

A. INTRODUCTION

1. Sisters in Islam (SIS), a national NGO working towards equality and justice for Muslim women within the Malaysian legal system, together with Musawah, the global movement for equality and justice in the Muslim family, jointly submit this report for consideration by the Human Rights Council in its Universal Periodic Review (UPR) of the Government of Malaysia.
2. This report examines Malaysian laws and practices that enforce *de jure* and *de facto* discrimination against Muslim women in the following areas: trends in reform of Islamic Family Laws; discriminatory legal frameworks; early and child marriage; polygamy; divorce; child custody and guardianship; and inheritance. This briefing is drawn from Sisters in Islam and Musawah's joint CEDAW shadow report, submitted for the 69th CEDAW Session in February 2018ⁱ. Also included are relevant statistics from 'Telenisa' - Sisters in Islam's free legal advisory services on legal rights of Muslim women and men under Islamic Laws.
3. In relation to the UDHR, the Islamic Family Laws in Malaysia impact the human rights of Malaysian Muslim women in reference to Articles 1, 2, 7, 16 and 25, among others.
4. In relation to Malaysia's commitments under CEDAW, Malaysia's recent engagement with CEDAW surfaced significant discrimination against women as a result of Islamic laws and policiesⁱⁱ. The State party maintains its reservations with regards to Article 16(1)(a), 16(1)(c), 16(1)(f) and 16(1)(g).
5. We hope that the research, analysis, and recommendations in this report will:
 - i. Highlight key concerns and identify gaps in implementation of the State party's human rights obligations;
 - ii. Provide alternative arguments from within Muslim legal theory that challenge the ways the State party uses religion to justify discrimination; and
 - iii. Suggest recommendations for reform based on good practices in Muslim contexts.

B. THE LEGAL FRAMEWORK

6. Malaysia operates a plural legal system, based on English common law, Islamic law and customary laws. The Federal legislature (Parliament)ⁱⁱⁱ enacts the majority of laws, which are enforced through a Federal judiciary.
7. Islamic laws are enacted by the state legislative bodies^{iv} and only apply to Muslims. Islamic laws are enforced by Syariah^v Courts, also established at State level. The Federal Constitution^{vi} limits the matters that can be legislated at State level^{vii}. In relation to Islamic laws they are:

... Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, organization and procedure of Syariah courts, which shall have jurisdiction only over persons professing the religion of Islam

LEGISLATION ON MARRIAGE AND DIVORCE

8. Muslims are governed under Islamic Family Laws (IFL), which are legislated at the state level, whilst the Law Reform Marriage and Divorce Act (1976) (LRA) regulates non-Muslim persons.
9. In 1984, the Federal Parliament enacted the Islamic Family Law (Federal Territories) Act 1984 (IFLA) for the Federal Territories^{viii}. Other states adopted slightly altered versions of the IFLA. Since 1976, the LRA has undergone reform to end discrimination against women in marriage and in the family, including abolishment of polygamy and granting equal rights to men and women on marriage and divorce.

10. In 1999, the Guardianship of Infants Act was amended to provide equal rights on guardianship of children for the father and mother. The Distribution Act was also amended to provide for equal inheritance rights for widows and widowers. However, none of these law reform efforts were extended to Muslim women.

C. KEY ISSUES, LIVED REALITIES, ISLAMIC JURISPRUDENCE AND REFORM

I. TRENDS IN LAW REFORM ARE REGRESSIVE AND PERPETUATE DISCRIMINATION AGAINST MUSLIM WOMEN

11. The IFLA was once regarded as among the most progressive in the Muslim world. However, subsequent amendments to the law have diminished the rights of Muslim women in Malaysia.
12. Two rounds of law reform to the IFLA (1994 and 2003) resulted in further discrimination. In effect, Muslim women in Malaysia face double discrimination – firstly, discriminated vis-à-vis Muslim men within the IFLA and secondly, discriminated vis-à-vis women of other faith, with Muslim women enjoying far fewer rights in marriage, divorce, guardianship of their children and inheritance.
13. In 1994 and 2004, the amendments on polygamy, divorce, inheritance, division of marital property, children born out of wedlock, and so on gave more legal rights to men. The use of gender neutral language extended to men rights that were historically the rights of women.
14. These grossly discriminatory amendments were met with public outrage. This led the then-Prime Minister to instruct the Attorney General's Chambers to form a committee, which included representation from women's rights groups, to review the discriminatory amendments. A series of new recommendations was proposed and agreement on these amendments was reached in 2006. **However, 11 years later, these relatively more progressive amendments are yet to be submitted to Parliament.**
15. It is untenable and unjust that in this day and age, while laws that discriminate against women of other faiths were amended to recognize equality, law reform in the name of Islam made it worse for Muslim women. Notwithstanding these challenges, women's groups in Malaysia remain persistent in claiming their rights and asserting their authority to challenge the ways Islam is used to justify discrimination against women and to offer an alternative vision of Islam that upholds equality and justice.
16. **The HRC should urge the State party to take urgent and immediate steps to treat Muslim women as citizens of equal worth and dignity and ensure that law reform towards equality and justice extend to all citizens, including Muslim women.**

