

**Joint NGO Report, for the Malaysian Government’s Review by the
CEDAW Committee, at the 88th CEDAW Session in
May 2024**

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Joint NGO Submission¹

Contributed by the CSO CEDAW Coalition,
Coordinated by Women’s Aid Organisation (WAO)

Introduction

This Joint NGO Report is based on the Malaysian Government’s: Sixth Periodic Report to the CEDAW Committee (“Report”); and Replies to List of Critical Issues; and the Committee’s 2018 Concluding observations (CO3-5).

Increasing religious conservatism and strengthening of Syariah laws have impacted women’s access to justice during the period reviewed. With the pandemic, Malaysia navigated political turmoil and withstood three governments (2020-2022). This severely impacted reform, centred identity politics and pushed patriarchal, rigid interpretations of Islamic laws and monitoring of 3R - race, religion, and royalty.

Covid-19 exposed structural barriers to accessing rights for women and girls. Relentless movement control orders saw increased sexual harassment, Online Gender-Based Violence (OGBV), child sexual abuse and domestic violence cases. The redistribution of protection resources impeded access to emergency care and reporting/redress mechanisms. Women shouldered more care responsibilities, while trying to remain in the workforce. Government reinforcement of gender biases, stereotypes and discrimination drastically impacted the LBTQIA community.

Obstacles to the full enjoyment of women’s rights in Malaysia were manifold; this report should be viewed in that broader context.

Article 1: Definition of Discrimination, Elimination of Discrimination in the Law

1.1 The CEDAW Committee in CO3-5(paras 11,12) noted its concern over the absence of a definition of discrimination against women in Malaysia’s legislation, and the narrow interpretation of article 8(2) of the Federal Constitution in fully protecting women against discrimination.

¹Contributing organisations include the following 15 organisations/coalitions: Association of Women Lawyers (AWL), Centre for Independent Journalism (CIJ), Development of Human Resources in Rural Areas (DHRRA), ENGENDER Consultancy, Family Frontiers, Global Shepherds, Justice for Sisters, KRYSS Network, Pertubuhan Wanita Orang Asal Malaysia (PWOAM), Person with Disabilities Coalition (PWDC), Sarawak Women for Women Society (SWWS), Sisters in Islam (SIS), Tenaganita, Women’s Aid Organisation (WAO), Women’s Centre for Change (WCC). Shanthy Dairiam, Tashia Peterson, Amar-Singh HSS and Yuenwah San contributed in their individual capacity.

1.1.2 Discrimination by private entities remains unaddressed, exemplified in employment discrimination cases.^{2,3} The recommendation in CO3-5 (para 12(a)) to ensure the Convention and its provisions are incorporated into national law and enforceable has not been implemented.

1.2 The practical realisation of gender equality is hampered by the lack of intersectionality and doubly marginalised women face compounded barriers, resulting in heightened risk of unemployment, perpetuating poverty, and cycles of violence.

1.3 Legal and policy challenges persist, including federal-state tensions and civil-syariah conflicts. Despite the Government's replies, there is no clear plan for domestication of CEDAW, particularly at the state level. The existing Official Secrets Act and lack of Right to Information legislation prevents transparency and public disclosure of government disaggregated data.

Recommendations

1. Establish a clear timeline for the enactment of the Gender Equality Act and domestication of CEDAW at all governmental levels to ensure comprehensive implementation of CEDAW principles.
2. Enhance availability and accessibility of disaggregated data by enacting Right to Information legislation and repealing the Official Secrets Act and Section 203A of the Penal Code.

Article 2: Gender Mainstreaming

2.1 The Government's reply (para 28) acknowledges "the need for capacity and expertise building." However, concerns remain regarding consistent, comprehensive training to improve civil service understanding of gender equality, gender mainstreaming (GM) and CEDAW. Apart from Ministry of Finance led training for gender responsive budgeting (GRB) and GM, Gender Focal Points/Teams (GFPs/GFTs) need institutionalised CEDAW training to apply gender analysis in their work. Details in Annex A (government replies) do not evidence programme modules with gender mainstreaming or CEDAW components.

2.2 The Government's reply on application of gender mainstreaming refers to appointment of GFP/GFTs in 2022. There is limited information on any intra-ministry monitoring/evaluation of their impact.

2.3 The State has tabled amendments to citizenship laws under the Federal Constitution⁴ but is yet to remove reservations to Article 9(2). The Government also continues to maintain its Syariah law-based reservations to Articles 16(1)(a), 16(1)(c), 16(1)(f) and 16(1)(g) (Report paras 2, 3).

² *Noorfadilla Binti Ahmad Saikin (Plaintiff) v. Chayed Bin Basirun et al. (Defendants)* (2011) Cornell Law School - Legal Information Institute. [https://www.law.cornell.edu/women-and-justice/resource/noorfadilla_binti_ahmad_saikin_\(plaintiff\)_v_chayed_bin_basirun_et_al_\(defendants\)](https://www.law.cornell.edu/women-and-justice/resource/noorfadilla_binti_ahmad_saikin_(plaintiff)_v_chayed_bin_basirun_et_al_(defendants))

³ *Gender Discrimination: Beatrice Fernandez v. Sistem Penerbangan Malaysia & Anor 2004 [CA]* (2004) Malaysian Bar. <https://www.malaysianbar.org.my/article/news/court-judgments/judgments/gender-discrimination-beatrice-fernandez-v-sistem-penerbangan-malaysia-anor-2004-ca>.

⁴ Citizenship amendments are non-retroactive & won't cover existing children born overseas to Malaysian mothers.

2.4 The Report (para 4) does not provide a timeline for Optional Protocol ratification.

Recommendations

Provide:

1. Consolidated action plan for implementing Gender focal points/teams and institutionalised training modules for gender mainstreaming, gender-responsive budgeting framework and CEDAW components at INTAN.
2. Concrete action plan with timeline for removal of reservations, and ratification of the Optional Protocol.

Articles 3 and 4: Temporary Special Measures

Advancement of Women

3.1 The absence of infrastructure incorporating universal design principles, and reasonable accommodation⁵ prevents disability-equitable access to entitlements and self-empowerment opportunities.⁶ Mothers of disabled children^{7,8} often face discrimination rooted in cultural beliefs,⁹ rejection and societal abuse.

