

Memorandum

on

The Concluding Comments from the
Committee for the Convention on the Elimination of All Forms of
Discrimination against Women (CEDAW)

to the

Ministry of Women, Family and Community Development,
Malaysia

Coordinated by

The National Council for Women's Organisations (NCWO)
In collaboration with several Non Governmental Organisations

Prepared by the NGO Shadow Report Group
8 March 2007

This Memorandum was handed to Datuk Seri Shahrizat Abdul Jalil, Ministry of Women, Family and Community Development on Thursday, 8th March 2007 at a Seminar "Ending Impunity for Violence Against Women through CEDAW" organised by NCWO and the Ministry of Women, Family and Community Development on Thursday, 8th March 2007 at Crown Plaza Hotel, Kuala Lumpur.

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INTRODUCTION

On 24th May 2006, the Committee for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) reviewed the Government of Malaysia's first and second report on the implementation of the CEDAW Convention at the 35th CEDAW Session in New York. Prior to the session, the Malaysian NGO Shadow Report, prepared by 28 organisations, was submitted to the CEDAW Committee as a critique to the Government Report, and it had also identified critical issues that continue to affect women in Malaysia, along with specific recommendations.

At the 35th CEDAW Session, the CEDAW Committee was engaged in a constructive dialogue with the delegation from the Government of Malaysia over the review of the Government Report. The NGO Shadow Report Group had also sent a delegation of six from four women's organisations, to sit in and observe the proceedings, at the same time, taking the opportunity to engage with the CEDAW Committee during an NGO Informal Meeting and to raise critical issues affecting women in Malaysia.

As a result of the constructive dialogue with the Government of Malaysia, the CEDAW Committee produced a list of Concluding Comments to facilitate the government towards the full implementation of CEDAW in Malaysia.

Upon the return of the NGO delegation from New York, a conference titled "Towards the Full Implementation of CEDAW" was held by the NGO Shadow Report Group at Hotel Singgahsana in Petaling Jaya on 21st September 2006 (see Annex 1), to study the Concluding Comments by the CEDAW Committee and to identify actions to be proposed to the government for their undertaking towards fulfilling their obligation to implement the CEDAW Convention. This was an NGO collaborative effort in identifying specific actions, which correspond to the concerns raised and recommendations made by the CEDAW Committee.

This **Memorandum** contains the Concluding Comments and Recommendations issued by the CEDAW Committee, and actions proposed by civil society groups for the Government to undertake to fully implement its CEDAW obligations.

The following is a list of the organisations involved in the process of preparing this memorandum; Women's Aid Organisation was responsible for collating the information on proposed actions and writing up this memorandum:

- **National Council of Women's Organisations (NCWO)**
- All Women's Action Society (AWAM)
- Centre for Independent Journalism (CIJ)
- Empower (Pusat Janadaya)
- Federation of Family Planning Associations (FFPAM)
- Sisters in Islam (SIS)
- Women's Aid Organisation (WAO)
- Women's Development Collective (WDC)
- Young Women's Christian Association (YWCA)

Memorandum

on

The Concluding Comments from the Committee for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

to the

Ministry of Women, Family and Community Development, Malaysia

PREAMBLE

This Memorandum to the Ministry of Women, Family and Community Development of Malaysia consists of the Concluding Comments, comprising the Principal Concerns and Recommendations, issued by the Committee for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) after its review of the initial and second periodic report by the Government of Malaysia on its fulfilment of its obligation to implement the CEDAW Convention.

This Memorandum also contains proposed actions by civil society groups for the Government to undertake to fully implement its CEDAW obligations according to the Concluding Comments issued by the CEDAW Committee.

As the CEDAW Convention is a binding instrument, the Concluding Comments should be regarded as a positive or constructive input towards facilitating the Government of Malaysia in fulfilling its obligation to implement the CEDAW Convention. Therefore, the Concluding Comments and the proposed actions, should be presented to the Cabinet as well as the Parliament of Malaysia and all concerned ministries and central agencies, to bring attention to the recommendations that have been put forward by the CEDAW Committee in order for the Government of Malaysia to fulfill its binding obligations.

The CEDAW Convention is an instrument on the rights of women and the Ministry of Women, Family and Community Development is *ipso facto* seen as the main driver within the Government of Malaysia for the implementation of the CEDAW Convention. The Ministry of Women, Family and Community Development should develop a plan for the implementation of the CEDAW Convention and its Concluding Comments and this planning should involve the participation of NGOs and civil society.