II. FAMILY LAWS BASED ON DISCRIMINATORY FRAMEWORK

Reciprocity of rights

17. The Islamic Family Laws of Malaysia are grounded on 'reciprocal' or 'complementary' rights (as opposed to 'equal' rights) between spouses, whereby in return for maintenance and protection from her husband, a wife is expected to 'obey' him. Her failure to obey can lead to a loss of maintenance.
18. This leads to privileges and rights granted to men in terms of marriage, divorce, guardianship, inheritance, etc. In practice, when men fail to undertake their roles and responsibilities, their privileges remain intact; while women today who provide and protect their families do not get any recognition in law that they are worthy of being treated as equal to men.
19. Under the IFLA, a woman who 'commits *nusyuz*' or disobeys any order lawfully given by her husband has committed an offense and can be fined^x - "***a wife shall not be entitled to maintenance when she is nusyuz, or unreasonably refuses to obey the lawful wishes or commands of her husband***". Section 59(3) states that "***As soon as the wife repents and obeys the lawful wishes and commands of her husband, she ceases to be nusyuz.***"

Male guardianship (*wali*)

- 20 Section 7 of the IFLA requires a woman to have a *wali* to solemnize her marriage. Thus, the IFLA does not grant women equal consent and capacity as men to enter into marriage. Regardless of her age, a prospective bride requires the consent of a *wali* (male guardian) to marry.
21. This does not reflect the reality on the ground. Women in Malaysia have advanced in terms of education, health and access to opportunities in the labour force^x. However, this advancement is not witnessed in the family sphere for Muslim women.
22. Many Malaysian Muslim women are heads of households, primary caregivers, and key decision makers within their families and communities. This disconnect between law and reality is harmful to family well-being. This is reflected in the particularly disproportionate high divorce rate among Muslims compared to non-Muslims in Malaysia.

Arguments and tools of Islamic jurisprudence within Muslim legal tradition support egalitarian Muslim family laws that consider marriage as a partnership of equals. Other Muslim-majority jurisdictions, such as Algeria, Turkey and Morocco, have family laws based on equality of marriage between spouses.

23. *The HRC should urge the State party to:*

- Conduct a complete review of all of the Islamic Family Laws to grant Muslim women equal rights to men and equal rights to women of other faith, based on progressive interpretations of the *Shari'ah*, and grounded in a legal framework that regards marriage as a partnership of equals^{xi}.
- Involve all stakeholders in the law reform process, including women's rights organizations.
- Amend all provisions in the IFLA that respond to a maintenance-for-obedience legal framework.
- Repeal Section 59 of the IFLA concerning *nusyuz*.
- Ensure that Muslim women have equal right and capacity to enter into marriages on their own accord without needing permission of a male guardian or a judge.
- Remove the consent requirement for a woman's marriage by repealing Section 13 of the IFLA.

III. EARLY AND CHILD MARRIAGE

Child marriage is still permitted in Malaysia with increasing numbers

24. CEDAW General Recommendation No. 21 states that it "considers that the minimum age for marriage should be 18 years for both man and woman"^{xii}. It also states that legal provisions that allow for different ages at which men and women can marry should be abolished^{xiii}. The Child Act 2001 provides that "child" - (a) means a person under the age of eighteen years^{xiv}.
25. In July 2010, the Malaysian government removed its reservation to Article 16(2) of CEDAW on child marriage. However, the legislative provisions on the age of marriage have remained unchanged.
26. In contravention with international conventions, the age of marriage under the IFLA (the laws across the 14 states are uniform) is 18 for men and 16 for women, with exception that they may marry at younger ages in certain circumstances with the permission of the Syariah judge. In effect, **there is no minimum age as long as it is with the approval of the Syariah judge.**
27. No specific penalty is provided if such an approval is not obtained. Strictly speaking, the marriage would be in contravention of the law. However, a legal loophole under section 12 of the IFLA allows the judge's discretion to consider if it was accordance with Islamic law (*fiqh*) – then the marriage may be registered nonetheless.
28. Data show that the number of child marriages has increased since 2000^{xv}.