Temporary Special Measures

4.1 The Report (paras 15-18) mentions temporary measures aimed to boost women's representation in top management and workforce participation through tax breaks and hiring incentives. However, efficacy must be monitored and requires gender-disaggregated data, particularly for women driving the SME workforce who fall outside the taxpayer bracket.¹⁰

4.2 In 2020, the Penang State Government launched the "Top-up Women-Only Additional Seats" (TWOAS) initiative to achieve 30% female representation in state assembly positions. The Penang legislative assembly has 10% (4/40) women's representation, which indicates the need for a longer period of monitoring. TWOAS should be emulated in federal policy and expanded in line with CO3-5 (para 18).

Discrimination against Women and Girls with Disabilities

⁵ American Psychological Association (no date) *Reasonable Accommodations Explained*, American Psychological Association. Available at: <https://www.apa.org/pi/disability/dart/toolkit-three> (Accessed: 19 April 2024); *General comment No.6 on equality and non-discrimination* | OHCHR (2018) *Office of the High Commissioner for Human Rights*.: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no6-equality-and-non-discrimination>

⁶ Amin, A.S. (2020) 'The Cultural Representation of Disabled Women in Malaysia', *International Journal of Psychosocial Rehabilitation*, 24(4), pp. 4140–4153. doi:10.37200/ijpr/v24i4/pr201525. .

⁷ Chan, K.G., Khatijah Lim, A. and Kee, L.H. (2013) 'Quality of life among Malaysian mothers with a child with Down Syndrome', *International Journal of Nursing Practice*, 19(4), pp. 381–389. doi:10.1111/ijn.12083.

⁸ UNICEF (2017) *Childhood Disability in Malaysia: A Study of Knowledge, Attitudes and Practices*, UNICEF. Kuala Lumpur, Kuala Lumpur. : <https://www.unicef.org/malaysia/media/281/file/Childhood%20Disability%20in%20Malaysia.pdf>.

⁹ UNICEF Malaysia (2017) study revealed: mothers of children with disabilities experienced stigmatisation and discrimination due to "cultural" beliefs that blamed the occurrence of disabilities on maternal failure in observing taboos (*pantang larang*).

¹⁰ Including disabled women, refugees, and transgender women

4.3 The World Health Organization (WHO) estimates that 16% of the global population have some form of disability.¹¹ Although there is insufficient data on women and girls with disabilities in Malaysia, temporary special measures to prevent discrimination are still required.

4.3.1 Discrimination impacts disabled women and girls disproportionately. The major barriers are ableist-sexist attitudes and behaviour embedded in gender-disability intersectionalities.

Recommendation

1. Establish temporary special measures for multi-sector accessibility and representation; and monitor/implement/expand state-level measures.

Article 5: Gender stereotypes, discriminatory customs, and practices

5.1 Gender stereotypes and deeply ingrained societal norms are often echoed in government rhetoric.

5.1.1 During Covid-19, the MWFCD made several remarks that perpetuated gender stereotypes (**Annex A**). Amidst a fourfold increase in domestic violence, MWFCD released a poster advising women to emulate speech patterns of a cartoon character, Doraemon,¹² to avoid domestic conflict.

5.2 Contrary to CO3-5, (para 20(b)), proposing flexible-working arrangements at reduced pay for women civil servants undermines fathers' role in care responsibilities and impacts workforce participation and pay disparities.¹³ It contradicts commitment in Report (para 19) for FWA that promotes shared responsibility. (**Annex B**)

5.3 There is limited implementation of CO3-5 (para 20(c)). The media engage in unethical, biased journalism and reinforce harmful cisheteronormative or binary gender stereotypes (e.g., romanticisation of toxic masculinity). The media also promote harmful SOGIE change efforts, and stereotyping LGBTI women as sinners or deviants.^{14, 15}

¹¹ Global report on health equity for persons with disabilities (2022) World Health Organization. Geneva.: <https://www.who.int/publications/i/item/9789240063600>

¹² Sohli, F. (2020) 'Women Ministry apologises for "sexist" MCO advice – but not in Doraemon's voice', *New Straits Times*, 31 March. <https://www.nst.com.my/news/nation/2020/03/580074/women-ministry-apologises-sexist-mco-advice-%E2%80%93-not-doraemons-voice> .

¹³ Liew, Y.R. (2024) 'Flexible work hours must not lead to lower pay, govt told', *Free Malaysia Today*, 16 March. <https://www.freemalaysiatoday.com/category/nation/2024/03/16/flexible-work-hours-must-not-lead-to-lower-pay-govt-told/>

¹⁴ Sinar Harian must reconsider its 'prep Buat Komuniti songsang lega @ bencana'? episode in order to prevent misinformation & stigma against LGBT people (2022) justiceforsisters. <https://justiceforsisters.wordpress.com/2022/12/16/sinar-harian-must-reconsider-its-prep-buat-komuniti-songsang-lega-bencana-episode-in-order-to-prevent-misinformation-stigma-against-lgbt-people/> .

¹⁵ FMT (2018) Enough with 'pondan' and other media distortions of transgenders, *Free Malaysia Today*. <https://www.freemalaysiatoday.com/category/opinion/2018/01/30/enough-with-pondan-and-other-media-distortions-of-transgenders/>

5.3.1 LGBTI women face criminalisation, state-endorsed conversion practices, and persecution, including judicial caning.¹⁶ In 2023, the Johor State announced plans to establish a rehabilitation centre for those considered deviant to Islamic teachings and engaging in same-sex relationships.

5.4 Attire-related restrictions for entry into government offices, police stations, and hospitals persist for women. In 2019, the Terengganu State banned women's gymnastics events due to non-syariah-compliant outfits, leading to guidelines on attire for Muslim and non-Muslim athletes. Muslim women gymnasts retired from the sport,¹⁷ being unable to participate in SUKMA 2024.

Women in Media

5.5 According to the National Union of Journalists,¹⁸ there are fewer women in senior editorial roles (directors, bureau chiefs and editors), resulting in a toxic and self-perpetuating cycle unsafe for future women media practitioners.

5.6 Women journalists experience attacks and gender-based discrimination online. In mid-March 2020, reports surfaced that Malaysiakini journalist Koh Gah Chie was harassed on Facebook over an article quoting the then-Environment Minister's defence of logging practices in Kelantan.

