



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

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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the sixth periodic report of Malaysia\*

1. The Committee considered the sixth periodic report of Malaysia (CEDAW/C/MYS/6) at its 2073rd and 2074th meetings (see CEDAW/C/SR.2073 and CEDAW/C/SR.2074), held on 22 May 2024. The list of issues and questions raised by the pre-sessional working group is contained in CEDAWC/MYS/Q/6, and the responses of Malaysia are contained in CEDAW/C/MYS/RQ/6.

#### A. Introduction

2. The Committee appreciates the submission by the State party of its sixth periodic report. It also appreciates the State party's follow-up report to the previous concluding observations of the Committee (CEDAW/C/MYS/FCO/3-5) and its written replies to the list of issues and questions raised by the pre-sessional working group. It welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the Minister for Women, Family and Community Development, Nancy Shukri, and included representatives of the Ministry of Women, Family and Community Development, the Ministry of Education, the Department of Islamic Development Malaysia, the Ministry of Home Affairs, the Ministry of Human Resources, the Attorney General's Chambers, the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Rural and Regional Development and the Department of Sharia Judiciary, as well as the Ambassador and Permanent Representative of Malaysia to the United Nations Office and other international organizations in Geneva, Dato' Nadzirah Osman, and other representatives of the Permanent Mission of Malaysia to the United Nations Office and other international organizations in Geneva.

#### B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2018 of the State party's previous reports (CEDAW/C/MYS/3-5) in undertaking legislative reforms, in particular the adoption of the following:

\* Adopted by the Committee at its eighty-eighth session (13–31 May 2024).



- (a) The Sexual Offences Against Children Act 2017 [*Act 792*], which criminalizes child pornography, child grooming, physical and non-physical sexual assaults and the abuse of positions of trust;
- (b) The Self-Employment Social Security Act 2017 [*Act 789*], which extends social security coverage to self-employed women and men;
- (c) The Anti-Sexual Harassment Act 2022 [*Act 840*];
- (d) The Housewives' Social Security Act 2022 [*Act 838*];
- (e) The law on anti-stalking through the amendments in 2023 to the Criminal Procedure Code [*Act 593*];
- (f) The Abolition of Mandatory Death Penalty Act 2023 [*Act 846*] and the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023 [*Act 847*];
- (g) The amendments to the Legal Aid Act 1971 [*Act 26*], which provides free legal assistance in criminal cases to Malaysians with insufficient means;
- (h) The amendments to the Employees' Minimum Standards of Housing and Amenities Act 1990, which requires an employer or centralized accommodation provider to be responsible in respect of the safety and health of their employees;
- (i) The amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 [*Act 670*], which removes the requirement to prove coercion in the case of child trafficking and increases the punishment for smuggling of migrants;
- (j) The amendments to the Human Rights Commission of Malaysia Act 1999 [*Act 597*], which, inter alia, mandates a 30 per cent quota for women Commissioners and requires the appointment of at least one Commissioner who is a person with a disability.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality through, for example, the adoption of the following:

- (a) The Malaysia Education Blueprint Plan 2013–2025, which aims to prevent students from dropping out of school;
- (b) The Plan of Action on Child Online Protection 2015–2020;
- (c) The Plan of Action for Persons with Disabilities 2016–2022, which advances the rights of persons with disabilities and strives for their full inclusion in society;
- (d) The National Strategy Plan in Handling the Causes of Child Marriage 2020–2025;
- (e) The Twelfth Malaysia Plan 2021–2025, which aims to achieve a prosperous, inclusive and sustainable Malaysia, in line with the 2030 Agenda for Sustainable Development;
- (f) The Third National Action Plan to Combat Trafficking in Persons 2021–2025;
- (g) The National Action Plan on Forced Labour 2021–2025, which aims to address and combat forced labour practices in Malaysia;
- (h) The National Agrofood Policy 2021–2030, which aims to transform the agrifood industry into a sustainable, competitive and high-technology sector;

(i) The National Reproductive Health and Social Education Policy and Plan of Action 2022–2025;

(j) The Digital Education Policy 2023–2030, which aims to promote girls' and women's involvement in science, technology, engineering and mathematics, and to enhance their digital skills;

(k) The National Child Policy and Plan of Action, which aims to implement the principles of the Convention on the Rights of the Child;

(l) The Rural Development Policy 2030, which aims, among others, to ensure rural women and men's access to infrastructure and social amenities.

### C. Sustainable Development Goals

6. **The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure (legal) and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize that women and men bear equal responsibilities in the realization of sustainable development and that women and men should be considered equally as driving forces of the sustainable development of the State party, and to adopt relevant policies and strategies to that effect.**

### D. Parliament

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see [A/65/38](#), part two, annex VI). It invites the Parliament of Malaysia, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.**

### E. Principal areas of concern and recommendations

#### Reservations

8. The Committee remains concerned that the State party maintains its reservations to articles 9 (2) and 16 (1) (a), (c), (f) and (g) of the Convention, which are contrary to the object and purpose of the Convention and are thus impermissible under article 28 of the Convention and article 19 (c) of the Vienna Convention on the Law of Treaties, while noting the State party's ongoing efforts to review its reservation to article 9 (2).

