



**PRESS STATEMENT**

**KUALA LUMPUR (27 SEPTEMBER 2021)** - The Children's Commissioner of the Human Rights Commission of Malaysia (SUHAKAM), Prof Dato' Noor Aziah Mohd Awal (CC) is saddened by the Government's decision to appeal and file an application to stay the execution of the Kuala Lumpur High Court's judgment on the granting of automatic citizenship to children born abroad to Malaysian women married to foreign spouses - the Suriani Kempe Case. That decision had, in fact been supported by five ministers, namely the Ministry of Women, Family and Community Development (KPWKM); Prime Minister's Department (Parliament & Law); Ministry of Plantation Industries and Commodities (MPIC); Ministry of Communications and Multimedia (KKMM); and Ministry of Welfare, Community Wellbeing, Women, Family and Childhood Development, Sarawak (KWPKP).

The Minister of Home Affairs had stated, in Parliament, the Government's intention to amend the Federal Constitution (FC) but, in subsequent press release had stated that an appeal to the High Court's decision was submitted to avoid the Government from being subjected to contempt of court, as well to comply with the provisions of the FC. The Ministry also said that the decision of Suriani Kempe case was in conflict with the decision of the Mahisha Sulaiha case in 2020 and the Federal Court decision on CTEB (Chan Tai Ern Bermillo) case which was decided on early this year. The same press release had also informed that the Attorney General would seek an audience with the Deputy YDPA on the matter.

The CC however finds the argument given by Ministry of Home Affairs is untenable because:

- i. High Courts are not bound to another High Court's decision;
- ii. The CTEB case must be distinguished with that of Suriani Kempe's, as CTEB was on illegitimate child whose mother was a foreigner and was then legitimated by subsequent marriage of the biological father and mother;
- iii. The issue of the High Court Judge Suriani Kempe's case, having to amend the Constitution is irrelevant, as a Judge has the power to interpret the provisions of the law, including the FC, for justice to prevail.

The Judge was, in fact, interpreting Article 8(2) of the FC which is seen to be in conflict with Article 14(1) (b). By not appealing and instead opting to enforce the High Court decision, the Government would be seen to be serving the best interest of children according to Article 3 of the Convention of the Rights of Child (CRC), as well as ending the denial of mothers and children their citizenship, who have suffered for far too long. The issue has since been discussed in Parliament where many MPs also supported the recent High Court's decision and had urged the Government not to proceed with the appeal.



**MEDIA STATEMENT  
THE OFFICE OF THE CHILDREN'S COMMISSIONER OF THE  
HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)**

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The CC reiterates there is real issue of gender discrimination in relation to nationality under Article 14(1)(b) of the FC, to children born overseas whose mother is Malaysian and foreign father. The CC acknowledges that any amendment to the FC requires the approval of the Conference of Rulers in accordance with Article 159(5). However, that should not be the reason to delay the amendment, as any delays ultimately translate to continued denial of these women's rights and further suffering amongst their children. The CC appeals to the Government, and MOHA in particular, to expedite the application for citizenship process under Article 14 and 15 of the FC, thereby parties involved would not need to take matters to court until the FC is amended.

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**Professor Dato' Noor Aziah Hj. Mohd Awal, Children's Commissioner**  
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