

Media Release: Joint Malaysian NGO Oral Statement at the 69th CEDAW Session

Friday 23 February 2018, by [Collective / Multiple signers](#) (Date first published: 19 February 2018).

GENEVA, 19th February 2018 - A joint coalition of 37 civil society organisations in Malaysia (1) raised concerns at the 69th Session of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that despite having acceded to CEDAW in 1995, Malaysia is only engaging in its second review, having last been reviewed 12 years ago. The coalition remarked that there is a marked lack of urgency by the government in the CEDAW reporting process as compared to the universal periodic review (UPR) process in the UN Human Rights Council. The active participation of women's groups in the CEDAW process taking place in Geneva now shone a light to the lived realities of women's lives in Malaysia.

The coalition raised further concerns that the government has not removed the reservations on Articles 9 (2), 16 (1) (a) (c) (f) (g). It has also not ratified the Optional Protocol to CEDAW and there are no indications that it will do so any time soon. No cogent reasons have been given by the government for their failure to remove the remaining reservations or to ratify the Optional Protocol.

The High Court in the Noorfadilla case has adopted the definition of discrimination against women according to Article 1 of CEDAW. However, more needs to be done by the government to incorporate CEDAW into Malaysian law. The coalition has proposed a Gender Equality Bill to the government for their consideration. The government has not set a deadline on when they will propose the Bill to Parliament, if at all.

The government has also noted in its answer to the CEDAW Committee that gender mainstreaming is not seen as a national issue and is the sole responsibility of the Ministry of Women, Family and Community Development [1]. The government, i.e., the Legislative (Parliament and State Assemblies), Executive (Cabinet and State Executive Councils) and the Judiciary (Civil, Syariah and Native Courts) branches, are all collectively responsible for the elimination of all forms of discrimination against women.

The combination of Malaysia's demographic, the all-powerful Executive, and the increasing collaboration between State and non-State actors pushing for 'Syariah-compliant' policies and laws have affected Muslims and non-Muslims alike. It has also led to cases being filed in court on issues of conflict of jurisdiction between the Civil and Syariah systems. Women and children's rights have borne the brunt of these aspirations to turn Malaysia into an Islamic state.

Sisters in Islam (SIS) and Musawah note that there has been no progress towards implementation of CEDAW Committee recommendations on reform of Islamic family laws, following the last review. Within a plural legal system, civil law reform has advanced the rights of non-Muslim women, while two rounds of reform to the Islamic family law has resulted in further discrimination against Muslim women. Muslim women now enjoy far less rights in marriage, divorce, guardianship of their children and inheritance than their non-Muslim counterparts. Other areas of gross discrimination against

women under the Islamic Family Laws include divorce, polygamy and child marriage whereby the reservation to Article 16(2) on minimum age of marriage has been withdrawn, but the law has not been changed to set the minimum age of marriage at 18 for girls and boys, with no exception.

The coalition also highlighted that Malaysia continues to maintain its reservations to Article 9(2). Current constitutional provisions result in Malaysian women married to foreign men and delivering their children abroad having to make applications for their children to be citizens. Children of Malaysian men married to foreign women are automatically citizens wherever they are born. Another challenge is the lack of clear guidelines, policies or explanations by the immigration department around the issue of different visa terms being granted to foreign spouses, and there is a lack of transparency or consistency in these processes.

There are gaps in current laws and legislative framework in addressing issues related to violence against women or gender-based violence. Furthermore, the unsystematic and inconsistent enforcement of laws leads to denial of effective protection and redress. Challenges with regards to violence against women and gender-based violence stems from the fact that Malaysia still does not recognise marital rape as a crime, there is non-recognition of intimate partner violence, and that there is no comprehensive law on sexual harassment in the country.

Between 2013 and 2017, diverse women human rights defenders (WHRDs) and groups have experienced multiple forms of State reprisals and intimidation. This includes prosecution under the Film Censorship Act [2] and other laws [3], arbitrary arrest, detention without trial under the Security Offences (Special Measures) Act 2012 (SOSMA) [4], investigations [5], raids of office premises [6], declaration of fatwa [7], surveillance [8] and monitoring, among others. Reprisals from non-State actors and State-linked groups have increased. Actions include doxing or disclosure of personal information online and other communication platforms; dissemination of sexualised photoshopped images of women and LGBTIQ human rights defenders online; threats of sexual violence [9], death threats [10], intimidation through calls for investigations [11], and physical attacks [12], amongst others. While police reports have been lodged in instances where the perpetrators are unknown or non-State actors, outcomes of some of these investigations remain unknown. There have been no proactive efforts by the State to protect the targeted WHRDs despite these regressing trends.

There is a grave lack of political will in investigating cases of violence, death and murder of trans women and gender-diverse persons. Trans women are also often encouraged to drop their cases by State actors. State actors, not limited to the police, are quick to dismiss elements of hate crime and gender-based violence [13] in these cases. The lack of recognition of LGBTIQ persons is exactly the root cause of the marginalisation and increasing violence towards LGBTIQ persons.

