

FWC SIEA 2018 - Lot 3: Human Rights, Democracy and Rule of Law
EuropeAid/138778/DH/SER/Multi

Gender Country Profile for Malaysia

-
Final version

Specific Contract N° 300004808 — SIEA-2018-556
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DELEGATION of the EUROPEAN UNION to Thailand

Gender Country Profile for Malaysia

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Human Rights, Democracy and Peace

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March 2021

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Table of Contents

EXECUTIVE SUMMARY	III
1. INTRODUCTION, PURPOSE AND OBJECTIVES	1
2. METHODOLOGY	1
2.1. METHODOLOGICAL FRAMEWORK	1
2.2. COLLECTION OF DATA	2
2.3. OUTLINE OF THE REPORT	2
3. OVERVIEW OF CURRENT SITUATION	3
3.1. OVERVIEW OF THE SOCIO-ECONOMIC, DEMOGRAPHIC AND CULTURAL CONTEXT OF MALAYSIA	3
3.2. OVERVIEW OF THE INSTITUTIONAL, LEGAL, POLICY AND FRAMEWORK FOR GEWE, INCLUDING CIVIL, CUSTOMARY (ADAT) AND SYARIAH (ISLAMIC) LAW	6
4. GENDER ANALYSIS OF THEMATIC AREAS OF ENGAGEMENT UNDER GAP III	19
4.1. ENSURING FREEDOM FROM ALL FORMS OF GENDER-BASED VIOLENCE	19
4.2. PROMOTING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS	28
4.3. PROMOTING ECONOMIC AND SOCIAL RIGHTS AND EMPOWERING GIRLS AND WOMEN	32
4.4. PROMOTING EQUAL PARTICIPATION AND LEADERSHIP	44
4.5. INTEGRATING THE WOMEN, PEACE AND SECURITY AGENDA	48
4.6. ADDRESSING THE CHALLENGES AND HARNESSING THE OPPORTUNITIES OFFERED BY THE GREEN TRANSITION AND THE DIGITAL TRANSFORMATION	49
5. KEY FINDINGS AND RECOMMENDATIONS	53
5.1. KEY FINDINGS	53
5.2. KEY RECOMMENDATIONS, RELATIVE TO EACH THEMATIC AREA OF ENGAGEMENT TO FEED INTO THE GAP III COUNTRY LEVEL IMPLEMENTATION PLAN (CLIP).	56
5.2.1. <i>Overall recommendations</i>	56
5.2.2. <i>Recommendations per thematic area of engagement</i>	57
ANNEXES	60
ANNEX 1: LIST OF DOCUMENTS CONSULTED	60
ANNEX 2: LIST OF STAKEHOLDERS INTERVIEWED	66
ANNEX 3: GUIDE QUESTIONNAIRE FOR KEY STAKEHOLDER INTERVIEWS	68

Table of Acronyms and Abbreviations

ASEAN	Association of South East Asian Nations
B20	Bottom 20% (of the population)
B40	Bottom 40% (of the population)
CEDAW CO	Committee on the Elimination of Discrimination Against Women, Concluding Observations
CRC	Convention on the Rights of the Child
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD	Convention on the Rights of People with Disabilities
CSO	Civil Society Organisation
CSO	Civil Society Organisation
DoSM	Department of Statistics Malaysia
DV	Domestic Violence
DVA	Domestic Violence Act
EAP	East Asia Pacific
EEAS	European External Action Service
EIS	Employment Insurance System
EPF	Employees Provident Fund
EPO	Emergency Protection Order
EPO	Emergency Protection Order
ETD	Emergency and Trauma Departments
EUD	European Union Delegation
EVAW	Ending Violence Against Women
FGM/C	Female Genital Mutilation/Cutting
FHH	Female headed households
FHH	Female Headed Household
GAP	Gender Action Plan
GBV	Gender-based Violence
GCP	Gender Country Profile
GDI	Gender Development Index
GDP	Gross Domestic Product
GE14	14 th General Election (2018)
GEWE	Gender Equality and Women's Empowerment
GFP	Gender Focal Points
GGGI	Global Gender Inequality Index
GRB	Gender-Responsive Budgeting
HDI	Human Development Index
ICT	Information and Communications Technology
ILO	International Labour Organization
IPO	Interim Protection Order
IPV	intimate partner violence
JAG	Joint Action Group for Gender Equality
JAG	Joint Action Group for Gender Equality
JKM	Jabatan Kebajikan Masyarakat (Department of Social Welfare)
KII	Key Informant Interview
LFPR	Labour Force Participation Rate
LFS	Labour Force Survey
LGBTQI	Lesbian Gay Bisexual Transgender Queer Intersex
MCO	Movement Control Order
MFF	Multi Annual Financial Framework
MMR	Maternal Mortality Ratio
MoF	Ministry of Finance
MoF	Ministry of Finance
MoH	Ministry of Health
MOHR	Ministry of Human Resources
MWFC	Ministry of Women, Family and Community Development
NAPEVAW	National Action Plan to Eliminate Violence Against Women
NCWO	National Council of Women's Organisations
OSCCs	One-Stop Crisis Centres
PH	Pakatan Harapan
RM	Malaysian Ringgit
SAF	Safe and Fair
SDG	Sustainable Development Goals

SH	Sexual Harassment
SOGI	Sexual Orientation and Gender Identity
SOP	Standard Operating Procedure
SRH	Sexual and Reproductive Health
STEM	Science, Technology, Engineering, Maths
Suhakam	Suruhanjaya Hak Asasi Manusia (National Human Rights Commission)
SWD	Staff Working Document
TFR	Total Fertility Rate
UHC	Universal Health Care
UNFPA	United Nations Population fund
UPR	Universal Periodic Review (by the UN Human Rights Council)
USD	United States Dollars
WAO	Women's
WDAP	Women Development Action Plan
WEF	World Economic Forum
WEP	Women's Empowerment Principles
WFH	Work From Home
WPS	Women, peace and security

Executive Summary

This study has been commissioned by the EU Delegation in Malaysia and has aimed at providing an analysis which considers gender disparities in connection with other inequalities, with human rights enjoyment and/or benefits resulting from access to public services and development efforts at country level (including Covid-19 response packages). The analysis is based on the EU gender framework EU Gender Action Plan (GAP) III and its six thematic areas of engagement.

The analysis is based on both primary and secondary data. 52 key informant interviews were undertaken with respondents from civil society, donors, academia, as well as the EUD. More than 150 written sources have been reviewed and fed into the analysis. The sample, focus and analytical framework have been regularly discussed with the EUD throughout the assignment to ensure an end-product which meets the expectations of each party. Data collection and analysis was conducted during the period October 2020 – January 2021. This report presents the findings of this work, alongside with key recommendations on how EUD Malaysia can engage further to enhance gender equality and women's empowerment in the country.

Malaysia is a country rated as having a very high level of development. It has made remarkable progress within some areas of the gender equality agenda, most notably within the spheres of maternal health and women's and girls' access to education. Maternal deaths are well below global average, and almost all births are undertaken with the assistance of skilled medical staff. In education, Malaysia has first eliminated and then reversed gender gaps in enrolment at all educational levels. More girls and women are now enrolled in school than boys and men. The government has introduced a flurry of initiatives to strengthen women's economic empowerment through tax incentives and legal reforms.

However, despite this progress, women and girls still face many challenges in Malaysian society. Many of the initiated reforms are unfinished or have not led to the intended result. Changes in leadership has led to a lower prioritisation of gender equality in national politics, leaving women and girls left out of the core agenda of the country's development. In addition, some groups such as members of the LGBTQI, still face immense discrimination, as a consequence of a traditional, gender stereotyped view on Sexual Orientation and Gender Identify (SOGI). Moreover, recent rhetoric from the government, for example related to measures to counteract Covid-19, reveal a very traditional mindset and view on gender roles and society's expectations on women. In such a narrow-minded environment where the main role for women is limited to "*preserve household happiness*", it is difficult for women and girls to participate on equal terms as men and boys in society. As such, the full potential of these groups cannot be used, resulting in an untapped resource which could, through gender inclusive attitudes, contribute positively to the country's social, economic and political development.

This analysis recognises the progress made, but at the same time underlines the challenges that remain in society; analysed through the EU's GAP III six areas of engagement.

The area of **gender-based violence (GBV)**, in its different forms, is difficult to assess as data are not regularly collected nor analysed. Domestic violence and intimate partner violence are seen as issues to solve within the family/household, leading to a under reporting of cases. Despite reforms and amendments of laws, challenges remain. For example, marital rape is still legal. There are also high levels of sexual harassment in the workplace, and online GBV is a growing problem. Trafficking is a serious problem in Malaysia as a destination country, putting women asylum seekers and refugees at great risk. Moreover, violence against members of the LGBTQI community is widespread due to the conservative forces that push for an anti-LGBTQI agenda. This group also has less access to all kind of services, including but not limited to health and justice.

Sexual and reproductive health (SRH), addressed without the R (rights), has received some attention, but only on selected topics. Malaysia's progress on maternal health has resulted in significant decreases in fertility rates, increases in access to services and boosted antenatal coverage. However, use of contraceptives remain low, and undocumented for unmarried women. The country's rigid abortion laws limit women's access to safe abortion services and neglects the woman's right to take healthy decisions on her own body. Many intra household decisions on SRH are made by the husband. Low awareness and lack of comprehensive sexual education in parallel with strong religious and traditional influence make access to information and service in particular low for adolescent girls and single women. Female genital mutilation (FGM) is very widespread with rates well above 90% in certain areas. Girls and women lack

power and voice on FGM, leaving them without choice and in some cases, lifelong negative consequences.

The area of **women's economic empowerment** covers both access to education and the right to employment. These are fundamental rights from the lens of a multidimensional poverty approach, which goes beyond resource poverty. A thematic area of concern is the transition from the education system to employment. This is a challenge that Malaysia shares with other countries, some of them ranking very high on human development. Despite the fact that women outnumber men at university level in Malaysia, fewer women enter, and stay, in the labour market in their prime age. This can be attributed to rigid, traditional gender roles in the Malaysian society, where family obligations and unpaid care work on women outbids their right to employment, and consequently women's right to an independent income. This shows that it is merely not enough to invest in a gender equal education system, and that efforts to address social norms need to be undertaken simultaneously. Malaysian women work in many different sectors, but the gender pay gap (76% of what men earn) illustrates that women's input is undervalued. The progress made within employment is primarily in urban areas, resulting in an uneven spread of possibilities for women across the country. Women are represented in leadership positions both within government and in the private sector but only to a very limited extent, despite efforts to increase and strengthen their role.

Women political participation and leadership are low and stagnant in Malaysia despite the introduction of quotas and other measures to promote a greater representation of women in decision making forums. The creation of women wings in political parties has further sidelined the issue of women's political participation, steering it away from the core mandate and as an important objective. The government of Malaysia need to recognise the value of female representation in order to adopt a gender inclusive approach to politics. Evidence from other countries shows that a higher representation of women in power, results in more resources allocated to social services. Female representation furthermore plays an important role in role modelling and inspiration for the younger female generation to enter into the domain. The same argument can be used to promote the representation of youth, members of the LGBTQI community and other under-represented groups.

The **women, peace and security (WPS) agenda** is almost absent in the Malaysian political agenda. Few women are represented in the security sector, both nationally and internationally. Small project-like interventions such as training courses on UNSCR 1325 have been implemented with foreign funding, but these alone cannot contribute to the larger impact needed. The WPS agenda is not prioritised by the Malaysian government, illustrated by the lack of political will to develop a national action plan for UNSCR 1325. There is a common misunderstanding that the WPS agenda is primarily for those countries that are in armed conflict, but the agenda is valid for all countries, including those at peace. A national action plan could furthermore contribute to a more holistic approach to the agendas to fight gender-based violence and women's participation; two prominent areas of the WPS agenda.

Although Malaysia is making efforts and invests resources within the field of **green transition**, this is done without a clear gender perspective, despite the fact that women can play a significant role in this process. Green leadership in the country is primarily male. Indigenous women are especially sidelined despite having both knowledge and skills which could push the agenda in the right direction. Women can play the role of powerful agents of change in the economic transition. Reforms need to be undertaken on women's access to land, credits and voice to make use of their full potential in this process. Malaysia is investing in **digitalisation** within many areas of the society. Female representation in digital leadership is satisfactory (28%) and above the global average. Internet access is fairly good, with no greater variation between sexes. However, the regular use of internet in businesses is much less for women-owned enterprises. Digitalisation is a great opportunity for women to participate in both the economic sphere and debate in society on equal terms as men, but for this to be realised, investments need to be done through the lens of GEWE.

1. Introduction, Purpose and Objectives

As enshrined already by the Treaty of Lisbon, gender equality is one of the common values and goals of the EU. In 2017 the EU developed a Gender Country Profile for Malaysia aligned with the conceptual framework of the EU Gender Action Plan II (GAP II). In November 2020 the EU GAP III was officially published, outlining the way forward for EU's work on gender equality 2021-2025. The main objective of this 2021 Gender Country Profile (GCP) is to provide relevant information on gender equality issues which will contribute to EU programming at all levels for EUD Malaysia. Gender analysis is a basis for mainstreaming process in development cooperation to ensure that gender equality and women's rights are addressed in all processes. GAP III is the framework of reference for the analysis of the 2021 GCP. In order to support the country programming process in early 2021, this GCP will support at country level the EU External Action for Gender Action Plan 2021-2025 and will inform the country programming process in Malaysia, through programmes under the new MiniMip for Malaysia. This GCP will therefore provide the basis for action under GAP III.

The joint Staff Working Document (SWD) specifies objectives, indicators and actions under two main parts, namely; Part I – EU institutional and strategic objectives and indicators – focuses on the implementation of GAP III and presents for each objective a set of actions, indicators, baselines and targets. These indicators will be monitored on an annual basis. They will apply to the Commission services and the EEAS, covering interventions and actions at country, regional/multi-country, and international levels. Member States are invited to use them and report accordingly in order to strengthen joint efforts. And Part II – Objectives and indicators for GAP III thematic areas of engagement - presents for each thematic area of GAP III a menu of objectives to be selected and used in different processes. For each objective, a set of 'key thematic outcome indicators' are highlighted. They will be integrated in the corporate monitoring system and used in priority to monitor results at country, regional and global levels in 2023 and 2025. Member States are also encouraged to use the "key outcome indicators" in order to build aggregate reporting.

This GCP is a public document, to be widely circulated. It updates the previous analysis by reflecting political, economic and social changes, including the impact of Covid-19, changes in legislation/policy framework and measures that have been taken to enhance gender equality during the years since the previous analysis (2017). The analysis also includes new topics that were not included in the previous analysis, as the new framework EUGAP III has been introduced. The analysis identifies gender disparities through an intersectional approach, i.e. in connection with other inequalities such as age, ethnicity and religion, with human rights enjoyment and/or benefits resulting from access to public services and development efforts at country level (including Covid-19 response packages). The analysis also includes the government's commitment and capacity to work on Gender Equality and Women Empowerment (GEWE) issues.

2. Methodology

2.1. Methodological framework

The analysis was conducted in three phases (Inception, Implementation and Synthesis) and conceptually at three levels: macro, meso and micro. At macro level, the analysis maps the policies, legislation and mechanisms for addressing GEWE. Meso level analysis looks at the GEWE approaches of the relevant stakeholders and institutions as well as decision making power structures. At micro level the analysis provides an assessment of the key development indicators related to GEWE across key GAP III sectors including gender-based violence, health, education, employment and economic empowerment, political participation and representation in government, green transition and digitalisation.

The analysis covers the current situation in the specific areas listed above from a gender perspective, covering the following aspects:

- Key sex disaggregated statistics on health, education, life expectancy, labour force participation, unemployment, access to entrepreneurship and finance, etc, according to the different social variables and determinants, such as age, ethnicity, social class, disability, environmental and socioeconomic conditions, depending on data availability.
- Legal and policy environment for gender equality (including the role of social norms).

- Key risks/barriers faced by women and girls (e.g. exposure to gender-based violence, such as early and forced marriage, domestic violence, political violence, trafficking, etc.).
- A mapping of key stakeholders active on the promotion of GEWE (other donors, government institutions, women's organisations, CSOs, academia).
- Linkages between multiple inequalities at different social levels and intersectionality.

It should be noted, that as the EU GAP III was introduced after the start of the assignment, most of the interviewees were not well familiar with it yet and new topics could not be covered by the interviews. Newly introduced areas such as green transition could not be included in the questions for interviews. These sections are therefore mainly based on written sources.

2.2. Collection of data

The GCP is based on the analysis of both quantitative and qualitative data collected through an extensive literature review including more than 150 documents (see Annex 1 for bibliography) and extensive consultations and interviews with 52 key stakeholders (of which 45 were women, representing 87% of the sample) from civil society, donors, and academia, as well as the EUD (see Annex 2 for complete list of stakeholders interviewed). The main reason for the over representation of women is the nature of the topic (often represented by women, who have lived experience of the topic) and the large number of women's organisations/activists included in the sample. Unfortunately, no interviews have been undertaken with representatives from the Malaysian government, despite several attempts to conduct interviews. The government's view on gender equality and women's rights are collected through the analysis of governmental policies, guidelines and reports.

The analysis adopts an intersectional approach, demonstrating, to the extent that relevant data is available, how gender disparities are impacted by and intertwined with other characteristics, such as age, ethnicity, income, occupation, class, education, ability, religion, migration status, urban and rural dichotomies.

The assignment has aimed at using a gender sensitive approach throughout all processes; in formulations of questions, selection of respondents, data collection, analysis and report writing. Voice has been given to the segment of Malaysian society which has closest access to women and/or has knowledge and skills to articulate the situation of women and girls in the country. A gender sensitive language is used throughout the report, which aims at minimising gender stereotypes or making assumptions of any sex which may influence the analysis. Moreover, quantitative data has been disaggregated by sex to the extent possible. The authors have used a binary approach to collecting sex disaggregated data based on female and male norms, but understand that there are experiences of gender that fall outside this binary. The consultants have furthermore aimed using data no older than five years to the extent possible.

Due to the Covid-19 related travel restrictions in the region, all segments of the assignment, including data collection, were homebased, as in-country travel was not feasible. The semi-structured interviews were conducted virtually on zoom and Skype through individual and group interviews, complemented by email follow-up.

All references from the primary data collection are anonymised and refer to "key informant interview" (KII) only. This is to protect the respondents and to ensure that individual opinions and experiences are not exposed.

2.3. Outline of the report

This report starts (chapter 3) with an overview of the current socio-economic, demographic and cultural context as well as the institutional, legal, policy and framework for gender equality and women's empowerment in Malaysia, to provide the reader and understanding of the environment on which this analysis is based. This is followed (chapter 4) by an analysis of the data collected through the lens of the six thematic areas of engagement under EU GAP III; i) gender-based violence, ii) SRHR, iii) economic and social rights, iv) participation and leadership, v) women, peace and security, and vi) green transition and digital transformation. Each sub-chapter in this section starts with an outline of the EU commitments

from the EU GAP III to remind the reader of the intended direction according to the recent gender equality framework. Chapter 5 concludes the report by bringing attention to the key findings and providing recommendations for the EUD in Malaysia in its upcoming work on gender equality and women's empowerment. Lastly, the reports include three annexes for reference (bibliography, list of respondents and interview guidelines).