Recommendations

1. Develop clear policies (including penalties) to challenge gender stereotyping and promote equality across society at the state and federal levels.
2. Implement incentives for private and public sectors, including media, to remove gender bias and promote women's equal participation in decision-making processes.
3. Establish a comprehensive, gender-analysed care economy plan to redistribute care work and support women essential care workers.
4. Establish a Malaysian Media Council as an independent self-regulatory body with powers to establish a code of conduct and guidelines on gender equality.

Article 6: Trafficking of women

6.1 Women and girls are subject to trafficking and exploitation, including forced marriage, sexual exploitation, debt bondage, forced labour, and begging. According to the MOHA, between 2015-July 2021, a total of 1,854 trafficking cases involving 10,463 victims were recorded (70% women and children).¹⁹

¹⁶ FMT (2024) Single Mother caning. <https://www.freemalaysiatoday.com/category/nation/2018/09/27/single-mum-gets-jail-whipping-for-prostitution/>

¹⁷ Avineshwaran, T. (2023) 'Youth and Sports Ministry set to meet Terengganu exco over gymnastics issue', *The Star*, 28 March. Available at: <https://www.thestar.com.my/news/nation/2023/10/28/youth-and-sports-ministry-to-meet-terengganu-exco-over-gymnastics-issue>.

¹⁸ Locked down: Screws Tighten on Press Freedom in Malaysia (2021), National Union of Journalists and International Federation of Journalists. https://www.ifj.org/fileadmin/user_upload/Malaysia_PF_Report_2021_-_Locked_down.pdf

¹⁹ Hisamudin, H.A. (2021) Home Ministry launches Chatbot for Trafficking Victims, *Free Malaysia Today*.: <https://www.freemalaysiatoday.com/category/nation/2021/07/30/home-ministry-launches-chatbot-for-trafficking-victims/>

6.2 Non-citizen/refugee women are lured into employment in service/hospitality industries, only to be coerced into sex work, becoming vulnerable to debt bondage. Survivors reported torture and rape, if unable to pay agents.²⁰

6.3 Survivors are treated as offenders facing criminalisation rather than receiving protection. The Anti-Trafficking In Person and Anti-Smuggling Of Migrants (ATIPSOM) Act's 19 amendments (**Annex C**) came into effect in 2022 to strengthen enforcement and oversight of shelters in line with CO3-5 (para 26(a)). Involvement of MWFCD as per the Report (para 38) is welcomed. However, application of guidelines and procedures by enforcement and investigating agencies identifying and responding to trafficked children are inconsistent, increasing the risk of re-trafficking.

6.3.1 Despite positive developments, victims still fear punishment and deportation, hindering access to protection and justice.²¹ Despite the investigation and prosecution of ongoing cases as per the recommendation in CO3-5 (para 26 (c)), little data is publicly available on the number and types of cases successfully prosecuted involving women and girls.²²

Recommendations

1. Develop comprehensive gender-sensitive, trauma-informed national policy on labour migration to regulate and implement mechanisms to support: (a) data collection; (b) training and awareness of enforcement and judicial authorities; (c) inter-agency coordination and cross-border cooperation for effective case management; (d) comprehensive rollout, data-collection and monitoring of TIP guidelines and indicators across agencies.
2. Allocate resources for specialised trafficking courts, enhance judicial capacity, along with strengthened assistance and shelter provisions for women and girl survivors.

Article 7: Participation in public life and decision-making

Minority and Indigenous Women in Politics

7.1 The Report (para 46-52) indicates commitment to guaranteeing and accelerating equal representation of women. However, specific measures and long-term plans are lacking which improve representation, as per CO 3-5 (para 30).

7.1.1 In 2024, 13.5% of 222 parliamentarians are women. There are no Orang Asli²³ or ethnic Indian women represented in the federal parliament.

²⁰ SUHAKAM and Fortify Rights (2019) Sold Like Fish - Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015, Fortify Rights.: [https://www.fortifyrights.org/downloads/Fortify_Rights-SUHAKAM - Sold Like Fish.pdf](https://www.fortifyrights.org/downloads/Fortify_Rights-SUHAKAM_-_Sold_Like_Fish.pdf)

²¹ Office to Monitor and Combat Trafficking in Persons (no date) 2023 trafficking in persons report: Malaysia, U.S. Department of State. <https://www.state.gov/reports/2023-trafficking-in-persons-report/malaysia/>.

²² Mapo all out to eradicate human trafficking, smuggling activities (2021) The Sun. https://thesun.my/home_news/mapo-all-out-to-eradicate-human-trafficking-smuggling-activities-JK8149597.

²³ Orang Asli refer to indigenous communities in Peninsular Malaysia, Orang Asal refers to Sabah/Sarawak or indigenous people as a whole.

7.2 Despite the Report (para 51), the involvement of indigenous women, particularly in state legislative assemblies, remains low due to inadequate political education, and societal stigma. In the 2022 Perak State Assembly Elections, one Semai woman contested as an independent (*Wak Teratai*).

7.3 In Sarawak, Indigenous women's involvement in decision-making roles remains low despite there being an increase in the appointment of women village chiefs (*Tuai Rumah*).²⁴ The Report (para 104) indicates the latter.

VAW in politics

7.4 Women politicians are targets of GBV, including online sexual harassment, hate speech, rape and death threats. As per CO3-5, (para 20 (d)), MPs continue to make sexist comments with inadequate or no consequences, despite prohibition through amendment to the rules of conduct.²⁵

7.4.1 In the 15th General Election, women experienced objectification, sexualisation and were belittled as candidates.²⁶

Women Human Rights Defenders

7.5 Violence against WHRDs is framed within a moral/religious perspective.²⁷ Legal frameworks inadequately protect their rights, with investigations and legal challenges impeding activism. GBV, including online harassment and threats silences dissent and undermines efforts for gender equality. **(Annex D)**

LBTI Women

7.6 Decline of LBTI women's freedom of assembly and public participation is unaddressed in Report (para 113). Between 2019 and 2022, at least five LGBT-related events were reportedly intimidated, raided or disrupted by the police and/or Islamic Department. Transwomen were targeted, with Muslims subjected to investigation under syariah laws.

Women and Girls with disabilities

7.7 While reference to WGDs in Report (paras 47, 51, 52) is commendable, women with disabilities are underrepresented in political and public life, including in sports, with little substantive effort made to remove entrenched disability-gender prejudice and barriers, including to digital and physical access to knowledge and skills, mobility, remunerated work, and informed decision-making.