However, the implementation of the CEDAW Convention should not lie solely with the Ministry of Women, Family and Community Development, it should be the responsibility of the entire Government of Malaysia, its ministries, agencies and departments. Other non-governmental bodies should also take an active role in ensuring the implementation of the CEDAW Convention, such as SUHAKAM. As a Human Rights Commission, it can contribute towards building the capacity of the governmental bodies to understand its obligations and how they can be implemented as well as to monitor the implementation of the government's obligations.

Both the Concluding Comments as well as the NGOs' proposed actions are not encompassing and exhaustive; further actions by the Government of Malaysia towards the implementation of the CEDAW Convention is more than welcomed. The CEDAW Committee's overarching recommendation to the Government is that it fully utilises, in its implementation of its CEDAW obligations, the Beijing Declaration and Platform for Action which reinforce the CEDAW provisions. They should not be implemented in isolation from each other but the synergy between them must be exploited. Furthermore, implementation of the CEDAW Convention should not be seen as an exercise that is isolated from the Government's own implementation of national policies, but it should be seen as a strategic framework that is integrated into the national action plans for the realisation of women's rights and the advancement of the nation's development.

1. DOMESTICATION OF THE CEDAW CONVENTION

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>The Committee is concerned that the Convention is not yet part of Malaysian law and thus its provisions are not enforceable in domestic courts.</i></p>	<p>... to take immediate measures to ensure that the Convention and its provisions are incorporated into national law and become fully applicable in the domestic legal system.</p>	<ol style="list-style-type: none"> The CEDAW Convention should be incorporated into domestic legislation so that the treaty provisions can be invoked and given effect to by the courts, tribunals and administrative authorities. Full audit of existing laws to remove gender discriminatory provisions. Review, monitor and assess all national and sectoral policies that affect development to ensure equality between men and women. 	<ul style="list-style-type: none"> Prime Minister and the Cabinet All ministries and central government agencies eg: Economic Planning Unit (EPU), Ministry of Women, Family and Community Development Attorney General's Chambers
<p><i>The Committee expresses concern that neither the Federal Constitution nor other legislation of the State party contains a definition of discrimination against women, in accordance with article 1 of the Convention, or the principle of equality of men and women, in line with article 2(a) of the</i></p>	<p>...to incorporate in its Constitution and/or other appropriate national legislation, the definition of discrimination, encompassing both direct and indirect discrimination, in line with article 1 of the Convention.</p>	<ol style="list-style-type: none"> Amend the Federal Constitution to remove remaining discriminatory provisions, and to ensure harmonisation with Article 8(2) of the Federal Constitution. Adopt an enabling gender equality law that has the definition of discrimination as provided in Article 1 of the 	<ul style="list-style-type: none"> Ministry of Women, Family and Community Development Attorney General's Chambers

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>Convention.</i></p> <p><i>(As above)</i></p>	<p>...enact and implement a comprehensive law reflecting substantive equality of women with men in both public and private spheres of life</p> <p>...include adequate sanctions for acts of discrimination against women and ensure that effective remedies are available to women whose rights have been violated.</p>	<p>Convention.</p> <p>1. Enact a gender equality law that would address the problems in the Constitution with regard to the guarantees for equality.</p> <p>2. Use of a substantive equality framework in policy formulation to abolish discrimination against women.</p>	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers

2. REMOVAL OF RESERVATIONS

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>While welcoming the State party's assurances that it is reviewing reservations to articles 5(a) and 7(b) with a view to removing them, the Committee is concerned that the State party is not ready to similarly review and remove reservations to articles 9(2), 16(1)(a), 16(1)(c), 16(1)(f), 16(1)(g), and 16(2).</i></p>	<p>...to review all its remaining reservations with a view to withdrawing them, and especially reservations to article 16, which are contrary to the object and purpose of the Convention.</p>	<ol style="list-style-type: none"> 1. Immediately remove reservation to Article 9(2) of the Convention. 2. Withdraw reservations to Article 16(1)(a), 16(1)(c), 16(1)(f), 16(1)(g) and 16(2) on the grounds that they are in conflict with the provisions of Islamic Syariah law and the Federal Constitution as these reservations indicate the government's reluctance to extend full equality to all women in family life. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers • Department of Islamic Development Malaysia (JAKIM)