3. Overview of Current Situation

3.1. Overview of the socio-economic, demographic and cultural context of Malaysia

Socio-economic and Demographic context

Malaysia is an upper-middle income country with a population of 32.7 million people,¹ GDP per capita increased from USD 9,818 in 2016 to USD 11,414 in 2019.² Extreme poverty (defined as gross income less than half of poverty line income) has been almost eliminated, and income inequality has narrowed. Life expectancy, infant mortality rates, and other socio-economic indicators have also shown significant improvement throughout the years. Malays make up the majority of the population at 69.1%, followed by Chinese at 23%, Indians at 6.9% and other indigenous peoples at 1%. The Malaysian constitution guarantees freedom of religion, although Islam is the largest and the official religion. Approximately 60.4% of the population practices Islam, 19.2% practices Buddhism, 9.1% practices Christianity, 6.3% practices Hinduism, and 2.6% practices Confucianism and other traditional Chinese religions. The official language of Malaysia is Bahasa Malaysia. However, English, as well as Chinese dialects and Indian languages, are widely spoken due to the multicultural makeup.³

Malaysia stands exceptionally well compared to other countries with respect to progress in achieving the 17 Sustainable Development Goals (SDGs), and leaving no one behind, in particular in the eradication of poverty (the poverty headcount is 0.4%) and providing education and healthcare. Child and maternal mortality rates are almost on par with developed countries; enrolment in primary school is almost universal and is at about 90% for both boys and girls for secondary school; and there is extensive access to water (93%), electricity (100%), and sanitation (89%) for Malaysian households.^{4 5}

Female headed households (FHH) represent 26% of all households nationally.⁶ Malaysia's population is aging rapidly, with the proportion of the population aged 65 and above expected to double from 7% to 14% within only 24 years. This puts increasing pressure on the social protection system, as well as on women as the primary carers of the elderly.⁷

In Malaysia, social assistance programs have only a modest impact on poverty reduction and on promoting productive employment. While the coverage of Malaysia's non-contributory social assistance programs is high (encompassing 76% of all individuals and 98% of those in the bottom 20% (B20) of society as per the distribution of income per capita), the level of benefits is generally insufficient to achieve a reduction in the poverty gap similar to that of the average upper middle-income and high-income countries. At about 1% of GDP, spending on social assistance is also low by international standards. There are also few policies that link the beneficiaries of social assistance programs to efforts to build their human capital or to improve their productive inclusion in the labour market. In addition to a lack of specific support measures and incentives for participating in those measures for beneficiaries with the capacity to work, there is also a lack of coordination between social assistance, education and labour market programs. Participation in retirement savings institutions is low, especially among the bottom 40% of the population (B40) and women, and the majority of participants will only receive very low benefits in retirement.⁸

¹ DOSM, Demographic Statistics Fourth Quarter 2019.

² World Bank Data Website, accessed 8.1.21.

³ Malaysia-German Chamber of Commerce and Industry, July, 2019, Empowering Women in the Malaysian Corporate Sector

⁴ UNDP Human Development Report (2020).

⁵ World Bank Data Website, accessed 8.1.21.

⁶ UNICEF, 2020, Families on the Edge.

⁷ World Bank, June 2020, Malaysia Economic Monitor.

⁸ World Bank, June 2020, Malaysia Economic Monitor.

A core set of social assistance benefits and welfare services are provided by the Department of Social Welfare (Jabatan Kebajikan Masyarakat, JKM), under the Ministry of Women, Family and Community Development (MWFCDD). Employment services are implemented by both JobsMalaysia and the Employment Insurance System (EIS), and there was also an announcement of a wage subsidy program known as Malaysians@Work aimed at encouraging firms to hire vulnerable groups, including youth and women, and to retain them for a minimum of two years.⁹

Global Rankings

Malaysia is ranked 62 out of 189 countries in the human development index (HDI) ranking, with an HDI index of 0.810, the index increased slightly from 0.799 in 2016, however the rank fell from 57/189 in 2016. The gini coefficient (which measures inequality) is 41.0, put another way, the income share of the poorest 40% is 15.9%, half of what the richest 10% control at 31.3%. Mean years of schooling is 10.3 for girls and 10.5 for boys. Life expectancy at birth is 78.3 for women and 74.2 for men. Child malnutrition (% under age 5 with moderate to severe stunting) is 20.7%. The adolescent birth rate (births per 1,000 women ages 15-19) is 13.4, antenatal coverage is 97.2%, the proportion of births attended by skilled health personnel is 99.6%, the maternal mortality ratio (MMR) (deaths per 100,000 live births) is 29.¹⁰

Achieving gender equality remains a significant challenge for Malaysia, which lags behind other countries in the region. The UNDP Gender Development Index (GDI) for Malaysia is 0.972 (down from 0.976 in 2017), slightly higher than the East Asia Pacific (EAP) average of 0.962. The Gender Inequality Index (GII) is 0.274, (down from 0.287 in 2017) slightly lower than the EAP average 0.31.¹¹

According to the World Economic Forum (WEF) Global Gender Gap Index (GGGI) for 2020, the overall GGI score for Malaysia is 0.677, ranking 104 out of 153 countries, behind all its peers in ASEAN except Myanmar. Globally it places 97th in economic empowerment, a fall from 80/144 in 2016. The breakdown for thematic scores and global rank is show in the table below for the years 2016 and 2020.¹²

Table 1: Global Gender Gap Index

Indicators	2016		2020	
	Rank	Score	Rank	Score
Global Gender Gap Index	106/144	0.666	104/153	0.677
1. Economic participation and opportunity	80	0.658	97	0.639
Labour Force Participation	104	0.650	107	0.681
Wage equality for similar work (survey)	10	0.791	20	0.744
Estimated earned income (US\$)	48	0.652	71	0.623
Legislators, senior officials and managers	95	0.285	116	0.256
Professional and technical workers	90	0.797	101	0.799
2. Educational Attainment	89	0.955	86	0.989
Literacy Rate	88	0.968	102	0.946
Enrolment in primary education ¹³	-	-	81	0.998
Enrolment in secondary education	1	0.970	1	1.000
Enrolment in tertiary education ¹⁴	-	-	1	1.000
3. Health and Survival	109	0.969	84	0.974
Sex ratio at birth	125	0.935	112	0.943
Life Expectancy	75	1.048	92	1.043
4. Political Empowerment	134	0.051	117	0.108
Women in Parliament	118	0.116	121	0.168
Women in ministerial positions	130	0.061	88	0.227
Years with female head of state (last 50)	68	0.000	73	0.000

The spider graph below shows Malaysia (the shaded section) conforms with the global averages (the dark blue line) for education, health and economic participation, but is considerably below the average for political empowerment.¹⁵

⁹ Ibid

¹⁰ UNDP Human Development Report (2020).

¹¹ Ibid

¹² The World Economic Forum Global Gender Gap Report 2020.

¹³ No data entry for this indicator in the Global Gender Gap Report 2016.

¹⁴ Ibid

¹⁵ The World Economic Forum Global Gender Gap Report 2020.



The World Bank's "Women, Business and Law" rating is based on an analysis of domestic laws and regulations that affect women's economic opportunities, 100 representing the highest possible score. The 2020 rating for Malaysia is 50, compared to Thailand at 78.1. The breakdown is as follows: Mobility: 50, Workplace: 50, Pay 50, Marriage: 40, Parenthood: 0, Entrepreneurship: 75, Assets: 60, Pension: 75.¹⁶

Cultural Context

The 2018 CEDAW Concluding Observations (CO) notes that *"the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which present a significant impediment to the implementation of the Convention and are a root cause of the disadvantaged position of women in several areas, including in the labour market and in political and public life. It expresses further concern about reports of the "moral policing" of women by private citizens and religious authorities in order to impose dress codes on women."*¹⁷

From the late 1990s, Islam has also been routinely invoked to deny women's rights. In 2014, for instance, a Muslim women's NGO, Sisters in Islam, was issued a *fatwa* declaring them as deviant for subscribing to liberalism and religious pluralism, and for straying from the teachings of Islam.^{18 19} The CEDAW Committee has raised this as in contravention with the obligation to provide for peaceful and pluralist public spheres²⁰. Key Informants note the divide between religious fundamentalists/conservatives and progressives: they do not "understand each other", do not "speak the same language", and thus cannot communicate effectively around women's human rights.²¹

In Malaysia, this traditional mindset of gender roles even resulted in a controversial 'advice' to women from the Government amid a national lockdown in April 2020 to stem the spread of Covid-19. Using a series of infographics, it suggested to women how they should maintain their personal appearance, talk to their husbands and entertain their children in order to keep everyone happy at home, including dress attractively, wear makeup, do not nag, and use a high-pitched, child-like sweet voice such as cartoon character Doraemon when speaking to their husbands to preserve household happiness. After a public outcry over its sexist nature, the guidelines have been removed.^{22 23 24}

The over-riding religious and cultural context underpins the seemingly intractable gender gaps in employment and political participation, as well as the lack of progress on addressing GBV in the form of domestic and sexual violence, sexual harassment, child marriage, female genital mutilation (FGM),

¹⁶ World Bank, Women, Business and Law 2020.

¹⁷ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

¹⁸ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

¹⁹ Key Informant Interview (KII) (several), October-December 2021

²⁰ Malay Mail, 21 Feb 2018, Why choose fatwa over civil laws? UN committee asks Putrajaya.

²¹ KII 32, November 2020

²² Chong Seow Wei (May 20, 2020) Gent, Big Concepts. Is Covid-19 Affecting Men And Women Differently? Here's What We Know <https://generationont.asia/ideas/is-covid-19-affecting-men-and-women-differently-heres-what-we-know>

²³ Noraida Endut, April 14, 2020, Nikkei Asian Review: Malaysia's lockdown pays little attention to women's needs

²⁴ KII 15, October 2020

trafficking, and intolerance to LGBTQI. The rigid gender norms constitute a major obstacle for women to enter, and stay in, the labour market.

3.2. Overview of the Institutional, Legal, Policy and Framework for GEWE, including civil, customary (Adat) and Syariah (Islamic) law

Institutional Framework for GEWE

The Ministry of Women, Family and Community Development (MWFCD) as the national women's machinery is responsible for adopting policies and strategies aimed at the advancement of women, such as the national policy on women and its associated national action plan, gender mainstreaming programmes, and gender-responsive budgeting (GRB).²⁵

While MWFCD is the national machinery for women's empowerment, it also functions as the national agency for family and community development, of which welfare services form a substantial component. The overwhelming percentage of MWFCD's budget goes to welfare services leaving the GEWE agenda with very little resources to function with.²⁶ The CEDAW committee and other stakeholders note that there are concerns about their limited effectiveness, due to the lack of political will and understanding on the part of government agencies with regard to gender equality and the lack of institutional mechanisms, including the lack of capacity to advise government agencies and to monitor, track and evaluate policies and programmes.^{27 28} Some women's groups have pointed out, that it would be more strategic to set up a separate unit spearheading gender mainstreaming measures under the Deputy Prime Minister's office.²⁹

Box: 1 Ministry of Women, Family and Community Development: Official Website³¹

The Ministry's responsibility is to promote and raise public perception on the importance of the roles of women and family institution in contributing towards the developmental agenda of the nation, and the gender equality resolutions in international agreements, such as CEDAW. The Ministry is also responsible for the creation and promotion of community and social awareness programmes as well as the progression of the nation's social development objectives aspects, including social welfare.

With the latest reorganisation, the MWFCD now oversees five agencies under its direct jurisdiction:

1. Social Welfare Department of Malaysia (JKMM)
2. National Population and Family Development Board (LPPKN)
3. Department for Women Development (JPW)
4. Social Institute of Malaysia (ISM)
5. NAM Institute for the Empowerment of Women (NIEW)

The Department of Women's Development carries out programmes and activities for the development of women consistent with the vision and mission of the Ministry. The department is made up of five (5) divisions:

1. Women Policy Implementation Division
2. Capacity Building Division
3. Coordination, Monitoring and Evaluation Division
4. Guidance and Counselling Division
5. Management Services Division

The department also includes 13 women development state officers.

²⁵ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

²⁶ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁷ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

²⁸ KII 33, November 2020

²⁹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

³⁰ KII 17, October 2020

³¹ Jabatan Pembangunan Wanita (Dept of Women's Development) Website, accessed 6 Jan 2021.

Previously, GEWE was an agenda item for Cabinet meetings, which meant that MWFCF was given a platform to discuss gender issues with the rest of the Cabinet, however it has now been moved under Welfare and is no longer a standalone Cabinet agenda item.³²

Under the previous government administration, which observers considered the most progressive to date in terms of GEWE, the MWFCF developed several national action plans to address issues such as child marriage, poverty, education on sexual and reproductive health, statistics, and legal reform to raise the minimum age of marriage. Progress on these actions under the current government has stalled, and in some cases even regressed.³³ Women's groups have expressed their frustration in having worked to put these and other women's rights issues on the political agenda, expecting ongoing institutional support from the government, but unfortunately with a change in leadership these gains have been erased. The MWFCF needs to have a consistent vision of GEWE, and to maintain that position throughout changes in government and not be subjected to arbitrary preferences of new leaders.^{34 35} *"The Ministry of Trade will always focus on trade and economic growth regardless of who is in power."*³⁶

Furthermore there is a sense that GEWE gets sidelined as a women's issue, and is ghettoized within the MWFCF, which is at the "bottom of the Ministry hierarchy", with no political clout or resources, and "cannot tell other ministries what to do" and influence a whole of government approach to gender mainstreaming.³⁷

³⁸ The rest of the Ministries avoid responsibility for GEWE, which makes it challenging to move forward with multi sectoral issues such as GBV, employment, political participation, gender mainstreaming and budgeting.³⁹ There is a need for gender mainstreaming and budgeting to be institutionalised in government policy and budgeting.⁴⁰

Previously, under the UNDP-MWFCF Gender mainstreaming project *"Strengthening and Enhancing the Inclusiveness of Women Towards an Equitable Society in the 11th Malaysia Plan (2016-2020)"*⁴¹ the government set up a system of Gender Focal Points (GFP) across line ministries, with circular from the Prime Minister's Office. However, the system never succeeded because for the most part the GFPs did not have the power or skills to make the necessary changes in their ministries, they did not understand the concept of GEWE, and because of the three year rotation of civil servants there was a lot of turnover and no institutional memory in place.^{42 43 44 45} In order to address this, the MWFCF was planning to set up Gender Focal Teams within MWFCF and across other ministries, as well as a committee for developing a gender mainstreaming framework. However, this also ended with the recent change of government.⁴⁶ There is a lack of understanding that GEWE needs to take a whole of government approach in order to be successful, the pervasive thinking is that it 'belongs' under MWFCF, and thus other line Ministries do not see their role in the GEWE agenda.^{47 48 49} The government has also noted in its answer to the CEDAW Committee that gender mainstreaming is not seen as a national issue and is the sole responsibility of the Ministry of Women, Family and Community Development.⁵⁰ In order to increase civil servants capacity for gender mainstreaming, the civil service training institute Intan used to include a training component on gender, however it was removed about five years ago.⁵¹

Disability falls under the MWFCF, which is responsible for overseeing the Convention on the Rights of People with Disabilities (CRPD), however the approach to people with disabilities is more welfare than

³² KII 37, November 2020

³³ KII 23, November 2020

³⁴ KII 23, November 2020

³⁵ KII 30, November 2020

³⁶ KII 23, November 2020

³⁷ KII 33, November 2020

³⁸ KII 35, November 2020

³⁹ KII 36, November 2020

⁴⁰ KII 36, November 2020

⁴¹ KII 35, November 2020

⁴² KII 33, November 2020

⁴³ KII 38, December 2020

⁴⁴ KII 17, October 2020

⁴⁵ KII 38, December 2020

⁴⁶ KII 21, November 2020

⁴⁷ KII 35, November 2020

⁴⁸ KII 31, November 2020

⁴⁹ KII 11, October 2020

⁵⁰ Malay Mail, 20 Feb 2018, Muslim women enjoy fewer rights than non-Muslims here, UN committee told in Geneva.

⁵¹ KII 35, November 2020

rights based, and there is no understanding of discrimination against people with disabilities, which receives even less attention from the Ministry than issues related to women and children.⁵²

The national human rights institution in Malaysia, known as Suhakam (Suruhanjaya Hak Asasi Manusia, National Human Rights Commission), is an independent statutory body, it does not have an explicit mandate to focus specifically on gender equality or sex/gender-based discrimination.⁵³ Nevertheless, since its establishment in 1999, Suhakam has periodically contributed to a positive discourse on gender equality by producing occasional reports that highlight discrimination against women and which promote a human rights approach towards the achievement of equal gender relations. Notable publications include its most recent study on discrimination against transgender persons, a report on trafficking in women and children (2004) and the status of women (2010). Also in 2014 Suhakam submitted a report to the CEDAW Committee for its review of CEDAW implementation in Malaysia. Furthermore, Suhakam has publicly taken a consistent stand on the promotion of women's human rights, ranging from issues such as the importance of enacting a Gender Equality Act and treating gender mainstreaming as a national priority, to prohibiting child marriage and inequality between men and women at the workplace.⁵⁴ The government has invited Suhakam to provide a briefing to the Parliament on the Gender Equality Act, to present the country's CEDAW report in Geneva, and to discuss withdrawing CEDAW reservations.⁵⁵ ⁵⁶ Some observers feel that Suhakam should appoint a commissioner for gender, given the lack of progress on CEDAW implementation.⁵⁷

There is a vibrant and pro-active civil society women's movement, consisting of national and sub-national women's rights NGOs, many of whom are members of the Joint Action Group for Gender Equality (JAG) which comprises:

- All Women's Action Society (AWAM);
- Association of Women Lawyers (AWL);
- Foreign Spouses Support Group (FSSG);
- Justice for Sisters;
- Perak Women for Women Society;
- Persatuan Kesedaran Komuniti Selangor (EMPOWER);
- Persatuan Sahabat Wanita Selangor (PSWS);
- Sabah Women's Action Resource Group (SAWO);
- Sarawak Women for Women Society (SWWS);
- Sisters in Islam;
- Women's Aid Organisation (WAO);
- Women's Centre for Change (WCC).

JAG is considered a powerful, impactful and effective civil society network of feminist groups, which collaborates to maximise their voice and systematically push for priority issues to be addressed by government. There are JAG members in Sabah and Sarawak. JAG is recognised by the government as subject matter experts, and has been officially consulted on drafting the domestic violence act, the gender equality act, rape laws, and marriage and divorce law reform. JAG is currently lobbying for changing the stalking laws, citizenship rights, (the constitution discriminates against children born overseas), criminalising marital rape, and child marriage.⁵⁸

Several other women's organisations that were interviewed for this report are listed in the Annex 1. The National Council of Women's Organisations (NCWO) includes 78 national affiliates, 170 state affiliates and 13 state councils. It is a consultative, advisory, non-political, non-religious body which brings together women's organisations and cooperates with national and international agencies to ensure constitutional non-discrimination based on gender, legal reform and enforcement to protect women's rights and ensure women participation in decision making at all levels, and fulfil Malaysia's commitment to international conventions including CEDAW, the SDGs and the Beijing Platform for Action.⁵⁹

⁵² KII 15, October 2020

⁵³ KII 33, November 2020

⁵⁴ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

⁵⁵ KII 19, November 2020

⁵⁶ KII 33, November 2020

⁵⁷ KII 28, November 2020

⁵⁸ KII 15, October 2020

⁵⁹ NCWO website, accessed January 2021, https://ncwomalaysia.org/ncwo_wp/who-we-are-2/

The UN Gender Results Group, chaired by UNFPA, provides a platform for all UN agencies in Malaysia to develop a common approach to GEWE, and to engage in coordinated policy dialogue with government, parliamentarians, CSOs, and other stakeholders. Recently the group has provided a framework for the National Action Plan to Eliminate Violence Against Women (NAPEVAW), and advocacy points for tabling the Sexual Harassment bill.⁶⁰

As noted above, the civil society space is very active with several major coalitions whose advocacy effectively captures the attention of policy makers both in government and legislative spaces and have resulted in policy reform.⁶¹ Some observers suggest that 90% of gender related legal and policy reform is through CSO advocacy, including related to gender equality, domestic violence, rape, sexual harassment, and child marriage and sexual abuse.^{62 63}

Examples of institutionalising CSO participation in legal reform processes through a joint working group with Government include:

- 2016: Special Task Force for the formulation and enactment of the Sexual Offences Against Children Act;
- 2019: Special Task Force for the Gender Equality Bill – which has since been renamed the Anti-Discrimination Against Women Bill - and the Sexual Harassment Bill;
- Setting up of the Domestic Violence Committee in 2020⁶⁴;
- Law Reform working groups;
 - 2017 - request for review on Sexual Harassment draft legislation;
 - 2018 - standalone SH legislation draft submitted to ministry;
 - 2020 - SPT (taskforce) for drafting of standalone SH Bill.
- National Budget Consultation with all CSOs. In 2018/2019 there were special National Budget Focus Group consultations on Women's issues. There was no focus group discussion in 2020 for the 2021 National Budget.⁶⁵

Civil Society Organisations initiatives include:

- CEDAW review process
 - The Joint CEDAW CSO Coalition Working Committee organised a mock session for Government Team in preparation for their meeting with the CEDAW Committee in 2018.
- CSO Parliamentary Engagement Group⁶⁶ coordinates:
 - Questions MPs pose to Ministers on gender issues
 - Monitoring Parliamentary Debate on gender issues⁶⁷
 - Briefing Sessions for Legislators (CEDAW, Nationality Rights)⁶⁸.

