

Summary of On-going Law Reform Efforts Relating to KPWKM

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Objective: To summarise law reform efforts KPWKM, JAG, and NCWO are jointly working on, and highlight other reforms relevant to KPWKM

	Proposed law reform	Summary of proposed law reform	Status of law reform	Suggested action	Relevant ministries
1	Gender Equality Act	Malaysia fares poorly in gender equality. A Gender Equality Act would prohibit gender discrimination and help fulfil gender equality in all spheres, implement CEDAW, mainstream gender equality, and establish new institutions to fulfil gender equality.	- JAG drafted bill and passed to KPWKM in early-2000s. - JAG updated bill and submitted to KPWKM in June 2017. - KWPKM and UN Malaysia organised a Gender Equality Act workshop in August 2017, attended by various government ministries and agencies. KPWKM organised a meeting with AGC and MOFA with JAG to discuss the proposed bill, on 29 March 2018. - KPWKM and WAO organised dialogue with Prof Sandra Fredman (Law Faculty, University of Oxford) with KPWKM staff in June 2018. - YAB Menteri KPWKM stated "a 'Gender Equality Act' is being prepared pending further feedback from rights groups and stakeholders."	Set timeline to finalise and enact the Gender Equality Act.	KPWKM
2	Sexual Harassment Act	Existing laws/ standards on sexual harassment exist in the Employment Act and the Code of Practice. However, these do not sufficiently address sexual harassment. They have narrow	KPWKM worked with JAG in early 2000s on a bill. JAG was informed the bill was brought to cabinet by the then-Minister, and the cabinet was advised by the then-AG that existing laws were sufficient.	Review the JAG bill, and set timeline to finalise and enact the Sexual	KPWKM, Ministry of Human Resources

		definitions, narrow coverage, and restricted access to justice.	• The bill was included in discussions of the government-NGO law reform committee (which included KPWKM) in 2015. • KPWKM engaged with women's NGOs to update the draft bill in 2018. • Both PH and BN GE-14 manifestos pledged to enact a Sexual Harassment Act. • JAG has updated the draft bill and is finalising it in October 2018.	Harassment Act.	
3	Islamic Family Law (Federal Territories) (Amendment) Act	The law is not based on the foundation of equality in the family. Women have unequal rights in marriage, divorce, polygamy, division of matrimonial assets, and other areas. Child marriage is still permissible with no minimum age with the approval of the Syariah Courts.	• Discriminatory amendments were made in 2005 and met with public outrage and a revolt by women Senators. The then-Prime Minister to instruct the Attorney General's Chambers to form a committee, that included women's rights groups, to review the amendments. • Sisters in Islam conducted briefings with the Minister for Women, the Women's Parliamentary Caucus, and other MPs. A series of new recommendations for amendments to the law to make it fairer for women was proposed. Consensus was established between government and women's organisations on an Amendments to the law. • The Amendments Act was prepared in April 2008 but not passed through. The Attorney General stated that he had to consult the Conference of Rulers. The consultation was never completed. • The law remains unchanged to this date.	Establishment a consultative committee on Islamic Family Law reform that includes women's rights groups that deal directly with women. Set a timeline for the tabling of the amendments in Parliament.	KPWKM, AGC, Minister of Religious Affairs, JAWI

4	Discriminatory provisions in the Federal Constitution	The Federal Constitution has provisions that confer less citizenship rights to women compared to men. All provisions should be amended to align with Article 8 of the FC which confers equality.	JAG's proposal on amendments to the Federal Constitution were tabled as part of the government-NGO law reform committee (which included KPWKM) in 2014. However, the committee became defunct before the proposal could be discussed.	Should the Federal Constitution be amended, ensure provisions that discriminate against women are amended.	KPWKM, Ministry of Home Affairs
5	Child marriage	Comprehensive law reform is needed to end child marriage, including amendments to the Age of Majority Act, Child Act, Law Reform (Marriage and Divorce) Act, and state syariah laws.	YAB Menteri KPWKM outlined the government's steps to tackle child marriage, in a statement on 20 September 2018.	Ensure the minimum age of marriage is set to 18 without exception.	KPWKM, Law Minister, State governments
6	Caning of women	Caning as a punishment violates international human rights principles (which regard whipping / caning) as cruel, inhumane and degrading treatment). Caning women and caning in public is unlawful and contravenes the Federal Constitution (equality before the law).	- Pakatan Harapan committed in its manifesto to "Make our human rights record respected by the world" (Promise 26). - JAG submitted a memorandum to the Prime Minister and AG on caning, in September 2018. - The Prime Minister committed to ratifying the remaining 6 core human rights conventions, which includes the Convention Against Torture, in October 2018.	Remove provisions on caning as a form of punishment under all Federal and Syariah laws. Review corporal punishment in schools.	Minister of Religious Affairs, Ministry of Home Affairs (Prisons Department), Ministry of Health, KPWKM
7	Discrimination against LGBT persons	LGBT persons face multiple forms of discrimination and human rights violations.	We propose reforms to policies and practices, to ensure politicians and public figures do not make statements that stigmatise or instil hatred towards LGBT persons, and to end government support and funding for "rehabilitation / conversion therapy" for LGBT persons.		KPWKM, Minister of Religious Affairs