3. JUDICIAL TRAINING

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>...the Committee is concerned that the provisions of the Convention are not widely known by judges, lawyers and prosecutors.</i></p>	<p>...to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, so as to establish firmly in the country a legal culture supportive of women's equality and non-discrimination.</p>	<ol style="list-style-type: none"> 1. The text of the Convention to be printed and distributed to judges, lawyers, and Attorney General's Chambers. 2. Training of judges. 3. Identify the institution that trains judges. 4. Judges should be trained about the Convention and the application of it to the legal system. 5. The Convention should be incorporated into the syllabi of law schools. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers • Ministry of Higher Education • The Judicial and Legal Training Institute (ILKAP) • Judiciary

4. HARMONISATION OF LAWS

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>The Committee is concerned about the existence of the dual legal system of civil law and multiple versions of Syariah law, which results in continuing discrimination against women, particularly in the field of marriage and family relations.</i></p>	<p>...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 provisions of the Convention and the Committee's general recommendations, particularly general recommendation 21 on equality in marriage and family relations.</p>	<ol style="list-style-type: none"> 1. Set up an interagency committee inclusive of women's groups to review Syariah acts and enactments in order to put in place a uniform and comprehensive set of Muslim family laws premised on the basis of gender equality and justice. 2. Consult various civil society and religious groups to study all issues relating to the conflicts in laws, procedure and court jurisdiction where one spouse converts to Islam in order to propose solutions where the rights of all parties involved are protected. 3. Clarify procedures and issues of jurisdiction in matters involving the conversion of a spouse to Islam so that ancillary matters of maintenance, custody and guardianship can be settled efficiently in one court. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers • Department of Islamic Development Malaysia (JAKIM)

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<i>The Committee is also concerned about the State party's restrictive interpretation of Syariah law, including in the recent Islamic Family Law (Federal Territories) Amendment Act 2005, which adversely affects the rights of Muslim women.</i>	...to obtain information on comparative jurisprudence and legislation, where more progressive interpretations of Islamic law have been codified in legislative reforms.	<ol style="list-style-type: none"> 1. Identify scholars (national and international) in progressive jurisprudence. 2. Perform a comparative study of jurisprudence and legislation in other Muslim countries for progressive interpretations of Islamic law to be incorporated into our own laws. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Institutes of higher learning • Attorney General's Chambers • Institute of Islamic Understanding Malaysia (IKIM) • Department of Islamic Development Malaysia (JAKIM)
<i>(As above)</i>	...to take all necessary steps to increase support for law reform, including through partnerships and collaboration with Islamic jurisprudence research organizations, civil society organizations, women's non-governmental organizations and community leaders.	Set up an interagency committee inclusive of women's groups to review both the Syariah acts and enactments and the Law Reform Marriage and Divorce Act (1976) in order to put in place a uniform and comprehensive set of Muslim family laws premised on the basis of gender equality and justice.	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers
<i>(As above)</i>	...recommends that a strong federal mechanism be put in	1. Create uniformity of substantive Syariah acts and enactments	

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	place to harmonise and ensure consistency of application of Syariah laws across all States.	<p>between States and Federal territories in the Federation.</p> <ol style="list-style-type: none"> 2. Create a central registry for Muslim marriages and divorces. 3. Create a central registry for Muslim converts (muallaf). 	

5. REMOVAL OF GENDER STEREOTYPES

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>...the Committee is concerned about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society.</i></p>	<p>...to implement comprehensive measures to bring about change in the widely accepted stereotypical roles of men and women. Such measures should include awareness-raising and educational campaigns addressing women and men, girls and boys, and religious leaders with a view to eliminating stereotypes associated with traditional gender roles in the family and in society, in accordance with articles 2 (f) and 5 (a) of the Convention.</p>	<ol style="list-style-type: none"> Accelerate the review of school textbooks and remove elements that perpetuate stereotyping of roles and responsibilities between men and women, and introduce gender relations and rights studies that incorporate sex education in school, teacher training colleges and universities. Review national and sectoral policies to address aspects of culture and religion, as well as gender stereotyping that perpetuate discriminatory practices against women. Utilise the Gender Focal Points in all government ministries and departments to set up specific complaints bureau to investigate and remedy instances of gender stereotyping that perpetuate discriminatory practices against women. 	<ul style="list-style-type: none"> All ministries and central government agencies eg: Economic Planning Unit (EPU), Ministry of Women, Family and Community Development, Ministry of Information, Ministry of Education Attorney General's Chambers