Guidelines for justifying underage marriage are unclear

29 A key concern is there have been no attempts to clarify what constitutes reasons for marriage under 18 for boys and 16 for girls. The IFLA is silent on the issue of consent of the child. In practice, consent is not necessarily requested in each case. There are circumstances where the child is not called in by the Court for an interview and the parents' testimonies are accepted as sufficient^{xvi}. This has resulted in cases when marriage of a rapist to his victim was approved while the man was being prosecuted for rape (see box below).

Documentation of lived realities of child marriage cases is scarce because the parties involved are often unwilling to expose their situation. A particularly harrowing incident in 2013 was the case of Riduan Masmud, who was charged for raping a 13-year-old girl. When the matter was brought to court, he informed the court that he had married the victim.

The Public Prosecutor at that time decided to withdraw the case on the basis of the marriage. This caused a public outcry, which led prosecutors to reinstate the rape charge, which resulted in a conviction in 2014. Separately, Riduan was also facing bribery charges for paying the girl's father RM5000 (USD1269) to give his consent to the marriage.

More info: <http://www.dailyexpress.com.my/news.cfm?NewsID=85483>

Arguments within Muslim legal tradition support raising the minimum age; this is bolstered by evidence that child marriage can cause significant physical, psychological, and emotional harm to girl children. Other Muslim-majority jurisdictions, such as Egypt and the Sindh Province in Pakistan, have made the minimum age of marriage 18 with no exceptions.

30. *The HRC should urge the State party to:*

- Enforce 18 years as the absolute minimum age of marriage for both girls and boys, and remove all legal loopholes that allow for exceptions to this rule.
- Enact strict legislation to criminalize child and forced marriages, and enforce punishments for planning, conducting, and failing to prevent child and forced marriages.
- Initiate better collection of data on the nature, extent and prevalence of child marriage in Malaysia and undertake an analysis on the root causes and reasons for the practice.

IV. POLYGAMY

31. In Malaysia, polygamy was practised by most ethnic/religious communities until the LRA banned polygamy for non-Muslims. Since then, polygamy has become associated primarily with Islam, making it difficult to campaign for reform. This is due to the prevalent belief among those in religious authority that polygamy is a divine right of men and therefore the state has no right to intervene and restrict the practice. Little regard is given to the documented harmful effects of polygamy to the wife and children and overall family well-being.

Amendments to IFLA rolled back conditions for polygamy

32. Two rounds of law reform to the IFLA have made it easier for Muslim men to commit polygamy in Malaysia. In 1994, the Act was amended, repealing the fifth condition (no drop in standard of living of the existing family) that had to be fulfilled before the Syariah Court could permit polygamy. Additionally, while the 1984 law only allowed polygamy with the permission of the court, another 1994 amendment allows an illegal marriage without the court's permission to be registered upon payment of a minimal fine. Amendments in 2005 resulted in further leniency in a man's ability to commit polygamy. The first condition that he must prove the proposed marriage was that the marriage be "just AND necessary"; this was amended to "just OR necessary".

33. Implementation of the remaining conditions for polygamy also remains weak. Currently the four existing conditions to be met are: (1) the proposed marriage is just or necessary; (2) the man has the financial ability to support his existing and future dependents; (3) he is able to treat all wives equally; and (4) the marriage will not cause harm to the existing wife.

34. Often times, judges do not apply the conditions strictly, and give permission even though all conditions are not met. Although the law requires that the existing wife, the prospective wife, and their families are to appear before the judge, often this is ignored or the existing wife is intimidated into agreeing.
35. Data on polygamy indicates widespread prevalence with serious impact on women and children. See Annex 1 for further details.

Inadequate penalties for offenders

36. Although there are penalties for an illegal polygamous marriage, they are lenient and do little as deterrence. It is an offence to commit polygamy without the permission of the Court. However, the marriage usually gets registered, with payment of a minimal penalty (section 123).
37. It is very rare for a man to be sentenced to jail for such an offence. The fines are usually about RM1000 (USD255). Thus, it is easier for husbands to contract illegal polygamous marriages first, and inform the court after the fact, because all they need to do is to pay a small fine to make the marriage legal.