Observers note that Malaysia's strong women's movement, active in pushing and setting the policy agenda, is on the one hand a strength, however on the other hand, reforms are not being passed or implemented because they are driven by civil society and there is a lack of political will, government ownership, commitment, and accountability.⁶⁹

International Conventions

Malaysia is a member of the UN Human Rights Council. It is a signatory to the following conventions, albeit with reservations:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention on the Rights of the Child (CRC);
- Convention on the Rights of Persons with Disabilities (CRPD).

Malaysia acceded to CEDAW in 1995, but the Convention's effectiveness has been limited. CEDAW's objective has been hampered because of reservations registered by Malaysia. The Government of

⁶⁰ KII 18, November 2020

⁶¹ KII 33, November 2020

⁶² KII 33, November 2020

⁶³ KII 37, November 2020

⁶⁴ KII 33, November 2020

⁶⁵ KII 33, November 2020

⁶⁶ ENGENDER Consultancy and Women's Aid Organisation

⁶⁷ Ibid

⁶⁸ KII 33, November 2020

⁶⁹ KII 39, December 2020

Malaysia recorded 12 reservations upon signing, subsequently reduced to eight and then to five. The government cited conflicts between CEDAW and the Federal Constitution and between CEDAW and Islamic law.⁷⁰ Malaysia has maintained its reservations on the following articles: Articles 9(2): women and men should have equal rights with regard to the nationality of children, Articles 16(1) (a) (c) (f) and (g): rights of women on marriage, divorce and over their children. In addition, Malaysia has also failed to ratify the Optional Protocol of CEDAW to allow Malaysian women, whose rights were violated, to communicate directly with CEDAW committee for adjudication.⁷¹ Malaysia, in their Press Release of the Combined Third to Fifth Periodic Reports on CEDAW, maintained its reservations to the remaining articles of the Convention on the basis that the provisions are not in line with the Federal Constitution, Islamic Law and national policies.⁷²

CEDAW's effectiveness has been also limited because Malaysia's Federal Court has found that the Convention does not have the force of law in Malaysia.⁷³ The government has not systematically localised CEDAW into national law, as per the CEDAW ratification requirements.^{74 75} There is also a lack of a legal framework to fully incorporate equality and non-discrimination in Malaysian law.⁷⁶ The CEDAW committee has requested the government to demonstrate the legality of Islamic edicts or fatwas and why they take precedence over civil laws despite not being legally binding.⁷⁷

Furthermore, MWFC as the ministry 'responsible' for CEDAW, has faced challenges in collecting the necessary inputs from other line ministries to draft the national CEDAW report, as the inter-ministerial process for GEWE in general and CEDAW in particular has not been institutionalised, and remains ad hoc.⁷⁸

In a 2018 Constructive Dialogue with CEDAW Committee at its 69th session in Geneva, Switzerland, the Committee expressed its concern that women's human rights, especially those of Muslim women, has regressed.⁷⁹ They stated that Islamic family law has regressed even as civil law reform has resulted in more rights for non-Muslim women. Muslim women now enjoy far less rights in marriage, divorce, guardianship of their children and inheritance than their non-Muslim counterparts.⁸⁰

The Government has not publicly stated its plan or timeline for implementing the most recent recommendations of the CEDAW Committee. However, MWFC has held a 'post-mortem' with the relevant agencies to discuss the CEDAW Committee's recommendations. MWFC planned to respond to the CEDAW Committee in 2020 (not yet done), to address the Committee's following recommendations:

- Provide a concrete timeframe for the adoption of a gender equality law that complies with CEDAW standards;
- Engage in constructive dialogue with all relevant parties to explain how female genital mutilation cannot be justified by religion;
- Enact national asylum and refugee legislation and procedures that uphold international norms, which ensures that the needs of these women and girls are addressed, and which codifies the principle of non-refoulement;
- Adopt safeguards to protect women's rights in all aspects relating to family and marriage, including the Committee's general recommendations No. 29 (on economic consequences of marriage, family relations and their dissolution) and No. 33 (on women's access to justice)⁸¹.

A number of recommendations have been presented to Malaysia at the 3rd Universal Periodic Review (UPR) by the UN Human Rights Council in November 2018. Most of these relate to gender equality and women's empowerment. The box below present the main findings:

⁷⁰ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

⁷¹ ARROW, 2019.

⁷² ARROW, 2019.

⁷³ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

⁷⁴ KII 9, October 2020

⁷⁵ KII 17, October 2020

⁷⁶ ARROW, 2019.

⁷⁷ Malay Mail, 21 Feb 2018, Why choose fatwa over civil laws? UN committee asks Putrajaya.

⁷⁸ KII 17, October 2020

⁷⁹ ARROW, 2019.

⁸⁰ Malay Mail, 20 Feb 2018, Muslim women enjoy fewer rights than non-Muslims here, UN committee told in Geneva.

⁸¹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

- Take effective measures to ensure that civil law and Syariah law are in full compliance with CEDAW provisions at the local, state and federal levels;
- Take necessary measures to protect LGBTI persons, in law and in practice, against any form of violence, harassment or discrimination and ensure the full enjoyment of all their fundamental human rights and freedoms;
- Take steps to harmonise laws and policies on nationality to ensure equal rights are given to Malaysian women and men in all situations;
- Expand its existing economic empowerment programmes to cover more groups of vulnerable women, such as single mothers and indigenous women;
- Continue guaranteeing access to healthcare services in line with SDG 3.7;
- Undertake further measures to realise Universal Health Care (UHC);
- Continue efforts in eradicating AIDS by increasing access to free-of-charge first and affordable second line anti-retroviral treatment;
- Adopt gender equality legislation to reduce inequalities between men and women;
- Continue efforts to effectively protect women and children from human rights violations, including gender-based violence, child marriage, and child labour;
- Implement anti-bullying campaigns in schools to address all forms of bullying, including those based on actual or perceived sexual orientation, gender identity or gender expression;
- Promote and protect the rights of women and children, with a particular attention to the fight against child, early and forced marriages;
- Update the current PEERS syllabus to include inter alia education on health and respectful family life and interpersonal relationships, human rights, violence and GBV, consent and bodily integrity, in line with UN's technical guidelines on education;
- Continue efforts to increase family planning and SRH services in both urban and rural areas;
- Strengthen efforts to reduce maternal mortality, through improved access to maternal healthcare services;
- Take effective measures to ensure that unmarried women and vulnerable groups have access to sexual and reproductive healthcare in government health centres;
- Ensure that all migrant workers and their families have access to medical services, including SRH.⁸²

The EU is supporting ARROW to implement the Gender Equality Initiative in Malaysia, a project which aims to contribute to the implementation of relevant CEDAW and UPR concluding observations and recommendations, specifically the adoption of the Gender Equality Act that aims to abolish discriminatory laws and policies against women and girls and fulfil the human rights of LGBTIQ community against discrimination and violence in Malaysia. The project will enable a wide range of Malaysian CSOs to conduct advocacy and public engagement on the ratification and implementation of relevant core international human rights conventions as well as on the adoption of the Gender Equality Act and will enhance the capacities of decision-makers in Terengganu and Perak; and federal levels to implement the concluding observation from the last CEDAW review (2018) and UPR recommendations, especially those related towards fulfilling the human rights of women, girls and LGBTIQ communities against discrimination and violence in Malaysia.⁸³

Legal system

Malaysia has a pluralistic legal system with parallel civil and Islamic/Syariah courts. Article 121 (1A) of the Federal Constitution states that the civil courts have no jurisdiction over matters that are within the jurisdiction of the Sharia Courts. Thus, matters governed under Islamic laws are only to be administered through Sharia Courts. Islamic/Syariah courts deal with Muslims' moral and family matters. Islamic law lies under the jurisdiction of Malaysia's states. Prior to 1984, Islamic laws were unwritten laws based on the Quran and narrations of the hadiths, the recorded words and deeds of the Prophet Muhammad. Starting in 1984, each of Malaysia's states codified their Islamic laws and passed an Islamic family law, which governs Muslims' marriages, as well as a set of other laws. In each state, a three-tier Syariah Courts system adjudicates all matters relating to Islamic laws. The jurisdictions of Islamic laws are bound by Malaysia's Federal Constitution.⁸⁴

⁸² ARROW, 2019.

⁸³ Arrow Website, accessed Jan 2021, <https://arrow.org.my/project/gender-equality-initiative-in-malaysia/>

⁸⁴ Sisters in Islam/ARROW (2018). *National report: Malaysia – Child marriage: Its relationship with religion, culture and patriarchy*.

In East Malaysia, Native Courts act as administrators of native and customary laws. Unlike civil law, which is federal law, Islamic law is state based. As such, Islamic laws may vary from state to state, although most hold similar to identical provisions on particular matters.⁸⁵ There are nine kings presiding over nine Islamic regulations for each state. These are not significantly different, and variations are minor, for example related to marriage, polygamy and divorce, division of inheritance between men and women.⁸⁶ Thus, it is difficult to push for legal reform on certain issues at the national level, as change has to happen at the state level. The only way around this would be for the government to change the provision in Islamic Family Law which all states would have to follow.⁸⁸

Additionally, Islamic laws are currently only applicable to Muslims and are generally restricted to personal laws on marriage, divorce and inheritance. Certain criminal laws are also imposed via the Syariah Criminal Offences legislations of each state. Again, variations are evident from state to state, but in essence the offences and their resulting punishments remain largely consistent across the country. It consists of provisions such as a ban on alcohol consumption, suspiciously excessive close proximity with a member of the opposite sex (known as *khalwat*), premarital and extra-marital sexual activity (*zina*), etc. Muslim's marriages must be contracted and regulated under the Islamic family laws of each of the states whilst non-Muslim marriages are regulated under the Law Reform (Marriage and Divorce) Act 1976 (LRA) and related federal statutes. As laws on marriage, family, and ancillary matters are regulated under federal laws, the laws with regard to non-Muslims, are uniform across the country.⁸⁹

Family relations in Malaysia are governed by a combination of civil, customary (*Adat*) and Syariah (Islamic) law; and a dual legal system governs Muslim and non-Muslim laws separately. Muslims, who constitute 60% of the population, are covered by Islamic Family Law, which has become increasingly discriminatory towards women. The Islamic Family Law stipulates that marriages are not fully recognised without the consent of the “wali”, the woman's guardian, who is always male. It only recognises the rights of men to be guardians of children and allows Muslim men to take as many as four wives.⁹⁰ Female representation as judges in the Syariah justice system is non-existent.⁹¹

Islam emphasises the responsibilities of each individual and the complementary, reciprocal roles of husband and wife. On the basis of reciprocity, it is the responsibility of the husband to support his wife financially and the responsibility of the wife to obey her husband. Thus, if a wife “disobeys” her husband, he is no longer responsible for supporting her. However, the husband cannot solely declare his wife disobedient. Instead, the Syariah Courts determine whether a wife is disobedient.⁹² In certain circumstances men can take up to four wives, although even taking a second wife is rare. Data from the 2004 MPFS show that in Malaysia, only 1.1 percent of men reported having two or more wives, and the proportion was higher among Indians (2.6 percent) than among the Malays (1.3 percent).⁹³

Even though, according to Islamic law, the most important role for women is their familial responsibilities, there is no blanket restriction on women's employment in Islam. According to Section 60 of the Islamic Family Law Enactment 2003 of the state of Selangor, a wife is not entitled to financial support when she leaves her husband's home against his will, without any valid reason. That and similar provisions in other states have been interpreted as a blanket prohibition on women's participation in the workplace.⁹⁴

CEDAW CO notes that the existence of a parallel legal system of civil law and multiple versions of Syariah law, which have not been harmonised in accordance with the Convention, as previously recommended by the Committee⁹⁵, leads to a gap in the protection of women against discrimination, including on the basis of their religion. There are multiple barriers impeding women's and girls' access to justice and effective remedies for violations of their rights, including discriminatory stereotypes and gender biases among personnel throughout the justice system. Islamic family law has become increasingly discriminatory towards women. Muslim women do not have equal rights in family and marriage matters

⁸⁵ Sisters in Islam/ARROW (2018). *National report: Malaysia – Child marriage: Its relationship with religion, culture and patriarchy*.

⁸⁶ KII 18, November 2020

⁸⁷ KII 24, November 2020

⁸⁸ KII 23, November 2020

⁸⁹ Sisters in Islam/ARROW (2018). *National report: Malaysia – Child marriage: Its relationship with religion, culture and patriarchy*.

⁹⁰ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

⁹¹ Nathan Associates, *Women's Workforce Participation in Indonesia and Malaysia* (no date, c 2015/6).

⁹² Sisters in Islam/ARROW (2018). *National report: Malaysia – Child marriage: Its relationship with religion, culture and patriarchy*.

⁹³ UNFPA, 2019, “Population Situation Analysis”

⁹⁴ Sisters in Islam/ARROW (2018). *National report: Malaysia – Child marriage: Its relationship with religion, culture and patriarchy*.

⁹⁵ CEDAW/C/MYS/CO/2, para. 14

to men, including in their capacity to enter into marriage and to divorce, nor do they enjoy equal rights with regard to guardianship of their children, and inheritance; polygamy is permitted for Muslim men under the Islamic Family Law, and child marriages continue to be permitted under both the Law Reform (Marriage and Divorce) Act and Islamic family law, and the rate of child marriages is increasing, doubling between 2015 and 2018.⁹⁶ This is likely to increase with pandemic induced poverty.

In the Islamic system of succession and inheritance, the parents, spouse and offspring will all get different proportions of the inheritance. The general rule is that the share of a man is double that of a woman in the same degree of relationship.⁹⁷

According to the World Bank's report *Women, Business and the Law*⁹⁸ Malaysia scores particularly poorly on the *Getting Married* and *Having Children* indicators, with scores of 40 and 0 out of 100, respectively. Malaysia scores poorly on the *Getting Married* indicator because of provisions in Islamic Law (applicable to Muslims) that require women to obey their husbands and that set different requirements and rights for men and women who want to marry or divorce. Regarding *Having Children*, legally mandated social protection and support in areas such as maternity, paternity and parental leave, dismissal of pregnant women and paid leave is generally below international norms. Two other indicators in which Malaysia can improve its standing by meeting international legal norms are *Starting a Job* and *Getting Paid*, both with scores of 50 out of 100. Malaysia scores poorly in those two indicators due to the absence of laws that mandate non-discrimination in employment based on gender and equal remuneration for work of equal value, as well as the absence of criminal penalties or civil remedies for sexual harassment in employment. Malaysia's labour laws also do not allow women to undertake belowground and nightwork.⁹⁹

Legal Framework for Gender Equality and Women's Empowerment

The Federal Constitution Article 8(2) has affirmed equal rights between women and men and guarantees their equal treatment before the law. Malaysia enacted the following laws to ensure the protection of women's rights and to promote gender equality:

- Domestic Violence Act 1994;
- Employment Act 1955, Art 37 (2) (b), Art 34, Art 35;
- Anti – Trafficking in Persons Act 2007;
- Employment Legislation on Sexual Harassment in 2011;
- Income Tax Act 1967 (Art 53), Sec 48 (1) b) Sec 47;
- Education Act 1996 (Act 550), Sec 15 (a), 16 (a and b) and 21;
- Minimum Retirement Age Act 2012, Art 4(1).

That said, the citizenship section of the constitution states that Malaysian citizenship is passed only through the father. If you are a Malaysian woman and your child is born overseas to a non-Malaysian father then citizenship is not automatic, and the child is treated as a tourist in terms of immigration. This discrimination based on gender and race is further exacerbated by class, in the way it is implemented: for a blue collar worker it is harder to get their child citizenship then for a professional who can get discretionary permission.¹⁰⁰ The CEDAW Committee raised concerns about the National Registration Department's (NRD) refusal to allow Muslim children born within six months of their parents' marriage, to take their father's names and instead using the "bin Abdullah" suffix often associated with illegitimate children. It pointed out that if the child cannot take the father's name, it would also mean that she may not be conferred with Malaysian nationality — thus contravening Article 9 of CEDAW that regulates equal rights on nationality.¹⁰¹

A National Policy on Women was developed in 1989 and updated in 2009 to ensure equitable sharing of resources and opportunities for both women and men. In 2016, MWFCD announced that a gender equality act is being drafted, however it has not been ratified yet.¹⁰²

⁹⁶ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

⁹⁷ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

⁹⁸ The World Bank's report *Women, Business and the Law* (World Bank Group, 2020),

⁹⁹ Ibid

¹⁰⁰ KII 22, November 2020

¹⁰¹ Malay Mail, 21 Feb 2018, Why choose fatwa over civil laws? UN committee asks Putrajaya

¹⁰² ARROW, 2019.

Box: Overview of the National Women Policy¹⁰³

The National Women's Policy aims:

1. To build the potential and empower women from the different level of society and in all sectors as an agent for change for the society and contribute to the economic and social development of the country;
2. Provide conducive environment, including formulating policy and laws that are women-friendly, increase dignity and the well-being of women's life in all aspects including physical, economy, social, politic, health, psychology and spiritual;
3. Cultivate gender equality culture at all levels of society and in all sectors;
4. Ensure opinions and women's voices are accepted in the process of decision making at all levels;
5. To achieve shared equality between women and men in getting and control of resources and the participation opportunity as well as enjoying the benefits of development; and
6. To increase and strengthen the sharing, fairness and equality between women and men in all aspects of life, to strengthen the family institution and developing the community and society.

Strategies that are outlined to implement this policy are:

1. Mainstreaming gender perspective in formulating policies and laws, implementation and evaluation program, projects and budget preparation for development;
2. To increase commitment among the executive bodies, legal bodies and judiciary, including policy drafters, decision makers and the enforcement in the public sector and the private sector as well as the civil society, to respect and preserve women's dignity;
3. Review current laws and regulations and enact new laws and regulations to ensure non-discrimination based on gender, protection, safety, women's rights and dignity are protected and to take actions so that the enforcement of the laws is effective;
4. Conduct research on gender aspect to generate innovative and creative measures in drafting policy, planning and implementation of program;
5. Carry out the gathering, analysis and application of data and information by Government agencies, private sector and non-governmental organisation according to gender for the planning, implementation and program evaluation;
6. Increase the capacity and women's ability in all field to ensure their involvement are effective in the development of the economy and social of the country, including involvement in politics and in the decision-making process;
7. Strengthen and increase women socio-economic level through cooperation and synergy with Government agencies, private sector and non-governmental organization at the national and international level, to add and diversify the opportunity as well as to move resources, information and expertise among women.