9. **Recalling its previous recommendations ([CEDAW/C/MYS/CO/3-5](#), para. 10), the Committee recommends that the State party review its reservations to articles 9 and 16 of the Convention, with a view to withdrawing them within an established time frame. In doing so, the State party should take into consideration the best practices of other States that are members of the Organization of Islamic Cooperation and have similar cultural and religious backgrounds and legal systems that have successfully harmonized their national**

**legislation with their international human rights obligations, in particular those under the Convention.**

#### **Applicability of the Convention**

10. The Committee welcomes the collaboration of the State party with the Office of the United Nations High Commissioner for Human Rights in translating nine human rights treaties, including the Convention and the Optional Protocol thereto, into Malay, and circulating them to relevant ministries and government agencies. However, it notes with concern that the Federal Constitution of Malaysia makes no mention of the application of international law, which may lead to inconsistent protection of women's rights under the Convention, as well as the lack of court decisions making reference to the Convention. The Committee also remains concerned that the disparities and inconsistencies among the parallel legal systems of civil law and multiple versions of Sharia law further weaken the protection of women against discrimination. It further regrets the lack of steps taken by the State party to ratify the Optional Protocol to the Convention.

**11. Recalling its previous recommendations (CEDAW/C/MYS/CO/3-5, para. 12) and its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, the Committee recommends that the State party:**

(a) **Take immediate measures to ensure the applicability of the Convention, so that its provisions can be invoked before the courts, and ensure the precedence of provisions of the Convention over national laws in case of conflict;**

(b) **Take effective measures to harmonize civil law and Sharia law in accordance with the provisions of the Convention to ensure that the rights of all women are legally guaranteed on an equal footing throughout the State party;**

(c) **Adopt a concrete time frame for the ratification of the Optional Protocol to the Convention.**

#### **Constitutional and legislative framework and definition of equality and non-discrimination**

12. The Committee remains concerned about the absence of anti-discrimination legislation explicitly prohibiting discrimination against women by State and non-State actors, covering intersecting forms of discrimination, including against lesbian, bisexual, transgender and intersex women, and a comprehensive definition of discrimination against women covering direct and indirect discrimination in both the public and private spheres. The Committee also notes with concern the long delays in the consultative process with civil society organizations, in particular women's rights organizations, concerning the Anti-discrimination Against Women Bill (formerly the Gender Equality Bill), which has been pending since 2019.

**13. The Committee recommends that the State party:**

(a) **Accelerate the adoption of the Anti-discrimination Against Women Bill and ensure that it includes a comprehensive definition of discrimination against women covering direct and indirect discrimination in the public and private spheres, as well as intersecting forms of discrimination, in accordance with articles 1 and 2 of the Convention, the Committee's general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention and target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere;**

(b) Expedite the consultative process with women's rights organizations on the Anti-discrimination against Women Bill and ensure the systematic and meaningful representation of women's organizations, including those representing women with disabilities, Indigenous women and other disadvantaged groups of women, in the formulation, adoption and implementation of draft laws and policies on gender equality;

(c) Establish a system for the collection of data on discrimination against women, disaggregated by age, nationality, ethnicity, geography, disability, socioeconomic and lesbian, bisexual, transgender and intersex status, to inform the formulation of anti-discrimination legislation and policies.

#### **Women's access to justice**

14. The Committee welcomes steps taken to provide free legal aid in criminal cases to Malaysian women with insufficient means and enhance access to justice for women in remote areas through the deployment of mobile courts. However, it remains concerned that women continue to face legal, institutional and sociocultural barriers when seeking justice for sexual and gender-based violence. It also notes with concern that the awareness of women and girls regarding their rights under the Convention and national laws and mechanisms to protect them from violations of their rights is still limited, in particular among rural women and women and girls with disabilities.

15. **The Committee recommends that the State party:**

(a) **Ensure that women, in particular rural women and disadvantaged groups of women, have access to affordable and, if necessary, free legal aid services;**

(b) **Raise awareness among women and girls, in particular rural women and women and girls with disabilities, of their rights under the Convention and the remedies available to them for claiming those rights, in cooperation with civil society organizations;**

(c) **Conduct follow-up studies to evaluate efforts to enhance access to justice among rural women and disadvantaged groups of women.**

#### **Women, peace and security**

16. The Committee notes that the State party is currently developing a national action plan on women, peace and security and acknowledges its significant contribution to United Nations peacekeeping missions through the contribution of 849 Malaysian peacekeepers, 90 of whom are women. However, the Committee regrets that the State party has yet to adopt a national action plan for the implementation of Security Council resolution [1325 \(2000\)](#) on women and peace and security and to ratify the Arms Trade Treaty.

17. **Recalling its previous recommendation (CEDAW/C/MYS/CO/3-5, para. 32) and with reference to its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations and target 16.4 of Sustainable Development Goals, the Committee recommends that the State party adopt a national action plan for the implementation of Security Council resolution [1325 \(2000\)](#), integrate a gender perspective in the action plan and ratify the Arms Trade Treaty.**

#### **National machinery for the advancement of women**

18. The Committee notes the efforts of the State party to conduct an assessment of the National Women's Policy Plan of Action during the Tenth Malaysian Plan (2011–

2015) in collaboration with the United Nations Development Programme. It also welcomes inclusion of empowering the role of women in the Twelfth Malaysian Plan (2021–2025) and in the 2021–2025 Strategic Plan of the Ministry of Women, Family and Community Development, which in addition focuses on child protection and the empowerment of women and men with disabilities. The Committee further notes the publication of annual national gender statistics and the appointment of gender focal points and teams across ministries and government agencies to facilitate gender mainstreaming, conduct capacity-building on gender equality and introduce gender-responsive budgeting. However, the Committee notes with concern the limited effectiveness of these measures, as acknowledged by the State party, as additional political will, commitment and leadership are needed to strengthen gender mainstreaming and gender-responsive budgeting.

