

Malaysia: 'Government, employers and unions shouldn't be allowed to forsake LGBT rights'

Monday 7 October 2019, by [VENGADESAN Martin](#) (Date first published: 29 July 2019).

Last month, news emerged that International Labour Organization member states, employers' federations and workers' representatives delivered a strong mandate on adopting a convention on workplace sexual violence and harassment. The vote was overwhelming, with 439 delegates voting for the adoption of the convention, seven against, and 30 abstaining. However, Malaysian civil society groups were shocked to find that the Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF) were among the seven who voted against the resolution, and that the Malaysian government had abstained.

A subsequent furore then saw an [apparent U-turn](#) by MTUC president Abdul Halim Mansor, who said that the vote in Geneva was "due to certain misconceptions, and that the MTUC will now be pushing for the government to ratify it with full vigour and without any qualms."

Some circular logic was witnessed, with employers' groups implying they consulted the government on the matter, but Human Resources Minister M Kulasegaran saying that the government took a [neutral stand](#) as it did not want to upset its stakeholders.

'All is not lost'

However, all is not lost, says activist S Thilaga of Justice For Sisters.

Thilaga believes that there is still a chance that the government and workers bodies can play a role in ratifying the convention, a process which is expected to take place early next year.

What needs to happen between then and now is for a greater understanding of the issues and a commitment towards justice to be shown.

"I think the original move by the MTUC and MEF was not in the best interest of workers. The position by MEF was clearly driven by the LGBT panic in Malaysia.

"As a union, MTUC should always be in solidarity with all workers, regardless of sexual orientation, gender identity, gender expression, and ensure better bargaining power for workers.

"MTUC also missed the point of the convention, which intends to set standards to improve response against gender-based violence, promotion of human rights of women in formal and informal employment sectors, improve data protection of workers, amongst others," she told *Malaysiakini*.

Thilaga recognised the political realities facing the Pakatan Harapan government when it comes to making progressive choices that face opposition from right-wing groups in the country.

"I think the government's position reflects the series of events that have taken place in relation to the ratification of UN conventions, particularly the International Convention on the Elimination of All Forms of Racial Discrimination ([Icerd](#)) and the Rome Statute of the International Criminal Court.

"The LGBT issues were amongst some of the arguments used to halt the ratification of the conventions.

"The government's position seems to suggest that the current administration wants to tread carefully, and not trigger a response from the ethno-religious nationalist groups and conservative groups," she said.

'Government must lead, not sit back'

However, Thilaga emphasised that the government must play a leading role in protecting its citizens.

"I don't think the government can continue to take these cautious positions, and compromise the rights of people," she said.

"It has huge costs on the people's daily lives in terms of being able to work in a safer, equal, conducive environments, and government's aspiration to reduce poverty, inequalities, achieve global targets and goals."

Thilaga added that the government must take measures to address the 'LGBT panic' or the escalating homophobia and transphobia.

"If not, it will continue to be beholden to conservative and ethno-religious nationalist groups. The reality is that everybody loses when LGBT people face discrimination at work and in other places.

"Public pressure can have a positive impact, and it is extremely important for people to engage and participate in these actions.

"This pressure must also transform and lead to public education and other actions to build solidarity and to meaningfully increase awareness of the multiple forms of discrimination faced by all marginalised communities from LGBT to migrant workers to workers with disabilities."

It was reported that at the Geneva meeting, a compromise was reached to amend the wording of the ILO Convention so as to remove LGBT from the list of vulnerable groups.

This is believed to be what allowed delegates from Indonesia and Arab nations to support it, even if Malaysia failed to amend its stance.

As Thilaga pointed out, there is something very wrong with this line of thinking.

"It's problematic that references to LGBT people were removed. LGBT people continue to face resistance in all spaces, domestically and globally.

"The spirit of the convention is that everybody falls under the protection of this convention. human rights are universal, unalienable, indivisible, interdependent and interrelated.

"LGBT people face pervasive discrimination and experience disproportionate vulnerability in the employment sector, resulting in economic marginalisation, loss of productivity, brain drain, lack of opportunities, pockets of poverty, amongst others," she said.

The Denied work: An audit of employment discrimination on the basis of gender identity in South-

East Asia [report](#) by the Asia Pacific Transgender Network, Curtin University and UNDP shows the severity of the discrimination in the employment sectors faced by trans people.

The report shows cisgender applicants were 50 percent more likely than transgender applicants to get a positive response (64 percent more likely for cis women and 37.5 percent cis men), and 66.1 percent more likely to be invited to an interview (72.4 percent for cis women and 60.6 percent for cis men).

The report notes that “the discrimination experienced by trans women was particularly severe” due to the disproportionate rejection that trans women face compared to cisgender women.

“Post GE14, Justice for Sisters has been receiving more work-related cases of discrimination against trans women. This suggests that discrimination against trans women is pervasive,” Thilaga said.

“Most cases involve restriction against the use of facilities or amenities such as toilets, the imposition of dress code, discrimination or rejection during the hiring process based on gender identity and expression, lack of adequate response against sexual harassment (often responses result in victimisation of the trans women complainants), among others.

“I think many workplaces lack mechanisms for diverse workers to lodge complaints regarding sexual harassment and victim-blaming is still pervasive, especially in the cases of LGBT people.”

Chorus of disapproval

Justice for Sisters is the latest group to call for the MTUC, MEF and government to rethink its approach to sexual harassment and violence in the workplace.

Lawyers for Liberty executive director Melissa Sasidaran previously criticised the initial explanations given by the two organisations that they had not backed the convention due to the insertion of the LGBT community as a vulnerable group in the original draft.

She said that the government and workers’ bodies were [shirking](#) their responsibilities in defending people under their care, and that “the hate against LGBT persons is so strong that the government, MTUC and MEF would deny the international recognition and protection against violence and harassment to all workers, just so that they would not be seen to be connected to anything related to LGBT.”

Former MTUC president Syed Shahir Syed Mohamud, who was part of the delegation but did not cast a vote, had also told *Malaysiakini* that political realities must have played a part in the initial decision.

“It’s one thing if you want to look like a [progressive nation](#), to go abroad and sign a convention.

“But it’s another thing to be able to ratify it,” he said, citing the case of the United States, which in the past has gone to international conferences to sign conventions, only to have problems ratifying them at home.

The votes delivered by the MTUC and MEF and the abstentions by the government also courted flak from the All Women’s Action Society (Awam), who said it was left “extremely disappointed with the decision of MTUC and the government.”

Former MTUC secretary-general Gopal Kisham, meanwhile, claimed that MTUC leaders had created a deficit of trust and confidence through their move, while Proham secretary-general Ivy Josiah

expressed shock since “the MTUC has a long history of defending women’s rights.”

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