



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

Pre-session working group for the thirty-fifth session
15 May-2 June 2006

**List of issues and questions with regard to the consideration
of an initial and periodic report**

Malaysia

The pre-session working group examined the combined initial and second periodic report of Malaysia (CEDAW/C/MYS/1-2).

General

1. Please provide information on the process of preparation of the report, including whether non-governmental organizations, particularly women's organizations, were consulted, and whether the report was adopted by the Government and presented to Parliament.
2. Please describe any progress concerning the withdrawal of Malaysia's reservations with regard to articles 5 (a), 7 (b), 9 (2), 16 (1) (a), 16 (1) (c), 16 (1) (f) and 16 (1) (g) of the Convention on the Elimination of All Forms of Discrimination against Women.
3. The report indicates the multi-ethnic population mix of Malaysia (see para. 3), but the discussion of various articles of the Convention in the report does not show whether certain ethnic groups are particularly challenged in various areas and whether particular measures have been taken to address such challenges. Please provide such information.

Articles 1 and 2

4. The report indicates that the Constitution was amended in 2001 to prohibit discrimination on the basis of gender and that all laws are being reviewed to ensure gender equality (see paras. 63-67). Please indicate whether discriminatory laws are being reformed, including laws that relate to women's status and rights under Syariah law. Please also indicate the time line anticipated for the reform.

5. A recent Federal Court decision interpreted the equality provision in article 8(1) of the Federal Constitution as extending only “to persons in the same class” and held that women, in that case, were a different class than men. Please explain the concept of “equality” under the Federal Constitution and whether this concept conforms to Malaysia’s obligations under the Convention.

6. Article 8(2) of the Federal Constitution, which prohibits discrimination, including on the basis of gender, has been interpreted by Malaysian courts as protecting individuals from discrimination by state or public authorities only. What measures have been taken to formulate anti-discrimination laws protecting women from discrimination by entities other than state or public authorities, in line with articles 2 (b) and 2 (e) of the Convention?

Article 3

7. The report mentions that measures have been taken to develop a gender-disaggregated information system to monitor the progress of women’s programmes and activities (see para. 83). Please indicate the status of the development of this system and provide details of its scope and coverage.

8. Please provide details of the work that has been undertaken by the Ministry of Women and Family Development since its establishment, particularly the work of the gender focal points in the ministries, and of the Ministry’s role and level of authority within the Government, as well as its human and financial resources.

Article 4

9. The report states that “gender-blind elements in the recruitment, posting and promotion in the public service often results in under-representation of women at the decision-making level” (see para. 96). However, the report also acknowledges that “the Government has not yet practised the quota and preferential rules” (see para. 85). Has consideration been given to using temporary special measures, such as the establishment of quotas or incentives to accelerate achieving equality, particularly in the field of women’s participation in political and public life, in the light of article 4, paragraph 1, of the Convention and the Committee’s general recommendation 25 on article 4, paragraph 1, of the Convention and general recommendation 23 on women in public life?

Article 5

10. The report acknowledges that “women’s ability to ... participate in society ... has often been curtailed by widespread stereotyping of women as followers and supporters rather than leaders or equal partners” (see para. 89). The report indicates that the Ministry of Women and Family Development had requested the Ministry of Education to eliminate stereotypical images in textbooks (see para. 95). Please indicate the progress made in eliminating stereotypes from textbooks and also indicate what measures have been taken to eliminate stereotypes in the media.

Violence against women

11. What kinds of data are being collected on the incidence of violence against women, including domestic violence and sexual violence in Malaysia, and what do they reveal in terms of trends?

12. The report indicates that the Domestic Violence Act 1994 protects victims of violence in the home, but points out that marital rape is not considered a crime in Malaysia unless the parties are separated under a judicial decree, the wife has obtained an injunction against sexual relations with the husband or the woman is in her *'iddah* period (see para. 453). Please indicate if, and how, victims of marital rape are protected under the Domestic Violence Act.

13. The Special Rapporteur on violence against women, its causes and consequences indicates in her report of 27 February 2003 (E/CN.4/2003/75/Add.1) that the "Abuse of foreign domestic workers, mostly women, is a growing problem in Malaysia ... [which] can take the form of beating, overworking, withholding the salary, malnourishment, and denial of contacts with the family" (see para. 1079). Please indicate the actions taken to prevent such abuse and protect domestic workers, including measures being taken to address the underlying societal attitudes that perpetuate such abuse.

14. The combined initial and second periodic report of Malaysia indicates that the Ministry of Women and Family Development in consultation with the Ministry of Human Resources and other stakeholders is studying a proposal to formulate specific sexual harassment legislation (CEDAW/C/MYS/1-2, para. 216). What is the status of this proposed legislation?

Article 6

15. The Special Rapporteur on violence against women, its causes and consequences, in her report of 18 March 2005 (E/CN.4/2005/72/Add.1), draws attention to the trafficking of Indonesian women to Malaysia for sexual exploitation and for the purpose of selling their children for illegal adoptions (see paras. 192-196, 240-244). However, the report does not provide any information on the incidence of trafficking. Please provide data on the number of women and girls who are trafficked to, from and through Malaysia.

16. The combined initial and second periodic report of Malaysia indicates that trafficking "is not specifically criminalized in Malaysia" but there are laws in the country that are used to combat trafficking in persons (see CEDAW/C/MYS/1-2, para. 105). Please indicate whether the Government is considering enacting specific legislation to combat trafficking and describe the measures taken to provide specialized training with regard to trafficking for members of the police and the judiciary.