**19. Recalling its previous recommendations (CEDAW/C/MYS/CO/3-5, para. 16) the Committee recommends that the State party:**

**(a) Implement the outputs of “Strengthening and Enhancing the Inclusiveness of Women Towards an Equitable Society in the Eleventh Plan Project”, including the recommendations arising from the assessment of the National Women’s Policy and Plan of Action during the Tenth Malaysian Plan on a gender mainstreaming framework, with clear time frames, indicators and effective coordination, monitoring and evaluation mechanisms;**

**(b) Provide systematic and regular capacity-building to gender focal points and teams and establish a coordinating committee with adequate institutional support and human, technical and financial resources to lead gender mainstreaming across all ministries and government agencies;**

**(c) Allocate adequate resources to implement the strategy entitled “Empowering the Role of Women” under the Twelfth Malaysia Plan for the period 2021–2025 and the 2021–2025 Strategic Plan of the Ministry of Women, Family and Community Development;**

**(d) Strengthen and institutionalize systematic gender-responsive budgeting in all government agencies at the federal, State and local levels;**

**(e) Allocate adequate resources for systematic and comprehensive data collection in areas where women are underrepresented, undertake dedicated surveys, enhance administrative data sources and build the capacity of the National Statistical Office to on the compilation of disaggregated data to inform evidence-based decision-making and legislative action in areas covered by the Convention and the Sustainable Development Goals.**

#### **Temporary special measures**

20. The Committee notes that the State party has adopted temporary special measures in the areas of education and health care. However, it notes with concern the lack of progress resulting from the temporary special measures addressing women’s underrepresentation in other areas, such as political and public life and employment.

**21. In line with article 4 (1) of the Convention and the Committee’s general recommendation No. 25 (2004) on temporary special measures, the Committee recommends that the State party:**

**(a) Adopt temporary special measures and establish time-bound targets, monitoring and evaluation mechanisms, to accelerate the achievement of substantive equality of women and men in all areas covered by the Convention where women, including rural women, Indigenous women, women with disabilities and lesbian, bisexual, transgender and intersex women, are**

**underrepresented or disadvantaged, including in political and public life and employment;**

**(b) Systematically collect data on the impact of temporary special measures and include such data in its next periodic report.**

### **Gender stereotypes**

22. The Committee is concerned at:

(a) The persistence of patriarchal attitudes and stereotypes concerning the roles and responsibilities of women and men in the family and in society, portraying women primarily as mothers and caregivers, which impede progress in advancing gender equality and women's equal participation in political life and their economic empowerment;

(b) Reported instances of sexist or condescending remarks about women by members of Parliament, who continue not to be held accountable, even though they constitute a serious breach of standing order 36 (4), as amended in 2012;

(c) The instances of discrimination against women journalists;

(d) The lack of information on measures to eliminate stereotypes concerning the roles and responsibilities of women and men in the family and in society and on capacity-building for media professionals and public officials on the use of gender-responsive language;

(e) The persistence of gender stereotypes and negative/sexist portrayals of women in the media, both offline and online;

(f) The potential of artificial intelligence-driven new technologies to reproduce, amplify and automate gender-based stereotypes that commodify and harass women;

(g) The delegitimizing and dehumanizing stereotypes against lesbian, bisexual, transgender and intersex women.

23. **The Committee recommends that the State party:**

**(a) Develop and implement a comprehensive strategy, including for the online domain, targeting community and religious leaders, girls and boys, and women and men to eliminate stereotypes concerning the roles and responsibilities of women and men in the family and in society, and develop and introduce a set of targets and indicators to systematically measure the impact of the strategic interventions undertaken;**

**(b) Ensure that members of Parliament are held accountable for sexist or condescending remarks about women through the effective application of standing order 36 (4), as amended in 2012;**

**(c) Adopt the Malaysian Media Council Bill and ensure that it promotes women's rights in the media and protects women journalists from attacks and gender-based discrimination online;**

**(d) Provide capacity-building to public officials and the media, as well as to managers, to enable them to address stereotypes concerning the roles and responsibilities of women and men in the family and in society, including through gender-responsive language, and promote positive portrayals of women as active drivers of development in the media;**

**(e) Develop and implement a comprehensive strategy to eliminate stereotypes concerning lesbian, bisexual, transgender and intersex women,**

**including by addressing discriminatory narratives targeting lesbian, bisexual, transgender and intersex women and imposing fines for homophobic speech and raising awareness about the equal rights of lesbian, bisexual, transgender and intersex women.**

#### **Harmful practices**

24. The Committee reiterates its concern about the persistence of female genital mutilation among Muslim communities reinforced by a non-binding fatwa on female circumcision issued by the Malaysian National Council of Islamic Religious Affairs in 2009, as well as among some Indigenous communities. In that regard, the Committee notes with concern reports that female genital mutilation is practised on more than 95 per cent of Muslim girls and that it has serious effects on the health of many of them.