Recommendations

1. Develop:

²⁴Isnin, N. (2015) Women's political participation in Sarawak: Methodology, fieldwork, and findings, Academia.edu. https://www.academia.edu/12016971/Womens_Political_Participation_in_Sarawak_Methodology_Fieldwork_and_Findings

²⁵ In July 2022, a remark was made against women politicians during the second reading of the Anti-Sexual Harassment Bill. Action was taken by the Speaker days after the incident when Opposition MPs questioned consequences.

²⁶ Annex D.

²⁷ Annex D

1.1 A consolidated long-term plan for affirmative action and temporary measures to ensure more women, including minorities and women with disabilities, in legislative bodies and as policymakers.

1.2 Election Commission guidelines and amendments to Section 4A (1) and Section 9 of Elections Offences Act, to prevent election-related gender-based harassment and hate speech.

2. Review the root causes and drivers of harmful gender-based, race and religion-related narratives. Develop concrete actions and recommendations in line with the UN Rabat Plan of Action.

Article 9: Citizenship

9.1 The Report (para 56) acknowledges the case of *Suriani Kempe & Ors v Government of Malaysia* – marked by a landmark judgement that was subsequently overturned (**Annex E**). In February 2023, the Government announced amendments of laws as per Government reply (para 1). In June, proposed amendments²⁸ were found to curtail citizenship rights for stateless persons, including abandoned and adopted children.

9.2 Malaysian women cannot confer citizenship to spouses on an equal basis as men. Proposed amendments to Article 26(2)[1] FC seek to replace ‘date of marriage’ with ‘date of obtaining citizenship.’ This may enable revocation of citizenship granted to non-citizen wives under Article 15(1), if the marriage is dissolved within two years of obtaining citizenship and can risk statelessness. (**Annex F, Annex G**).

9.3 There are no categorical records on stateless individuals in Malaysia. As confirmed by its reply (para 73), the Government does not track the number of citizenship applications by stateless mothers. Without complying with CO3-5 (para 34), Malaysia is yet to revoke reservations to Article 9 and ratify conventions on statelessness.²⁹

Indigenous Women and Girls

9.4 In Peninsular Malaysia, Orang Asli women’s registration is facilitated through JAKOA. While JAKOA bears registration costs, individuals require support letters to proceed. This remains a challenge: many lack identification cards (ICs) and are subjected to exorbitant fees,³⁰ limiting access to essential services.

9.5 Further challenges present when they marry or have children with non-citizens. JAKOA does not support spouses’ citizenship status, leaving children without proper documents and access to education, particularly in remote areas.

²⁸ Iskandar, I.M. (2024) Govt drops proposed amendments to citizenship law for foundlings: New straits times, NST Online. <https://www.nst.com.my/news/nation/2024/03/1029103/govt-drops-proposed-amendments-citizenship-law-foundlings>

²⁹ Lim, I. (2023) ‘Why Malaysia has zero data on stateless persons: Decoding the official view through Parliament’s lens’, Malay Mail, 11 July. <https://www.malaymail.com/news/malaysia/2023/07/11/why-malaysia-has-zero-data-on-stateless-persons-decoding-the-official-view-through-parliaments-lens/78931>

³⁰ M, B., Ramalo, M. and Sinapan, S.M. (2022) STATELESSNESS IN MALAYSIA. rep. https://dhreramalaysia.org.my/wp-content/uploads/2022/04/STATELESSNESS-IN-MALAYSIA-REPORT-05042022_compressed.pdf

Recommendations

1. Amend Sections 1(b) and 1(c) of Part II of the Second Schedule of the Federal Constitution (FC) to grant Malaysian women equal rights to confer citizenship on overseas-born children, with retroactive effect.
2. Reform Section 17 (Constitution) to enable partners of stateless women to confer citizenship on children born outside legally-recognised marriage.
3. Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness
4. Recognise leadership of indigenous women in villages as document certifiers.

Article 10: Education

10.1 Primary education is compulsory, but Ministry of Education is in final stages of making secondary education compulsory. This will benefit girls', ensuring 11 years of mandatory schooling.³¹ During the pandemic, girls' school drop-out rates increased from 0.40% to 0.71%.³²

10.2 Customary practices, including child marriage and parenthood, limit girls' ability to attend school regularly.³³ This is despite fulfilment of CO3-5 (para 36 (d)) and Report data (Annex T).

10.3 Sexual harassment in schools is often perpetrated by authority figures. The Government's replies (paras 81,82) of IHSAN programmes are positive but require monitoring. The Report also does not address issues of "period spot checks" and violation of bodily autonomy under religion-related pretexts. In 2021, survivors shared that spot checks lasted over two decades.

Non-citizens and refugee access

10.4 The Government's Zero-Reject Policy (Government reply, para 87) has limited applicability. Stateless girls born to a Malaysian parent can attend public schools; however, adopted children can only enrol if they have adoption documents/citizenship applications or documents in process.³⁴

³¹ Rajaendram, R. (2024) 'Govt finalising extension of compulsory schooling until Form Five', *The Star*, 27 February. <https://www.thestar.com.my/news/nation/2024/02/27/govt-finalising-extension-of-compulsory-schooling-until-form-five>

³² Sallehuddin, Q. and Mohamed Radhi, N.A. (2023) High school dropout rate is decreasing but race, income & disability issues persist in 2024 | research.com, Dropout rate for girls in secondary schools increased over last 3 years.: <https://www.nst.com.my/news/nation/2023/10/965742/dropout-rate-girls-secondary-schools-increased-over-last-3-years>

³³ UNICEF (2020) Advocacy Brief: Towards ending child marriage in Malaysia: https://www.unicef.org/malaysia/media/1781/file/Advocacy_brief:_Towards_ending_child_marriage_in_Malaysia.pdf

³⁴ Nizam, F. (2023) Education Ministry urged to clarify policy on stateless children born to Malaysian parents: New straits times, NST Online. <https://www.nst.com.my/news/nation/2023/12/995002/education-ministry-urged-clarify-policy-stateless-children-born-malaysian>.

10.5 Refugee girls have no access to public education and rely on community-based learning centres.³⁵ Prevailing gender bias, poverty and child marriage within refugee communities may further limit education³⁶ opportunities.

