

## Press Release: Time to remove all reservations and sign the Optional Protocols

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The Malaysian Bar welcomes the Government's ratification of the Convention on the Rights of Persons with Disabilities (CRPD). Alongside Malaysia's well-publicised ratification, the Government has nonetheless taken reservations to Article 3 on general principles, Article 5 on equality and non-discrimination, Article 15 on freedom from torture or cruel, inhuman or degrading treatment or punishment, Article 18 on liberty of movement and nationality, and Article 30 on participation in cultural life, recreation, leisure and sport.

This means that the Malaysian Government does not fully subscribe to the fundamental principles that persons with disabilities should enjoy such equality, non-discrimination, freedom or liberty, or to fully participate in culture, recreation, leisure and sport. This makes for a hollow ratification since such reservations take away from fundamental principles that underpin CRPD.

These kinds of reservations are consistent with the reservations made to the Convention on the Rights of the Child (CRC), which Malaysia acceded to in 1995. Despite withdrawing reservations to Articles 1, 13 and 15 of CRC, Malaysia still has five reservations in place. These are to Article 2 on non-discrimination; Article 7 on name and nationality; Article 14 on freedom of thought, conscience and religion; Article 28(1)(a) on free and compulsory education at primary level; and Article 37 on torture and deprivation of liberty. This indicates that the Malaysian Government still takes the view that children can be discriminated against, have no right to a name or nationality, have no freedom of thought, conscience and religion, and staggeringly, should not be free from torture and deprivation of liberty.

The Malaysian Bar also welcome the Government's withdrawal of reservations to Articles 5(a), 7(b) and 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). While noteworthy strides have been made in terms of efforts to eliminate discrimination against women, Malaysia also still has five reservations in place with respect to CEDAW. These deal with equal rights for women to pass their nationality to their children (Article 9(2)); equal rights to enter into marriage (Article 16(1)(a)); equal rights and responsibilities during marriage and at its dissolution (Article 16(1)(c)); equal rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children (Article 16(1)(f)); and the same personal rights in a marriage, including the right to choose a family name, a profession and an occupation (Article 16(1)(g)).

In addition to these reservations, the Malaysian Government has still not signed or ratified any of the Optional Protocols to CRPD, CRC or CEDAW. These Optional Protocols grant specific rights to the citizens/residents of a country to refer their government to the international supervisory committee for non-compliance with each of these conventions. At present, although Malaysia is a State Party to these conventions, Malaysians cannot hold the Government accountable if it does not honour or comply with their provisions.

Similarly, the Persons With Disabilities Act 2008, which supposedly implemented the provisions of CRPD and which came into force in July 2008, does not provide for any form of punishment or remedy for breaches. It remains to be seen how the Malaysian Government will ensure that provisions of that Act are implemented. The Act also does not ensure that the persons with disabilities are not discriminated against, eg in education and employment opportunities.

The ratification of CRPD, and the withdrawal of some of the reservations to CRC and CEDAW, are all positive steps. However, more can, and should, be done.

We call on the Malaysian Government to give full effect to its international obligations by removing all remaining reservations, and by signing all four Optional Protocols. It should also expand the scope of the existing Child Act 2001 and Persons With Disabilities Act 2008 to comprehensively cover all areas of CRC and CRPD respectively. Currently, many of the provisions of CRC and CRPD have been left out of the enabling Malaysian legislation.

Finally, to show that it is fully transparent and accountable to the rakyat, we call on the Malaysian Government to insert provisions in all enabling legislation to allow the Malaysian Government to be challenged in Malaysian courts for non-compliance with its full obligations under CRPD, CRC and CEDAW. In particular, as a member of the United Nations Human Rights Council, the Malaysian Government should do no less.

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