**25. The Committee stresses that female genital mutilation cannot be justified on religious grounds and constitutes a harmful practice to exert control over the bodies and sexuality of women and girls is in violation of the Convention, irrespective of whether or not these practices are performed within or outside a medical institution. Recalling its previous recommendation (CEDAW/C/MYS/CO/3-5, para. 22), the Committee recommends that the State party:**

(a) **Criminalize all forms of female genital mutilation, ensuring that such criminalization cannot be overruled by fatwas or other rulings issued by religious or clerical authorities, in accordance with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices and target 5.3 of the Sustainable Development Goals;**

(b) **Conduct awareness-raising and educational campaigns aimed at promoting understanding of the criminal nature of and the need to eliminate female genital mutilation, in particular among medical staff, parents, community leaders, religious scholars, men and boys, allocate sufficient resources and adopt a systematic monitoring and evaluation framework of such activities.**

#### **Gender-based violence against women**

26. The Committee welcomes the amendments to the Domestic Violence Act 1994 and the Penal Code (2023). It also notes the adoption of the Anti-Sexual Harassment Act 2022, the law on anti-stalking through the amendments to the Criminal Procedure Code (2023) and the issuance of the Guidelines for Conducting Domestic Violence Cases to address gender-based violence against women and girls. It further notes with appreciation the efforts made to simplify applications for a protection order, and expand the number of shelters and crisis centres for victims of domestic violence, including in rural areas. However, the Committee notes with concern:

(a) The high incidence of domestic violence in the State party, owing to discriminatory social norms legitimizing such violence;

(b) The barriers deterring Indigenous, asylum-seeking and refugee women who are victims of sexual and other forms of gender-based violence from seeking access to justice and medical treatment;

(c) The barriers to women's access to remedies due to biases and social stigma, including among law enforcement personnel, legal practitioners and service providers, and the lack of gender-sensitive procedures;

(d) That marital rape and intimate partners violence are not specifically criminalized;



(e) Discriminatory laws against lesbian, bisexual, transgender and intersex women that expose them to violence in the public and private spheres.

**27. Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and in line with the State party's Human Rights 75 pledge to promote human rights literacy to eliminate violence against women, the Committee recommends that the State party:**

(a) **Intensify awareness-raising among Indigenous and refugee communities, as well as the general public, on the criminal nature of all forms of gender-based violence, including domestic and sexual violence, and on the need to enable all women to report such cases without fear of reprisals, stigmatization or revictimization;**

(b) **Dedicate sufficient human, technical and financial resources to victim support services, shelters and the Talian Kasih hotline, and ensure the availability of psychosocial rehabilitation and reintegration programmes for all women and girls survivors of gender-based violence in all parts of the State party;**

(c) **Continue to provide effective capacity-building for members of the judiciary, law enforcement officials and lawyers on gender-sensitive investigation and interrogation methods and to address judicial gender bias;**

(d) **Amend the Domestic Violence Act, specifically to define intimate partner violence, thereby allowing unmarried women to gain access to protection orders and compensation under the Act, and amend the Penal Code explicitly to recognize marital rape as a crime;**

(e) **Amend laws that discriminate against and criminalize lesbian, bisexual, transgender and intersex women and put in place protection measures to ensure the dignity and physical integrity of lesbian, bisexual, transgender and intersex women and girls.**

#### **Trafficking in women and girls and exploitation of prostitution**

28. The Committee commends the State party on its efforts to strengthen its legal and policy framework to combat trafficking in women and girls, including the amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 to harmonize the Act with the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the adoption of the third National Action Plan to Combat Trafficking in Persons for 2021–2025. However, it notes with concern that women and children continue to be at particular risk of human trafficking and account for the majority of trafficking victims in the State party. While noting the establishment of a formal procedure to identify and refer victims to appropriate support services, the Committee notes with concern that the protocol is not consistently applied, including during raids of entertainment venues and massage parlours, and that victims of trafficking are often detained and deported. It further notes with concern about reports of collusion of immigration officials who facilitate trafficking by accepting bribes from brokers and smugglers.

**29. Recalling its previous recommendations (CEDAW/C/MYS/CO/3-5, para. 26) and general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, the Committee recommends that the State party:**

(a) **Ensure that all victims of trafficking, including refugee, asylum-seeking and undocumented migrant women, have access to temporary residence**

permits, irrespective of their ability or willingness to cooperate with the prosecution authorities, as well as shelters, health care, psychosocial counselling, rehabilitation programmes and reparations, including compensation;

(b) Ensure that all cases of trafficking in women and girls are investigated and prosecuted and that perpetrators, including complicit government officials, are adequately punished, in accordance with the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2022;

(c) Enforce and monitor the use of the National Guidelines on Human Trafficking Indicators 2.0 to ensure a uniform and systematic approach to early victim identification, including in immigration detention, and referral to appropriate services and protection;

(d) Provide systematic capacity-building to immigration officials, border police and other law enforcement officers on the application of the national legal and policy framework to combat trafficking in women and girls and gender sensitive protocols for the early identification of victims.

30. The Committee is concerned that the Sharia laws criminalizing prostitution may be disproportionately used against female sex workers, with punishments including fines, imprisonment up to three years, or whipping.

31. The Committee recommends that the State party take steps to ensure that the rights and dignity of all women, including female prostitutes, are protected and upheld within the national legislation and Sharia laws.