As a national consensus of a coalition of 37 NGOs in Malaysia and Musawah, the coalition urges the State party to commit to these four critical issues in the Follow-Up Procedure:

1. Remove all reservations and ratify the Optional Protocol to CEDAW.
 2. Enact a Gender Equality Act that is CEDAW compliant.
 3. Stop funding of anti-LGBTIQ activities, particularly in educational institutions.
 4. Reform Islamic Family Laws grounded on a framework that recognises marriage as a partnership of equals, and guarantees equality and justice for Muslim women.
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Collective

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All Women's Action Society (AWAM), Asian-Pacific Resource and Research Centre for Women (ARROW), Association of Women Lawyers, Asylum Access, Bersih 2.0, Center for Orang Asli Concerns, Development of Human Resources for Rural Areas, Persatuan Kesedaran Komuniti Selangor (EMPOWER), Federation of Reproductive Health Associations, Malaysia (FRHAM), Foreign Spouses Support Group, International Community of Women Living with HIV, Jaringan Orang Asal SeMalaysia (JOAS), Justice for Sisters, Malaysian Aids Council, Majlis Kebajikan Kanak-Kanak Malaysia, Malaysian Trades Union Congress (MTUC), Migration Working Group (MWG), National Council of Women's Organisations (NCWO), National Human Rights Society Malaysia (HAKAM), North South Initiative, National Union of Bank Employees Malaysia (NUBE), Pelangi, Perak Women for Women, Persatuan Sahabat Wanita Selangor, Positive Living Women Malaysia (Pewahim), Pusat Kebajikan Good Shepherd, Pusat Komang, Reproductive Rights Advocacy Alliance Malaysia (RRAAM), Sabah Family Planning Association, Sabah Women's Action-Resource Group (SAWO), Serantau Malaysia, Sisters in Islam, Sarawak Women for Women Society, Suara Rakyat Malaysia (SUARAM), Tenaganita, Women's Aid Organisation (WAO), and Women's Centre for Change (WCC) Penang. Additionally, Sharon Bong (Associate Professor in Gender and Religious Studies) contributed in her individual capacity.

Sisters in Islam

<http://www.sistersinislam.org.my/news.php?item.1515.27>

Footnotes

[1] CEDAW/C/MYS/Q/3-5/Add.1 - Replies of Malaysia, Page 4/16, Paragraph 12

[2] Case history of Lena Hendry. Lena Hendry, coordinator of Pusat Komang was sentenced to a fine of RM 10,000 or a year in jail for screening 'No Fire Zone: The Killing Fields of Sri Lanka', a documentary on the Sri Lankan civil war in 2013. The prosecution also appealed for a higher sentence, which was struck down by the High Court
<https://www.frontlinedefenders.org/en/case/case-history-lena-hendry>

[3] High Court reverses acquittal, says yellow balloons at event graced by PM 'insulting'
<http://www.themalaymailonline.com/malaysia/article/high-court-reverses-acquittal-says-yellow-balloons-at-event-graced-by-pm-in> , Siti Kasim faces charges for a year after raid of transgender fundraising event <https://www.frontlinedefenders.org/en/profile/siti-kasim>

[4] Lawyer: Maria Chin to be held for 28 days under Sosma
<http://www.themalaymailonline.com/malaysia/article/lawyer-maria-chin-to-be-held-full-28-days-under-sosma>

[5] Threatened with rape, G25's Noor Farida now under sedition probe for khalwat criticism
<http://www.themalaymailonline.com/malaysia/article/threatened-with-rape-g25s-noor-farida-now-under-sedition-probe-for-khalwat>

[6] Women's rights organisation, EMPOWER's office raided
<https://www.frontlinedefenders.org/en/case/women's-rights-organisation-empower's-office-raided>

[7] Sisters in Islam files for judicial review on fatwa

<https://www.thestar.com.my/news/nation/2014/10/31/sisters-in-islam-files-for-judicial-review-on-fatwa/>, Comango threat to Islam and nation, says National Fatwa Council
<http://www.themalaymailonline.com/malaysia/article/comango-threat-to-islam-and-nation-says-national-fatwa-council>

[8] Jawi siasat iftar songsang

<http://www.sinarharian.com.my/nasional/jawi-siasat-iftar-songsang-1.691563>

[9] Man says will invade G25 rep's home and rape her over khalwat criticisms

<http://www.themalaymailonline.com/malaysia/article/man-says-will-invade-g25-reps-home-and-rape-her-over-khalwat-criticisms>, #UndiRosak activist lodges police report on threats
<https://www.thestar.com.my/news/nation/2018/02/11/undirosak-activist-lodges-report/>

[10] Maria Chin says she received death threat, bullet in the mail

<https://www.nst.com.my/news/2016/11/192939/maria-chin-says-she-received-death-threat-bullet-mail>, Death threat probe on Bersih chief submitted to AGC
<http://www.freemalaysiatoday.com/category/nation/2017/08/07/death-threat-probe-on-bersih-chief-submitted-to-agc/>, Siti Kasim Receives Death, Rape And Acid Attack Threats
<https://www.frontlinedefenders.org/en/case/siti-kasim-receives-death-rape-and-acid-attack-threats>

[11] Malay group wants Jawi to investigate Marina for 'liking' LGBT tweet

<https://www.themalaysianinsight.com/s/9398/>

[12] 'Transgender activist's assault shows dangers LGBT face'

<https://www.malaysiakini.com/news/312160>

[13] Justice For Sameera - Ensure Thorough Investigation & Hold Perpetrators Accountable

<https://justiceforsisters.wordpress.com/2017/03/03/justice-for-sameera-ensure-thorough-investigation-hold-perpetrators-accountable/>