8	Anti-stalking legislation	Stalking is harmful in itself, indicative and leads to more serious harm (including murder), and likely widespread in Malaysia. Yet stalking is not a crime in Malaysia.	• WCC Penang proposed stalking laws to Dewan Rakyat (new Penal Code section) in 2006. • AGC drafted stalking laws (new Penal Code and CPC sections) and presented at government-NGO law reform committee (which included KPWKM) in 2015. • Then-KPWKM minister noted her desire to enact stalking laws in Dewan Rakyat in 2017. • In March 2018, WAO was informed that KPWKM requested AGC to draft stalking laws, but AGC said stalking was not a an issue. • JAG has updated the draft anti-stalking law in October 2018.	Commit to enacting anti-stalking legislation and request AGC (or relevant body) to review JAG draft.	KPWKM, Law Minister, AGC
9	Legal gender recognition	Transgender persons face challenges changing the gender detailed in legal documents. As a result, they are subjected to humiliation, harassment and discrimination as the IC especially is used for various purposes.	• Report on legal gender recognition by NGOs (SEED and Asia Pacific Transgender Network) is available. • NGO Justice for Sisters has developed an overview on legal gender recognition for policy makers.	Engage in dialogue with transgender community to understand their challenges and proposed policy solutions.	Ministry of Home Affairs (Jabatan Pendaftaran Negara), KPWKM

10	Child Support Agency	Many husbands do not pay maintenance to wives as per court arrangement. Even court orders for the father to maintain the children are rarely enforced. Non-payment of maintenance affects Muslim and non-Muslim women.	The Family Support Division by the Department of Syariah Judiciary Malaysia was established in 2008 to facilitate the enforcement of child maintenance court orders by the Syariah Courts. In 2012 the Chief Syariah Judge of Selangor stated that 57.5% of cases referred to the division were resolved through mediation. There are several limitations to the effective function of this division.	Review the problem and existing policies, including proposal to setup a National Child Support Agency.	KPWKM, Minister of Law
11	Law Reform (Marriage and Divorce) (Amendment) Act 2017	It removes several discriminatory provisions in the principal act, although the Act did not address unilateral conversion.	- The Amendment Act was passed by Parliament and received royal assent on 9 October 2017. - As of 2 October 2018, the Act has not been enforced.	The Minister of Law must order the Act to be enforced by notification in the Gazette.	Law Minister
12	Domestic Workers Act	Due to a confined workplace, domestic workers (Malaysians and foreign nationals) face specific vulnerabilities.	- A coalition of NGOs (Domestic Workers Campaign Coalition) with ILO prepared a draft "Domestic Workers Employment Act" in 2017. - Minister in the PM's Office (Datuk Paul Low) expressed interest in the issue, and in March 2018 met with JAG to discuss the draft bill. (The bill has not been presented to KPWKM, but we are highlighting it as it concerns women and family)	Set timeline to enact laws to protect domestic workers, including building consensus among relevant ministries and reviewing the draft bill.	KPWKM, Minister of Human Resources

13	Rape and sexual offences (Penal Code, Criminal Procedure Code, Evidence Act 1950, and Evidence of Child Witness Act 2007)	Current rape laws are not comprehensive and do not protect all persons. Despite Penal Code S.375A, husbands are still given explicit immunity to rape their wives. Some consensual sexual acts are still criminalised. Requirements and practices relating to evidence are out-dated.	• Rape and sexual offences provisions in the Penal Code and Criminal Procedure Code amended in 2006, following formation of a Parliamentary Select Committee. • Penal Code amended in 2013 to increase punishment in sexual offences, and in 2017 relating to carnal intercourse with body parts. • Through the government-NGO law reform committee (which included KPWKM), AGC drafted proposed amendments to the Penal Code, Criminal Procedure Code, Evidence Act 1950, and Evidence of Child Witness Act 2007, in 2015. However, the committee was dissolved before the proposals could be discussed. • Justice for Sisters submitted proposed amendments of Penal Code Section 377 to the Institutional Reform Committee.	Form multi-stakeholder committee to review all laws relating to rape and sexual offences.	Minister of Law, KPWKM, AGC
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