Numerous arguments from within Islam support the notion that monogamy should be the standard form of marriage and the pre-Islamic practice of polygamy should be permitted only in exceptional circumstances. Tunisia has prohibited polygamy on Islamic grounds, and other Muslim-majority countries such as Algeria and Indonesia restrict polygamy by requiring court approval and consent from existing wives.

38. The HRC should urge the State party to:

On polygamy

- Amend Section 123 of the IFLA:
 - To impose a more stringent fine and a mandatory minimum four-week prison sentence (maximum one year) as a deterrent to the practice of husbands entering into polygamy without the court's permission.
 - To require the existing wife's representations in the decision to grant approval for polygamy.
- Reinstate the repealed Section 23(3)(e) that required a polygamous marriage not to reduce, directly or indirectly, the standard of living of the man's existing wife (or wives) and children.
- Include polygamy as grounds for divorce to enable a wife to apply for a *ta'liq* divorce, which should be automatically granted.

On matrimonial assets

- Protect matrimonial assets of an existing wife by allowing her to claim a share before the husband may be permitted to marry another wife.
- Amend Section 23 of the IFLA to state that prior to allowing a husband to enter into an additional marriage, the court will decide the maintenance payments for the existing wife and children, and assets owed to the existing wife. This allocation of payments and assets should occur automatically, without requiring the first wife to file a special application.

V. DIVORCE RIGHTS

39. Under the IFLA, a husband can divorce his wife at will without any conditions, while women are provided limited grounds for divorce, which require specific conditions and/or consent of husbands. The Act provides for five different mechanisms for divorce: (i) unilateral repudiation (*talaq*); (ii) conditional divorce (*ta'liq*); (iii) judicial divorce (*fasakh*); (iv) redemptive divorce (*tebus talaq* or *khul'*) and (v) mutual repudiation divorce (*secara li'an*). The marriage may also be annulled^{xvii}.

Talaq - Unilateral repudiation by the husband

40. A Muslim man does not need specific grounds to divorce his wife. The husband can unilaterally divorce his wife by pronouncement of the *talaq*, whether in person or even through text messages and other non-verbal means. This has caused grave injustice and distress to many women and children.

41. Examples of cases in Sisters in Islam's Telenisa legal clinic includes cases where the husband pronounced *talaq* in the middle of a fight but later retracted it, leaving their wives concerned whether 'as per Islam' they remain married.

***Fasakh* - Judicial divorce**

42. For the wife, the most common way to initiate a divorce is by *fasakh*. There are conditions under which this type of divorce is permissible, including if her husband has failed to provide maintenance; is insane or has a communicable sexually transmitted disease; treats her cruelly including habitual assaults or making her life miserable by cruel conduct; etc.

43. The Syariah Court requires the wife to provide strong grounds before pronouncing divorce through *fasakh*. *Fasakh* divorce takes a much longer time than *talaq*: the normal range is between six months to a year but there have been cases which have stretched to ten years. This is often the result of husbands using technical legal processes to delay the case, not turning up for hearing, filing significant numbers of matters to be disruptive, and so on.

44. Women from Telenisa complain about the complexity of the procedure for *fasakh* divorce. They are often intimidated by the process, which involves proving conditions and discussing marital issues before mostly all-male judges, thus a biased court system where women are pressured to accept low financial maintenance or compensation, forced to reunite with their husbands on the premise that they have no strong grounds for divorce; etc. Another issue is that the Courts are not gender-sensitized to issues faced by women^{xviii}, with only 5.9% women judges in the Syariah courts compared to 48% in the civil High Court^{xix}, 51.8% of Court of Appeal judges and 20% of Federal Court judges^{xx}. Most of these women are Muslim.

Legislation in other Muslim-majority countries points toward reform. In Tunisia and Turkey, all divorces must go through the courts, and divorce through unilateral repudiation (*talaq*) is not recognized. The grounds for divorce are equally available to both spouses. In Algeria, Mauritania, and Morocco, *talaq* can only be effectuated through the courts or under judicial supervision.

