



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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Court of Appeal to announce decision on Government's appeal against the High Court decision in the *Suriani Kempe* case on 22 June 2022

On 23 March 2022, the Court of Appeal heard the Government's appeal against the High Court decision issued on 9 September 2021 that granted Malaysian women equal rights to confer citizenship on their overseas-born children. The decision of the hearing will tentatively be announced on 22 June 2022. Judges presiding over the hearing were Y.A. Datuk Seri Kamaludin bin Md. Said, Y.A. Datuk Hajjah Azizah Binti Haji Nawawi, Y.A. Datuk S. Nantha Balan a/l E.S. Moorthy.

The argument presented on behalf of Family Frontiers and impacted Malaysian mothers is that there is a seeming contradiction between **Article 14(1)(b)** together with the Second Schedule, Part II, Section 1(b) and **Article 8(2)** of the Federal Constitution (that prohibits gender discrimination), and focuses on ways in which this contradiction can be resolved.

As seen in recent Federal Court decisions, the approach to interpreting the Constitution can be one of harmonious/ purposive/ organic reading of these provisions; the Federal Court is clear that fundamental rights cannot be excluded by implication but must be made explicit. Section 1(b), Part II, Second Schedule states that children born outside of Malaysia to a Malaysian "father" is a citizen by 'operation of law', but does not expressly exclude mothers from this provision. As such, the relevant provisions must be read harmoniously to give meaning to Article 8(2) of the Federal Constitution.

The Government has a golden opportunity to undo years of discrimination against Malaysian women by withdrawing the appeal against the High Court decision and implementing it without further delay. Instead the Government's appeal sends a clear message that it believes women occupy an inferior legal status to that of Malaysian men.

As long as the Government defends the status quo, the concept of #KeluargaMalaysia will ring hollow. Thousands of Malaysian women endure a lifetime of uncertainty and increased vulnerability to violence and abuse. They also live in constant fear and anxiety of being separated from their children. Meanwhile, children of Malaysian women continue to be denied equal access to affordable healthcare, education, and the right to remain in the country with their family.

Malaysia's declarations and commitments to gender equality in the international arena hold no meaning as it becomes increasingly clear that the Government seems to be the main obstacle to Malaysian women's equality. Moreover, as a signatory to both the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC), the Government must instead act in such a manner as to uphold the rights of Malaysian women and their children.

Despite the Government's persistence in denying Malaysian mothers the right to confer citizenship on their children, we remain hopeful that justice will prevail.

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