of visa renewals and the strain of all the challenges elaborated in this paper.

Non-citizen spouses are not 'outsiders'—they are integral members of Malaysian families, and thereby a part of the social fabric of this nation. Thus, it is crucial for the Government to shift its perspective and ensure inclusive reforms that advance and protect the welfare of Malaysian binational families, in line with the vision of Malaysia MADANI.

Current immigration policies exacerbate the vulnerability of non-citizen spouses, especially in cases of domestic violence. Without access to independent visa status, women non-citizen spouses remain at risk from abusive husbands and forced separation from their children. It is imperative that the Government reform immigration policies to provide protection and give non-citizen spouses agency, to enable them to be free and safe from their abusers. It is also in the best interest of the children, whose lives and future are intertwined with both the Malaysian and non-Malaysian.

It is crucial for the government to shift its perspective and adopt inclusive policies that empower and support non-citizen spouses. This can only encourage social cohesion, promote family unity, and harness the diverse talents and skills that these individuals bring to the country.

Family-friendly immigration policies and practices will:

1. **Attract global talent and retain local talent**, reversing the issue of brain drain Malaysia is currently facing.
2. **Promote MADANI society** by enhancing wellbeing, health and relationships.
3. **Strengthen household finances**, ensuring income security and stability.
4. **Grow the Malaysian economy by increasing human capital**, foreign investment and cash flow into the country, and taxable income.
5. **Improve Malaysia's international and regional standing** by progressing commitments to SDG 8: to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

Prepared by:

FAMILY FRONTIERS—The Association of Family Support & Welfare Selangor & KL (Family Frontiers) is a registered entity established to advance, promote and strengthen the family unit so that no family is left behind. It acts as an umbrella body for the Foreign Spouses Support Group (FSSG), which supports and advocates for the rights of foreign spouses married to Malaysian citizens and mobilises action for the Malaysian Campaign for Equal Citizenship.

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