



FAMILY FRONTIERS

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

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Progressive Amendment Continues to Leave Mothers and Children Behind

As the Government tables the Constitution (Amendment) Bill 2024, particularly the long-awaited 'Mothers' Amendment' that will grant Malaysian mothers the equal right to confer citizenship to their overseas-born children, Family Frontiers and the Malaysian Mothers' Network remain concerned about certain aspects of the bill.

Non-Retroactive Nature of the Bill

Firstly, the non-retroactive nature of the Mothers' Amendment, outlined in Saving 12(1)¹ of the Bill, raises significant concerns. This decision disregards the plight of existing children born overseas to Malaysian mothers and violates the Government's commitments to affected families.

Countless mothers—especially those who are abroad, or have previously been unable to submit citizenship applications under Article 15(2)—are left in anguish and uncertainty upon learning that the amendment will not apply to them. Malaysian women such as those who are widowed and divorced will be disproportionately impacted by this. Many of them reside overseas and seek to return home permanently. Additionally, impacted children above the age of 18 are deprived of avenues to apply for citizenship, severely limiting their opportunities and rights as children of Malaysian citizens.

This abrupt backtrack by the Cabinet has sparked disillusionment among affected families. We strongly urge the Cabinet to revise the bill to ensure that the amendment guarantees automatic Malaysian citizenship for overseas born children to Malaysian mothers before the amendment.

The efforts of the mothers who have tirelessly campaigned for their rights must not be in vain—they have the right to be protected by the amendment and granted equal citizenship rights. Swift action is imperative to remedy this injustice and restore faith in the government's promises. The Mothers' Amendment will be a milestone in Malaysia's history, and given its gravity, it must be comprehensive, meaningful, and rectify decades of injustices.

¹ "The status of citizenship of any person born within or outside the Federation before the date of coming into operation of this Act shall, on the date of coming into operation of this Act, be dealt with in accordance with Part III of the Federal Constitution as if the Federal Constitution had not been amended by this Act."

The amendment to Article 26(2) of the Federal Constitution

Secondly, the proposed amendment to Article 26(2) of the Federal Constitution² regarding the deprivation of citizenship for foreign wives of Malaysian men whose marriage is dissolved within “two years of obtaining citizenship” is also deeply concerning. Previously, the provision allowed for deprivation of citizenship if the marriage was dissolved within two years from the “date of the marriage”.

This amendment could render the (previously) non-citizen wife stateless, as Malaysia does not recognise dual citizenship and they would have relinquished their original nationality to obtain Malaysian citizenship.

This amendment is unnecessary and irrelevant, as citizenship via Article 26(2) has been relatively inaccessible to foreign wives of Malaysian men. Current practices dictate that citizenship applications by foreign wives can take an average of 10 to 12 years, due to the requirement of obtaining different types of residency documents such as Long Term Social Visit Pass (LTSVP) and Permanent Residence (PR) before qualifying for citizenship.

This proposed amendment is unjustifiable as the Ministry of Home Affairs has not documented a single case of marriage of convenience nor has it collected any reliable data, as confirmed by the Deputy Minister of Home Affairs during a Parliamentary Special Chambers session on 12 March 2024.

A survey by Family Frontiers in January 2022 involving 65 foreign spouses of Malaysians who applied for Permanent Residence since 2014, revealed that over 58% waited over four years for a response, 23% were rejected without reasons, and no approvals were granted.

As such, we suggest that the government expand the protection of Article 26B(2) to Article 26(2) so that a foreign wife shall not be deprived of her Malaysian citizenship if the deprivation will render her stateless.

In conclusion, the Constitution (Amendment) Bill 2024 must protect the rights of vulnerable communities, not further threaten them. We call on the government to consider these concerns and ensure the amendments reflect the principles of justice and *ihsan* (compassion) that the MADANI government champions.

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

² “The Federal Government may by order deprive of her citizenship any woman who is a citizen by registration under Clause (1) of Article 15 if satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of two years beginning with the **date of marriage**.