To ensure the aims of the National Women Policy are achieved and Women Development Action Plan (WDAP) can be implemented effectively, several approaches are outlined:

1. All Government agencies, private sector, non-governmental organisation and civil society have to take action as set in the WDAP;
2. Human resources that is knowledgeable, trained and gender sensitive with the specific expertise must be prepared and financial resources that is sufficient;
3. Temporary special actions and "affirmative action" or the quota system are reasonable to be taken to develop qualified and capable women in all sector;
4. Planning, coordination, monitoring and evaluation of activities under WDAP are given to the related implementing agency according to the specific authority;
5. Create central database to integrate data based on gender from various sources including Government agencies, private sector and non-governmental organisation;
6. Create multisector synergies among Government agencies, private sector, non-governmental organization and civil society;
7. Ministry of Women, Family and Community Development (MWFCD) acting as the lead agency to coordinate advocacy activities, monitoring as a whole including the review of the suitability of the policy and implementing strategy WDAP for every 3 years or according to needs.

¹⁰³ Ministry of Women, Family and Community Development, Jabatan Pembangunan Wanita (Dept of Women's Development) Website, accessed 6 Jan 2021.

The **Women Development Action Plan** was drafted in 1992 to implement the Women's Policy by outlining the mainstreaming of gender considerations in 13 critical areas of concern (economy, poverty, law, violence, health, education and training, science and technology, media, environment, sports, religion, culture, arts and heritage, decision-making and politics, mechanism, machinery and institutions for women's development). Its formulation also took into account Malaysia's international commitments under the Beijing Declaration and Plan of Action, and the CEDAW Convention, amongst others.¹⁰⁴¹⁰⁵ The revised National Plan of Action for the Advancement of Women (2009-2014) provides general guidelines on the implementation of programmes for the integration of women in development, with timelines and responsible ministries, but had no budget attached to it.¹⁰⁶ It suggests that MWFC is responsible for coordinating the implementation across government, and yet in reality they do not have the political power to do so.¹⁰⁷ The Plan ended in 2015, and the Government has yet to develop a new one, and it is not clear what the intension of MWFC is at this stage.¹⁰⁸ It did however commission an extensive evaluation of this plan and the National Policy on Women in 2018, which included consultations with major women's organisations. The evaluation is not a public document.¹⁰⁹ ¹¹⁰

At the sub-national level, the State of Selangor has a Women's Policy and Plan of Action 2017-2020, which aims to promote a gender sensitive development framework (including institutionalising gender mainstreaming and budgeting, strengthening women's machinery and other government bodies). The seven goals are aligned to the SDGs.

12th Malaysia Plan is not public yet but is being drafted, the outline does not include any mention of gender or women's empowerment.¹¹¹ Observers familiar with the draft note that gender is included under Chapter 8 on Poverty, Inclusivity, and Social Justice, and is not mainstreamed across the rest of the plan. MWFC is working on a five-Year Strategic Plan for the Ministry, with strategic directions for vulnerable populations they work with and several strategic areas.¹¹²

It is a widely held view that the previous Government was more progressive in terms of GEWE,¹¹³ ¹¹⁴ ¹¹⁵ and was set to make progress on a number of reforms including the Gender Equality Bill, the Sexual Harassment Bill, increasing the minimum age for child marriage, and others, all of which have been stalled with the new Government.¹¹⁶ ¹¹⁷ It is noted that progress on GEWE is fragile and depends on the personal beliefs of those in power at the time rather than on a set of rights based principles, and when there is a change in power "the entire mechanism falls apart."¹¹⁸ Furthermore, due to the politicization of Islam¹¹⁹, 'non-controversial' policies related to health, education, employment, even domestic violence and sexual harassment, receive favourable treatment, unlike those related to family law, such as marital rape, and child marriage, which are considered 'un-Islamic'.¹²⁰ ¹²¹ That said the Gender Equality Bill, Sexual Harassment Bill, and revised Employment Act have stagnated.¹²² ¹²³

National Budget

The Malaysian federal budgets are presented annually to identify proposed government revenues and spending, forecast economic conditions for the upcoming year, and its fiscal policy for the coming years. The federal budget includes the government's estimates of revenue and spending and may outline new policy initiatives.

¹⁰⁴ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

¹⁰⁵ EU, 2017, Malaysia Country Gender Analysis

¹⁰⁶ KII 38, December 2020

¹⁰⁷ KII 36, November 2020

¹⁰⁸ KII 35, November 2020

¹⁰⁹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

¹¹⁰ EU, 2017, Malaysia Country Gender Analysis

¹¹¹ EPU, 12th Malaysia Plan website, accessed 5 Jan 2020. <http://rmke12.epu.gov.my/about-us>

¹¹² KII 38, December 2020

¹¹³ KII 18, November 2020

¹¹⁴ KII 15, October 2020

¹¹⁵ KII 26, November 2020

¹¹⁶ KII 31, November 2020

¹¹⁷ KII 28, November 2020

¹¹⁸ KII 17, October 2020

¹¹⁹ KII 17, October 2020

¹²⁰ KII 39, December 2020

¹²¹ KII 16, October 2020

¹²² KII 15, October 2020

¹²³ KII 17, October 2020

The government declared 2018 as “Women Empowerment Year”. The government listed four prominent measures to elevate the role of women in the country with its RM280.25 billion budget allocation:

- Government-linked companies, government-linked investment companies and statutory bodies to allocate 30% of positions in their board of directors to women by the end of 2018;
- RM20 million allocations for training and entrepreneurship programmes tailored for women through the Entrepreneur Programme under the MyWin Academ;
- Individual income tax exemption on income earned within 12 months for women’s re-entry into the workforce after a two-year hiatus, in line with the government agency TalentCorp’s Career Comeback Programme;
- Private sector to increase their mandatory maternity leave from 60 to 90 days; similar to what has been earlier implemented by the government sector.

Pakatan Harapan’s first inaugural Budget for 2019 committed to:

- More accessible childcare at work; allocating RM10 million to build 50 childcare centres in government offices and buildings to help working mothers. At the same time, the government will also encourage and incentivise private bodies to do the same;
- More women in leadership roles; a continuation of the 30% quota for women on boards from the previous year;
- For housewives under the e-Kasih programme, the Government has introduced the Employees Provident Fund (EPF) i-SURI contribution scheme where husbands are incentivised to contribute to their wives’ retirement savings. e-Kasih beneficiaries whose husbands contribute at least RM5 monthly into their wives’ retirement savings will receive an additional RM40 contribution from the Government per month. An allocation of RM45 million was provided for this scheme.¹²⁴

MWFCF received a budget of around RM2 billion per year from 2015-2019. While this allocation may have doubled in the last ten years, MWFCF’s share of the overall federal expenditure has stayed relatively small and stagnant during this time, i.e. not surpassing 1% share of the national budget.¹²⁵ Despite the fact that MWFCF is effectively overseeing the wellbeing of the entire population (women, community, family), this responsibility and reach is not reflected in the budget allocations.¹²⁶ The MWFCF budget represented 0.74% of the total budget in 2016, 0.78% in 2019, and 0.8% in 2021. Budget 2021 is the largest to date and the share for MWFCF has not shifted.¹²⁷ A further look at how MWFCF’s funds were distributed between its different portfolios for 2015-2017 shows that an overwhelming proportion (88% on average) went into supporting welfare services. Although women are amongst the beneficiaries of welfare provisions, the amount remaining for the ministry’s other portfolios is paltry for its role as a national women’s machinery.¹²⁸

	MWFCF allocation			Total Federal Budget (RM)	MWFCF% of Federal Budget
Year	Operational	Development	Total (RM)		
2010	1.04	0.13	1.17	191.50	0.62
2015	2.04	0.20	2.24	273.94	0.82
2016	1.87	0.11	1.98	267.22	0.74
2017	1.75	0.23	1.98	262.80	0.75
2018	2.03	0.19	2.22	220.93	1.01
2019	2.20	0.20	2.40	316.55	0.76

Source: Calculations derived from *Anggaran Perbelanjaan Persekutuan* (2010, 2015-2019).

¹²⁴ Malaysia-German Chamber of Commerce and Industry, July, 2019, Empowering Women in the Malaysian Corporate Sector

¹²⁵ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

¹²⁶ KII 33, November 2020

¹²⁷ KII 31, November 2020

¹²⁸ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

Table 5 : Breakdown of MWFCF's operational budget allocation (2015-2017) (billion)

	2015	2016	2017
MWFCF (management and policy planning)	0.17 (8.3%)	0.13 (6.5%)	0.07 (3.54%)
Department of Welfare (JKM)	1.76 (86.3%)	1.78 (87.0%)	1.81 (91.4%)
Department of Women's Development (JPW)	0.03 (1.47%)	0.02 (1.0%)	0.03 (1.52%)
Social Institute of Malaysia (ISM)	0.01 (0.49%)	0.01 (0.5%)	0.01 (0.51%)
NAM Institute for the Empowerment of Women (NIEW)	0.003 (0.15%)	0.003 (0.15%)	0.003 (0.15%)
National Population and Family Development Board (LPPKN)	0.06 (2.94%)	0.06 (3.0%)	0.07 (2.7%)
Total (RM)	2.04	2.0	1.98
Source: Calculations derived from MWFCF Annual Reports. Note, these reports were only available for 2015-2017.			

Previously, civil society were actively engaged with the government in pre-budget discussions, however in 2020 it was limited. Furthermore, the discussion in Parliament about the MWFCF budget focused mainly on women's economic empowerment and entrepreneurship, with no reference to gender issues, gender budgeting, and women in decision making.¹²⁹

In anticipation of the Budget for 2021, WAO released a set of recommendations in *"Budget 2021: A Better Country for Women: Recommendations to Safeguard Women's Employment, Safety from Gender-based Violence and Health in Post-pandemic Malaysia."*¹³⁰ They recommend that the budget 2021 includes the following:

- Set up a shared RM30 million inter-agency fund to train first-responders, including police, medical and welfare officers for gender-based violence survivors;
- Earmark RM50 million to improve existing shelters and build new ones for gender-based violence survivors;
- Devote RM5 million to operate and improve 24-7 telephone crisis service in Malaysia, including both public and NGO-operated emergency hotlines;
- Make available a separate annual fund of RM20 million to combat gender-based violence in our disaster management response;
- Prioritise subsidised adult education and lifelong learning programmes for women after their career break to close the gender gap in labour force participation rate.
- Increase public investment in the care economy, especially by increasing the publicly-operated childcare centres, and by increasing producer subsidies to operators;
- Introduce means-tested childcare and elderly care services subsidies for households to relieve the cost burden for the poor;
- Carry out amendments to the Employment Act to make the workplace more family-friendly, including prohibiting discrimination against employees and jobseekers, introducing a 7-day paternity leave, increasing paid maternity leave to 90-days, protecting workers' right to flexible work arrangements;
- Strengthening the capacity of primary healthcare providers in responding to cases of domestic violence, and gender-based violence;
- Ensuring the full and continuous functioning of all One-Stop Crisis Centers across the country, including budget for training and for adequate numbers of specialised staff;

¹²⁹ KII 22, November 2020

¹³⁰ WAO (2020) Budget 2021: A Better Country for Women: Recommendations to safeguard women's employment, safety from gender-based violence and health in post-pandemic Malaysia.

- Designing a national strategy to reduce the maternal mortality rate, as part of a long-term plan to improve the sexual and reproductive healthcare for women and girls—which has been set back by the lockdown.

Gender Responsive Budgeting (GRB)

Malaysia institutionalised GRB in 2004 with the Treasury Call Circulars for government agencies to implement GRB.¹³¹ to enable separate budgetary allocations for women in the national budget. UNDP provided technical assistance to MWFCDD to strengthen capacity in integrating GRB to the national development plans of Malaysia and to the other line ministries. In 2005, the Ministry of Finance (MoF) of the Federal Government piloted a GRB project in five ministries in Malaysia. Led by the MWFCDD, little of this national initiative has been visible since 2013 at the national level, despite the appointment of Gender Focal Points (GFP), Federal Treasury call circulars, and the production of a GRB manual.¹³² As a result, no ministries were able to integrate GRB into their budget.¹³³ There was limited commitment due to the fact that the MoF did not make GRB mandatory across government agencies, merely encouraged it.¹³⁴ Looking forward, institutionally MWFCDD would not be able to lead GRB as they do not have the political mandate to ensure compliance on budgeting across government, this lies with MoF.¹³⁵

There are some examples of GRB at the state level, which have been more successful due to the efforts of local gender ‘champions’.¹³⁶ The Penang State Government successfully piloted gender-responsive and participatory budgeting (GRPB) in two local councils in 2012. Following this, the State adopted a strategic plan and began institutionalising GRPB into local governments (2016-2018). Amongst others, this involved integrating GRPB into budget cycles including enhancing the collection of sex-disaggregated data and gender analysis. In 2017, the Selangor State Government adopted a women’s policy, which included GRB and a strategy towards a gender-sensitive development framework.^{137 138 139 140}

Data and Statistics

The Department of Statistics Malaysia (DoSM) has re-processed existing data and a publication on “Statistics on Women Empowerment in Selected Domains” is published annually. These statistics focus on the core set of gender indicators which covers eight main domains which are economic structures, participation in productive activities and access to resources; education; health and related services, public life and decision making; human rights of women and girl children, social protection; disaster risk reduction; peace and security.¹⁴¹ While DoSM are committed to the collection and publication of sex disaggregated data, they do rely on the cooperation of 45 different government agencies to collect this data, and it is up to each agency to comply with this, which makes it challenging.¹⁴² While statistics on the economy, trade and tourism are comprehensive, data on social and gender issues are scarce and incomplete: there is no national data collection on GBV, child marriage and FGM. Some observers argue that the official position on this is ‘the less is known about these issues the better.’¹⁴³ Furthermore, an intersectional approach to data collection and analysis is missing, and thus is not available to inform policy related to targeting the most vulnerable who invariably suffer from intersectional discrimination and bias. This leaves a huge research gap, which could easily be filled if the DoSM were to undertake cross-tabulations to expose pockets of vulnerability.¹⁴⁴ With respect to the data gap on GBV prevalence, UNFPA is lobbying to include GBV as part of the regular survey, as the most recent national survey was carried out by a University in 2010, and currently cases are reported by police and MWFCDD, but these are not comprehensive and representative.¹⁴⁵

¹³¹ Ministry of Women, Family and Community Development, Malaysia (2017).

¹³² KII 36, November 2020

¹³³ KII 38, November 2020

¹³⁴ KII 36, November 2020

¹³⁵ II 38, November 2020

¹³⁶ KII 36, November 2020

¹³⁷ KII 33, November 2020

¹³⁸ KII 20, November 2020

¹³⁹ KII 35, November 2020

¹⁴⁰ KII 39, December 2020

¹⁴¹ Arrow, 2020, SDG Monitoring Report, Affirming Rights, Accelerating Progress and Amplifying Action: Monitoring SDG5 in Asia-Pacific.

¹⁴² KII 36, November 2020

¹⁴³ KII 23, November 2020

¹⁴⁴ KII 16, October 2020

¹⁴⁵ KII 18, November 2020

The MWFCDD has established the Gender Disaggregated Information System (GDIS) to ensure the systematic collection and compilation of gender-disaggregated data. Selected categories of data were published annually in print. GDIS would help track gaps and discrepancies in implementation, and in the planning and formulation of new initiatives. However, this database is not publicly available online. The print version ceased to be published around 2017. MWFCDD relied on other ministries to provide the data which would also have been complex.^{146 147}

There is a need to conduct new surveys to produce national baseline information on specialised topics – time use, GBV and asset ownership. Goal 5 of the SDG: Achieve gender equality and empower all women and girls has 14 indicators, data is available for 57% of the indicators, 14% is partially available and need further development, 22% is not available and 7% is categorised as not relevant by Malaysia (including eliminate all harmful practices, such as child, early and forced marriage and FGM).¹⁴⁸ The SGD monitoring report also notes that Malaysia lacks nationally representative data available on indicators related to GBV and child marriage.¹⁴⁹

DOSM recently produced reports on “Special Survey on Effects of Covid-19 on Companies and Business Firms (Round 1)” and another on the “Effects of Covid on Economy and Individual (Round 1 and 2)”, none of these reports mention women or gender.^{150 151}

4. Gender Analysis of Thematic Areas of Engagement under GAP III

4.1. Ensuring freedom from all forms of gender-based violence

GAP III: EU action should contribute to:

- *Increasing protection – by supporting legislation criminalising all forms of gender-based violence and capacity building of law enforcement institutions, in line with international legal and policy frameworks;*
- *Promoting prevention – by challenging harmful gender norms, working with all relevant stakeholders to ensure a victim-centred approach and measures that end recidivism by perpetrators, also engaging men and boys, traditional and religious leaders;*
- *Contributing to increasing prosecution of perpetrators including those involved in human trafficking by strengthening a victim-centred approach by the law-enforcement bodies;*
- *Increasing protection of survivors also by supporting access to life-saving social and justice services with a survivor-centred approach, particularly in fragile and conflict/post-conflict settings or when survivors face intersecting discriminations;*
- *Supporting access to psycho-social support services and participation in economic and social life of victims of gender-based violence and victims of trafficking in human beings;*
- *Safe and quality humanitarian actions that support preparedness, prevention and response to sexual and gender-based violence and the work of the Call to Action;*
- *Strengthening women's rights organisations and social movements as well as civil society organisations working on the intersectional dimension of gender-based violence and of conflict-related sexual violence.*

Gender-based violence takes several forms. This section will cover the following: intimate partner violence (IPV), sexual harassment, child marriage, trafficking in women and children, FGM, and violence against members of the LGBTQI community.

¹⁴⁶ KII 35, November 2020

¹⁴⁷ KII 37, November 2020

¹⁴⁸ National Council of Women's Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

¹⁴⁹ Arrow, 2020, SDG Monitoring Report, Affirming Rights, Accelerating Progress and Amplifying Action: Monitoring SDG5 in Asia-Pacific.

¹⁵⁰ DOSM, 2020, Special Survey on Effects of Covid-19 on Companies and Business Firms (Round 1)

¹⁵¹ DOSM, 2020, Special Survey on Effects of Covid-19 on Economy and Individual (Round 1&2)

Intimate Partner Violence

Prevalence

Since the enactment of the Domestic Violence Act in 1994, the MWFCD is responsible for the national response to GBV, ranging from improving women's status and awareness raising on GBV to protection. However, GBV is still a "private" and "shameful" issue that is not to be discussed openly. The last national GBV survey conducted in 2010 estimated that 8% of women aged 18–50 years have experienced IPV in their lifetime;¹⁵² the figure may be an underestimate, given the sensitivity of GBV.¹⁵³ The worldwide prevalence of IPV among all ever-partnered women was 30.0% with regions that reported the greatest number of cases were African, Eastern Mediterranean and South-East Asia Regions. A meta-analysis found that IPV prevalence in Malaysia has a wide range between 4.94 and 35.9%, with emotional or psychological abuse as the most common form of IPV.¹⁵⁴ Primary healthcare centres, in particular, are uniquely positioned to detect and respond to IPV, as they are survivors' first point of contact with the health system. According to a 2019 study, out of 882 women seeking treatment at primary care clinics in Kuala Lumpur, 22% reported experiencing domestic violence. A detailed description on the frequency of IPV among these survivors found that 26% were being abused nearly daily, 37% abused up to three times a week, and 26% were victims of an unpredictable frequency of abuse.¹⁵⁵

In terms of government data collection, MWFCD revealed that a total of 50,658 cases of rape, incest, molestation, sexual harassment and DV were recorded from 2013 to May 2018. The Ministry also recorded a total of 3,439 reported sex crimes and DV cases from January to May 2018. The states of Selangor, Johor and Kedah recorded the highest cases of sexual offences in all categories for the past five years (2013-2018), with mostly women and children being the victims.¹⁵⁶ Reported incidents are not representative of actual incidents, as many go unreported.