6. PARTICIPATION OF WOMEN IN DECISION-MAKING ROLES

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>...the Committee is concerned about the low level of representation of women in public and political life and in decision-making positions, including in the foreign service...</i></p>	<p>... to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's General Recommendation 25, and to establish concrete goals and timetables so as to accelerate the increase in the representation of women, in elected and appointed bodies in all areas of public life, including at the international level ...</p>	<ol style="list-style-type: none"> 1. Implement affirmative action policies to ensure women's participation in decision-making levels, not only in politics but also in the public sector. 2. Implement the 30% participation of women stated in the 9th Malaysian Plan. 2.1 Introduce a specific timeline by which this should be implemented. 3. Integrate women's wings of parties into the party main fold. 4. Eliminate election deposits for women candidates. 5. Public education 5.1 Eradicate stereotypes that portray women as unsuitable leaders. 	<ul style="list-style-type: none"> • Gender Equality Cabinet Committee • Cabinet • Ministry of Women, Family and Community Development • Public Service Department (JPA) • Election Commission
<p><i>(As above)</i></p>	<p>...to also encourage political parties to use quotas.</p>	<ol style="list-style-type: none"> 1. Include a provision for temporary special measures within a gender equality law. 2. Incorporate clear targets and time-frame as well as an evaluating mechanism for the 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Election Commission

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p>(As above)</p> <p><i>The Committee is also concerned about the level of decision-making level in private sector organizations.</i></p>	<p>...recommends conduct of training programmes on leadership and negotiation skills for current and future women leaders. It also encourages the State party to take measures that will lead to an increase in the number of women at the decision-making level in private sector organizations.</p>	<p>temporary measures, to monitor the effectiveness of such measures.</p> <p>Train women intending to stand or who would like to stand as candidates.</p>	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Election Commission
<p>(As above)</p>	<p>...to undertake awareness-raising about the importance of women's participation in decision-making processes at all levels of society.</p>	<p>Ensure that all political parties adopt a woman's platform that genuinely promotes the participation of women in decision-making positions in the political arena and also specifically addresses the problems of inequality between women and men in all sectors of society.</p>	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Election Commission

7. WOMEN AND WORK

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals
Concerns	Recommendations	Action
<p><i>...the Committee is concerned at the lack of employment opportunities for women despite the high level of education attained by girls and women.</i></p>	<p>...to intensify its efforts towards accelerating the achievement of de facto equal opportunities for women with men in the area of employment through, inter alia, the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention, and General Recommendation 25.</p>	<p>Implementing Agency</p> <ul style="list-style-type: none"> • Ministry of Women, Family, and Community Development • Ministry of Human Resources • Ministry of Information <p>1. Introduce mechanisms that will increase women's participation in the work force.</p> <p>1.1 Increased maternity benefits.</p> <p>1.2 Encourage men to take paternity leave, which is already offered in the public sector, in order for parents to share parental responsibilities.</p> <p>2. Implement and adopt further measures to allow for reconciliation of family and professional responsibilities.</p> <p>2.1 Include provision of affordable childcare and flexible working arrangements like job sharing.</p> <p>2.2 Promote equal sharing of domestic and family tasks between women and men.</p> <p>3. Accessibility and effectiveness of measures should be monitored and adjustments can be made due to changing socio-cultural environment.</p>

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>The Committee is further concerned that the preliminary findings of a study conducted to determine factors contributing to the mismatch between women's educational achievements and their opportunities in the labour market indicate that employers have a preference for male employees due to strongly held stereotypes of men as being more independent workers. In this regard, the Committee notes with concern that restrictions on women's employment, as well as protective employment legislation, policies and benefits for women, perpetuate traditional stereotypes regarding women's roles and responsibilities in public life and in the family.</i></p>	<p>...recommends that monitoring measures be introduced to ensure effective implementation of efforts to promote change concerning the stereotypical expectations of women's roles and the equal sharing of domestic and family responsibilities between women and men, including by making the flexible work arrangements envisaged in the Ninth Malaysia Plan equally available to women and men.</p>		<ul style="list-style-type: none"> Ministry of Women, Family and Community Development

8. VIOLENCE AGAINST WOMEN

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>...the Committee is concerned about the reluctance of the State party to criminalise marital rape. In particular, the Committee is concerned that the proposal before Parliament on this issue is narrowly tailored to criminalise sexual assault based on use of force and death threats by the husband, rather than marital rape based on lack of consent of the wife.</i></p>	<p>...to enact legislation criminalizing marital rape, defining such rape on the basis of lack of consent of the wife.</p>	<ol style="list-style-type: none"> 1. Remove exception in the Penal Code that excludes husbands from being accused of rape. 2. Amend the definition of rape in the Penal Code to take into consideration consent. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers
		<p>To implement the recommendations forwarded in the Malaysian NGO Shadow Report under the issue of Violence Against Women and Girls as provided for in Annex 2.</p>	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Attorney General's Chambers • Ministry of Home Affairs (including Royal Malaysia Police) • Ministry of Human Resources