#### **Equal participation in political and public life**

32. The Committee notes with concern that, while recent trends indicate an increase in the representation of women in political life, such progress has been slow and from a low baseline. In particular, the Committee is concerned about women's low representation in the Parliament (13.5 per cent) and the Senate (18 per cent) and underrepresentation in decision-making positions in political and public life, including in the cabinet, local government, the judiciary and the diplomatic service, including as regards Indigenous women, women with disabilities and lesbian, bisexual, transgender and intersex women.

33. The Committee, recalling its previous recommendation ([CEDAW/C/MYS/CO/3-5](#), para. 30) and its general recommendations No. 23 (1997) on women in political and public life and No. 25 (2004) on temporary special measures, recommends that the State party:

(a) Take targeted measures, including temporary special measures, such as quotas, to reach parity between women and men and increase the representation of Indigenous women, women with disabilities, lesbian, bisexual, transgender and intersex women in decision-making positions in political and public life;

(b) Conduct awareness-raising campaigns to promote understanding that women's equal representation in decision-making is a human right and an essential condition for achieving political stability and sustainable development in the State party;

(c) Abolish any regulation that prevents women from being elected as heads of villages and take targeted measures, including temporary special measures, such as quotas, to reach parity between women and men within local councils, including in rural areas.

## Nationality

34. The Committee notes the steps taken by the State party to review its reservation to article 9 (2) of the Convention, including proposed amendments to the Federal Constitution that seek to grant Malaysian women the right automatically to confer their nationality to their children born abroad on the same basis as Malaysian men. It also welcomes the decision of the State party not to proceed with the proposed amendments to Section 19B Part III of the Second Schedule and Section 1(e) Part II of Second Schedule of the Federal Constitution that would have the effect of limiting access to citizenship for stateless children born in Malaysia, abandoned and adopted children, children born out of wedlock and Indigenous children. However, the Committee notes with concern the non-retroactivity of the amendment ensuring the right of Malaysian women automatically to confer their nationality to their children born abroad, which exposes children born abroad prior to the entry into force of the amendment to statelessness. It also notes with concern that the State party maintains controversial draft amendments that would:

- (a) Remove the right to automatic citizenship for children of stateless permanent residents of Malaysia, thereby exposing them to statelessness;
- (b) Extend the period during which foreign wives can be deprived of their citizenship;
- (c) Reduce the time available to apply for citizenship for children in “special circumstances”, such as children born outside wedlock to Malaysian men.

35. **Recalling its previous recommendation (CEDAW/C/MYS/CO/3-5, para. 34) and its general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee urges the State party to:**

- (a) **Amend the Federal Constitution to remove discriminatory provisions and enable Malaysian women to transmit their nationality to their foreign spouses and their children on an equal basis with men and make the amendments retroactive;**
- (b) **Withdraw the constitutional amendments that would deny automatic conferral of citizenship to children of stateless permanent residents, extend the period during which foreign wives can be deprived of their citizenship and reduce the time available to apply for citizenship for children in “special circumstances”;**
- (c) **Fulfil its pledge to resolve the pending 14,000 applications for Malaysian citizenship by children in “special circumstances” by the end of 2024, and favourably consider these applications with a view to protecting the applicants from statelessness and rights deprivation;**
- (d) **Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

## Education

36. The Committee welcomes the efforts of the State party to increase women’s representation in leadership positions in higher education institutions, combat bullying and sexual harassment in schools, meet the educational rights of girls and women with special needs, and ensure the continuity of education during the coronavirus disease (COVID-19) pandemic. However, the Committee notes with concern:

- (a) The legislation does not make lower secondary education compulsory;

- (b) The cases of sexual harassment and bullying faced by girls in schools;
- (c) The digital divide in education disproportionately affecting disadvantaged girls and women;
- (d) The limited access to sexual and reproductive health information, including in remote areas;
- (e) The limited access of asylum-seeking and refugee girls and women to education.

**37. The Committee recommends that the State party:**

- (a) **Adopt legislation to make lower secondary education compulsory;**
- (b) **Provide safe and inclusive educational environments free from discrimination, harassment, bullying and gender-based violence to girls and women;**
- (c) **Ensure equal access to digital education for disadvantaged girls and women, such as Indigenous girls and women, women with disabilities, rural girls and women and girls and women from deprived urban areas, to narrow the digital divide, in line with the Digital Education Policy for the period 2023–2030;**
- (d) **Strengthen the effective implementation of comprehensive sexuality education at all levels of education, while ensuring that it contains: (i) inclusive and accessible content on gender equality, including on women’s rights and the harmful effects of gender-based violence against women and girls; (ii) age-appropriate sexuality education, paying particular attention to responsible sexual behaviour and the prevention of early pregnancies and sexually transmitted diseases; and (iii) education on human rights and peace;**
- (e) **Ensure access to education, including skills training, for asylum-seeking and refugee women and girls, including by allocating adequate human, technical and financial resources to alternative learning centres.**

### **Employment**

38. The Committee notes with appreciation that the Employment (Amendment) Act 2022 provides for increased maternity and paternity leave, flexible working arrangements, a complaints mechanism for sexual harassment in the workplace, restrictions on the termination of employment of pregnant employees and a ban on forced labour. It also welcomes the measures taken by the State party to increase women’s representation in decision-making positions in the private sector. The Committee nevertheless notes with concern that:

- (a) The State party interprets article 11 of the Convention as “a reference to the prohibition of discrimination on the basis of equality between men and women only”, thereby excluding intersecting forms of discrimination against women;
- (b) The high female enrolment in tertiary education has not translated into women’s labour force participation, which remains low;
- (c) The persistent gender pay gap in the State party, which remains high due, in part, to an unequal distribution of unpaid care work;
- (d) Women with disabilities face structural, physical and social barriers that limit or prevent them from gaining access to the labour market;
- (e) Refugee and asylum-seeking women are not permitted to work in the State party;

(f) Indigenous women and foreign spouses of Malaysian citizens face limited access to employment;

(g) Lesbian, bisexual, transgender and intersex women face discrimination in the workplace, including sexism and homophobia;

(h) Women domestic workers, self-employed workers and those working in the informal economy continue to be excluded from labour and social protection.

**39. The Committee recommends the State party:**

(a) **Withdraw its interpretative declaration concerning article 11 of the Convention, address intersecting forms of discrimination against women, facilitate access to formal employment by women with disabilities; Indigenous women; lesbian, bisexual, transgender and intersex women; and refugee women, as well as non-national women married to a Malaysian spouse;**

(b) **Ensure the effective implementation of the Employment (Amendment) Act 2022, including through regular labour inspections, and that women victims of sexual harassment have access to effective remedies, including in rural and remote areas; and that their complaints are effectively investigated, perpetrators prosecuted and adequately punished and victims protected from retaliation;**

(c) **Enforce the principle of equal pay for work of equal value, including by stipulating it in the Employment Act, and regularly review wages in sectors where women are concentrated and adopt measures to close the gender pay gap, including through gender-neutral analytical job classification and evaluation methods and regular pay surveys;**

(d) **Increase awareness-raising on shared parental leave and flexible working arrangements to promote equal sharing of domestic and childcare responsibilities, as well as responsible fatherhood, provide affordable childcare facilities and care services for older persons and adopt a comprehensive care economy framework;**

(e) **Adopt legislation on equal employment opportunities to regulate and address discriminatory practices in the workplace, including those relating to recruitment, pay and promotion opportunities, and to ensure all women's equal access to employment;**

(f) **Extend labour protection, including provisions on minimum wage, daily or weekly working hours and annual leave, as well as social protection to women domestic workers, including migrant women, self-employed women and women working in the informal economy;**

(g) **Amend the Minimum Wages Order 2022 to protect domestic workers, including women migrant domestic workers.**

### **Health**

40. The Committee notes women's increased life expectancy, the significant reduction in maternal mortality and the continued expansion of public health-care services to citizens, including women and girls, through mobile health units, and the efforts of the State party to expand cervical cancer screening for women. However, the Committee notes with concern:

(a) The limited access to health services, including sexual and reproductive health services, and modern contraceptives, for refugee and asylum-seeking women, women in detention, stateless children and spouses of Malaysian-born women, and foreign-born divorced wives of Malaysian men;

(b) The limited access to safe abortion and post-abortion services in the State party, which is exacerbated by the criminalization of extramarital sex, pregnancy and childbirth for Muslim women;

(c) Discriminatory narratives by the Department of Islamic Development that lesbian, bisexual, transgender and intersex women can be “changed” and the promotion of “conversion” and “rehabilitation” programmes.

**41. Recalling its previous recommendation (CEDAW/C/MYS/CO/3-5, para. 40) and in line with its general recommendation No. 24 (1999) on women and health and target 3.7 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Immediately repeal the directive requiring public hospitals to refer undocumented asylum-seekers and migrants to the Immigration Department, which deters undocumented asylum-seeking and migrant women from gaining access to health services;**

(b) **Ensure that refugee, asylum-seeking and migrant women and girls have affordable access, without having to pay deposits and excessive fees, to health services, including sexual and reproductive health services and information, family planning, modern contraceptives and antenatal and postnatal care;**

(c) **Ensure that women in detention, including in immigration detention facilities, have access to adequate health services and hygiene products, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules; see General Assembly resolution 65/229 of 21 December 2010);**

(d) **Legalize abortion and decriminalize it in all cases, as well as consensual extramarital sex between persons having reached the legal age of sexual maturity, to ensure that women and girls, including Muslim women, rural women and girls, unmarried women and women and girls with disabilities, have adequate access to safe abortion and post-abortion services;**

(e) **Immediately discontinue all policies and programmes aimed at “correcting” or “rehabilitating” lesbian, bisexual, transgender and intersex women.**

#### **Economic empowerment of women**

42. The Committee welcomes the efforts to increase women’s participation in the economy through entrepreneurship, and the measures taken by the State party to increase their representation in decision-making positions in the private sector, with women making up 30.7 per cent of Board seats in the top 100 public listed companies. It also notes with appreciation that the State party is also a party to the World Trade Organization Buenos Aires Declaration on trade and women’s economic empowerment of 2017, showing its commitment to improving opportunities for women in the trade sector. However, the Committee is concerned about the lack of gender impact assessments of trade agreements.