Women and girls with disabilities

10.6 The Report omits gender-disability-based struggles in accessing education. Disabled girls have greater difficulties staying in school; their being bullied is often ignored.³⁷

10.7 Girls are less likely to be registered as having disabilities, despite accounting for 35% of registered children with disabilities.³⁸ There is limited understanding of their rights to education. A 2022 study found that 85.4% of parents and 87.8% of children were unaware of the right to inclusive education, citing the need for gender-disaggregated data.³⁹

Recommendations:

1. Make secondary school education mandatory for all until 18-years-old.
2. Address and provide infrastructural improvements (e.g., adequate internet connectivity) and safe transportation, to improve access, particularly for girls with disabilities and indigenous communities.
3. Increase awareness of the IHSAN module and broaden CSO consultations, to safeguard girls' rights and safety.
4. Improve safe, disability-inclusive completion of education rates, especially for girls with disabilities.
5. Provide a comprehensive Zero-Reject Policy plan to improve the registration of disabled girls, refugees, and stateless girls.
6. Change Ministry of Education's Unit for Special Education to Inclusive Education, with particular attention to disabled girls.

Article 11: Employment

11.1 Female labour force participation (LFP) stood at 56.3% (June 2023), while male labour force participation was 82.9%. A 2022 ILO report ranked Malaysia 8th in ASEAN in gender-equal labour force participation. Government incentives amounting to MYR 1.2 billion (2021) to bring back

³⁵ Education in Malaysia, UNHCR Malaysia. <https://www.unhcr.org/my/education-malaysia>

³⁶ Left far behind: The impact of covid-19 on access to education and healthcare for refugee and asylum-seeking children in Peninsular Malaysia (2022) IDEAS. <https://www.ideas.org.my/publications-item/left-far-behind-the-impact-of-covid-19-on-access-to-education-and-healthcare-for-refugee-and-asylum-seeking-children-in-peninsular-malaysia/>

³⁷ This is due to attitudinal and physical barriers rooted in ableism, lack of accessible toilets, and bullying, especially in boarding schools in rural, remote Sarawak and Sabah. Girls with physical disabilities are more likely to drop out of school.

³⁸ UNICEF (2020) *Situation analysis of women & children in Malaysia 2020*, UNICEF.

<https://www.unicef.org/malaysia/reports/situation-analysis-women-children-malaysia-2020>.

³⁹ UNICEF (2017) *Childhood Disability in Malaysia: A Study of Knowledge, Attitudes and Practices*, UNICEF. Kuala Lumpur, Kuala Lumpur. <https://www.unicef.org/malaysia/media/281/file/Childhood%20Disability%20in%20Malaysia.pdf>: this study involving 756 respondents: 10% asserted that neither girls nor boys with disabilities needed to attend school. 43% of respondents felt that children with disabilities were disruptive in mainstream class. 1 in 2 registered disabled children in Sabah were out of school.

single mothers, PWDs, and long-term unemployed individuals to increase LFP to 60% (refer 4.1) must be monitored.

Maternity and Paternity Leave

11.2 The 2022 Employment Act amendments increased maternity leave from 60 to 98 days and included 7 days of paternity leave. However, employers reported reluctance to hire women, citing lack of government incentives and preparation. This will perpetuate discrimination and inequality in the workforce.⁴⁰

11.3 Paid paternity leave is necessary for recognising fathers in childcare. However, Sabah and Sarawak are bound by State Labour Ordinances which maintain 60-day maternity and no paternity leave.⁴¹

Domestic workers

11.4 Domestic workers are primarily women. Marriage restrictions and pregnancy discrimination (risk of deportation) violate reproductive rights. They also earn 40% less than other workers in the country; many have no set weekly work hours.^{42,43}

11.5 As the Government's reply (para 91) acknowledges, the Minimum Wages Order 2022 does not apply to domestic workers; they rely on bilateral agreements that vary and may not guarantee their protection, rights, and welfare (**Annex H**).

Employment for foreign spouses and refugees

11.6 The State maintains that foreign wives are entitled to citizenship by registration (Article 15(1)) but 'require permanent resident status' (or MyPR) despite this not being outlined in the Constitution (**Annex F**). Barriers to employment include prohibition of employment in spousal visa; CO3-5 (para 52) remains unimplemented. Separated, divorced, and widowed foreign wives face legal status issues. (**Annex G**)

11.7 Refugee women's employment is limited without a UNHCR card. Government's reply (para 111) is positive; however, further CSO consultation is necessary. Employment/financial independence is crucial for GBV survivors, and separated, single or divorced mothers, as childcare falls upon them.

Women and girls with disabilities (WGD)

⁴⁰ FMT Reporters (2023) "More men being hired" as women get longer maternity leave', Free Malaysia Today, 20 February. <https://www.freemalaysiatoday.com/category/nation/2023/02/20/more-men-being-hired-as-women-get-longer-maternity-leave/>

⁴¹ Bernama (2024) 'TALKS TO STREAMLINE SARAWAK LABOUR ORDINANCE IN FINAL STAGE - STEVEN SIM', *Sarawak Tok*, 20 February. <https://sarawaktok.bernama.com/news.php?c=02&id=2271857>.

⁴² Fair Labor Association (2018) TRIPLE DISCRIMINATION: WOMAN, PREGNANT, AND MIGRANT, Fair Labor Association. https://www.fairlabor.org/wp-content/uploads/2022/01/triple_discrimination_woman_pregnant_and_migrant_march_2018.pdf.

⁴³ Tenaganita (2023) *The Unrecognised*. Petaling Jaya, Selangor:

11.8 Disabled women face discrimination, rejection, physical barriers, and relegation to sheltered employment in the workplace.^{44, 45, 46}

11.9 A higher number of women with psychosocial disability are likely to be unemployed.⁴⁷ Of 552 persons with disabilities employed in the public sector, women constitute only 25% (113).

Sex work

11.10 The Global AIDS Monitoring 2020 report estimates 22,000 female sex workers in Malaysia. The Penal Code and Syariah enactments criminalise sex work, leaving cisgender and transwomen sex workers exposed to GBV from clients and the authorities with no recourse (**Annex I**).