GBV is culturally seen as private matter which needs to 'stay in family'. CSOs are advocating that GBV should be treated as a public health matter that needs to be officially reported and addressed. CSOs have witnessed cases of women reporting and then withdrawing their report, to avoid bringing shame to their family. Thus, there are many unreported or unrecorded cases, and when we see an increase of cases it is due to increased advocacy and reporting.¹⁵⁷

Significant factors associated with IPV are lower education background, lower socio-economic status, substance abuse, exposure to prior abuse or violence, violence-condoning attitude; husbands or partners controlling behaviour, and involvement in fights and lack of social support.¹⁵⁸ According to Amnesty International, social attitudes tended to regard domestic violence "as a private matter, with the police and courts appearing unwilling to take action against those who may have assaulted their spouses or other relatives within the home." They also note that perpetrators of rape evade prosecution by marrying their underage victims.¹⁵⁹ ¹⁶⁰

Legal

The Domestic Violence Act (DVA) 1994 was amended for a second time in 2017 to improve protection for survivors of abuse. Amongst the changes were an expanded definition of DV; greater clarity in what constituted psychological and emotional trauma (e.g. threats, insulting the "modesty" of the victim etc.) such that abuses of this nature would no longer be disregarded when reported to the police. The

¹⁵² Shuib R, Endut N, Ali SH, Osman I, Abdullah S, Oon SW, et al. Domestic violence and women's well-being in Malaysia: issues and challenges conducting a national study using the WHO multi-country questionnaire on women's health and domestic violence against women. *Procedia - Soc Behav Sci.* 2013;91:475–88.

¹⁵³ Lim, S. C., Yap, Y. C., Barmania, S., Govender, V., Danhouno, G. and Remme, M. (2020). Priority-Setting to Integrate Sexual and Reproductive Health into Universal Health Coverage: The Case of Malaysia. *Sexual and Reproductive Health Matters*, 28, 1842153.

¹⁵⁴ Shuib R, Endut N, Ali SH, Osman I, Abdullah S, Oon SW, et al. Domestic violence and women's well-being in Malaysia: issues and challenges conducting a national study using the WHO multi-country questionnaire on women's health and domestic violence against women. *Procedia - Soc Behav Sci.* 2013;91:475–88.

¹⁵⁵ Awang H, Hariharan S. Determinants of domestic violence: evidence from Malaysia. *J Fam Violence.* 2011;26(6):459–64.

¹⁵⁶ Arrow, 2019, Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?

¹⁵⁷ KII 18, November 2020

¹⁵⁸ Kadir Shahar, H., Jafri, F., Mohd Zulkefli, N.A. et al. Prevalence of intimate partner violence in Malaysia and its associated factors: a systematic review. *BMC Public Health* 20, 1550 (2020).

¹⁵⁹ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

¹⁶⁰ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

introduction of an Emergency Protection Order (EPO) which social welfare officers could issue without a police report or court hearing, provides speedier relief to a victim. In addition, a strengthened Interim Protection Order (IPO) that could act as a restraining order and allow the police to act before the violence escalated; and enhanced provisions on counselling were among the changes made to the DVA. The protection of girls has been boosted through the enactment of the Sexual Offences against Children (SOAC) Act 2017.¹⁶¹ The DVA does not criminalize marital rape, due to an exception in penal code (Section 375), i.e. it is lawful to rape your wife. Women's groups have tried for decades to remove this exception; however, the resistance justification is that would be against Sharia law.¹⁶²

Perpetrators of rape evade prosecution by marrying their underage victims. Under CEDAW, the government has an obligation to address DV, including through the provision of sufficient numbers of safe and adequately equipped shelters for women, their children, and other family members.¹⁶³

UNFPA is working with MWFCDD on drafting the NAEVAW, at both a cross ministerial and state level, based on the ASEAN Regional Plan of Action to End Violence Against Women.¹⁶⁴ There is a DV Committee under MWFCDD, which includes CSOs and related Ministries, and meets twice a year, to discuss DV policy matters. The intention is to replicate this model at the State level.¹⁶⁵

Services

Both preventive and protective services for GBV are scarce and there is no integrated national GBV policy framework for addressing GBV in a comprehensive manner. At the same time, while the MOH is expecting to address the health impacts and consequences of GBV, GBV has never been perceived as a public health problem. Nonetheless, One-Stop Crisis Centres (OSCCs) were introduced and are perceived as a potential solution without significant additional costs to the health budget, and these services have been integrated into the emergency and trauma departments (ETDs) in 129 MOH hospitals since 1996.¹⁶⁶ Every hospital in every state is meant to have an OSCC.¹⁶⁷ Every hospital ETD has protocols for DV survivors.¹⁶⁸ Despite this, there is currently no systematic response mechanism to DV at the primary care level. OSCCs are an integrated resource for GBV survivors of—including DV, rape, and sexual assault—where they can seek medical treatment, make a police report, and get social welfare assistance all at the same location. While the integrated OSCC model has been a trailblazing and effective approach, the implementation has differed between hospital settings, depending on factors such as budget constraints, a lack of training, and a lack of specialised staff.¹⁶⁹ Unlike pregnancy and delivery services, OSCCs are only considered to be partially prioritised under the health care system, as there is no extra budget allocation for this intervention. It was reported that non-specialised hospitals at the district level struggled with scarcity of resources, in particular, the lack of specialised staff and limited referral. The main barrier for GBV survivors accessing these services was the low public awareness of the OSCCs, due to the lack of awareness-raising activities and the lack of trained staff and coordination.¹⁷⁰ While the OSCC policy and SoPs are in place and come under MoH, there is a need for more collaboration with MWFCDD and MoHA (police), which is an implementation gap.¹⁷¹ Furthermore, vulnerable and marginalised groups, such as LGBTQI, migrants and refugees, who are at greater risk of GBV, encounter even more challenges in accessing OSCC services, due to socio-cultural stigma and legal barriers.¹⁷² WAO is reviewing the OSCC model, as there are suspicions that it is not functioning in district level hospitals, which do not have

¹⁶¹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

¹⁶² KII 8, October 2020

¹⁶³ WAO, 2020, budget 2021

¹⁶⁴ KII 27, November 2020

¹⁶⁵ KII 15, October 2020

¹⁶⁶ Lim, S. C., Yap, Y. C., Barmania, S., Govender, V., Danhouno, G. and Remme, M. (2020). Priority-Setting to Integrate Sexual and Reproductive Health into Universal Health Coverage: The Case of Malaysia. *Sexual and Reproductive Health Matters*, 28, 1842153.

¹⁶⁷ KII 18, November 2020

¹⁶⁸ KII 16, October 2020

¹⁶⁹ WAO, 2020, Budget 2021

¹⁷⁰ Lim, S. C., Yap, Y. C., Barmania, S., Govender, V., Danhouno, G. and Remme, M. (2020). Priority-Setting to Integrate Sexual and Reproductive Health into Universal Health Coverage: The Case of Malaysia. *Sexual and Reproductive Health Matters*, 28, 1842153.

¹⁷¹ KII 18, November 2020

¹⁷² Lim, S. C., Yap, Y. C., Barmania, S., Govender, V., Danhouno, G. and Remme, M. (2020). Priority-Setting to Integrate Sexual and Reproductive Health into Universal Health Coverage: The Case of Malaysia. *Sexual and Reproductive Health Matters*, 28, 1842153.

specialized services under the referral pathways. There is also a need to ensure that service providers are trained in specialist skills. The recommendations from this review will feed into the NAPEVAW.¹⁷³

According to international best practices developed by the Council of Europe, countries should have one family place in a women's shelter per 10,000 inhabitants as a minimum standard. According to a WAO study, Malaysia has roughly one family place per 72,538 inhabitants, far below the recommended standard. Malaysia has a ratio of one social worker for every 8,756 Malaysians, far behind the ratio of several developed countries such as the United States (700), the United Kingdom (3100), Singapore (3500) and Australia (1100).¹⁷⁴

COVID impacts on GBV

There has been a substantial increase in DV in the context of Malaysia's COVID-19 Movement Control Order (MCO), with an increase in incidence during the second MCO.^{175 176 177} Women's rights groups are reporting a significant increase in calls for help, as workers are forced to stay home, running low on food and income.¹⁷⁸ The Talian Kasih hotline run by MWFCF has seen a 57% increase during the MCO period; although the hotline is not exclusively dedicated to domestic violence, it is suspected that domestic violence is one factor contributing to the spike.¹⁷⁹ WAO reported a 44.4% increase in calls and enquiries between February and March 2020, and a 300% increase by the end of April 2020.¹⁸⁰ The current crisis also impacts survivors who have left their abusers. According to WAO, 30% of former residents from its DV shelter were unable to work due to the movement control order while 25% were still looking for jobs. In the northernmost state of Penang, the Women's Centre for Change (WCC) has reported a fourfold increase in domestic violence-related distress calls, with this period "already exceeding the monthly average in 2019".¹⁸¹

The usual support systems in place to protect women have also been disrupted by the pandemic, rendering them unable to cope with the rising number of domestic abuse cases. During the MCO period, call centers, shelters and hotlines have faced disruption of funding and even closure as staff were often unable to be at work as the social service workforce has not been recognised as essential under the MCO. This renders social workers and the social service system inoperable during the pandemic, crippling social protection for the most vulnerable. Domestic abuse involves nuanced physiological and psychological diagnosis as they do not always manifest physically. Police, health, and judicial services, who are normally the first responders to abuse cases are overwhelmed with COVID-related demand of their time, resources and facilities. Survivors who have left their abusers, have also been impacted. Some service providers are providing counselling over the phone and zoom, however this has affected their ability to deliver legal assistance, as under normal circumstances, they rely on law students who provide advice from their office. However the bar council does not allow students to provide legal advice over the phone.¹⁸² Thus policy reform related to GBV and DV is becoming more urgent under MCO.¹⁸³

Sexual harassment

Sexual harassment is considered a workplace problem in Malaysia. The Government addressed this issue with a Code of Practice on the Prevention and Eradication of Sexual Harassment, which was introduced in 1999, and the amendment of the Employment Act 1955 in 2012 to include sexual harassment by introducing Part 15A Section 81.13.3.2 These provisions have gaps: the code calls for self-regulation, however there is a need for a comprehensive law on eliminating sexual harassment and raising public awareness of the issue is pressing.¹⁸⁴ According to the Association of Women Lawyers (AWL) sexual

¹⁷³ KII 27, November 2020

¹⁷⁴ WAO, 2020, Budget 2021.

¹⁷⁵ KII 21, November 2020

¹⁷⁶ KII 19, November 2020

¹⁷⁷ KII 15, October 2020

¹⁷⁸ South China Morning Post, 11 April 2020, "In Malaysia, domestic violence spikes amid lockdown to slow coronavirus infections."

¹⁷⁹ WAO, 17 April, 2020, "Submission on COVID-19 and the Increase of Domestic Violence Against Women in Malaysia to the UN Special Rapporteur on Violence against women, its causes and Consequences"

¹⁸⁰ WAO, 2020, Budget 2021

¹⁸¹ Chong Seow Wei (May 20, 2020) Gent, Big Concepts. Is Covid-19 Affecting Men And Women Differently? Here's What We Know.

¹⁸² KII 31, November 2020

¹⁸³ KII 15, October 2020

¹⁸⁴ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

harassment is “not taken seriously enough”. Sexual harassment is one of the reasons why women drop out of the workforce. Not all employers have sexual harassment policies in place.¹⁸⁵

A recent (2020) survey found that:¹⁸⁶

- 71% women say they have heard about and think sexual harassment is an issue, while 21% say they have encountered a form of sexual harassment before and think it is a real issue. Only 2% have not heard of it;
- 52% of women do not see the act of suggesting a co-worker to make advances towards a client or potential client, as sexual harassment;
- 15% of women do not consider unwelcome touching or grabbing to be a form of sexual harassment but classify it as unprofessional behaviour;
- 50% of women do not consider repeatedly making advances towards a person who has already declined them to be a form of sexual harassment but classify it as unprofessional behaviour;
- 42% of women do not consider the act of stalking, to be a form of sexual harassment but classify it as unprofessional behaviour;
- 39% of women say they have experienced offensive sexual jokes or innuendos in the workplace, during the course of their employment.

In June 2020, Empower issued a media statement urging Malaysia to ratify ILO C190 treaty on Gender-Based Violence and Harassment in the ‘world of work’.¹⁸⁷

Child Marriage

There are currently no definitive statistics on the prevalence of child marriage in Malaysia. The data vary from 3.8% to 6%, depending on the sources.¹⁸⁸ The National Registration Department (NRD) indicated that there were 930 nuptials of non-Muslims below the age of 18 in 2018, up 436 from 2015; the number of child marriages among non-Muslims doubled between 2015 and 2018. MWFCD indicated in late July 2019 that 14,999 child marriages were recorded between 2007 and 2017, of which 10,000 were Muslims. The pandemic and poverty are likely to exacerbate the situation. Each state has a different law,¹⁸⁹ Sarawak had the highest number of registered child marriages in Malaysia. That said there is some concern about the fact that Indigenous People (IP) do not have to register their marriages, and research shows a high rate of child marriage among IP.¹⁹⁰ IP and Malay Muslims are the groups with the highest prevalence of child marriage and most resistant to legal reform.¹⁹¹

Child marriage was heavily discussed at the national level following the news of a 41-year-old man getting married to an 11-year-old girl in 2018. Also, in July that year, another 44-year-old man took a 15-year-old girl as his second wife with the approval from the local Syariah Court. Because of the strong public outcry, the PM issued an order to raise the minimum legal marriage age to 18 years for both Muslims and non-Muslims. JAG collaborated with MWFCD to develop an action plan on child marriage which was meant to be rolled out, but due to the change in government in early 2020, it has been stalled.^{192 193 194}

Malaysia is a signatory to the United Nations Convention on the Rights of the Child (CRC), which states, “a child means every human being below the age of 18 years”.¹⁹⁵ Malaysia has finally lifted their reservation on the CEDAW Article related to the minimum age of marriage.¹⁹⁶ It has legislation that defines individuals under the age of 18 as children, such as the Child Act 2001 - rendering marriages of those under 18 as child marriage. The law prohibits people from marrying until they are 18 years old. This is outlined in Act 164: Law Reform (Marriage and Divorce) Act 1976 which states that any marriage shall be

¹⁸⁵ Malaysia-German Chamber of Commerce and Industry, July, 2019, Empowering Women in the Malaysian Corporate Sector

¹⁸⁶ WAO & VASE, 2020, Voices of Malaysian Women on Discrimination and Harassment in the Workplace (Data). /

¹⁸⁷ Empower Website, Accessed 6/1/2021.

¹⁸⁸ Kohno A, Dahlui M, Nik Farid ND, *et al*, 2019, In-depth examination of issues surrounding the reasons for child marriage in Kelantan, Malaysia: a qualitative study, *BMJ Open*;9:e027377. doi: 10.1136/bmjopen-2018-027377

¹⁸⁹ KII 23, November 2020

¹⁹⁰ KII 19, November 2020

¹⁹¹ KII 26, November 2020

¹⁹² KII 2, October 2020

¹⁹³ KII 8, October 2020

¹⁹⁴ KII 15, October 2020

¹⁹⁵ National Council of Women's Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

¹⁹⁶ KII 23, November 2020

void if either party is below the age of 18. However, there is an exception to this law. Child marriage is allowed in circumstances where a girl aged 16 or older wishes to be married, if such marriage is authorised by the state chief minister. Furthermore, for Muslims, under Syariah law, governed by the Family Law Enactment of Islamic States in Malaysia, the legal minimum age of marriage for Muslim girls is 16 years old, with additional conditions for marriage below the age of 16 to be allowed with the consent of the parents and approval by a Syariah (Islamic) court.¹⁹⁷ As the exception does not state the absolute minimum age, there is no limitation to how young a Muslim bride or groom may be.¹⁹⁸ In 2014, the National Fatwa Council discouraged child marriage, but did not explicitly label it as *haram* (prohibited). The National Council of Women's Organisations (NCWO) submitted a memorandum to the Rulers Committee on Religious Affairs requesting for the minimum age of marriage for girls to be legislated in the Syariah State enactments.¹⁹⁹ There was a commitment in the 2018 Pakatan Harapan's manifesto to ensure the minimum age for marriage is 18 years old (Commitment 4.2 in the Special Commitments for Women). And while PH was in power, after the election of 2018, there were a number of statements and initiatives confirming the government's intention to eliminate child marriage. These are currently stalled under the new government administration.

Several legal and policy bottlenecks hinder efforts to curb child marriage. Malaysia's complex legal system – which encompasses shariah, civil and customary law – makes it difficult to define a 'child' in the context of child marriage. For example, civil law stipulates that the legal age of marriage for non-Muslims is 18 (although females aged 16 to 18 may marry with the consent of their state Chief Minister or Menteri Besar). Muslim law, however, which governs Malaysia's Muslim-majority population, provides that while girls may marry at 16 and boys at 18, the Shariah Court may grant permission to marry below those ages (i.e., below 16 for girls and below 18 for boys). The establishment of a clear minimum age for marriage at 18 in line with international standards that applies to all existing legal frameworks is therefore a key first step to ending child marriage in Malaysia. Although shariah court judges have the authority to grant permission to boys under 18 and girls under 16 to marry, there is no standard operating procedure to guide them through the child marriage application process. This leaves judges to their own discretion and their individual understanding of Islamic legal perspectives when assessing each case. A UNICEF study found that court decisions have usually been made in contravention of the international conventions and laws that Malaysia has ratified, including the CRC and CEDAW. Judges also often rule from the position that child marriage is a viable solution to social problems such as pre-marital sexual activity and pregnancy out of wedlock, especially in the case of the latter, as marriage is perceived to save the baby from illegitimacy. Child marriage is thus a preferred and acceptable alternative to children being born out of wedlock.²⁰⁰ This is due to cultural norms which do not recognise pre-marital sex, or are willing to equip youth with knowledge on SRH, and based on the notion of pride and honour, child marriage is the solution if it is suspected that a girl is sexually active, even if she is not pregnant.²⁰¹ That said, most girls are already pregnant by the time they apply to marry (one study showed that out of 2143 cases only 9 were not pregnant). While sex under 16 is considered legally statutory rape, irrespective of consent, there is a legal exception, if it is followed by marriage.^{202 203}

Another important bottleneck is the lack of government jurisdictional responsibility over child marriage. While the MWFCDO oversees the wellbeing of children and has affirmed that such marriage is not in the interest of a child, Ministry officials also say that child marriage is not within the Ministry's jurisdiction, because Muslim marriages are governed by state Islamic enactments, not federal law. Nonetheless, the Ministry formed a taskforce in 2013, to make recommendations for government agencies to "curb" child marriage, but this has not led to any significant action so far. The PH Government (Pakatan Harapan) included in its election manifesto a pledge to introduce a law that sets 18 as the minimum age of marriage. This is part of its commitment to ensuring that the legal system protects women's rights and dignity under their "Special Commitment for Women".²⁰⁴

Another key policy drawback, meanwhile, is the lack of a clear sexual education policy. The current SRH school programme teaches students about various SRH issues through the subjects of science, religion and moral education, with an emphasis on abstinence. However, more direct topics, such as sex,

¹⁹⁷ UNICEF, 2018, Child Marriage in Malaysia: a Working Paper

¹⁹⁸ KII 23, November 2020

¹⁹⁹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁰⁰ UNICEF, 2018, Child Marriage in Malaysia: a Working Paper

²⁰¹ KII 23, November 2020

²⁰² KII 19, November 2020

²⁰³ KII 23, November 2020

²⁰⁴ UNICEF, 2018, Child Marriage in Malaysia: a Working Paper

sexuality, contraceptive use/practice and abortion are not addressed (i.e., comprehensive sexual education - CSE), and any effort to do so is challenged by the belief – shared by teachers, parents and religious leaders – that sexual education encourages sexual activity among children. There is limited political will to re-evaluate current SRH education initiatives and implement a more comprehensive programme, despite evidence that children are more likely to delay sexual debut when they are well informed about SRH.²⁰⁵

Religious-based cultural sensitivities that justify child marriages include: the transgression of close proximity (*khalwat*) between unmarried persons that may give rise to suspicion of “immoral acts”, as outlined in Section 27 of the Syariah Criminal Offences (Federal Territories) Act 1997 which on conviction, in addition to the shame and stigma attached, persons are “liable to a fine not exceeding RM 3000 (equivalent to USD718) or to imprisonment for a term not exceeding two years or to both”. Worse, to commit *zina* or unlawful sexual intercourse, i.e., out of wedlock, carries graver penalties. To marry one’s daughter off to her rapist, an extension of *zina*, is to safeguard the “dignity” of her parents and the unborn’s right to inheritance from its father’s estate (if not born out of wedlock).²⁰⁶

Most child marriages are due to pregnancy or having had sexual relations. Child marriages in Malaysia are most prevalent in the Muslim community. In advocating for the reform of age of marriage laws, the conservative Muslim voice is the largest force of resistance. It is argued that in Islam, a girl is allowed to marry once she reaches puberty, thus no law that sets a minimum age of marriage can apply to Muslims. There have been reported cases of girls as young as 10 and 11 years being married off to adult males. Another concern is that it has never been made clear as to what constitutes “certain circumstances.” The data shows that a majority of applications are approved. Anecdotal evidence also suggests that there is no guidance for judges on process or grounds for rejection and approval. As such, there are circumstances where the child is not called in by the Court for an interview, and reliance is placed upon the word of the parent(s). Sexual intercourse with a minor is not statutory rape where there is a marriage, thus child marriage being used as a way out for perpetrators from being prosecuted under this law (even though at the time of the sexual intercourse, the two were not married).²⁰⁷

Box: GBV committed by Malaysian Industries^{208 209 210}

Palm Oil Plantations

A recent investigative report on the treatment of women in the palm oil industry provide evidence of rape and sexual abuse of young girls and women, trafficking, child labour and slavery, including gang rape and sex slavery of young girls. Women work in worse conditions than men on plantations and often without pay. Many are foreign undocumented migrants.