**43. The Committee recommends that the State party ensure trade policies incorporate gender equality principles and conduct gender impact assessments of trade agreements to determine whether benefits from trade accrue to both women and men equally.**

### **Rural and other disadvantaged groups of women**

44. The Committee welcomes the launch of the Rural Development Policy 2030, which includes a specific chapter on rural women that establishes a 30 per cent quota for rural women's representation on the Village Development and Security Committee and the Orang Asli Village Development and Security Committee. However, it notes with concern that most Indigenous women and girls living in rural areas lack access to decision-making in their communities and to basic services, such as education, economic opportunities, health services, water and electricity.

**45. Recalling its previous recommendation (CEDAW/C/MYS/CO/3-5, para. 42) and in line with its general recommendations No. 34 (2016) on the rights of rural women and No. 39 (2022) on the rights of Indigenous women and girls, the Committee recommends that the State party:**

(a) **Ensure that the National Strategic Plan for the period 2023–2026 of the Department of Orang Asli Development and relevant policies in Sabah and Sarawak address intersecting forms of discrimination faced by Indigenous women and girls;**

(b) **Ensure that Indigenous women and girls have adequate access to decision-making in their communities, as well as to basic services, such as education, economic opportunities, health services, water and electricity.**

### **Refugee, asylum-seeking women and girls**

46. The Committee reiterates its previous concern (see CEDAW/C/MYS/CO/3-5, para. 45) that, while the Government has adopted national administrative measures through the National Security Council Directive No. 23 to provide temporary refuge to refugees and asylum seekers, these measures fall short of a legal and policy framework to protect, regularize the status of, manage and process the protection claims of asylum-seekers and refugees in the State party and are instead geared towards their resettlement to third countries or their return to countries of origin. It also notes with concern that refugee and asylum-seeking women and girls continue to be prosecuted for immigration-related offences and may be deported or detained indefinitely at immigration detention centres, exposing them to a risk of abuse and sexual and gender-based violence upon return to their country of origin or in detention centres in the State party. The Committee is further concerned that since 2019, the Office of the United Nations High Commissioner for Refugees (UNHCR) has not been granted access to immigration detention centres to meet with refugees and asylum-seekers despite assurances by the State party that UNHCR would be able to do so with the consent of the Immigration Department. In addition, it notes with concern that, owing to the lack of a legal and administrative framework, refugee and asylum-seeking women and girls continue to be denied the right to work and face restrictions in gaining access to education, health, social protection and legal assistance.

**47. Recalling its previous recommendation (see CEDAW/C/MYS/CO/3-5, para. 46), and in accordance with its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee recommends that the State party:**

(a) **Fulfil its obligation of non-refoulement under international law for all women and girls in need of international protection and ensure that no individual is expelled without an individual risk assessment;**

(b) **Ratify the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto without further delay;**

(c) **Ensure that National Security Council Directive No. 23 is published and consistent with international standards and provides full access to asylum procedures for persons seeking asylum in the State party as well as to education, health services, social protection and legal assistance;**

(d) **Adopt gender-responsive, culturally sensitive and age-appropriate screening and assessment procedures to ensure the identification, protection and referral to relevant support services of refugee and asylum-seeking women and girls who are victims of or at risk for gender-based violence;**

(e) **Strengthen collaboration with UNHCR, including by granting access to immigration detention centres, cooperating with UNHCR with regards to status determination processes, and preventing the arrest and detention of UNHCR document holders;**

(f) **Expand community-based or casework-oriented alternatives to immigration detention to prevent the unnecessary detention of refugee and asylum-seeking women and children and, in the interim, take measures to ensure that refugee and asylum-seeking women and girls in detention have access to adequate health services, hygiene facilities, education, recreational activities and play, as well as to protection from all forms of gender-based violence;**

(g) **Provide regular and coherent data on immigration detainees, including nationality, age, gender and time spent in detention.**

#### **Women and girls with disabilities**

48. The Committee welcomes the Plan of Action for Persons with Disabilities 2016–2022, which outlines strategies to support the inclusive participation of people with disabilities in society. Nevertheless, the Committee notes with concern that women and girls with disabilities face intersecting forms of discrimination in the State party, especially with regard to access to justice, education, employment and health care.

49. **Recalling its general recommendation No. 18 (1991) on disabled women, the Committee recommends that the State party ensure that women and girls with disabilities, from all groups within society, are able to gain access to justice, inclusive education, employment and health services, including sexual and reproductive health services.**

#### **Women facing death penalty**

50. The Committee welcomes the moratorium on all executions of the death penalty, the adoption of the Abolition of Mandatory Death Penalty Act 2023 and the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023, under which individuals sentenced to death penalty and natural life imprisonment have the opportunity for their sentences to be reviewed. Out of the 1020 persons who applied for the revision of sentences at the Federal Court, 95 are women, 88 of whom are non-nationals.

51. **The Committee recommends that the State party:**

(a) **Ensure that women sentenced to death, including non-nationals, have adequate time and resources to prepare their resentencing applications and access to medical, psychiatric and psychological evaluations and interpretation, where relevant, including by cooperating with civil society organizations providing free legal assistance and psychosocial evaluation services and assistance to women on death row;**

(b) **Issue guidelines and provide capacity-building to the judiciary to ensure the gender-sensitive application of the Abolition of Mandatory Death**



**Penalty Act 2023 and the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023 so that gender-specific risks, such economic insecurity, coercion, intimidation and deception, are taken into consideration in the sentencing as mitigating factors;**

(c) **Take the necessary steps towards the full abolition of the death penalty.**

#### **Climate change and disaster risk reduction**

52. The Committee welcomes the initiatives aimed at green growth and advancing climate action implemented by the Malaysian Green Technology Corporation. However, it notes with concern:

(a) Reports of river water contamination in Indigenous areas, which disproportionately affect Indigenous women and girls;

(b) Challenges Indigenous women and girls face in maintaining their traditional lifestyle, with adverse health impacts, due to climate change and territorial loss, coupled with changes in their food systems;

(c) The lack of a gender perspective in policies and programmes on climate change, disaster risk reduction and transition to renewable energy.