Recommendations

1. Develop incentives and enforcement timelines to support employer implementation of maternity leave and prevent pregnancy discrimination for job seekers; initiate comprehensive pay equity legislation.
2. Allow MyPR after five years and grant separated, divorced, and widowed non-citizen wives the right to work in Malaysia, irrespective of nationality, income, or custody status.
3. Revise SOPs/initiatives, foster disability-inclusive work-culture and use gender-disability-inclusive public procurement policy to encourage disabled women's recruitment, job retention and advancement.
4. Decriminalise sex work by repealing sections on solicitation in the Penal Code and the Syariah criminal offenses enactments.
5. Enact Domestic Workers' legislation and develop a detailed comprehensive plan to address migrant/domestic worker rights as per CO3-5 (para 44(a)(b)).

Article 12: Health

12.1 The Report (para 87) in addressing CO3-5 (para 40(a)), highlights reproductive health services accessible through 49 clinics and 15 mobile centres. This is insufficient to reach remote rural and semi-rural women and fails to address cultural stigma surrounding reproductive health and mental health.

12.2 The 2023 Health White Paper, highlights improvements of primary/preventive care and addresses social determinants of health over 15-years. However, specific measures targeting

⁴⁴ Amin, A.S. and Abdullah, S.H. (2017) 'MALAYSIAN DISABLED WOMEN EXPERIENCES IN EMPLOYMENT', International Journal for Studies on Children, Women, Elderly and Disabled, 1, pp. 189–194

⁴⁵ Haq, F.S., 2003. Career and employment opportunities for women with disabilities in Malaysia. Asia Pacific Disability Rehabilitation Journal, 14(1), pp.71-78

⁴⁶ Women's Aid Organisation (WAO) and Vase.ai (2020). 'Anti-Discrimination Provisions in Employment Act Must Extend to Job Seekers and Include Disability Status', 3 November. <https://wao.org.my/anti-discrimination-provisions-in-employment-act-must-extend-to-job-seekers-and-include-disability-status/>.

⁴⁷ Mubarak, A. (2006) 'Employment status, psychiatric disability and quality of life: Comparison of men and women with schizophrenia in Malaysia', International Journal of Social Welfare, 15(3), pp. 240–246. doi:10.1111/j.1468-2397.2006.00418.x.

women who are poor, caregivers, or survivors, are not outlined. Gender-disaggregated data remains limited, hindering efforts to address existing health inequalities.⁴⁸

Non-Citizen Access to healthcare

12.3 CO3-5 (para 40) is yet to be implemented. Non-citizen and refugee access to healthcare, reproductive health services and contraception remains restricted. In assisting refugee survivors of violence, NGOs found payment deposits, higher fees, e-payment systems and fear of detention challenge access. (**Annex J**).

12.4 The Report (paras 92-95) mentions 50% subsidies for asylum seekers and refugees registered with UNHCR. However, One-Stop-Crisis-Centre (OSCC) support for GBV survivors should be free-of-charge. NGO experiences indicate public hospitals revert to internal policies for refugees and non-citizens and registration processes with UNHCR are often delayed, limiting eligibility of 50% subsidy.

Indigenous Women and Girls

12.5 Indigenous women face dietary shifts towards ultra-processed foods, limited access to healthcare facilities such as maternal and child clinics, and discrimination in healthcare services.

12.6 Allegations of coerced contraception by *Temiar* women and issues reflecting negative cultural and societal attitudes towards Indigenous women's autonomy and reproductive rights must be addressed.⁴⁹

Women and Girls with disabilities

12.7 Disabled girls and women face discrimination in healthcare⁵⁰ service and knowledge access. Despite the Ministry of Health (MOH) National Adolescent Health Policy,⁵¹ in practice,⁵² girls have limited access to contraception knowledge and devices.

12.8 Suicides disproportionately involve females.⁵³ Overall, suicide numbers have almost doubled in recent years.

Recommendations:

⁴⁸ The National Health & Morbidity Study of 2022 reported that 88% of the 7.6% of sexually-active adolescents had not used contraception, highlighting gaps in SRHR education and services.

⁴⁹ CodeBlue (2019) Health Ministry denies forcing birth control onto Orang Asli Women | codeblue, CodeBlue. <https://codeblue.galencentre.org/2019/09/25/health-ministry-denies-forcing-birth-control-onto-orang-asli-women/>

⁵⁰ Efendi, A.N.A.E., Fadzil, K.S. and Khoo, Y.H. (2018) "Better die at home than here in this hospital": Exploring challenges of women with disabilities in accessing healthcare in Malaysia.', SARJANA, 33(1), pp. 1–10.

⁵¹ Family Health Development Division (2022) National Adolescent Health Policy. Kuala Lumpur, Kuala Lumpur: Kementerian Kesihatan Malaysia. https://hq.moh.gov.my/bpkk/images/3.Penerbitan/2.Orang_Awam/7.Kesihatan_Remaja/2.PDF/1.Dasar_dan_Pelan_Tindakan/1Dasar_Kesihatan_Remaja_Negara.pdf.

⁵² Amar-Singh HSS (2022) Children's Access to Healthcare Speaking for the Unspoken Needs of Children and What We Can Do to Make It Better. publication. : <https://bit.ly/3BhAdKT>.

⁵³ *The Star* (2021) 'Most suicide cases involved females, say police', *The Star*, 2 July. <https://www.thestar.com.my/news/nation/2021/07/02/most-suicide-cases-involved-females-say-police> Police data on suicides reveal that, between 2019 and May 2021, there were 1,708 reported suicides, of which 1,427 (83.5%) women or girls; 51% (872) occurred in teenagers aged 15-18 years.

1. Provide gender-disaggregated health data and increase healthcare budget to resource more mobile health programs for vulnerable rural women.
2. Distribute nationwide circulars, ensuring non-judgmental reproductive health information and services to all, including migrants, refugees, and in formats and languages that women and girls with diverse disabilities understand.
3. Extend support services, such as the One-Stop Crisis Centre, to rural clinics to ensure access for women and girls subjected to abuse in remote areas.
4. Incorporate gender-disability sensitivity training for medical professionals to improve service delivery and access.

Article 14: Rural Women

14.1 Indigenous women grapple with land grab issues by developers and/or government entities. The loss of traditional lands and resources disrupt their way of life. The Dam Nenggiri⁵⁴ issue - exacerbated gender disparities with Orang Asli women facing discrimination in land ownership and resource access and exclusive granting of land ownership rights to men.