9. TRAFFICKING

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals
Concerns	Recommendations	Action
<p><i>The Committee is concerned that the State party has not enacted legislation on trafficking and has not established a comprehensive plan to prevent and eliminate trafficking in women and to protect victims.</i></p>	<p>... to consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementary to the United Nations Convention against Transnational Organized Crime and to intensify its efforts to combat all forms of trafficking in women and girls, including by enacting specific and comprehensive legislation on the phenomenon.</p>	<p>Research into the extent of trafficking in the country.</p> <p>Study the Protocol to Prevent, Suppress and Punish Trafficking in Persons</p> <p>Introduce anti-trafficking laws that clearly specifies the duties of all agencies involved, and prosecution of traffickers</p> <p>Establish an agency that monitors the effectiveness of the anti-trafficking laws.</p> <p>All actions undertaken by the Government must be approached from a human rights perspective, using human rights standards and guidelines such as those articulated in Appendix 2 of “Trafficking in Women and Children: Report of the Human Rights Commission of Malaysia (SUHAKAM). The Government should begin by building on the groundwork already done by SUHAKAM and act on SUHAKAM’s</p> <ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Home Affairs (including Immigration Department and Royal Malaysia Police) • Ministry of Human Resources • Ministry of Foreign Affairs • Attorney General’s Chambers

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
(As above)	<p>... to increase its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange.</p> <p>... to collect and analyse data from the police and international sources, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls.</p>	<p>recommenda-tions.</p> <p>Utilise existing regional and bilateral mechanisms to have better monitoring of entry and exit routes of traffickers (eg: ASEAN).</p>	<ul style="list-style-type: none"> Ministry of Women, Family and Community Development Ministry of Foreign Affairs Ministry of Home Affairs (including Royal Malaysia Police)
<p>...the Committee is concerned about the lack of systematic data collection on this phenomenon.</p>	<p>...to ensure that trafficked women and girls are not punished for violations of immigration laws and have adequate support to be in a position to provide testimony against their traffickers.</p>	<p>1. Enact legislation on Anti-Trafficking as proposed by SUHAKAM in Chapter 7 of “Trafficking in Women and Children: Report of the Human Rights Commission of Malaysia (SUHAKAM)</p>	<ul style="list-style-type: none"> Ministry of Women, Family and Community Development Ministry of Home Affairs (including Immigration Department, Royal Malaysia Police) Ministry of Women, Family and Community Development Attorney General’s Chambers Ministry of Home Affairs (including
<p>It is further concerned that women and girls who have been trafficked may be punished for violation of immigration laws and are thus revictimised.</p>			

		<p>2. Amend the Immigration Act to enable the victims of trafficking to be allowed to stay and work in the country in order to give evidence.</p> <p>3. Establish a more effective identification and support mechanism to help trafficked women and children.</p>	<p>Immigration Department, Royal Malaysia Police)</p> <ul style="list-style-type: none"> Prisons Department of Malaysia
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10. MIGRANT DOMESTIC WORKERS

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals
Concerns	Recommendations	Action
<p><i>...the Committee is concerned about the lack of legislation and policies on the rights of migrant workers, particularly migrant domestic workers who are mostly women, including employment rights and rights to seek redress in cases of abuse.</i></p>	<p>...to enact comprehensive laws and establish procedures to safeguard the rights of migrant workers, including migrant domestic workers. The Committee calls upon the State party to provide migrant workers viable avenues of redress against abuse by employers and permit them to stay in the country while seeking redress. The Committee further urges the State party to make migrant workers aware of such rights.</p>	<p>Implementing Agency</p> <ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Human Resources • Ministry of Home Affairs (including Immigration Department) • Attorney General's Chambers
		<ol style="list-style-type: none"> 1. Establish standardised procedures for employing migrant workers. 2. All employment contracts should be standardised. 3. Procedures for bringing migrant workers into the country should be standardised and enforced. 4. Remove need for Special Pass. 5. Allow workers to change employers and work during investigation and court proceedings. 6. Have provisions for easy access for workers to report any abuse. 7. Enforce labour courts to exercise more power in the case of migrant workers seeking redress. <ol style="list-style-type: none"> 7.1 Cases should be cleared as soon as possible to enable quick justice and compensation for the migrant workers. 8. Disseminate materials regarding rights of migrant workers to employment agents to distribute to all workers.