GBV committed off-shore: Solomon Islands Case Study

The logging industry in the Solomon Islands is currently dominated by Malaysian-owned companies, staffed by migrant workers from Malaysia, Indonesia and the Philippines. A recent IOM report found evidence of sexual exploitation and trafficking of young girls and women in communities located near the extractive industries, specifically, logging operations. Workers engaged in sexual relationships with young girls from the communities, some as young as 12 years old, often facilitated by a third party in exchange for money or goods, “temporary” underage marriage for duration of the contract, leading to an increase in teen age pregnancies. The report recommends that these companies should be held accountable for their employees’ actions overseas, and enforce mandatory social safeguards within the regulations of extractive industries, including sexual exploitation and child protection policies, and appropriate penalties for non-compliance.

National laws are not equipped to deal with transboundary issues, and the legal system does not have extra territorial obligations, thus it is not possible to hold these companies to account under Malaysian law. However, CEDAW addresses extra territorial obligations, maintaining that the state has a role to hold the private sector accountable.

²⁰⁵ UNICEF, 2018, Child Marriage in Malaysia: a Working Paper

²⁰⁶ Bong, S. 28 May 2019, Whose Dignity?: Abolishing Child Marriage for the Girl Child, Catholic Theological Ethics in the World Church

²⁰⁷ Sisters in Islam/ARROW (2018). *National report: Malaysia–Child marriage: Its relationship with religion, culture and patriarchy.*

²⁰⁸ AP News, 18 November 2020, Rape, Abuses in Palm Oil Fields.

²⁰⁹ IOM, 2019, Community Health and Mobility I the Pacific, Solomon Islands Case Study.

²¹⁰ KII 17, October 2020

Trafficking

Trafficking is reported to be a serious problem in Malaysia, with a significant number of young foreign women recruited ostensibly for legal work in Malaysian restaurants and hotels, but subsequently coerced into the commercial sex trade.²¹¹ CEDAW CO notes that Malaysia remains a destination country for trafficking of women and girls, including asylum-seeking and refugee women and girls, for purposes of sexual exploitation, begging, forced labour or forced marriage.²¹² Traffickers recruit some young foreign women and girls — mainly from Southeast Asia, although also recently from Nigeria—ostensibly for legal work in Malaysian restaurants, hotels, and beauty salons, or for brokered marriages, but instead compel them into commercial sex.²¹³ ²¹⁴Traffickers use fraudulent recruitment practices to lure Rohingya women and girls residing in refugee camps in Bangladesh to Malaysia, where they are coerced to engage in commercial sex. Traffickers also exploit men and children, including Malaysians, into commercial sex.²¹⁵ In 2019, SUHAKAM and Fortify Rights released a report documenting a human-trafficking syndicate which committed crimes against humanity in Malaysia and Thailand against Rohingya men, women, and children from 2012 to 2015.²¹⁶

Malaysia is a prominent destination for the trafficking of women and children into the sex trade. Sex trafficking is extremely profitable; the International Labour Organization (ILO) computes that traffickers make an average annual profit of about USD \$23,500 per sex worker in Malaysia. It is projected that there are approximately 142,000 sex workers in Malaysia, out of which 8,000 to 10,000 are located in Kuala Lumpur. While Malaysia is not typically labelled as a sex tourism destination, it has a booming sex industry and a large demand for sexual services. Although there is not much data around it, there is also a thriving underage sex trade with girls from other Asian countries working in Malaysia.

The 2007 Anti-Trafficking in Persons and Smuggling of Migrants (ATIPSOM) Act — amended in 2010 and 2015 — criminalised labour trafficking and sex trafficking and prescribed punishments of three to 20 years' imprisonment and a fine, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape.²¹⁷ Malaysia has formulated a National Action Plan on Anti-trafficking in Persons 2016-2020 but implementation and enforcement is still lacking.²¹⁸ In order to comply with the US State Department's recommendations, the [MOHA has been working with UNICEF and ILO on the National Action Plan on Trafficking in Persons \(NAPTIP\) 2021-2024, in late 2020.](#)²¹⁹

Malaysia has remained on the US Department of State Tier 2 Watch List for the third consecutive year. This is due to the fact that the Government of Malaysia does not fully meet the minimum standards for the elimination of trafficking, but is making significant efforts to do so. The government prosecuted and convicted fewer traffickers than the previous reporting period, and the number of labour trafficking investigations was low compared to the scale of the problem. Corruption and official complicity facilitated trafficking and impeded anti-trafficking efforts. Employment law continued to exclude domestic workers from a number of protections, including maximum working hours and the country's minimum wage. In the recent reporting period 67% of confirmed victims were women.²²⁰

The shelters run by MWFCF which provide psychological, medical and other support services to victims of trafficking, are said to be equivalent to detention centres where trafficked persons are treated as criminals in custody rather than victims.²²¹

²¹¹ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

²¹² Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

²¹³ US Department of State 2020 Trafficking in Persons Report

²¹⁴ ILO, 2019, Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Force Labour Convention and Protocol.f

²¹⁵ US Department of State 2020 Trafficking in Persons Report

²¹⁶ Reliefweb, 27 March 2019, Malaysia: Ensure Accountability for Mass Graves, Human Trafficking Atrocities Against Rohingya, <https://reliefweb.int/report/malaysia/sold-fish-crimes-against-humanity-mass-graves-and-human-trafficking-myanmar-and>

²¹⁷ Ibid

²¹⁸ Ibid

²¹⁹ KII, February 2021.

²²⁰ Ibid

²²¹ ILO, 2019, Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Force Labour Convention and Protocol.

Box: Spotlight²²²

The EU, ILO, UNW, Safe and Fair (SAF) is undertaking the Spotlight Initiative in the ASEAN region, in countries of origin (Cambodia, Indonesia, Lao People's Democratic Republic, Myanmar, Philippines and Viet Nam) and countries of destination (Brunei Darussalam, Malaysia, Singapore and Thailand). The project focuses on ending violence against women migrant workers through strengthening labour migration governance, law reform, improved skills of and services to women migrant workers, changing social norms, empowering women, and strengthening women's organizing in unions, associations, networks, strengthening data and evidence collection and providing visibility to the issue of violence and trafficking in migration cycle.

In Malaysia, SAF led (on behalf of the UN Gender Results Group) the development of a strategy paper on SDG5 related to VAW and SRHR; as well as a second strategy paper on labour migration. Both strategy papers feed into the 12th Malaysia Plan (2021–2025). Dialogues organized on coordinated quality services for women migrant workers subjected to violence and human trafficking in Malaysia contributed to enhancing cross-sectoral referral mechanisms across the EVAW, migration and trafficking sectors and to supporting access to essential services for women migrant workers who face violence. SAF initiatives facilitated the formation of one new migrant domestic workers' organization. SAF has worked with the Ministry of Human Resources (MOHR) providing technical inputs to draft regulations on domestic work, as well as inputting to the 12th Malaysia Plan, with strategy papers submitted on migrant women's access to SRH and VAW services, and on labour migration. The programme undertook trainings for the MOHR, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council (MAPO), and MWFCD on gender equality and women's empowerment, linking to issues concerning women migrant workers and VAW. The programme, in partnership with UNODC, has also created a space for dialogue on challenges and opportunities faced by women migrant workers, engaging CSOs and government officials – including the border police – at the national and provincial levels. Violence and harassment were critical to the dialogue discussions.¹

LGBTQI rights

There are concerns about the criminalisation of LGBTQI.^{223 224} The CEDAW Committee noted that the local LGBTQI community fears persecution from religious authorities in the predominantly Muslim country that has religious laws prohibiting same-sex relationships and cross-dressing. Malaysian schools and education institutions have been involved in anti-LGBTQI guidelines and campaigns, some spearheaded by government agencies.²²⁵ The Malaysian government does not endorse LGBTQI culture, and openly endorses gay conversion therapy. Gay marriage remains illegal in Malaysia.²²⁶ Observers note a backslide, with the strong conservative voice creating pushback on LGBTQI rights.²²⁷ Transgender persons are often blamed for numerous social ills including the spread of HIV/AIDS and are portrayed as inconsistent with the traditional values and Islam, the public understanding is that Islam regards it as 'haram'.²²⁸ Malaysia is one of few countries in the world in which a Muslim transgender person can be arrested for wearing clothes deemed inconsistent to their assigned sex, and many have been convicted under these laws.²²⁹ Under the federal criminal court, women are not allowed to be caned (whipped), however Sharia laws permit caning of women accused of sex work or being gay.²³⁰ In 2018, two women were caned in public for the first time in the nation's history for violating a State *Syariah* enactment that prohibits attempts to have lesbian sex. An International Women's Day rally in 2019 was censored and portrayed as a 'threat' to Islam because it reportedly promoted LGBTQI rights.²³¹ There is an increase in state funded LGBTQI rehabilitation or "evangelical" conversion therapy, which started in 2011, the global visibility of the LGBTQI movement triggered a clampdown in Malaysia.²³²

²²² EU Safe and Fair, South-East Asia/ASEAN Region, Annual Narrative Progress Report, 1/1/19-21/12/19

²²³ KII 4, October 2020

²²⁴ KII 26, November 2020

²²⁵ Malay Mail, 21 Feb 2018, At UN women's rights review, Putrajaya claims LGBT treated 'equally' in Malaysia, 9

²²⁶ Bong, S., 2020, Becoming Queer and Religious.

²²⁷ KII 24, November 2020

²²⁸ KII 23, November 2020

²²⁹ ARROW, 2019

²³⁰ KII 2, October 2020

²³¹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²³² KII 2, October 2020

The Federal Court declared that Section 28 of the Syariah Criminal Offences (Selangor) Enactment 1995 is inconsistent with the Federal Constitution, and is therefore void. In response the Malaysia Syariah Lawyers Association is calling for a drastic and holistic review of existing shariah criminal laws so that no other law will be challenged and undermined.²³³

4.2. Promoting sexual and reproductive health and rights

EU action should contribute to:

- *An enabling legal, political and societal environment that protects the sexual and reproductive health and rights of women and girls and increase access to sexual and reproductive health services and information, including HIV AIDS prevention and treatment;*
- *The elimination of harmful practices such as FGM, CEFM and gender-biased sex selection, by supporting country, regional and global initiatives;*
- *Increasing services in humanitarian settings, including obstetric care, the provision of the minimum initial service package, HIV/AIDS prevention, reproductive, maternal and new-borns health, family planning, addressing specific nutrition needs and vulnerabilities.*

Maternal and Child Health

Since its independence in 1957, Malaysia has made remarkable progress in extending health service coverage, and improving health outcomes, particularly for maternal and child health. The maternal mortality rate (MMR) fell substantially, from 280 per 100,000 live births in 1957 to 44 in 1991 and 25 in 2018²³⁴, and 21.1 in 2019.²³⁵ The reduction of MMR across different states in Malaysia has been uneven.²³⁶

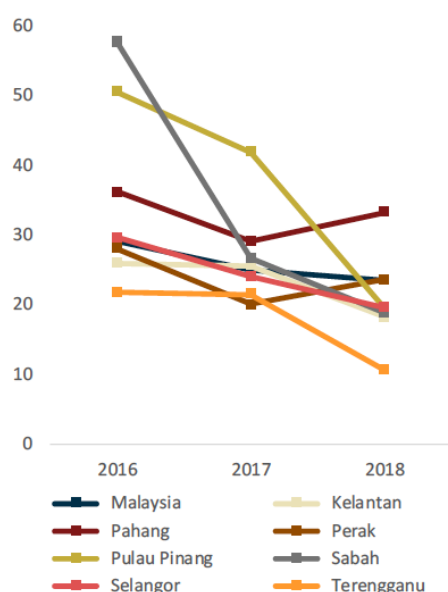


Figure 9 Maternal mortality rates have decreased in most states but ...

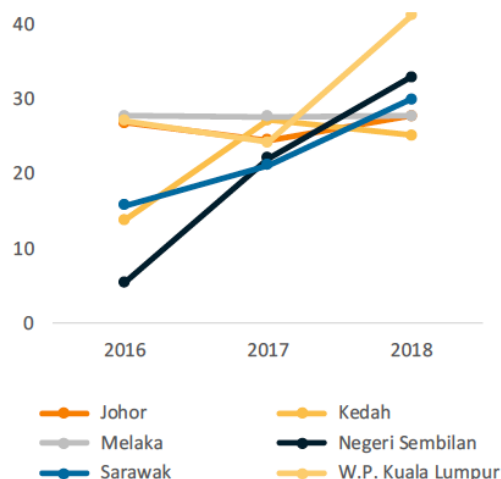


Figure 10 ... but have increased in a significant number of states, at alarming rates. Source: DOSM, 2018. Data for Perlis, W.P. Labuan and W.P. Putrajaya is missing.

²³³ FMT Reporters, 25 Feb, 2021, Review shariah laws to stop any new challenges, say Muslim lawyers, <https://www.freemalaysiatoday.com/category/nation/2021/02/25/review-shariah-laws-to-stop-any-new-challenges-say-muslim-lawyers/>

²³⁴ Lim, S. C., Yap, Y. C., Barmania, S., Govender, V., Danhondo, G. and Remme, M. (2020). Priority-Setting to Integrate Sexual and Reproductive Health into Universal Health Coverage: The Case of Malaysia. *Sexual and Reproductive Health Matters*, 28, 1842153.

²³⁵ Statistica Website, accessed 16/1/21.

²³⁶ WAO, 2020, Budget 2021

The overall total fertility rate (TFR) has declined to about 1.9 children per woman. Contraceptive prevalence is low and has stagnated at only 52.2% since the mid-1980s, and only 34% use modern contraception methods. In 2014, 19.6% of currently married women had an unmet need for contraception, the unmet need for modern methods was much higher, at 34.7%. Unmet need for contraception was about the same for both urban and rural women.²³⁷ Conventional household demographic surveys collect information on contraceptive use only for married women. This is premised on the assumption that unmarried youth are not involved in sexual activities, and that it may be offensive to ask such “sensitive” questions of the unmarried.²³⁸

Antenatal coverage is high at 97%, and the proportion of births attended by skilled health personnel is very high at 99%. The adolescent birth rate is low at 13.4 per 1000 for women aged 15-19 (compared to Thailand which is almost 45).²³⁹ While Pap Smear tests (used to detect cervical cancer) were also provided for free in 2019 — specifically to test for HPV — this was limited to those aged 25-65 and who were married. These criteria are curious particularly since previously in 2017, these tests were offered to any woman above 18 who was sexually active and/or married.²⁴⁰

Malaysia has an abortion law, which permits termination of pregnancy to save a woman’s life and to preserve her physical and mental health (Penal Code Section 312, amended in 1989). However, the lack of a clear interpretation and understanding of the law results in women facing difficulties in accessing abortion information and services. The decision to terminate is left solely in the hands of the doctor and only in the above circumstance. Some health care providers, moreover, are unaware of the legalities of abortion in Malaysia and influenced by their personal beliefs regarding the provision of abortion services. There are non-legal barriers such as hospital administration policies, which continue to curb women’s access to abortion information and facilities.²⁴¹ This is further compounded by religious beliefs that are imposed by way of religious edicts.²⁴² For example, there is a fatwa on the termination of pregnancy due to rape, which prohibits termination beyond 120 days. The fatwa deems that a termination at this junction of the pregnancy is a crime against the unborn baby.²⁴³ Moreover, adolescents below 18 years will need the parental consent to seek such services; failing which penalties will be imposed on the person seeking abortion, the provider and the person assisting. Abortion services at private clinics and hospitals is costly (medical abortion costs between RM500 - RM900 (approx. 125-225 USD), surgical abortion between RM950 - RM4,500), and this situation may force young people to seek back street abortions which sometimes may lead to complications and death. Several KIIs have referred to the high incidence of baby dumping as a result of unwanted pregnancies.

Studies show that even in urban areas, women’s reproductive health decision depend on their husbands, and in some rural areas, women are not able to go to the health center without their husband’s permission.²⁴⁴

In the context of the COVID-19 pandemic, women’s healthcare needs, including access to SRH, have been further marginalised by health authorities who deemed such services secondary. During the MCO, all National Population and Family Development Board (LPPKN) clinics were closed, preventing subsidised access to contraception, family planning and SRH services for large numbers of women and girls.²⁴⁵

Adolescent SRH

With rising youth marriage and out-migration to cities in Malaysia, adolescent fertility has become a major concern. This is due to the rising problems of unsafe sex, teenage pregnancy, and cases of abandoned babies. These problems persist largely due to the lack of reproductive health knowledge among young people. A major challenge includes a lack of access to contraceptive services and other SRH services for

²³⁷ UNFPA, 2019, “Population Situation Analysis”

²³⁸ UNFPA, 2019, “Population Situation Analysis”

²³⁹ UNDP HRD 2020

²⁴⁰ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

²⁴¹ ARROW, 2019, Access to Safe Abortion in Asia and the Pacific Region.