Recommendations

1. Conduct a government-accepted National Inquiry through transparent implementation of Free, Prior, and Informed Consent (FPIC) processes and investigate land rights violations.
2. Recognize and develop targeted interventions to address Indi women's and girls' land rights challenges, including discriminatory practices and ensuring equitable resource access.
3. Ratify Indigenous and Tribal People's Convention 1989 (No. 169) of the International Labour Organisation to ensure indigenous women enjoy full measure of human rights and fundamental freedoms.

Article 15: Equality in the law

15.1 Syariah Court jurisdiction over Muslims raises concerns over unequal treatment and violations of women and religious minorities. As outlined in CO3-5 (para 54), jurisdictional divide may lead to inconsistencies between Islamic law and principles of equality and individual rights. The Report (para 118) fails to address this through an approach that respects religious freedoms and safeguards fundamental rights.

Challenges to accessibility

⁵⁴ Dzulkifly, D. (2022) 'Temiar history threatened: Orang Asli protest Nenggiri Dam project on Gua Musang rainforest', *The Vibes*, 7 June. <https://www.thevibes.com/articles/news/62704/temiar-history-threatened-orang-asli-protest-nenggiri-dam-project-on-gua-musang-rainforest>

15.2 In response to Report (para 118), access to Syariah Courts is limited by geographic distribution - there are 13 state Syariah courts. While Subordinate Courts are available in every district, High and Appeals Courts are accessible in state capitals or select royal cities, imposing logistical challenges, especially for women seeking child custody and matrimonial rights.

15.3 While administrative costs for court filings are relatively low (less than RM80), the requirement for separate applications for each right burdens economically disadvantaged women. Husbands are given leniency by courts leading to inequitable decisions, including non-compliance with maintenance orders. The underrepresentation of women judges further compounds gender disparities, limiting their jurisdiction and influencing court dynamics. These are barriers to implementation of CO3-5 (para 54(b)).⁵⁵

LBTI Women

15.4 Legislative process inequalities are evident in the Kelantan state-led *aurat* campaign aimed at enforcing dress codes. It disproportionately targets women and reinforces binary gender norms.⁵⁶ This evidences non-implementation of CO3-5 (para 48 (a)).

Recommendations

1. Ensure dissemination of accurate LBTQI-related information to counter misinformation and disinformation and end rehabilitation and conversion practices.
2. Increase geographical access to Syariah courts and women judges, regulate Syariah lawyers' fees, and ensure gender sensitivity training for legal aid in Syariah Courts.
3. Mandate strict observance of written judgments by Syariah Court to ensure accountability in judicial decision-making.

Article 16: Marriage and family relations

16.1 Article 121(1A) of the Constitution removes civil court jurisdiction over matters under Syariah courts. However, interpretation discrepancies cause uncertainty with civil court's authority to review Islamic laws. In 2018, the Federal Court clarified that civil courts retain jurisdiction, particularly in cases involving constitutional rights or the best interest of the child.⁵⁷

16.2 Islamic Family Laws (IFL) govern Muslim marriages and divorces, legislated at the state level. In reforming IFL as per CO3-5 (para 54), there was minimal consultation with women's groups, resulting in further discrimination against Muslim women.

Discrimination under Islamic Family Law (IFL)

⁵⁵ Despite directives mandating written judgments, Syariah Courts often fail to provide them - lack of adherence to precedent and reliance on '*ijtihad*' contribute to inconsistencies in legal decisions.

⁵⁶ In Kelantan, initiatives introducing rehabilitation and community services for offences related to *aurat* exposure, extramarital pregnancy, and same-sex relationships stigmatises and restricts individual freedoms.

⁵⁷ Lim, I. (2018) 'Simplified: The Federal Court's groundbreaking Indira Gandhi judgement', Malay Mail, 1 February. <https://www.malaymail.com/news/malaysia/2018/02/01/simplified-the-federal-courts-groundbreaking-indira-gandhi-judgment/1567409>.

16.3 Discriminatory laws in family and marriage matters persist. The Report (para 124) reflects that, Muslim women still require a guardian to marry, denying them complete agency in marital decisions. While men have the unilateral right to divorce (*talaq*), women endure protracted legal process (*fasakh*), causing significant delays. (**Annex K**)

Polygamy

16.4 Since 1994, legal reforms have chiselled away at the rights of wives in polygamous marriages, creating legal loopholes.⁵⁸ Amendments were first introduced in the state of Selangor in 2003. Thereafter, the Islamic Family Law (Federal Territories) (Amendment) Act 2006 was passed in Parliament giving husbands the right to claim a share of the matrimonial assets upon polygamous marriage (section 23(9)).

16.5 The existing wife's right is violated as the husband can make claim on matrimonial assets to support his new family. The Report (para 120) states that existing wives are party to the marriage application. However, Practice Direction No.7 of 2021 issued by the Syariah Judiciary Department (JKSM) is only persuasive in nature. Thus, the husband's application for a polygamous marriage can continue regardless of whether the existing wife and/or family is consulted.

Recommendations

1. Provide plan and timeline to remove requirement of guardian (*wali*) consent for women to marry and divorce without complex legal documentation and burden of proof.
2. Amend/enforce without stipulations Islamic Family Law providing for additional conditions in *Taklik* agreements regarding subsequent marriage(s) contracted by the husband and giving the wife option of divorce.

GR No. 31/General Comment No. 18 of the CRC (2019) on Harmful Practices

Child Marriage

31.1 Despite removal of reservation to Article 16(2), child marriage remains legally permissible. There is no publicly available information on the implementation of Government's five-year National Strategy Plan (2020-2025) to address child marriage⁵⁹.