11. ASYLUM SEEKERS AND REFUGEES

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<p><i>The Committee is concerned that the State party has not enacted any laws or regulations concerning the status of asylum-seekers and refugees. In particular, the Committee is concerned that asylum-seekers and refugees, including women, are prosecuted for immigration-related offences and may be indefinitely detained at immigration detention centres or deported.</i></p>	<p>...adopt laws and regulations relating to the status of asylum seekers and refugees in Malaysia, in line with international standards, in order to ensure protection for asylum seekers and refugee women and their children.</p>	<ol style="list-style-type: none"> 1. Provide refugee children with access to public education. 2. Issue temporary residence and work permits to refugees. 3. Ensure that all refugee children are issued birth certificates. 4. Release all asylum-seekers and refugees who are currently detained in connection with immigration proceedings. 5. In the absence of a national law on refugees, amend the Immigration Act 1959/63 (Act 155) with a view to legalising the status of asylum-seekers and refugees in Malaysia, and not detain them at immigration detention centres nor prosecute them for immigration-related offences. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Human Resources • Ministry of Home Affairs (including Immigration Department) • Attorney General's Chambers
<p><i>(As above)</i></p>	<p>...recommends fully integrate a gender-sensitive approach throughout the process of granting asylum/refugee status, in close cooperation</p>	<ol style="list-style-type: none"> 1. Identify asylum-seekers and refugees in close cooperation with UNHCR and refrain from deporting them. 2. Cooperate closely with UNHCR 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Human Resources

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	with appropriate international agencies in the field of refugee protection, in particular the Office of the High Commissioner for Refugees (UNHCR).	and NGOs in all matters relating to refugees. 3. Actively engage in the prevention of Sexual and Gender-based Violence (SGBV) and other forms of violence against asylum-seekers and refugees through awareness raising and training.	<ul style="list-style-type: none"> • Ministry of Home Affairs (including Immigration Department) • Attorney General's Chambers

12. DATA AND INFORMATION

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
<i>The Committee is concerned that the report did not provide information about the position of women from various ethnic groups in all areas covered by the Convention.</i>	...to include in its next report, data disaggregated by sex and ethnicity in all areas covered by the Convention	<ol style="list-style-type: none"> 1. Establish a data collection centre to collect data and disaggregate it by sex and ethnicity on the de facto situation in all areas i.e. health, employment, education etc. 2. Data must be disseminated to respective ministries and agencies. 3. Data collected must be disseminated widely; be placed on the respective ministry or agency's website and printed and distributed widely. 	<ul style="list-style-type: none"> • All relevant ministries • Ministry of Women, Family and Community Development • Department of Statistics
<i>...the Committee regrets that the information provided on rural women was out of date and did not present a current picture of the situation of rural women.</i>	...to include in its next report...current sex-disaggregated data and information on the de facto position of rural women in all sectors.	<ol style="list-style-type: none"> 1. Establish a data collection centre to collect data from rural areas and disaggregate it by sex and ethnicity on the de facto situation in all areas i.e. health, employment, education etc. 2. Data must be disseminated to respective ministries and agencies. 3. Data collected must be disseminated widely; be placed 	<ul style="list-style-type: none"> • All relevant ministries • Ministry of Rural Development • Ministry of Agriculture and Agro-based Industry • Ministry of Women, Family and Community Development • Department of Statistics

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
		on the respective ministry's or agency's website and printed and distributed widely.	

13. RATIFICATION OF THE OPTIONAL PROTOCOL

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	...encourages the State party to ratify the Optional Protocol and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.	<ol style="list-style-type: none"> 1. All reservations to the Convention should be removed and the Optional Protocol to CEDAW should be ratified. 2. The State should accept the amendment to article 20, paragraphe 1, to allow the Committee to meet more frequently. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Foreign Affairs • Attorney General's Chambers