45. *The HRC should urge the State party to:*

- Amend the IFLA to ensure that men and women have the equal right to divorce, including the grounds for and procedures in obtaining divorce.
- Ensure all divorces require knowledge of both parties and their presence in court.
- Repeal section 55(A) of the IFLA that allows for divorce outside the courts to be registered upon payment of a fine. Ensure that penalties for unilateral *talaq* divorce outside of court are severe, and enforced rigorously to act as a deterrence.
- Ensure that wives of men who divorce without the permission of the court are automatically entitled to substantial *muta'ah* (financial compensation).
- Ensure clear guidelines on the calculation of *muta'ah* are available and limit judicial discretion.
- Initiate data collection on the nature, extent and prevalence of divorce and undertake an analysis on impact of discriminatory forms of divorce especially on women and children.

VI. GUARDIANSHIP AND CUSTODY OF CHILDREN

Guardianship of Children

46. Muslim men and women do not have equal rights in guardianship in Malaysia. In Section 88 of the IFLA 1984, the father is considered to be 'the first and natural guardian' of the child/children, and if he is dead, guardianship passes to the child's paternal grandfather.

47. Traditionally, the legal guardians were persons associated with responsibility for the children's maintenance. However, present day realities show that mothers contribute towards the family financial needs, even if it is not their legal duty to do so. Divorced or widowed mothers often face difficulties in obtaining financial assistance from the ex-husband or his relatives. There is no statutory provision for the

father's loss of guardianship in the case of irresponsibility regarding the children's maintenance, while a mother may lose her right to physical custody of the children on several grounds.

48. The fact that Muslim women were denied the benefit of law reform that granted men and women equal guardianship rights led to the government issuing an administrative directive to enable all mothers, including Muslim mothers, to sign official documents on matters related to their children. Notwithstanding this, the right of Muslim mothers to be guardians of their children must also be explicitly recognized by law.

Child maintenance (*nafkah*)

49. The main issue faced by women regarding custody is the non-payment of maintenance, as in divorce settlements. In many cases, the ex-husband disappears or just refuses to pay. Even when there is a court order, it is rarely enforced. The onus then falls onto the mother to apply for enforcement of the court order, yet there is no strong enforcement action taken against the father if he does not pay.
50. The Family Support Division of the Department of Syariah Judiciary Malaysia was established in 2008 to facilitate the enforcement and implementation of child maintenance court orders by the Syariah Courts. Statistics on the success of this division are not readily available but in 2012 the Chief Syariah Judge of the state of Selangor stated that about 57.5% of cases referred to the division were resolved through mediation. However, no public information is available regarding the number of cases referred as compared to the number of cases where maintenance is not paid.

In Sisters in Islam's Telenisa engagements with the women who seek legal assistance, either women are not aware that the Family Support Division exists or they are not willing to undergo a lengthy process with the Division and thus give up their rights to maintenance and find other means to support their children.

According to the Telenisa statistics, in 2016 maintenance of children accounted for 30% of the cases affecting children in marriage. Within these cases, 40.5% of fathers do not pay maintenance and 28.6% of fathers provide inadequate maintenance.

Children born out of wedlock

51. Under the IFLA, where a child is born to a couple married for less than six months, that child is deemed to be born out of wedlock. The impact on this is that the father cannot be 'wali' or guardian to the child. The child born out of wedlock also does not have the right to inherit from the father.
52. The custody of the children appertains exclusively to the mother and her relatives, and the court may order a woman to pay maintenance to her child. Prior to the 1994 IFLA amendment, a court could order a man to contribute towards the maintenance. This provision has been repealed.
53. Another major contentious issue on the rights of children born out of wedlock is the practice of the National Registration Department (NRD) to refuse to register the name of the biological father, and instead enter the arbitrary name of "Abdullah" in the child's birth certificate. This practice violates the Births and Deaths Registration Act 1957, which provides that the father's name may be entered into a child's birth certificate, upon joint request of both father and mother. However, the NRD has chosen to abide by a national fatwa that requires surname "Abdullah" to be entered in order to ensure that the child's out of wedlock status is formalised. The cases that have been forwarded to Telenisa often involve parents who married after the woman became pregnant. They continued as a family, having additional children. In these cases, the eldest child would have a different surname from the younger children.
54. In July 2017, the Court of Appeal^{xxi} issued a landmark decision that the NRD was not bound to follow the fatwa in naming of children, but instead may ascribe the father's name as the child's surname, if the father and mother so agree. The Court of Appeal issued the decision on the basis of compassion and in the interest of the child. *"Herein lies the injustice because the sad truth is, there is a stigma attached to the surname "bin Abdullah" among the Muslim community.*

55. However, this was immediately met with consternation from conservative Muslim proponents who branded it as a move towards legitimizing *zina* (sexual intercourse outside of marriage)^{xxii}. Ignoring the court decision, the National Registration Department said it would continue its practice, and proceeded to file an appeal in the Federal Court^{xxiii}. The matter is awaiting decision of the Federal Court.