31.2 The states of Selangor and Kedah have raised the minimum age of marriage to 18 as mentioned in the Report (para 122), but implementation is pending in Kedah.^{60,61} Syarie Judges

⁵⁸ Annex K

⁵⁹ Ministry of Women, Family and Community Development (2020) *Executive Summary, National Strategy Plan In Handling The Causes Of Child Marriage, Kementerian Pembangunan Wanita, Keluarga dan Masyarakat*.: <https://www.kpwkm.gov.my/kpwkm/uploads/files/Dokumen/Pelan%20Strategi%20Perkahwinan%20Bawah%20Umur/EXECUTIVE%20SUMMARY.pdf>

⁶⁰ Muthiah, W. (2018) 'Statutory amendments to raise minimum age for Muslims to marry in Selangor passed', *The Star*, 5 September. <https://www.thestar.com.my/news/nation/2018/09/05/statutory-amendments-to-raise-minimum-age-for-muslims-to-marry-in-selangor-passed/> Statutory amendments to raise minimum age for Muslims to marry in Selangor passed

⁶¹ Liiew, J.X. (2022) 'Minimum age for women to marry increased to 18 in Kedah, one year jail for polygamy without permission', *The Star*, 18 July. <https://www.thestar.com.my/news/nation/2022/07/18/minimum-age-for-women-to-marry-increased-to-18-in-kedah-one-year-jail-for-polygamy-without-permission>.

are given discretionary powers to allow child marriage without clear criteria and consistency, as illustrated by the varied interpretations and practices across regions (**Annex L**). This does not fulfil CO3-5 (para 54(e)).

Female genital mutilation/cutting (FGM/C)

31.3 The Report (para 23) asserts FGM/C “*does not cause..morbidity or mortality*”, and engagements with relevant stakeholders, including religious authorities, in accordance with CO3-5 (para 22(a)(b)(c)). However, developments on these engagements are not publicly available and efforts towards prohibiting the practice, appear non-existent. Additionally, there is no official prevalence data - unofficial figures (2011) suggest 93.9% of Malay-Muslim women were subjected to FGM/C.⁶²

Recommendations

1. Review and reform laws related to marriage and establish a consistent legal minimum marriage age.
2. Provide a timeline and plan to report to Parliament progress of National Strategy Plan in and make public reports with gender-disaggregated for child marriage and FGM/C.
3. Commit to understanding alternative rights-based perspectives to FGM/C
4. National Fatwa Committee must review *fatwa* which states FGM is mandatory.

GR 35: Gender-based Violence

Domestic Violence

35.1 In response to CO3-5 (para 24(a)), initiation of National Domestic Violence Committee (NDVC), including NGOs in 2019 and its working committees in 2021,⁶³ improved collection of DV data, but remains limited and largely inaccessible to the public.

35.1.1 The Report (para 34) asserts that the Domestic Violence Act (DVA) protects de facto spouses. This excludes intimate partner violence (IPV), leaving victims unprotected, and with no progress on CO3-5 (para 24(c)). Stalking (Section 507A) does not sufficiently cover IPV as elements of stalking do not cover financial or sexual/physical abuse from a DV perspective.

Marital Rape

⁶²The Edge and The Editor (2012) 'Docs' role in female circumcision growing': <https://theedgemaalaysia.com/article/docs%E2%80%99-role-female-circumcision-growing>.

⁶³ Capacity Building, Advocacy and Data Committees

35.2 Despite CO3-5 (para 24(b)) calls to amend marital rape laws and include freely given consent, the DVA and the Penal Code are yet to be amended to fully recognise marital rape as an offence.^{64,65}

Sexual Harassment

35.3 The Anti-Sexual Harassment Act 2022, is in effect as per CO3-5 (para 38(e)) and awareness roadshows have been conducted by MWFCD. A tribunal was established in March 2024 which promises recourse to survivors. However, there is need to implement organisational duties and to prohibit victimisation for those who seek redress.

Lack of Integrated Victim Support Services

35.4 More personnel under the Sexual, Women and Child Investigation (D11) Division, Royal Malaysia Police, is needed, especially in under-resourced states (e.g.Sabah) where poverty and lack of infrastructure may contribute to GBV.⁶⁶ Given that most sexual violence victims are girls,⁶⁷ PDRM must institutionalise survivor-centric case management training.⁶⁸

35.5 As per CO3-5 (para 24(f)), implementation of gender sensitivity training in investigating cases of online SGBV against children is necessary. D11 has established a unit known as Malaysia Internet Crime Against Children (MICAC) but lacks technical capacity in digital forensics.

Rape

35.6 Non-citizens and refugees face further violations and lack trust in reporting to authorities. In January 2024, two police officers were suspended for extortion and rape of 17-year-old Uzbek student.^{69,70} Similar cases have increased in media reporting over the past four years.

Recommendations

1. Increase resource for police, prosecutors, and courts, ensuring adequate personnel capacity.
2. Establish integrated-victim support services for women and girls experiencing SGBV through regular inter-agency consultation/coordination at national and state levels.

⁶⁴ Balasingam, U. and Hj Sabaruddin, J.S. (no date) Section 375 exception, Explanations and Section 375A ... <https://ejournal.um.edu.my/index.php/JMCL/article/download/14262/8760/>

⁶⁵ Women's Aid Organisation (2018) Marriage not a license to rape - Women's Aid Organisation, Women's Aid Organisation. <https://wao.org.my/wp-content/uploads/2018/11/WAO-Policy-Brief-2018-1-Marital-Rape.pdf>

⁶⁶ Women's Centre for Change, Penang (2021): Standing with Sexual Crime Victims: WCC Support Services, <https://www.wccpenang.org/wp-content/uploads/2021/06/VSS.pdf>

⁶⁷ ECPAT International, INTERPOL and UNICEF (2022) Disrupting harm in Malaysia, UNICEF Malaysia. <https://www.unicef.org/malaysia/reports/disrupting-harm-malaysia>

⁶⁸ In 2021, following CSO gender-responsive budgeting efforts, Budget2021 allocated RM13 million towards increasing D11 officers.

⁶⁹ Khairulrijal, R. (2024) 'Two cops charged with rape, extortion of college students released after posting bail', New Straits Times, 17 January. <https://www.nst.com.my/news/crime-courts/2024/01/1002463/two-cops-charged-rape-extortion-college-students-released-after>.

⁷⁰ In 2020, during the movement control order, a police officer was charged for unlawful detention and sexual assault of two Mongolian women, FMT Reporters (2022) 'Court reinstates Mongolian's civil suit over alleged rape by ex-cop', Free Malaysia Today, 28 June. <https://www.freemalaysiatoday.com/category/nation/2022/06/28/court-reinstates-mongolians-civil-suit-over-alleged-rape-by-cop/>

3. Provide programme for institutionalised gender-sensitivity and SGBV technical expertise training to improve trust in reporting (12th Malaysia Plan) and prevent retraumatisation/violation.
4. Regularly monitor and review laws, policies, and practices to ensure efficacy.