14. PREPARATION OF NEXT PERIODIC REPORT

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	<p>...ensure the wide participation of all ministries and public bodies in, and to continue to consult with non-governmental organisations during, the preparation of its next report. It encourages the State party to involve Parliament in a discussion of the report before its submission to the Committee.</p>	<ol style="list-style-type: none"> 1. Establish a committee made up of representatives from various governmental agencies and non-governmental organisations to prepare the next State party report. 2. There must be open consultations among the various groups involved in preparing the State party report. 3. The State party report should be presented in Parliament. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Gender Focal Points of relevant ministries and agencies. • Parliament
	<p>...to utilize fully in its implementation of the obligations under the Convention, the Beijing Declaration and Platform for Action which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.</p>	<ol style="list-style-type: none"> 1. Study the Beijing Declaration and Platform for Action and, through information dissemination and training, ensure that all relevant government officials are aware of the Beijing Platform and its implementation steps. 2. Review of national policies towards implementation of the Beijing Declaration and Platform for Action. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	<p>... integration of a gender perspective and the explicit reflection of the provisions of the Convention in all its efforts aimed at the achievement of the Millennium Development Goals and... to include information thereon in its next periodic report.</p>		

15. RATIFICATION OF HUMAN RIGHTS TREATIES

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	<p>...encourages the Government of Malaysia to consider ratifying the treaties to which it is not yet a party (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, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).</p>	<ol style="list-style-type: none"> 1. Study the various human rights treaties. 1. Perform comparative studies of other countries that have ratified the treaties. 2. Take steps to ratify the other major human rights treaties. 3. Take on board recommendations made by SUHAKAM to the Government of Malaysia to ratify/accede to the International Covenant of Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, Convention against Torture and the two Optional Protocols to the Convention on the Rights of the Child. 	<ul style="list-style-type: none"> • Attorney General's Chambers • Ministry of Foreign Affairs

16. DISSEMINATION OF INFORMATION

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	<p>... wide dissemination of the concluding comments in order to make the people of Malaysia, including government officials, politicians, parliamentarians and women's and human rights organisations aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that have to be taken that are required in that regard.</p> <p>...to continue to disseminate widely the Convention, the Optional Protocol thereto, and the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the 23rd special session of the General Assembly, entitled</p>	<ol style="list-style-type: none"> 1. Concluding comments should be translated into Bahasa Malaysia, Tamil and Chinese and be made available in all four languages on the MWFCDD website. 2. Text of the Convention the Optional Protocol thereto, and the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the 23rd special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century" should be printed and made available in schools and institutions of higher learning, and be introduced in the school syllabi. These texts should be made available in all four major languages in Malaysia. 	<ul style="list-style-type: none"> • Ministry of Women, Family and Community Development • Ministry of Education • Ministry of Information

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	“Women 2000: gender equality, development and peace for the twenty-first century”.		

17. SUBMISSION OF NEXT PERIODIC REPORT

Concluding Comments from the CEDAW Committee to the Government of Malaysia		NGO Proposals	
Concerns	Recommendations	Action	Implementing Agency
	<p>...to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its third periodic report, which was due in August 2004 and its fourth periodic report, which is due in August 2008, in a combined report in 2008.</p>	<p>An inter-agency committee that includes representatives from non-governmental organisations should be established immediately to begin work on the report.</p>	

**“Towards Full Implementation of CEDAW”
Hotel Singgahsana, Petaling Jaya,
Thursday, 21st September 2006**

Conference Participants

National Council of Women’s Organisations (NCWO)

- YBhg Datin Nursiah Sulaiman
- Dr Hamidah Karim
- Prof Emrita Datuk Dr Nik Safiah Karim
- Omna Sreeni Ong
- Dr Kiranjit Kaur
- June Yeoh
- Rasamani Kandiah
- Yasmeen Shariff
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- Meera Samanther
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- Wong Su Zane
- Saralah Mahendran
- Chin Oy Sim
- Joane Nayagam
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- Nik Noriani Nik Badlishah
- Zaitun Kasim
- Azza Basaruddin

All Women’s Action Society (AWAM)

- Yasmin Masidi
- Betty Yeoh
- Ng Tze Yeng

Women’s Development Collective (WDC)

- Cecilia Ng

Empower (Pusat Janadaya)

- Ho Yock Lin
- Seulki Lee

NCWO Affiliates

- Vivien Oh Swee Choo (FFPAM)
- Josephine Chua (YWCA)
- Juwita Suwito (YWCA)

Other NGOs

- Alice Nah
- Sai Jyothi Raicheria (ARROW)
- Thanam Subramaniam (Centre for Independent Journalism)

International Women’s Rights Action Watch Asia Pacific (IWRAP Asia Pacific)

- Shanthi Dairiam
- Janine Moussa
- Jana Rumminger

**Malaysian Non Governmental Organisations Shadow Report
Reviewing the Government's Implementation of the Convention on the Elimination of All
Forms of Discrimination against Women (CEDAW)**

General Recommendation 19 – Violence Against Women and Girls

Recommendations to the Government

1. Prevalence of violence against women

To put in place mechanisms to monitor not only the prevalence of gender based violence but to analyse emerging trends and areas of concern. This information should be made easily available to the public so as to create awareness and demystify some of the false assumptions made around violence against women.