56. **The HRC should urge the State party to:**

On guardianship

- Amend Section 88 of the IFLA to grant equal rights of legal guardianship to both mothers and fathers based on the best interests of the child.

On child maintenance

- Empower the court to impose a wide range of measures against defaulters, including: (i) imposing fines or imprisonment; (ii) mandatory collection of maintenance through salary deductions, etc.
- Introduce other forms of deterrence to punish errant fathers and ex-husbands who fail to comply with court orders. This can include prohibiting the renewal of driving or business licences, passports and other permits until their arrears are settled.
- Widen the operation of the Family Support division of the Syariah Court System to claim against errant husbands.
- Develop an effective mechanism at the Federal level – such as a National Child Support Agency that would function as an independent body to assess, review, enforce and arrange child support payments.

On children born out of wedlock

- Allow Muslim fathers to ascribe paternity to their children, in agreement with the mothers.
- Revert to the original 1984 law, which allows the courts to compel the father of a child born out of wedlock to provide for the maintenance of the child. The best interests of the child must be paramount at all times.

VII. INHERITANCE RIGHTS

57. Inheritance rights between Muslim women and men in Malaysia are unequal. The rules on inheritance for Muslims are largely based on rules of inheritance (*faraid*) in Islamic jurisprudence (*fiqh*)^{xxiv}. The present *fiqh* on inheritance emphasize the provision that male heirs be given a double share, which is based on the argument that men provide for women.

58. The rule fails to take into account the present realities – that the man does not necessarily take on the responsibility to provide maintenance for the family. In today's society, many women have to contribute towards the family needs. Moreover, divorced or widowed mothers often have to provide for their children's needs without assistance from the ex-husband or other male relatives. There is no mechanism in the present legal system for women to obtain redress that would reflect the balance and justice originally intended by the *Shari'ah*.

59. The concept of men receiving a greater share in inheritance was not a feature that was special to Islamic law. For instance, the Distribution Act 1958 for non-Muslims previously provided that the husband of a deceased woman would receive the whole of her estate, while the wife of a deceased man would only receive one third of his estate if he had children, or one half if he had no children. However, this discrimination against non-Muslim women was removed in the 1990s.

60. The discriminatory rules also extend to insurance and the Employees Provident Fund (EPF)^{xxv}. The Insurance Act was amended in 1996 to provide that the Muslim beneficiary named in an insurance policy acts only as the administrator of the estate, as the deceased insurance monies are to be distributed according to *faraid* (Muslim inheritance rules). This means if a husband buys a policy and names his wife as the beneficiary to protect her well-being upon his death, his wish is denied under *faraid* rules.

61. The same applies to EPF funds. In 2000, the National Fatwa Council issued a fatwa to extend the *faraid* rule to EPF funds. If a wife and daughters are named as beneficiaries, they will actually only act as administrators. Under *faraid* rules, a daughter inherits half of what a son receives; a wife with children will get only 1/8 while

a wife with no children gets $\frac{1}{4}$; the rest goes to the husband's surviving heirs. If he has no surviving heirs, the rest goes to Baitulmal^{xxvi}.

62. The HRC should urge the State party to:

- Amend the application of *faraid* rules with regard to insurance and the Employees Provident Fund so as to allow women to inherit as dependents or beneficiaries where they are so named;
- Reform rules of inheritance to ensure that they do not discriminate based on gender. Amendments must embody the principles of Distribution Act 1958 to grant Muslims the same inheritance rights as non-Muslims in Malaysia.

