



Asia Pacific Forum on Women, Law and Development  
NGO in consultative status with the Economic and Social Council of the United Nations

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Friday, 24 August 2018

H.E. Prime Minister Dr Mahathir Bin Mohamad: [ppm@pmo.gov.my](mailto:ppm@pmo.gov.my)

H.E. Deputy Prime Minister of Malaysia and the Minister of Women and Family Development, Dr Wan Azizah binti Dr Wan Ismail: [wanaazidah@kpwkm.gov.my](mailto:wanaazidah@kpwkm.gov.my)

Minister of Home Affairs, Dr Haji Muhyiddin bin Haji Muhammad Yassin: [muhyiddin@moha.gov.my](mailto:muhyiddin@moha.gov.my)

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Putrajaya, Kuala Lumpur, Malaysia

**Subject: Syariah High Court sentencing of two women to caning**

Your Excellencies,

The Asia Pacific Forum on Women, Law and Development (APWLD) is a regional women's rights organisation established in 1986, with over 200 members in 27 countries in the region. We are writing to express our serious concern over the 12 August judgment by the Syariah High Court, which convicted two women for same-sex conduct, and sentenced them to caning and a RM 3,300 (US\$800) fine. The caning sentence is due to be carried out on 28 August.

Under the United Nations Convention Against Torture (CAT), which is ratified by 164 member states, all humans have the right to be free from torture. This is a non-derogable ban that admits no exceptional circumstances. Although Malaysia is not signatory to the CAT, as a UN member state it is committed to the principles and ambit of the Universal Declaration on Human Rights, which under Article 5, states "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

We condemn the state government for this sentence which is in violation of this ban. We urge the Prime Minister's Office to appeal to the state government to show compassion for the two women and take action to have this sentence dropped.

While strong local government contributes to a robust democracy, the autonomy of the state from federal does not mean that state judiciaries are allowed to go beyond constitutional and international rights and protections.

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On this basis, we strongly encourage the Government of Malaysia and all its states to introduce a moratorium on caning and all other forms of corporal punishment. We note the statement from the Human Rights Commission of Malaysia (SUHAKAM), which says “The interpretation of punishment in religion applied historically cannot ignore evolutions of society and standards, as well as the inexorable passage of civilisation.”

We urge Malaysia to ratify without delay the CAT and the International Convention on Economic, Social and Cultural Rights (ICESCR), particularly noting Malaysia’s Universal Periodic Review in the next session of the Human Rights Council.

This case demonstrates the challenges that the LGBTQIA community in Malaysia face on a daily basis. As a feminist organisation, APWLD does not accept criminalisation of same-sex relations and advocates for local and national laws and policies that affirm bodily autonomy and integrity for all. We strongly encourage Malaysia to take steps to decriminalise same-sex conduct accordingly.

We call for recognition of women’s sexual and reproductive health and rights worldwide. The Beijing Platform states that “the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.” We emphasise that this type of sentencing is a step backwards for Malaysia and does not denote progressive development of human rights.



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