2. The scope of violence against women

- 2.1 To review the provisions of the Domestic Violence Act based on the momentum entitled Review and Proposals for Amendments to the Domestic Violence Act submitted by the Women's Center for Change (WCC) in 1999.
- 2.2 To review the provisions by the Joint Action Group against Violence Against Women (JAG-VAW) to the Special Select Committee on Penal Code (Amendment) 2004 and Criminal Procedure Code (Amendment) 2004 and the Anti Rape Task Force, Memorandum on the Proposed Amendments to Laws Related to Tape, September 2003.
- 2.3 To enact a sexual harassment law based on the proposed sexual harassment bill submitted by JAG-VAW.
- 2.4 To review the laws effecting migrant domestic workers to ensure adequate coverage and protection from violence.
- 2.5 To hold consultations with the relevant parties including the NGOs working in these areas to study the above reviews proposed.

3. Enforcement: Investigation and Court Process

- 3.1 To review all aspects of the investigation process for cases of gender based violence to ensure speedy redress and gender sensitive responses to ensure speedy redress and gender sensitive responses to these cases, especially for cases of domestic violence and rape.
- 3.2 To ensure the police will do away completely with the face to face identification parade and use a one-way mirror in all cases involving rape and sexual assault.
- 3.3 To review the rules of evidence in court to remove any loopholes and provisions that continue to cause trauma to survivors who testify especially involving the cross examination of the rape survivors past sexual history, disclosure of a survivors identity and the need for burden of proof and corroboration in rape cases.

4. Infrastructure and Support Services

- 4.1 Allocations are needed in the State's annual budget to ensure that there are enough resources for all the agencies involved in combating violence against women. These include budgets for more staff, setting up of shelters and a special fund for women and children in crisis.
- 4.2 To provide shelters specifically designated for survivors of domestic violence and sexual assault equipped with trained personnel who can counsel and offer appropriate care.
- 4.3 To ensure OSCCs are set up in all district hospitals and to establish an in house mechanism to monitor the services and staffing requirements of all OSCCs to ensure effectiveness. The existing protocols and guidelines should be reviewed to accommodate changing needs and requirements.
- 4.4 To employ more welfare officers and women police officers to handle cases.

5. Lack of gender sensitive public officers

- 5.1 To implement compulsory ongoing training programmes for all public officers (i.e. police, welfare officers, medical personnel and judiciary) on issues of violence against women. Training modules on gender, violence against women and rights of migrant workers developed in consultation with the relevant NGOs should be included as part of the curriculum in police training schools.
- 5.2 A more concerted and consistent approach to public education on issues of violence against women to be developed. Media campaigns are needed to increase awareness of women's rights and to bring about a change in the mindset of the Malaysian public on issues of domestic violence, rape, sexual harassment and rights of migrant domestic workers.

6. Abuse of Migrant Domestic Workers

- 6.1 To review the various policies and regulations that affect migrant domestic workers, leaving them vulnerable to abuse. This includes re-examining the imposition of Special Passes for those seeking legal redress or awaiting completion of court proceedings. To re-evaluate the recruitment policy which is based on a single entry policy as it deters migrant domestic workers from seeking redress for fear of deportation.
- 6.2 All migrant domestic workers should on arrival be given an orientation on their rights and provided emergency telephone numbers and other resources for dealing with crisis and abuse.
- 6.3 To develop a multi-agency approach with a secretariat to handle all cases of abuse in cooperation with the police, welfare, court, immigration, hospitals and NGOs. The existing multi-agency networks should be enhanced and broadened to encompass all forms of violence against women.

7. Women in Detention

- 7.1 To promote and support education regarding the human rights of women in detention, including public education about the conditions faced by them in detention and gender sensitive training for lawyers, judges, law enforcement officers and personnel in detention centers.
- 7.2 To investigate and prosecute persons accused of violating the human rights of women in detention.
- 7.3 To emphasize the rehabilitation of women in detention. Alternative detention models to be studied that encourage rehabilitation.