

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON MALAYSIA^[1]

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases, we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted, while **recommendations** are in bold and underlined. References in the National Report are *in Italics*.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women –as well as other women's issues- are referred to in the Guide on Women's Issues

Obligations and Cooperation with Human Rights Mechanisms

- The Committee on the Rights of the Child (CRC) recommended that Malaysia ratify OP-CRC-SC and OP-CRC-AC(Para 1, Compilation).

Issues	National Report	Compilation	Summary
Child Sexual abuse, exploitation violence and trafficking		Legislation, preventive work; vulnerability of certain children; recommendations, including legal obligations for Internet providers (25); mechanisms, concern about treatment of victims (24); domestic violence under reported (21)	Increase in child abuse cases; slow investigations; no adequate provisions for victims (22)
Gender identity/ Transsexual			Violations of the right to freedom of expression (37)

persons			
HIV/AIDS	Existing programs and plans (45); their extension to indigenous peoples (46)	Increase of cases and of orphans (43); reduced access to health services for PLWAs and sex workers (42)	Legal barriers for access by vulnerable groups; effects of privatization of health services (43)
Sexual Orientation and gender identity			Criminalization (13); Conservative, hetero-normative stands on laws interpretation (30)

Child Sexual abuse, exploitation violence and trafficking

The Committee on the Rights of the Child (CRC) appreciated legislation criminalizing sexual exploitation of children, including child prostitution, and the preventive work of Child Protection Teams and Child Activity Centres. Considering the reportedly high demand for commercial sex in Malaysia, CRC was concerned about prostitution involving children, in particular the vulnerability of certain children to being exploited, such as those without any official record of their existence. **CRC recommended that Malaysia design and implement policies and measures to prevent and combat the sexual exploitation of children, with particular attention to existing risk factors, such as the increasing sex tourism in the region, and continue to collaborate with relevant actors dealing with the protection of children from sexual commercial exploitation in travel and tourism.** CRC encouraged Malaysia to consider adopting specific legislation on the obligations of Internet service providers in relation to child pornography on the Internet (Para 25, Compilation)

In 2007, CRC noted with appreciation the establishment of a Coordinating Committee on Trafficking in 2006 and that Malaysia was in the process of submitting an Anti-Trafficking of Persons Bill to Parliament in 2007. It noted with concern, however, that trafficked children were often detained, subsequently deported, and not provided with adequate specialist support. (Para 24, Compilation). According to the Coalition of Malaysian NGOs in the UPR Process (COMANGO), official statistics show a sharp increase in child abuse cases from 2002 to 2006, and the police is slow in investigating cases of commercially and sexually exploited children. There are no adequate provisions to protect the safety of the children physically, emotionally or otherwise. More agencies and mental health practitioners specializing in the area of child sexual exploitation are needed (Para 22, Summary).

While appreciating that violence against children, including incest, was addressed by various laws, CRC was gravely concerned that domestic violence, including violence against children in the family, remained a serious problem. Owing to strong taboos, victims and witnesses rarely reported these cases, despite established mechanisms to receive reports on child abuse and neglect. (Para 21, Summary)

Gender identity/Transsexual persons

According to COMANGO, the **violation of freedom of expression** through the regulation of sexuality is most often used against the transgendered. Muslim entertainers have borne the brunt of religious authorities' regulation of 'immoral activities' in pubs, bars and other entertainment outlets. Singers have been arrested, charged under Sharia offences and harassed (Para 37, Summary)

HIV / AIDS

*Malaysia, in 1985, has developed the **National HIV/AIDS Prevention and Control Programme** which includes promoting health education and disseminating information on HIV/AIDS to the public and specific target groups. As part of the Programme, the Government provides funds to HIV-related NGOs as they play critical role in HIV/AIDS programme and advocacy in Malaysia especially in reaching out to high risk groups. In 2006, the **National Strategic Plan** was formulated to provide the framework for Malaysia's response to HIV/AIDS over a five-year period from 2006 to 2010. Health policies and strategies take into account the current scientific knowledge, recommendations of WHO and UNAIDS, international activities, existing government policies and regulations, as well as the sensitivities and acceptance by society (Para 45, NR). Apart from providing general health services, Malaysia **extends the AIDS prevention programmes to the indigenous groups** to prevent the incidence and spread of HIV/AIDS among them. Provisions of medical and health services to indigenous groups located in Malaysia are provided through static facilities and mobile health teams and clinics which have increased to 80.0 per cent of coverage (Para 46, NR)*

CRC was concerned that, despite the adoption of plans and programmes, the **incidence of HIV/AIDS was rapidly rising** and that existing resources were insufficient. It was also concerned at the **increasing number of children orphaned** by AIDS. UNICEF noted on its website that reported HIV cases are doubling every three years (Para 43, Compilation).

The 2006-2008 WHO Country Cooperation Strategy noted that **people living with HIV/AIDS, and sex workers** (among others) might have **reduced access** to existent health services. The Strategy also noted the decision to establish a new national health financing mechanism (Para 42, Compilation). COMANGO noted that heterosexual transmission of HIV is on the rise. It further indicated that laws criminalizing sex work, sexual practices and the carrying of syringes and needles are **legal barriers for vulnerable groups** to access HIV testing, prevention and treatment. The **privatisation of health services** and ongoing bilateral Free Trade Agreement (FTA) negotiations will result in the Government failing to protect accessibility to affordable medicines, especially those to treat persons living with HIV, as highlighted by COMANGO (Para 43, Summary).

Sexual Orientation and Gender Identity

Amnesty International (AI) **called on the Government to repeal or reform articles 377a and 377b of the Penal Code, which have created an environment, that allows for discrimination against gays, bisexuals and transsexuals** (Para 13, Summary). According to COMANGO, the Government's hetero-normative stand discriminates against people of non-heterosexual orientations by adopting **conservative and restrictive interpretations of religions and laws**, such as the S377A and S377D of the Penal Code (PC) and the S21 of the Minor Offences Act 1955 (Para 30, Summary)

Suggested Questions and Recommendations

- While congratulating Malaysia for its commitment to the fight against HIV/AIDS notice that, unfortunately, infections continue to be on the rise at alarming rates and ask Malaysia for the reasons behind this. Recommend that Malaysia undertakes a broad consultation to identify the obstacles to effectively addressing the AIDS pandemic and commits to implement the legal and policy measures that –as a result of the consultation- appear as necessary.

[1] These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at alejandra@mulabi.org