

**Sisters in Islam (SIS) and Musawah
Joint Oral Statement: MALAYSIA**

**69th Session of the CEDAW Committee
Monday, 19TH February 2018**

Thank you, Madam Chair.

Reform of Islamic Family Laws

Sisters in Islam and Musawah note that there has been no progress towards implementation of CEDAW Committee recommendations on reform of Islamic family laws, following the last review.

We would like to touch on three key issues and challenges that Muslim women face:

Firstly, within a plural legal system, civil law reform has advanced the rights of non-Muslim women, while two rounds of reform to the Islamic family law has resulted in further discrimination against Muslim women. Muslim women now enjoy far less rights in marriage, divorce, guardianship of their children and inheritance than their non-Muslim counterparts.

Secondly, the Muslim legal framework discriminates against women as it regards the man as the provider and protector and in return the wife must obey him. Her failure to obey can lead to a loss of maintenance. The state party regards this as “complementarity of rights” and not discrimination. In reality, many women today are providers and protectors of their family, and yet the legal framework does not recognise these changed circumstances. This constitutes discrimination.

Thirdly, we wish to highlight the gross areas of discrimination against women under the Islamic Family Laws.

Child marriage

The reservation to Article 16 (2) on minimum age of marriage has been withdrawn, but the law has not been changed to set the minimum age of marriage at 18 for girls and boys, with no exception.

Polygamy

Law reform has made it easier for men to practise polygamy. He no longer has to prove that the marriage is just AND necessary. He no longer needs to ensure there is no drop in the standard of living of the existing family. An illegal polygamous marriage, without the wife's knowledge and consent, and without the court's permission can be registered upon paying a minimal fine.

Divorce

Muslim men can divorce their wives unilaterally, without even going to the court, while Muslim women can only divorce under specific conditions that require a high burden of proof.

This level of injustice and continuing disconnect between law and reality is untenable. It causes harm to the well-being of the family. This is reflected in the high divorce rate in Muslim families where the last available data showed that Muslim divorce rate has increased at 2.3 times the number in 2013 as compared to 2004¹.

Women's groups demanding reform to these discriminatory laws are labelled as anti-Islam and anti-*Shari'ah*. A fatwa has been issued against Sisters in Islam, declaring it a deviant group for subscribing to "liberalism and religious pluralism".

This is because the government and its religious authorities believe these Islamic Family Laws are divine and unchangeable and only they have the right to engage on matters related to Islam.

And yet, they willfully ignore the rich Muslim legal tradition that offers multiple interpretations, juristic opinions and tools for law reform to deal with changing times and circumstances to ensure equality and justice for all.

We assert the issue here is not about Islam or *Shari'ah*, but whether the Malaysian government has the political will to end discrimination against women.

We want to see Islamic Family Laws reformed based on a framework that recognises marriage as a partnership of equals, and guarantees equality and justice for Muslim women.

Thank you.

¹ <http://www.themalaymailonline.com/malaysia/article/one-divorce-in-malaysia-every-10-minutes#TGXTxRMtzOK1ky32.97>