²⁴² KII 7, October 2020

²⁴³ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

²⁴⁴ KII 18, November 2020

²⁴⁵ WAO, 2020, Budget 2021

youth and unmarried people. The lack of access to such services may also lead to the spread of sexually transmitted infections and HIV.²⁴⁶

Malaysia's adolescent birth rate is 11.5 per 1000 women aged 15-19 (2015), the lowest in Asia Pacific following China.²⁴⁷ An average of 18,000 teenage pregnancies reportedly occur in Malaysia every year. Since 2014, the Government has operated a "*Generasiku Sayang*" programme aimed at increasing public awareness on the importance of preventing such pregnancies. It has also set up centres in most States for unmarried pregnant teenagers and women and their babies. The Government provided online video clips to teach children about sexual safety and made available information posters to prevent baby dumping. In 2019, there was increased openness by the new Government towards providing comprehensive sexual education in schools.²⁴⁸ This is despite "restrictive interpretations of religious and cultural values and beliefs which dominate the political discourse and praxis" which the Special Rapporteur on Health noted in his 2014 visit to Malaysia.²⁴⁹

There seems to be an upward trend toward high-risk sexual behaviours amongst young people in Malaysia. A 2018 Malaysian Aids Council report have revealed that 43% of all new HIV infections in Malaysia occur between people aged 13-29 years old. The Global School-based Student Health Survey carried out by MOH in 2012 involving students in Form 1-5 indicated that 50.4% of students had sexual intercourse for the first time before the age of 14 years. Amongst those, only 32.2% used a condom the last time they had a sexual intercourse. Several surveys indicate a lack of knowledge amongst Malaysian adolescents about SRH, including how pregnancy occurs. MOH has been taking initiatives in advocating the provision of SRH services for adolescents, regardless of their marital status.²⁵⁰ Previously young unmarried women were not able to access alternatives or emergency contraception, however MoH has recently made it more accessible, particularly at local level clinics, in response to concerns about adolescent pregnancy.²⁵¹

The Guideline on Managing Adolescents Sexual and Reproductive Health Issues in Health Clinics which underscored youth friendly services was established in 2012. However, the actual implementation of the guidelines depends heavily on healthcare providers. In the same year, Malaysia began to provide universal access to healthcare services, including SRH to all adolescents in primary, secondary and tertiary healthcare facilities nationwide. Despite having the services in place, the unmet needs still exist as the adolescents were not aware of the services available to them. As of 2018, although the services are still made available to young people, many are still unaware or afraid to access them for the fear of being stigmatised or discriminated.^{252 253}

Regarding SRH education, from 2006 onwards, the SRH curriculum was known as the 'Reproductive Health and Social Education' (PEERS). PEERS covers various SRH topics and it is integrated into subjects like Science, Biology, religious and moral education, physical education, among others. The curriculum is covered throughout Year 1 to Form 5. However, studies have shown that sexual education had not been taught in Malaysian schools and the information given by most teachers is vague, and students recall was limited.^{254 255}

The wider concept of SRHR, including the sexual and reproductive rights (the R), is not recognised by the Malaysian government.

FGM²⁵⁶

There is no specific national legislation criminalising FGM/C, despite international commitments including SDG3, CEDAW, CRC. In 2009, a national fatwa was declared on female circumcision, stating that it is

²⁴⁶ UNDP HDR 2020.

²⁴⁷ ARROW, 2019, ICPD+25: The Status of Adolescents' SRHR in Asia and the Pacific Region, Website Accessed 6/1/21.

²⁴⁸ KII 24, November 2020

²⁴⁹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁵⁰ Arrow, 2019, Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?

²⁵¹ KII 24, November 2020

²⁵² Arrow, 2019, Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?

²⁵³ KII 18, November 2020

²⁵⁴ Arrow, 2019, Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?

²⁵⁵ KII 19, November 2020

²⁵⁶ <https://www.who.int/teams/sexual-and-reproductive-health-and-research/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation>

obligatory for Muslim women to undergo circumcision unless it will result in some form of harm to the woman.²⁵⁷ This fatwa has not been gazetted in any state of Malaysia, so it is not considered as law. The practice is held as being in accordance with the local version of Islam as it is considered wajib—obligatory. However, some CSOs have identified Islamic teaching that it is not compulsory, referring to that the Prophet did not do this to his children. The prevailing rationale is that it is not forbidden, 'Haram' and therefore acceptable.²⁵⁸ The sunat, as the procedure is referred to in Malay, is designed to protect a woman from the impurity of premarital sex. Typically types I and IV are practised.

In Malaysia, the practice of Female Genital Mutilation/Cutting (FGM/C) is common and on the rise.²⁵⁹ ²⁶⁰ There is no official prevalence data, however a 2011 study of FGM/C across the provinces of Kelantan, Penang, Selangor, Kedah and Johor, indicate that the practice is gaining in popularity.²⁶² The study of a total of 1,086 Muslim females revealed the following:

Case	%
Circumcised	93.6
Not circumcised	1.2
Don't know	5.2

Reasons for Cutting	%
Religious obligation	80.4
Cleanliness	39.2
Cultural practice	23.4
Means to control women's sexual desire	16.2
Partner's sexual pleasure	8.5

Muslim females comprised of 98% Malays and 2% Aborigines. 62 percent of the Muslim females had at least one daughter. The total number of daughters was 1302, of which 93.2% were circumcised and another 6.8% were not circumcised. The procedure was mostly performed by traditional midwives; 79% on adult women and 69% on daughters. The role of the general practitioners in performing female circumcision had increased from 6.1% on the mothers to 29% on the daughters. Majority of the female circumcision was performed between new-born to pre-school age. The study concluded that female circumcision is a common practice among the Malay females of Malaysia and there is a trend in the practitioners switching from traditional midwife to general practitioners.²⁶³

A 2012 study by the University of Malaya's Department of Social and Preventive Medicine, with 1,196 respondents, concurred with the 2011 findings. The 2012 study found that up to 93% of the respondents had undergone circumcision,²⁶⁴ with 83% of respondents citing religious obligations as a reason, 35% for hygiene purposes, 15% to control one's sexual desire and 7% to satisfy their partners. This study also found that the procedure is increasingly performed by trained medical professionals in private clinics, instead of by traditional circumcision practitioners called Mak Bidans.²⁶⁵ In 2012, concerned about a spike in the procedure being performed without proper medical care, MoH announced that it was developing guidelines to standardise FGM/C, however they were never published.²⁶⁶ ²⁶⁷ In November 2018, Deputy Prime Minister, who was also the Minister for WFCD, stated that FGM/C is part of Malaysian culture and defended the practice as being beneficial to women. The Malaysian Islamic Department of Development (JAKIM) published guidelines for medicalised FGM/C in 2018, thus legitimising the practice as acceptable.²⁶⁸

In 2018, the CEDAW CO and the Human Rights Council (Universal Periodic Review) requested Malaysia to put a stop to the practice of FGM. The response by the Malaysian delegation, that was later echoed by the minister of MWFC, was that Malaysia's practice of FGM was different from that performed in African countries and was part of Malay culture. This ignited a public debate over FGM practices in Malaysia with a statement ARROW to call for the government to ban all forms of FGM in Malaysia. In March 2019, the NCWO convened a meeting of experts from both government and non-government sectors and submitted

²⁵⁷ KII 24, November 2020

²⁵⁸ KII 23, November 2020

²⁵⁹ UNFPA, 2019, "Population Situation Analysis"

²⁶⁰ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

²⁶¹ KII 7, October 2020

²⁶² ARROW, 2020, Asia Network to End FGM/C Consultation Report, Website Accessed 6/1/21.

²⁶³ UNFPA, 2011, The Status of Female Circumcision in Malaysia

²⁶⁴ KII 23, November 2020

²⁶⁵ ARROW, 2019, ICPD+25: The Status of Adolescents' SRHR in Asia and the Pacific Region, Website Accessed 6/1/21.

²⁶⁶ ARROW, 2020, Asia Network to End FGM/C Consultation Report, Website Accessed 6/1/21.

²⁶⁷ ARROW, 2019, ICPD+25: The Status of Adolescents' SRHR in Asia and the Pacific Region, Website Accessed 6/1/21.

²⁶⁸ ARROW, 2020, Asia Network to End FGM/C Consultation Report, Website Accessed 6/1/21.

a memorandum to the National Fatwa Committee and Department of Religious Affairs (JAKIM) to recommend a review of the Fatwa on FGM. Since then, no new developments have followed. The national *fatwa* declaring FGM obligatory for Malaysian Muslim women has yet to be challenged by the Malaysian federal government. According to MoH, female circumcision as practised in Malaysia was classified under Type IV (most invasive) in 2008 but was reclassified in 2018 under type 1 (least invasive) after a presentation to the CEDAW Committee in 2018.²⁶⁹ Observers suggest that it is unlikely that the legal status of FGM will change, in fact the government recently announced that Malaysia will enhance ties with Islamic nations apart including Saudi Arabia, United Arab Emirates, and Brunei.²⁷⁰

4.3. Promoting economic and social rights and empowering girls and women

EU action should contribute to:

- *Promoting decent work, equal pay and labour rights, and women's transition to the formal economy, among other by reducing labour market segregation, boosting women's leadership and increasing their bargaining power in economic and household decision-making and social dialogue, in sectors with a majority of women workers, including domestic work, as well as in non-traditional sectors;*
- *Creating an enabling environment for women's economic activities and access to productive resources and eco-system services, including women's access to land, seas and oceans activities, remittances, technology, finance, as well as to identification and control over mobility, including access to safe and affordable transport options;*
- *Supporting universal social protection systems, and recognising, reducing and redistributing unpaid care and domestic work by providing more support for gender responsive budgeting;*
- *Challenging gender norms within the household and the labour market, recognising men and boys' responsibilities and fostering legislative developments, such as the introduction of paid paternity leave;*
- *Supporting women entrepreneurship and women-led businesses, including social entrepreneurship, and their access to finance by providing innovative investments schemes through the EIP, addressing the market's failure to reach women and promoting the creation of SMEs. Additional targeted action will include business development services and support for employment, including for women in recovery contexts and in forced displacement;*
- *Supporting and empowering migrant women contribute to the sustainable development of countries of origin, transit and destination through remittances, skills and knowledge;*
- *Promoting gender equality through trade policy, including through the EU's engagement in the World Trade Organisation and its work on Aid for Trade, and ensuring robust use of sustainability impact assessments of trade initiatives and policy reviews.*

Macroeconomic simulations conducted by the World Bank imply that closing gaps between men's and women's economic opportunities (by removing barriers to participation in the labour force, to self-employment, and to becoming employers) could in the long run boost Malaysia's income per capita by 26.2% — an average annual per capita income gain of RM 9,400 (approx. 2325 USD).²⁷¹

The government understands that gender equality at least in terms of employment is tied to economic growth, thus the national budget and policies in the past 2-3 years have seen allocations for childcare centers in government facilities, tax rebates for companies offering childcare services, and grants for employers hiring women who have been out of workforce.²⁷²

Employment

Women's Labour Force Participation Rate (LFPR) is low at 55.1%, well below the government target of 59% by 2020, compared to men's LFPR at 80.3%²⁷³, and yet women represent just under half (44.3%) of

²⁶⁹ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁷⁰ KII, February 2021.

²⁷¹ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

²⁷² KII 15, October 2020

²⁷³ Dept of Statistics Malaysia, June 2020

professional and technical workers,²⁷⁴ and over half of several professional sectors²⁷⁵ Malaysian women have been found mostly in professional fields in the country, comprising 67.9% of dentists, 52.6% of lawyers, 52.6% of accountants, 51.9% of medical doctors and 47.3% of veterinary surgeons. Meanwhile women contribute about 32% to Malaysia's GDP, compared with an average of 36% in EAP.²⁷⁶

In 2020, women represented 38.45% of the labour force, compared to 38.22% in 2016.²⁷⁷ Arguably because of increased economic development, urbanisation and education, and in particular because of significantly expanded early childhood care and education services, Malaysia's female LFPR increased from 46.8% in 2010 to 55.2% in 2018 and 55.1% in 2020. Despite the upward trend, the LFPR for women remains slightly low given Malaysia's level of development, many countries at similar levels of development, such as Kazakhstan and Brazil, have a greater share of women in the labour force than Malaysia, which is also low compared to other ASEAN countries. Within ASEAN, only Myanmar, Indonesia and the Philippines have a larger gap in those rates.²⁷⁸

The expansion of higher education has played a role in the increase in women's LFP. The gender gap in labour force participation is lowest among those with tertiary education and has declined among all education categories. More generally, economic development appears to have fostered greater LFP among women because Malaysia's more developed states tend to have higher women's LFPR. At 57.2%, Kuala Lumpur has one of the highest participation rates in Malaysia, and is also the most developed locality. On the other end of the spectrum, Terengganu and Perlis are among Malaysia's least developed states and have the lowest participation rates, at 44.6% and 44.7%, respectively. Overall participation profiles of women of all three main ethnicities are broadly similar. Urbanization may have contributed to the increase in female LFP, especially among younger women. A comparison of age-participation profiles between rural and urban women yields three interesting patterns. Women's LFP is generally lower in rural areas than in urban areas. But rural women tend to stay in the labour force longer, for urban women, the participation rate steadily declines after the age of 29. In contrast, for rural women it is more or less constant between the ages of 20 and 54, and only declines after age 55.²⁷⁹

The table below shows that the bulk of female employment is increasingly in services, more so than for men, and employment in agriculture and industry is decreasing for both men and women but more for women. While men and women have the same level of wage and salaried employment, a higher share of women than men are contributing family workers.²⁸⁰

World Bank indicators on female employment shows the following picture:²⁸¹

²⁷⁴ Dept of Statistics Malaysia, Official Portal. Accessed 1 Jan 2021.

²⁷⁵ Khazanah, 2019, *The Malaysian Workforce: A Changing Landscape*

²⁷⁶ Dept of Statistics Malaysia, Official Portal. Accessed 1 Jan 2021.

²⁷⁷ World Bank Data Website, accessed 16/1/21.

²⁷⁸ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

²⁷⁹ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

²⁸⁰ World Bank Indicators, Gender Data Portal, Accessed 6/1/2021.

²⁸¹ Ibid

Featured indicators	2000	2019
Employment in agriculture, female (% of female employment) (modeled ILO estimate)	14.1	6.3
Employment in agriculture, male (% of male employment) (modeled ILO estimate)	20.7	12.9
Employment in industry, female (% of female employment) (modeled ILO estimate)	28.9	19.2
Employment in industry, male (% of male employment) (modeled ILO estimate)	34.0	31.8
Employment in services, female (% of female employment) (modeled ILO estimate)	57.0	74.5
Employment in services, male (% of male employment) (modeled ILO estimate)	45.3	55.3
Unemployment, female (% of female labor force) (modeled ILO estimate)	3.1	3.7
Unemployment, male (% of male labor force) (modeled ILO estimate)	3.0	3.1
Wage and salaried workers, female (% of female employment) (modeled ILO estimate)	76.4	74.2
Wage and salaried workers, male (% of male employment) (modeled ILO estimate)	73.0	75.1
Contributing family workers, female (% of female employment) (modeled ILO estimate)	11.1	7.0
Contributing family workers, male (% of male employment) (modeled ILO estimate)	2.7	2.2

A relatively high share of employed women is engaged in jobs that are not likely to make best use of their productive potential. For instance, women are half as likely as men to be employers, but twice as likely to be unpaid family workers. There is also a gender pay gap: women degree holders on average are paid only 76% of what men get paid, according to the Department of Statistics (2017).²⁸² The World Bank estimates that based on differences in observable productive characteristics between men and women such as their level of education, men should have earned 13.8% less than women in 2017. In fact, they earned 3.2% more. Thus, the earnings disparity between men and women appears to be relatively low in Malaysia, but there is a wide gap between what each gender earns and what it would be expected to earn based on productive characteristics.²⁸³

On average, women have greater educational attainment and show more actual learning than men, and yet almost 90% of the prime age population outside the labour force is female; and of those outside the labour force, there were twice as many women than men with Higher School Certificate (STPM) qualifications.²⁸⁴ A female degree-holder in her young prime (25-44 years) was in 2019 less likely to participate in the labour force compared to in 2016, in contrast to her male counterpart. The government had previously introduced significant back-to-work policies and financial incentives to encourage women's participation in the world of work, including a 12-month tax exemption for women returning to work after a break of at least two years.²⁸⁵ In short, prime aged women who are more qualified are not in the workforce. The Malaysian trend shows women leaving the workforce primarily to start families and/or perform care work, and not returning after this.^{286 287} As already suggested, one consequence is the relative absence of women in the older age cohorts of the workforce, which in turn diminishes the pool of those who can be appointed to senior-level posts. In 2017, 58% or 2.6 million women in Malaysia did not seek work because of housework and family responsibilities. In contrast, 3.2% of men (69,800) said the same.²⁸⁸ Amongst working mothers with children under 6, informal care provided by grandparents, relatives or parental care is the predominant form of care arrangement. Overall, in 2018, only 6.9% of all children below the age of four in Malaysia are enrolled in any childcare service. In terms of childcare centres by types, the market is dominated by privately-run care institutions, with publicly owned centres coming in at a distant second. At 727 government-owned centres, direct support for the care sector is minimal.²⁸⁹

²⁸² The Edge Weekly, Advancing Gender Equality in Malaysia, 7 April 2019.

²⁸³ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

²⁸⁴ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁸⁵ WAO, 2020, Budget 2021

²⁸⁶ KII 34, November 2020

²⁸⁷ KII 3, October 2020

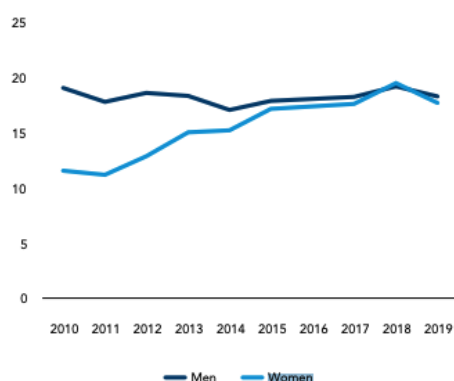
²⁸⁸ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

²⁸⁹ WAO, 2020, Budget 2021

Not all working women have sufficient social protection, and with roughly about one in two are not working, many Malaysian women have no direct source of income.²⁹⁰ In 2018, government introduced the I-SURI scheme whereby government matches pension contributions for housewives.²⁹¹ The proportion of women working in the informal sector is 4 for every 10 workers. The proportion of number of women working in the informal sector has the same ratio (4/10).²⁹² The increase in own-account work has been particularly pronounced in the case of women, among whom the share of own-account workers increased from 11.6% in 2010 to 17.7% in 2019.²⁹³ These women are not covered by social protection or pensions.²⁹⁴ Because women's LFP rose during the 2010–2019 period and new forms of work such as those in the gig economy emerged, it is likely that the change in the share of self-employed women was at least partly due to the choices made by women entering or re-entering the labour market, such as a desire for more flexible work arrangements. At the same time, self-employment may trap women in a relatively unproductive and unprotected situation. That is particularly the case because most of Malaysia's social insurance is either directly tied to an employer-employee relationship, or in practice has much higher coverage for employees than for own-account workers.²⁹⁵ The extended period of social and physical distancing in post-MCO Malaysia will likely further accelerate the pace of deregulation of women's employment.²⁹⁶

With the changing nature of work, own-account work has been on the rise, particularly among women

Share of Own-Account Workers among All Workers, Percentage



Social assistance benefits amount to a small share of per capita income, leading to only a modest impact on poverty and inequality

Entrepreneurship

Kuala Lumpur was recently ranked 41st out of 50 top global cities for women entrepreneurs in the Dell Women Entrepreneur Cities (WE Cities) Index, where one in five companies in Malaysia are owned by women. Women-owned firms are defined by which women hold at least 51% of the equity or the CEOs are women that own at least 10% of the equity.²⁹⁷ This is not reflected nationally however, the 2011 Census reported that merely 19.7% out of the total SMEs in Malaysia are women-controlled. According to Gender GEDI Global Entrepreneurship Development Index, 2014 the involvement of women in entrepreneurship in Malaysia is on the lower side.²⁹⁸ While a lot of women have benefited from government programmes to promote women SMEs; some observers note a racial bias, resulting in

²⁹⁰ World Bank. 2019. Breaking Barriers : Toward Better Economic Opportunities for Women in Malaysia (English). The Malaysia Development Experience Series. Washington, D.C. : World Bank Group.

²⁹¹ KII 3, October 2020

²⁹² World Bank. 2019. Breaking Barriers : Toward Better Economic Opportunities for Women in Malaysia (English). The Malaysia Development Experience Series. Washington, D.C. : World Bank Group.

²⁹³ World Bank, June 2020, Malaysia Economic Monitor.

²⁹⁴ KII 8, October 2020

²⁹⁵ World Bank, June 2020, Malaysia Economic Monitor.

²⁹⁶ UNDP Accelerator Lab Malaysia, Sri Ranjani Mukundan (2020) Care Work in the Time of COVID-19: Women's Unpaid Care Burden in Four Charts.

²⁹⁷ Malaysian-German Chamber of Commerce and Industry, July 2019, Empowering Women in the Malaysian Corporate Sector.

