



FAMILY FRONTIERS

Persatuan Kebajikan Sokongan Keluarga Selangor & KL (PPM-011-10-24072020)

Association of Family Support & Welfare Selangor & KL (Family Frontiers)

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Press Statement, For immediate release

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AFTER 4-HOUR LONG PRINTER DEBACLE, NATIONAL REGISTRATION DEPARTMENT ISSUES CITIZENSHIP CERTIFICATES TO OVERSEAS-BORN CHILDREN OF THREE PLAINTIFFS

Three plaintiffs in *Suriani Kempe & Ors v Malaysian Govt. & Ors* were issued citizenship certificates (*Sijil Pengesahan Taraf*) by the National Registration Department (JPN) Headquarters in Putrajaya, after a 4-hour wait and initially being told that the citizenship certificates could not be issued today due to issues with JPN's printer settings. JPN had requested the plaintiffs to be present at the JPN Headquarters in Putrajaya on 21 February 2022 for the issuance of their children's citizenship certificates; this was in response to a letter served by Family Frontiers' legal team.

The three Malaysian mothers submitted their documents to JPN under Article 14(1)(b) of the Federal Constitution on 29 December 2021, following the Court of Appeal's dismissal of the Government's stay of execution application on 22 December 2021.

This is a long-overdue and momentous occasion today for the three plaintiffs whose children received their citizenship documents, and a reason to hope for Malaysian mothers across Malaysia and all over the world who continue to wait for their children's citizenship documents.

“Today, I have been given a right that should not even have been denied in the first place. Today, justice has been served to Malaysian women. We have truly brought families closer together. This has been long overdue. My son has been singing Negaraku since he was a little boy, and I can’t wait to finally hear him sing our national anthem as a proud Malaysian,” says Adlyn, one of the plaintiffs who received her child's citizenship certificate today.

Myra, another plaintiff, says that she is overjoyed that her daughter is now Malaysian just like her son. *“My daughter can finally feel like she belongs here, in the country she has known as home ever since she was just 4 months old,”* she says.

Devi (not her real name), another plaintiff, says she is utterly relieved that her son can now live with her without any worries or boundaries.

THE STRUGGLE IS NOT OVER

The Kuala Lumpur High Court judgement from 9 September 2021 applies to all Malaysian mothers and their children in similar situations. However, feedback that FF has received in the ensuing months from mothers who went to submit their documents demonstrates that

there is a lack of procedural clarity among JPN branches and embassies or high commissions.

“While we appreciate the government’s quick action for (three out of the six) plaintiffs, we would like to remind the government that the High Court order applies to all Malaysian mothers and their children facing similar obstacles,” noted FF president Suri Kempe.

“Some mothers were given a list of different requirements and varying instructions when submitting their documents. It seems that some embassies/high commissions did not even receive instructions from Putrajaya. There need to be clear guidelines that standardise the confirmation of citizenship for children, to ensure that Malaysian mothers do not have to jump through additional bureaucratic hoops that Malaysian fathers have never had to, in order to ensure their foreign-born children receive citizenship,” said Suri.

THE NEED FOR THE GOVERNMENT TO WITHDRAW THE APPEAL

Moreover, the **Government has yet to withdraw its appeal against the KL High Court judgement**; the Court of Appeal hearing is on 23 March 2022.

There has been growing anxiety and uncertainty among impacted Malaysian mothers who are struggling to cope with the emotional and bureaucratic rollercoaster that the Government is putting them through. Children are yet to be enrolled into public schools and mothers are faced with high uncertainty and left in limbo while having to rush back and forth to relevant departments for student visas and school placement confirmation. Overseas, children are awaiting to return to their *tanah air* with their Malaysian mothers after over two years of the pandemic.

This latest development shows that it is possible for the Government to **implement the High Court judgement** without further delay. As such, **we strongly urge the Government to immediately withdraw the appeal** and let justice prevail so Malaysian mothers no longer have to suffer due to their children’s unequal access to Malaysian citizenship.