17. The report indicates that the "Social Welfare Department is responsible for providing protection, rehabilitation and counselling to girls and women below 18 who have been involved in vice and prostitution" (see para. 109). Please provide information on the rehabilitative and protective measures in place for women and girls of all ages who are victims of trafficking for purposes of prostitution and other forms of sexual exploitation. Please also include a description of the effectiveness of these measures.

Article 7

18. According to the report, in 2000, women's representation was only 10.4 per cent in the lower house of Parliament and 5.5 per cent in the various state assemblies, and, in 2001, only 2 out of 28 cabinet ministers were women (see

para. 116). Please indicate whether this situation has improved and detail the specific programmes that are being implemented to increase women's representation in public and political life.

Article 8

19. The report acknowledges that the number of Malaysian women working in international organizations is very low and that that is due to cultural constraints and "to respect for the sensitivities of host countries" (see para. 139). Please explain these statements and provide details of the measures the Government is taking to overcome obstacles to, and to encourage, women's participation in the work of international organizations.

Article 9

20. The report indicates that the citizenship law in article 14 of the Federal Constitution is discriminatory in that while foreign-born children and foreign wives of Malaysian men can get Malaysian citizenship, the same is not true for foreign-born children (with foreign fathers) and foreign husbands of Malaysian women (see para. 149). Please indicate measures being taken to amend this law and indicate the time frame anticipated for such law reform.

Article 10

21. The report highlights that the management and policymaking levels in the Ministry of Education and the State Education Departments are "extremely male dominated" (see para. 191) and, while the number of female teachers in schools significantly exceeds the number of male teachers, less than 30 per cent of the heads of primary and secondary schools and less than 9 per cent of the heads of institutes of higher learning are women (see para. 192). The report indicates that even where women are better qualified than men, they "face problems getting into top or key positions" (see para. 195). Please indicate the measures that are being taken to bridge the gap between women's qualifications and their appointment to key management and policymaking positions in the education sector.

Article 11

22. The report points out that the Government is "conducting a research with the aim to identify factors which caused a mismatch of academic qualifications and job opportunity in the labour market" (see para. 228). Please specify the results of this research and whether it has been used to make concrete policies to address the gap between women's academic qualifications and their opportunities for participation in the labour market.

23. According to the report, there are certain provisions in the Employment Act of 1955 for the "protection" of women, including provisions prohibiting women from working in any agricultural or industrial undertaking between 10 p.m. and 5 a.m. or commencing work without having had a rest period of 11 consecutive hours, and provisions prohibiting women from carrying out underground work (see para. 207). The report indicates that "in a number of instances employers are reluctant to employ women on account of these special provisions" (see para. 226). Please indicate whether the impact of these provisions on women's employment has been

evaluated and provide details of any such evaluation and plans to remedy their disadvantageous impact.

Article 12

24. The report indicates that while there is “indirect and qualitative evidence to suggest that some groups of women, e.g. disabled/migrant/aboriginal or indigenous women and those who are living/working in estates and plantations are marginalized in terms of access to health services and facilities ... no reliable data is available” (see para. 243). Please indicate the measures that have been taken to collect such data and provide access to health care for these groups of women.

25. The report states that current HIV/AIDS prevention campaigns and strategies are inappropriate for women because they emphasize the importance of reducing numbers of sexual partners, fidelity in marriage and consistent condom use, whereas women are largely monogamous and are usually not in a position to ensure their husbands’ fidelity or insist on use of condoms (see para. 257). Please describe alternative, culturally sensitive HIV/AIDS prevention strategies targeted at women that are being considered or implemented. Also indicate whether certain groups of women are particularly at risk of contracting HIV/AIDS and whether prevention campaigns are targeted at such groups.

Article 14

26. The report states that rural women are not involved in decision-making at the district or higher level, have low representation in farmers’ organizations and cooperatives, have limited scope to make decisions pertaining to village development and have leadership roles only in “women’s only organizations, which are mainly social and welfare-based in nature” (see para. 321). The report indicates that the Government is making efforts to mobilize rural women through women’s groups (see para. 318), and that it is conducting courses and training to enhance the skills and leadership ability of rural women (see para. 325). Please describe the impact of the Government’s efforts to improve the participation of rural women in decision-making processes at all levels.

27. The report indicates that there has been a rise in the number of female-headed households in Malaysia and that, according to the 1991 census, 18.2 per cent of rural households in Malaysia were headed by women (see para. 325). Please describe the Government’s policies and programmes that address the specific needs of female-headed households in rural areas.

Articles 15 and 16

28. The report states that women’s status in the family is “based on the culture and traditional beliefs of its various ethnic groups” and “a wife is expected to obey her husband” and his family and “there is little room for negotiation or deviation” from these norms and practices (see para. 380). Please indicate the steps the Government is taking, including through the education system and the media, to raise awareness of equality of women and men in marriage and to encourage debate on the status of women in the family.

29. The Islamic Family Law (Federal Territories) (Amendment) Bill 2005 contains several provisions that adversely affect Muslim women, such as making polygamy

easier for men, giving a Muslim man the right to claim a share of his existing wife's assets upon his polygamous marriage and the right to get a court order to stop his wife from disposing of her assets, forcing a wife to choose maintenance or division of marital property upon a husband's polygamous marriage and extending the wife's right to *fasakh* divorce to the husband, while not giving the husband's right of *talaq* to the wife. Please give details of whether women's groups, especially Muslim women's groups, were consulted in the preparation of this bill and indicate whether any measures are being taken to address the de facto discriminatory aspects of this bill to bring it in line with the provisions of the Convention.

Optional Protocol

30. Please indicate any progress made with respect to the ratification of, or accession to, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