53. **The Committee recommends that, in line with its general recommendations No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change and No. 39 (2022) on the rights of Indigenous women and girls, the State party review its climate change and disaster response strategies, taking into account the negative effects of climate change on the livelihoods of women, especially rural and Indigenous women, and ensure that women are meaningfully involved in the development, adoption and implementation of legislation, policies and programmes on climate change, disaster response and disaster risk reduction by, in particular:**

(a) **Collecting disaggregated data on the impact of climate change and natural disasters on women and girls, including rural and Indigenous women and girls;**

(b) **Ensuring the incorporation of a gender perspective in climate change and disaster risk reduction strategies, renewable energy legislation, financing and programmes in order to address the specific and unique needs of women and girls and build their resilience and effective adaptation to climate change;**

(c) **Taking measures to address the specific impact of climate change on women's livelihoods and access to resources, and ensuring their economic empowerment in the transition to a green economy.**

#### **Marriage and family relations**

54. The Committee reiterates its previous concern (see [CEDAW/C/MYS/CO/3-5](#), para. 53) and regrets the lack of progress in legislative reform to remove discriminatory provisions that undermine women's equal rights in marriage and family relations, such as:

(a) The requirement for Muslim women to obtain the permission of a male guardian (wali) to marry;

(b) Restrictions on Muslim women's right to custody and guardianship of their children;

- (c) Discriminatory provisions relating to divorce, matrimonial property and inheritance;
- (d) The restrictions on interfaith marriages;
- (e) The criminalization of extramarital sex and pregnancy and childbirth out of wedlock;
- (f) The lawfulness of polygamy for Muslim men in the State party.

55. **Recalling its previous recommendation (see [CEDAW/C/MYS/CO/3-5](#), para. 54) and its general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, the Committee recommends that the State party:**

(a) **Harmonize national legislation and Sharia law with the Convention, ensuring that any conflict of law with regard to women's equal rights in marriage and family relations, divorce and to inheritance is resolved in full compliance with the Convention. In that regard, it recommends that the State party engage in discussions with leaders of religious communities, religious scholars and women's rights groups, taking into consideration best practices in the region and in other member States of the Organization of Islamic Cooperation;**

(b) **Ensure women's equal right to enter into marriage on their own accord by abolishing the requirement of the permission of a male guardian;**

(c) **Ensure that both parents are recognized as legal guardians of the child and that women have equal rights as men with regard to divorce, matrimonial property and inheritance;**

(d) **Remove restrictions on interfaith marriages and decriminalize extramarital sex as well as pregnancy and childbirth out of wedlock to respect women's agency to make their autonomous sexual and reproductive choices;**

(e) **Prohibit polygamy, in law and in practice, raise awareness about its harmful effects on women, in line with the Committee's general recommendation No. 21 (1994) on equality in marriage and family relations and joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, as revised, and ensure the protection of the economic rights of women and their children in existing polygamous unions and upon their dissolution.**

56. The Committee welcomes the adoption of the National Strategy Plan in Handling the Causes of Child Marriage for the period 2020–2025. However, it notes with concern the persistence of child marriage in the State party, the absence of a minimum age of marriage and that the parallel legal systems allow for and facilitate child marriage.

57. **The Committee recalls joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, as revised, and recommends that the State party establish mechanisms to detect, protect and provide support services to girl victims of child marriage, and:**

(a) **Adopt and enforce legislation setting the legal minimum age of marriage at 18 years for both women and men, without exceptions, for both civil and Muslim marriages, and conduct public awareness-raising programmes, in cooperation with the media, on the negative consequences of child and/or forced**

marriage for girls' education, health and life choices, targeting in particular parents, teachers, religious and community leaders;

(b) **Criminalize child and forced marriage and impose adequate penalties on those who aid and abet in such unions, while ensuring that the children involved are protected and not criminalized.**

#### **Optional Protocol to the Convention**

58. **The Committee encourages the State party to expedite the ratification process of the Optional Protocol to the Convention.**

#### **Beijing Declaration and Platform for Action**

59. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action and to further evaluate the realization of the rights enshrined in the Convention in order to achieve substantive equality between women and men.**

#### **2030 Agenda for Sustainable Development**

60. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

#### **Dissemination**

61. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language(s) of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the Parliament and the judiciary, to enable their full implementation.**

#### **Ratification of other treaties**

62. **The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.**

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

**Follow-up to the concluding observations**

63. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 13 (a), 25 (b), 47 (a), 57 (a).

**Preparation of the next report**

64. The Committee will establish and communicate the due date of the seventh periodic report of the State party in line with a future predictable reporting calendar based on an eight-year review cycle and following the adoption of a list of issues and questions prior to reporting, if applicable, for the State party. The report should cover the entire period up to the time of its submission.

65. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents ([HRI/GEN/2/Rev.6](#), chap. I).

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