BACKGROUND

On 9 September 2021, the Kuala Lumpur High Court declared that Malaysian mothers have equal rights as Malaysian fathers to automatically confer citizenship on their overseas-born children. The High Court also ordered all relevant authorities to issue all relevant documents to this effect. This means that all Malaysian mothers of overseas-born children must undergo the same process under Article 14(1)(b) of the Federal Constitution as Malaysian fathers, who can get the confirmation of citizenship for their overseas-born children almost immediately.

Family Frontiers' legal team served a letter to the Government, highlighting the discrepancies between the process of issuance of citizenship documents for Malaysian mothers and that of Malaysian fathers. The legal team also requested updates on the plaintiffs' submission of the required documents. It was following this letter that Family Frontiers and the plaintiffs received a letter from JPN on 18 February 2022, requesting the plaintiffs to be present at the JPN Headquarters in Putrajaya on 21 February 2022 to receive their children's citizenship certificates.

TIMELINE OF EVENTS

- 18 December 2020 : The Association of Family Support & Welfare Selangor & KL ('Family Frontiers') filed a constitutional challenge with the Kuala Lumpur High Court, seeking a declaration that Malaysian women married to foreign spouses can automatically confer citizenship on their children who are born overseas. Along with six Malaysian mothers, Family Frontiers aims to uphold the spirit of the Federal Constitution, which promotes equality and prohibits discrimination. They have named the Government of Malaysia, the Minister of Home Affairs and the Director-General of the National Registration Department as its defendants.
- 22 January 2021 : The Government attempted to strike out the case stating it was "scandalous, frivolous and vexatious", and that it was an "abuse of the court process". However, the High Court delivered a judgement in favour of the applicants on 6 May 2021, ruling that the case can proceed.
- 7 May 2021 : In response to the failed strike out, the Government filed an appeal at the Court of Appeal against the High Court judgement.
- 7 May 2021 : In the interim, the Government filed a stay application to put the High Court hearing of the merits of the case into abeyance until the Court of Appeal has disposed of the strike out matter.
- 19 August 2021 : The High Court disallowed the Government's stay application and ruled that the merits of the case be heard on 24 August 2021.
- 20 August 2021 : The Court of Appeal dismissed the Government's appeal against the High Court judgement dismissing the strike out of the case.
- 24 August 2021 : The Kuala Lumpur High Court heard the merits of the originating summons.
- 9 September 2021 : The Kuala Lumpur High Court ruled that Article 14(1)(b) of the Federal Constitution together with the Second Schedule, Part II, Section 1(b) of the FC, must be read in a harmonious manner with Article 8 of the FC. In doing this, the

High Court judge announced that the word 'father' must be read to include mothers and that their children are entitled to citizenship by operation of law.

- 13 September 2021 : The Defendants (the Government of Malaysia, the Home Minister and the Director-General of the National Registration Department) filed a Notice of Appeal against the High Court decision and a stay of execution pending appeal application at the High Court.
- 15 November 2021 : The High Court dismissed the Government's stay of execution application with RM5000 as costs to the plaintiffs.
- 16 November 2021 : The Government filed an application for a stay at the Court of Appeal. The hearing date was fixed to be on 18 March 2022.
- 17 November 2021 : The Government filed an application for an interim stay at the Court of Appeal.
- 6 December 2021 : The Court of Appeal made no order for the interim stay, and instead brought forward the hearing date of the stay application from 18 March 2022 to 22 December 2021.
- 22 December 2021 : The Court of Appeal unanimously dismissed the Government's application for a stay of execution of the Kuala Lumpur High Court judgement.
- 23 March 2022 : The Court of Appeal hears the Government's appeal on the merits of the case.

Submitted by - Association of Family Support & Welfare Selangor & KL (Family Frontiers)