- ⁱ See SIS Musawah submission to CEDAW at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MYS/INT_CEDAW_NGO_MYS_30249_E.pdf
- ⁱⁱ See reports submitted for the 69th CEDAW session with Malaysia, including State Party reports and Response to List of Issues at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MYS&Lang=EN
- ⁱⁱⁱ Article 73 of the Federal Constitution of Malaysia
- ^{iv} Other areas where States legislate laws are such as land and other natural resources of the State.
- ^v Malay spelling for 'Shari'ah'
- ^{vi} Article 74(2) of the Federal Constitution of Malaysia states that: "Without prejudice to any power to make laws conferred on it by any other Article, the Legislature of a state may make laws with respect to any of the matters enumerated in the State List (i.e. the Second List set out in the Ninth Schedule) or the Concurrent List."
- ^{vii} Under the Ninth Schedule of the Second List (State List)
- ^{viii} Kuala Lumpur, Labuan and Putrajaya
- ^{ix} Section 59 IFLA
- ^x Women in Malaysia have achieved a literacy rate of 96.3% (2010) and the majority of students in higher secondary and tertiary enrollment are women. Department of Statistics, Malaysia (2017). 'Statistics On Women Empowerment In Selected Domains, Malaysia, 2017-' https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=444&bul_id=dHNTVHV0My9QK1MxNHBtSnRucVJgZz09&menu_id=L0pheU43NWJwRWVVSzkiWdzQ4TIhUUT09. The female labour force participation rate was 54.3% in 2016 and continues to be on the rise since 2010 – Department of Statistics, Malaysia (2016), Labour Force Participation Survey <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=SGZCNnMrWW9ZTEdpYys4YW0yRlhoQT09>. The gender parity index for women's economic participation is also increasing. Statistics on Empowerment of Women in Selected Domains, Department of Statistics, 2017.
- ^{xi} In 2005, Sisters in Islam began its work on a model Muslim Family Law based on the principles of justice and equality. This model law can serve as the basis to promote law reform
- ^{xii} CEDAW Committee, General Recommendation No. 21, paragraph 36.
- ^{xiii} CEDAW Committee General Recommendation No. 21, paragraph 38.
- ^{xiv} Section 2 of the Child Act 2001.
- ^{xv} Based on the 2010 Census, 80,000 married women were between 15 and 19 years old, while there were 70,000 young married men. Data on those between the ages of 10-14 married, widowed or separated have been removed from the 2010 census following shocking revelations from the 2000 Census that there were 10,267 children in that age group who were married. See also 'Marriage trends and legal ages in Malaysia', *Malay Mail*, 14 April 2017, <http://www.themalaymailonline.com/malaysia/article/three-things-about-child-marriages-in-malaysia>
- ^{xvi} In 2012, it was reported that there was a total of 1,022 approvals out of 1,165 child marriage applications filed in the Syariah Courts, making the approval rate approximately 88%. A 2014 research study conducted by the Centre for Research on Women and Gender (KANITA) at Universiti Sains Malaysia (USM), found that getting permission from Syariah Courts had not been difficult (Endut and Mohd Hashim 2014).
- ^{xvii} Sections 47, 49, 50, 50A, 52 of the Islamic Family Law (Federal Territories) Act (1984), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20303.pdf>
- ^{xviii} Statistics on Empowerment of Women in Selected Domains, Department of Statistics, 2017.
- ^{xix} Department of Statistics, Malaysia (2017). 'Statistics On Women Empowerment In Selected Domains, Malaysia, 2017'
- ^{xx} 'History made with appointment of four women judges to Federal, Appellate courts', *New Straits Times*, 26 September 2017, <https://www.nst.com.my/news/nation/2017/09/284047/history-made-appointment-four-women-judges-federal-appellate-courts>
- ^{xxi} Civil Appeal number W-01(A)-365-09/2016
- ^{xxii} 'Perak Mufti: It's zina if illegitimate kids take on fathers' names', *The Star*, 01 August 2017, <https://www.thestar.com.my/news/nation/2017/08/01/perak-mufti-its-zina-if-illegitimate-kids-take-on-fathers-names/>
- ^{xxiii} The Deputy Prime Minister, Datuk Seri Dr Ahmad Zahid Hamidi, agreed with the move and stated that the National Registration Department was carrying out its tasks according to the Fatwa Committee of the National Council for Islamic Affairs' ruling, which did not allow children conceived out of wedlock to take the name of the father.
- ^{xxiv} Farid S. Shuaib, 'The Islamic Legal System in Malaysia', (Pacific Rim Law & Policy Journal, 21:1, 2012), pp. 94-95, <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1094/21PRPLJ085.pdf>
- ^{xxv} A mandatory contribution by employers and employees for the purposes of retirement and savings.
- ^{xxvi} Baitulmal in ancient Arabia is the treasury of the State. In Malaysia, the Baitulmal collects monies from sources including properties where there are no inheritors (and zakat) and determines the manner of its safekeeping or disposal. The Baitulmal is part of the Islamic State administration.