



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

In my capacity as Rapporteur on follow-up on concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined third to fifth periodic reports of Malaysia, at the Committee's sixty-ninth session, held in March 2018. At the end of that session, the Committee's concluding observations ([CEDAW/C/MYS/CO/3-5](#)) were transmitted to your Permanent Mission. You may recall that in paragraph 60 on follow-up to the concluding observations, the Committee requested Malaysia to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 12 (b), 22 (b), 46 (b) and 54 (a) of the concluding observations.

The Committee welcomes the follow-up report received in December 2020 ([CEDAW/C/MYS/FCO/3-5](#)) under the CEDAW follow-up procedure. At its seventy-ninth session, held remotely due to the ongoing COVID-19 pandemic in June 2021, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 12 (b)** of the concluding observations, urging the State party to **“adopt a concrete time frame for the adoption of a gender equality act that defines and prohibits all forms of discrimination against women, encompassing direct and indirect discrimination in the private and public spheres and intersecting forms of discrimination against women, in line with article 1 of the Convention and target 5.1 of the Sustainable Development Goals”**:

The Committee notes the information on establishing a special project team, composed of representatives of the government, civil society organizations and academia, that is mandated to develop and review the gender equality bill. The Committee takes note with appreciation of the information that the team considered the necessity to institutionalise a clear definition of discrimination in a direct or indirect form, as well as rights and responsibilities to provide equal access to opportunity and resources to all, and that the effort to review and develop the bill will take into consideration the relevant issues pertaining to discrimination against women as in line with article 1 of the Convention and Target 5.1 of the Sustainable Development Goals. However, the Committee regrets the decision to postpone the drafting of the bill until the parliament adopts the bill on sexual harassment by the end of 2021. The Committee considers that while the State party took some steps towards the implementation of the recommendation, it needs to take further action in consultation with

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women human rights organisations to implement all measures recommended by the Committee. It considers that the recommendation has been **partially implemented**.

The Committee notes that the information provided by the State party is thorough but it fails to respond fully to the recommendation. It thus considers that the quality of the information provided is **partially satisfactory**.

The Committee recommends that, in relation to **paragraph 12 (b)** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

Expedite the finalization and adoption of the gender equality act and ensure that it defines and prohibits all forms of discrimination against women, encompassing direct and indirect discrimination in the private and public spheres and intersecting forms of discrimination against women in consultation with women human rights organisations.

In relation to the recommendation made in **paragraph 22 (b)** of the concluding observations, urging the State party to “**engage in a constructive dialogue with religious authorities, women’s non-governmental organizations and the public to convey the point that female genital mutilation cannot be justified by religion**”:

The Committee takes note of the information by the State party on the organization of dialogues among government agencies, religious authorities, civil society organisations, medical professionals, and academia since 2018, as well as the discussions with the Department of Islamic Development Malaysia and relevant stakeholders to bridge the gap and understanding on this matter. However, the Committee regrets the lack of specific information on whether and how such dialogues focus on clarifying that female genital mutilation cannot be justified on religious grounds, the outcome of these dialogues, and the level of participation of women’s non-governmental organizations. The Committee considers that the State party took steps towards the implementation of the recommendation, but that it needs to take further multi-disciplinary approach and action to implement all measures recommended by the Committee. It considers that the recommendation has been **partially implemented**.

The Committee notes that the information provided by the State party is thorough and extensive, but it fails to respond fully to the recommendation. It thus considers that the quality of the information provided is **partially satisfactory**.

The Committee recommends that, in relation to **paragraph 22 (b)** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken and modalities adopted to:

Engage in a constructive dialogue with religious authorities, women’s non-governmental organizations and the public to convey the point that female genital mutilation cannot be justified by religion.

With regard to the recommendation made in **paragraph 46 (b)** of the concluding observations, urging the State party to “**adopt national asylum and refugee legislation and procedures in conformity with international standards, in order to ensure that the specific needs of women and girls are addressed and codify the principle of non refoulement**”:

The Committee notes the information by the State party on the adoption of administrative measures to manage and provide temporary refuge to refugees and asylum seekers on humanitarian grounds. The Committee notes the information on the cooperation

with the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organizations to include refugees and asylum seekers in the COVID-19 national response measures, as well as launching a humanitarian clinic to provide basic medical treatments and vaccination to child refugees with a minimal charge. However, the Committee regrets that refugees and asylum seekers were arrested during raids, despite the assurance of the Government that they will not face arrest for immigration offences during the COVID-19 screening period, according to information before the Committee. Furthermore, the Committee remains deeply concerned about the lack of steps to adopt legal framework to protect asylum seekers and refugees and regularize their status, which limits the access of asylum-seeking and refugee women and girls to the formal labour market, public education, health and social services and legal assistance and exposes them to a range of human rights violations. The Committee considers that the State party did not take actions that have directly addressed the situation. It considers that the recommendation has **not been implemented**.

The Committee notes that the information provided by the State party is vague and incomplete. It thus considers that the quality of the information provided is **unsatisfactory**.

The Committee recommends that, in relation to **paragraph 24 (b)** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

Adopt national asylum and refugee legislation and procedures in conformity with international standards, in order to ensure that the specific needs of women and girls are addressed and codify the principle of non refoulement.

Regarding the recommendation made in **paragraph 54 (a)** of the concluding observations, urging the State party to “**provide safeguards against violations of women’s human rights in all family and marriage matters by enabling State courts or administrative bodies to review all decisions and provisions of the Syariah law system, including actions taken by Islamic authorities, in accordance with the Federal Court judgment of 29 January 2018 in the Indira Gandhi case, as well as the Committee’s general recommendation No. 33 and general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution**”:

The Committee notes with appreciation the amendments to the Law Reform (Marriage and Divorce) Act 1976, which aims at ending discrimination against women in marriage and in the family, particularly regarding the right to file a divorce, custody of children and inheritance and property rights and the application of civil law even if one of the spouses converts to Islam. The Committee takes note of the information by the State party that in its judgment of 29 January 2018, the Federal Court held that the jurisdiction to review the actions of public authorities, and the interpretation of the relevant state or federal legislation as well as the Federal Constitution, lie squarely within the jurisdiction of the civil courts. However, the Committee remains concerned about the lack of information on steps taken to conduct legal review to safeguard violations of women’s rights in all family and marriage matters, particularly for Muslim women in light of the Islamic Family Law 1984. The Committee considers that the State party took steps towards the implementation of the recommendation, but that it needs to take further action to implement all measures recommended by the Committee. It considers that the recommendation has been **partially implemented**.

The Committee notes that the information provided by the State party is thorough and extensive, but it fails to respond fully to the recommendation. It thus considers that the quality of the information provided is **partially satisfactory**.



The Committee recommends that, in relation to **paragraph 54 (a)** of the concluding observations, the State party provide, **in its next periodic report**, information on actions taken to:

Undertake a process of law reform to remove inconsistencies between civil law and Syariah law, including by ensuring that any conflict of law with regard to women's rights to equality and non-discrimination is resolved in full compliance with the Constitution and the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Louiza Chalal'.

Louiza Chalal
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women