²⁹⁸ GEDI, 2014, Gender GEDI Global Entrepreneurship Development Index.

disparity in terms of access.²⁹⁹ Financial inclusion is high: 82.5% of women have accounts at financial institutions or mobile money service providers.³⁰⁰

Under the first MCO lockdown, which started on 18 March 2020, many of the country's residents were unable to work as only those in essential services were allowed to carry out their duties. In Malaysia – where small and medium-sized enterprises, including stallholders and family-run set-ups, make up 90% of the economy – this has seen a huge loss of income for many individuals across dozens of sectors. Women from low-income groups are also more drastically affected as most rely on home or small businesses that have been impacted by the lockdown, making them fully financially dependent on their spouses.³⁰¹

Gender Discrimination in the Workplace

56% of Malaysian women have experienced at least one form of gender discrimination in the workplace, according to the WAO/VASE *“Voices of Malaysian Women On Discrimination & Harassment in the Workplace”* survey. This includes receiving comments or questions about their marital status or plans to start a family, being passed over for promotion in favour of less qualified colleagues and being asked to do tasks that are not asked of male colleagues, such as making coffee and preparing refreshments. Key findings of the survey include:

- 47% of women say they were asked about their marital status during a job interview, while 22% were asked about their ability to perform certain tasks ‘as a woman’.
- 27% women who currently have children say they received comments/questions about their ability to perform certain tasks while they were pregnant.
- 23% women who have children do not feel they were given adequate paid maternity leave.
- 23% of women say that after having a child and returning to work, they received negative comments or questions about leaving work on time to get home to their child, while 13% were overlooked for new projects or opportunities upon returning from maternity leave.^{302 303}

Observers note that despite formal laws which forbid discrimination on the grounds of gender, in practice this is not widely applied within the private sector.³⁰⁴ While some government policies have expanded women's LFP,³⁰⁵ the laws on maternity and paternity leave, sexual harassment were close to being tabled in Parliament during last administration and are currently on hold.³⁰⁶

Private Sector Leadership

In 2004, the Malaysian government first announced a target for the public sector to achieve at least 30% representation of women in decision-making positions by 2016. In 2011, the government ruled to extend this policy to include the private sector as well, with the target set for year 2020.³⁰⁷ The 2012 Malaysian Code on Corporate Governance of the Security Commission required company boards to establish a policy to ensure boardroom diversity and take concrete steps to recruit female candidates. The boards have been also asked to explicitly disclose gender diversity policies and targets in their annual reports.³⁰⁸

95% of businesses in Malaysia now have at least one woman on their senior management, 17% have a woman in the role of chief executive officer or managing director.³⁰⁹ About 13.5% of the board positions in Malaysia filled by women in 2017, significantly lower than the 2011 Government target of 30% by 2016, slightly under the ASEAN average of 14.9% and the global average of 15%. Moreover, the trend over the last four years reveals a slow pace of increase in the proportion of women board members: the figure has increased only marginally from 10.5% in 2014. In 2017, the percentage of firms that have at least one

²⁹⁹ KII 27, November 2020

³⁰⁰ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

³⁰¹ Chong Seow Wei (May 20, 2020) Gent, Big Concepts. Is Covid-19 Affecting Men And Women Differently? Here's What We Know

³⁰² WAO & VASE, 2020, Voices of Malaysian Women on Discrimination and Harassment in the Workplace (Data).

³⁰³ WAO Website, Accessed 5 Jan 2020

³⁰⁴ KII 8, October 2020

³⁰⁵ KII 3, October 2020

³⁰⁶ KII 3, October 2020

³⁰⁷ Malaysian-German Chamber of Commerce and Industry, July 2019, Empowering Women in the Malaysian Corporate Sector.

³⁰⁸ UNFPA, 2019, “Population Situation Analysis”

³⁰⁹ IWB, 2020, Gender Responsive Budgeting in a Malaysian Political Context

female board member is high at 64%. This proportion has shown impressive growth, rising from 53% in 2014.

Women board members in Malaysia are fairly concentrated in a few firms. The top 10% of the firms in terms of the number of board positions occupied by females account for about 30% of all board positions occupied by females; while the top 20% account for about half of all board positions occupied by females. The largest 100 firms and some industries such as finance, show a greater tendency to have female vs. male board members. Trading/services, followed by industrial products, consumer products, and the property industry, account for the largest number of female board members in Malaysia. The profit rate is significantly positively correlated with proportionately more female board members in a firm, suggesting a “business case” for more women on the boards. In 2017, the profit rate for a typical firm with at least one female board member was 6.5% vs. only 4.1% for a typical firm with all-male board members. The gap of 2.4 percentage points here is statistically significant; it is economically large given that the average profit rate among all firms is 5.3%.^{310 311}

One of the major reasons why women are either dropping out of the workforce or not putting themselves forward for promotions are due to rigid organisational structures that do not allow for flexibility with their work schedules.³¹² More often than not, positions further up the career ladder come hand-in-hand with longer hours, frequent travel, and a lot of decision making. Women in these positions find themselves with too many roles to play – as an employee, as a mother, as a wife. Even with a support system in places such as domestic help at home and a babysitter, the woman feels pulled in many different directions. The problem isn’t that women are not given opportunities – they are not given choices for flexibility.³¹³ It is felt that if there were more women in top management positions, there would be more support for gender policies within firms, and studies point to a diverse team result in higher overall profits.³¹⁴ While gender equality is on the private sector agenda, ethnicity and LGBT representation are sensitive issues, and disability is not even discussed, suggesting that more needs to be done to ensure full range of diversity.³¹⁵

Government and Private Sector Response

The government strongly highlighted the importance of promoting economic opportunities for women in the 10th and 11th Malaysia Plans and the Mid-Term Review of the 11th Plan. Those plans place particular emphasis on the empowerment of women in the pursuit of greater inclusiveness and the overall empowerment of human capital. To meet those objectives, the government is enhancing the role of women in development and coordinating efforts of government agencies, the private sector, and CSOs in the 13 strategic areas under the National Policy on Women.³¹⁶

Women have been recognised by the government as a pivotal resource to drive economic growth and have taken steps to encourage them to come back to work. The implementation of a 90-day paid maternity leave in the private sector and the 12-month individual income tax exemption scheme are steps in the right direction.³¹⁷ Future amendments to the Employment Act would make 14 weeks of maternity leave available to all women, prohibit the dismissal of pregnant workers, and introduce paid paternity leave for all workers (in very limited form), widen the definition of ‘employee’ to those who are contract workers; and offer one rest day per week for domestic workers. When and to what extent these provisions will be in the final law, is unclear.³¹⁸ A Gender Equality Act and a Sexual Harassment Act are also under discussion.³¹⁹

Under the 10th and 11th Malaysia Plans, the government has also provided significant resources for back-to-work policies, programs and financial incentives. Between 2016 and 2018, different forms of tax relief were introduced such as RM 1,000 for taxpayers who enrol children aged 6 and below in registered nurseries and. A 12-month income tax exemption for women returning to work after a break of at least two years was also introduced. During the same period, MWFCD began to implement the Women

³¹⁰ World Bank, Mohamed Amin and Mei Ling Tan, Women on Boards in Malaysia, World Bank Development Digest, April 2018.

³¹¹ IFC, 2019, Board Gender Diversity in ASEAN.

³¹² KII 5, October 2020

³¹³ Malaysian-German Chamber of Commerce and Industry, July 2019, Empowering Women in the Malaysian Corporate Sector.

³¹⁴ KII 8, October 2020

³¹⁵ KII 5, October 2020

³¹⁶ World Bank, 2019, “Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia”

³¹⁷ Malaysian-German Chamber of Commerce, July 2019, Empowering Women in the Malaysian Corporate Sector

³¹⁸ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

³¹⁹ World Bank, 2019, “Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia”

Entrepreneurship Incubator and Single Mother Skills Incubator, and various ministries and agencies received budget allocations for programs on microfinancing, skills training and entrepreneurship. Under the 10th Malaysia Plan, TalentCorp launched the Career Comeback Program which facilitates the reintegration of female professionals into the workforce by supporting flexible work arrangements, providing skills training, financing mother- and child-friendly facilities and HR benefits, and creating a group of senior level champions (men and women) from the private sector and implemented the annual Life At Work Awards which recognize and pay tribute to organisations that champion progressive workplace strategies.

Both the 10th and the 11th Malaysia Plans introduced job placement and development programs for women as well as greater access to loans and childcare. These policies and programs aimed to give women greater opportunities to acquire knowledge and experience through increased internships, job placements and development programs. In addition, women were given greater access to micro-loans and skills training to start businesses and different forms of tax reliefs for enrolment into childcare, caring for parents and breastfeeding were introduced. The plans also aimed to strengthen early childcare and early childhood education and make it more accessible as well as to introduce “return-to-work” programs for women with children. Finally, the plans emphasised monitoring and improving the collection and dissemination of gender-disaggregated data³²⁰

The government has taken measures to address childcare for civil servants: like its past allocation of RM 240,000 (USD 60,000) per ministry or agency to establish childcare centres at the workplace, in 2019, the Government allocated another RM10 million to produce 50 such facilities so that more employees had access to these services. However, it is still insufficient to meet existing demand of public sector employees for childcare services. Also challenging has been trying to incentivise the private sector to set up childcare facilities. Despite the government’s efforts, the uptake has been poor.³²¹ MoHR will take action against private sector employers who deny their employees the right to take 90-day maternity leave – a new benefit which was announced in the 2020 budget.³²²

A survey carried out by TalentCorp in 2018 found that despite a strong commitment by firms to supporting work-life practices, the extent of implementation of actual flexible work arrangements often falls short. Only 48% of Malaysian firms offer an option of ‘flexi hours,’ 34% offer the possibility of leaving early from work and, dismally, only 16% offer a work from home choice. This is in stark contrast to the 60% of European workers who can easily take one or two hours off each working day to attend to personal matters. The budget for 2020 had previously expanded childcare facilities in the public sector, especially the public healthcare and education sectors. This support should be extended to the private sector, where the same TalentCorp report has highlighted that only 5% of Malaysian firms have on-site childcare facilities and only 6% of firms offer any childcare subsidies, despite the corporate tax incentives put in place to encourage this practice³²³

The Malaysian government launched the Women Directors Programme in 2011 to confront industry concerns about the lack of available female talent. Additionally, the Securities Commission and the 30% Club Malaysia have been actively engaging companies to identify suitable female talent. The 30% Club is an organisation that campaigns for minimum 30% representation of women on boards with several chapters internationally, including Malaysia. In terms of government assistance, the MWFCDO also has several entrepreneurship programs in place for small-scale businesses:

- Single Mother Skill Incubator (I-KIT);
- Women Entrepreneurs Incubators (I-KeuNita);
- Women Capacity Development Program;
- Women Entrepreneur Launching Grant³²⁴.

Although Malaysia’s Federal Constitution prohibits discrimination based on gender, there are gaps in the guarantee of equal rights to men and women and in the enforcement of non-discrimination. Not only do Malaysia’s labour laws bar women from working in some jobs open to men—those that require underground and night work—but there are also gaps in social benefits offered to parents after childbirth.

³²⁰ Ibid

³²¹ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

³²² New Straights Times, 12 October, 2019, 2020 budget: Employees have right to take 90-day maternity leave.

³²³ WAO, 2020, Budget 2021

³²⁴ Malaysian-German Chamber of Commerce and Industry, July 2019, Empowering Women in the Malaysian Corporate Sector.

There is also no legal mandate of equal remuneration for work of equal value. Thus, amendments to the Employment Act and other labour laws currently under discussion would make an important contribution to expanding women's equality of opportunity. In 2012, the Employment Act was amended to make sexual harassment in the workplace illegal but there are no criminal penalties or civil remedies for sexual harassment in employment.³²⁵

Eurocham is exploring the Women's Empowerment Principles (WEP) and Women Lead, and is planning to take this agenda forward formally in 2021.³²⁶

Single mothers and female headed households

In 2014, the average monthly male-headed household income was RM 6,355 a month, compared to RM 4,923 for female-headed households (FHH), a difference of RM 1,432. This gap grew to RM 1,792 in 2016 as the average income for male-led households rose to RM 7,254 while those for FHH was only RM 5,463. These average household income figures suggest a high probability of FHH being poorer than those headed by men.³²⁷

Under the MCO order where non-essential services and schools have been temporarily shut, women have had the double burden of caring for their families while working — with single mothers particularly hard hit, as revealed by the survey done by the thinktank Selangor Women's Empowerment Institute (IWB)³²⁸. The survey, polling 442 women in Selangor from March 24 to March 28 during the first round of the MCO, finds that 29% of women polled had no dependents, while the majority, or 71% of respondents, had dependents including children, elderly or disabled family members. The survey further found that the majority of single mothers polled are in the B40 or low-income group, with a substantially bigger proportion living below the poverty line of RM989 monthly income at 26% of single mothers as compared to 16% of the 442 respondents polled. In terms of financial security, 75% of the single mothers reported that their savings can only last for a maximum of four weeks, while 67% of the same single mothers believe they were not financially ready for the pandemic. IWB noted that these women were previously able to cope financially without assistance, but now require assistance in caring for their families and in terms of income levels and to prevent them from sliding into poverty.

UNICEF's *"Families on the Edge"* study showed that low income FHH are exceptionally vulnerable, with higher rates of unemployment at 32% in 2020, up from 9% in 2019, compared to the 5.3% for the total heads of households. 50% of female headed households' savings would last less than a month, compared to 21% overall. FHHs also registered lower rates of access to social protection, with 57% having no access compared to 52% of total households. In terms of online learning, children from FHH are less likely to have the necessary computer equipment and internet than the average household: 56% of FHH and 42% of all households do not have access to equipment and 45% FHH do not have internet compared to 36% of all households. 80% FHH vs 62% MHH experienced emotional distress due to MCO.³²⁹

Unpaid care work

Unpaid care work is considered an overarching gender issue, particularly as an impediment to gender equity in employment.^{330 331} Housework is the main reason that women do not participate in the labour force. According to responses to the Malaysian Labour Force Survey in 2018 60.2% of women who did not participate in the labour force cited housework, including child and elderly care, as the main reason for not seeking work, while only 3.6% of men gave housework as the reason for not seeking work. The share of women who cite housework as the reason for being outside of the labour force has gradually declined, falling by 5.9 percentage points between 2010 and 2018.³³²

The share of self-employed women has increased since 2010, coinciding with a declining share of women who are employees. Between 2010 and 2018, the share of men who were self-employed own account

³²⁵ World Bank, June 2020, Malaysia Economic Monitor.

³²⁶ KII 34, November 2020

³²⁷ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

³²⁸ At the time of the March survey, it was the second week of the MCO. The government has since announced three further extensions to the MCO, with the latest extension to end May 12.

³²⁹ UNICEF Malaysia, 2020, Families on the Edge

³³⁰ KII 14, October 2020

³³¹ KII 27, November 2020

³³² World Bank, 2019

workers was flat, while the share of female self-employed increased from 11.6 percent to 19.5 percent. At the same time, the share of women who were employees declined from 79.5 percent to 71.2 percent. This is due to women's need for more flexible work arrangements. A significant, and increasing, share of underemployed women cite housework as the main reason they work fewer than 30 hours a week. In 2018, 32.4% of women who worked fewer than 30 hours a week mentioned housework as the reason. In contrast, only 3.5% of underemployed men cited housework as the reason. Many women find it impossible to work full time or to work outside the home because limited child or elder care.³³³

Focusing on wages and salaries of prime-age earners, women in their early prime ages (25 – 34) generally earned more than men. This pattern, however, was reversed when they reached their later prime ages (35 and above), where men earned on average more than women. Women who return to the labour force after childbearing years are likely to receive a wage penalty for the loss of time and experience due to reproductive roles and responsibilities outside formal work.

The caregiving population outside the labour force was still predominantly women. In 2018, it was 76.2% women and 23.8% men. A 2019 small sample study of 125 individuals in Kuala Lumpur by Khazanah Research Institute found that women are, on average, putting in 1.4 hours more of unpaid homemaking work per day compared to men, despite working almost the same number of hours as men in paid work. Men spent slightly longer time on paid work than women—6.9 hours for men and 6.6 hours for women, women spent a relatively bigger portion of their time on average—3.6 hours (15.2%) compared with men—2.2 hours (9.3%) women spent 63.6% more time on average for unpaid care work compared with men. The pandemic is worsening this distribution as more people stay in their homes and caregiving demands increase.³³⁴

UNDP Malaysia's COVID-19 Work From Home (WFH) Survey's preliminary report found that, overall, WFH options made caregiving easier. But women were more likely than men to report increased difficulty of caregiving (32% vs. 20%) due to working from home, and this was still higher among women of age group 35-44.³³⁵

How care is distributed within the household has a far-reaching impact on women's economic participation in the world of income-generating activities. A prolonged family crisis will often force women to give up paid employment as they struggle to juggle work and care responsibilities.

The number of prime-age workers who have given up employment has spiked, the majority of whom cite caregiving and family obligations for quitting the labour force.

Figure: Net quarterly changes in working age population outside the labour force



Source: Author's own calculation with DOSM Labour Force Surveys (2020)

*Data includes only figure for only April 2020, actual statistic for full quarter may be higher.

³³³ Ibid

³³⁴ UNDP Accelerator Lab Malaysia. Sri Ranjani Mukundan (2020) Care Work in the Time of COVID-19: Women's Unpaid Care Burden in Four Charts.

³³⁵ Ibid

DOSM's Quarterly Labour Force Statistics for Q1 2020 reinforces this point. We are witnessing the highest number of persons leaving the labour force in recent times. In the same period, most persons leaving the labour force have cited "housework/family" as the primary motivation. This could be due to the extra care burden that women have disproportionately incurred during the COVID-19 pandemic, but further research is needed to establish cause and effect.³³⁶

Migrant women workers

Malaysia's migrant to population ratio is higher than most of its peers in the Asia Pacific. Based on data from the 2019 Labour Force Survey (LFS), the official number of documented migrant workers in Malaysia is about 2.4 million or about 15.4% of the total labour force, but unofficial estimates that include undocumented, or irregular migrants put the figures between 3.5 million to 5.5 million migrants, majority of them undocumented workers, constituting about 20% to 30% of the labour force.³³⁷

Migrant women employed as domestic workers, who, under the State's labour laws, are denied equal labour rights in that they do not enjoy the same legal guarantees as other migrant workers, including in relation to minimum wages, working hours, rest days, leave, freedom of association and social security coverage.³³⁸ It is estimated that there are over 300,000 undocumented domestic workers.³³⁹ The Employment Act 1955 refers to domestic workers as 'domestic servants' and excludes them from the majority of rights and benefits associated with employment, including regulated work hours, paid holidays and rest days, and maternity benefits. Furthermore, their living and working conditions are unregulated. They have little to no access to social protection schemes, little access to proper health care, and undocumented migrant workers are deterred from accessing public health services as the government has been implementing large scale arrests of undocumented migrants since May 2020.^{340 341 342} The CEDAW Committee noted its concern that migrant women employed as domestic workers are vulnerable to exploitation and abuse.³⁴³

Women (and children) migrant workers on plantations operated by large corporations are vulnerable to forced labour because accompanying family members are undocumented, and forced to take abusive often unpaid jobs, with excessive overtime, isolation, lack of legal protection.^{344 345} NGOs working on this issue feel that the government does not see women migrant workers as a group that deserves access to rights and services.³⁴⁶

Box: Impact of COVID on Migrant Women Workers

Migrant workers have been severely impacted by the crisis. Without sufficient access to food, income and health facilities, migrant workers, particularly undocumented migrant workers are faced with the challenges for survival. Women migrant workers face additional challenges, as women tend to have higher risks of GBV. In addition, women migrant workers may need to handle potentially life-threatening situations of delivering a baby on their own, may not have access to appropriate sanitation facilities to protect their reproductive health, and are mainly responsible for feeding family members in times of food insecurity, no income and no mobility. Many undocumented migrant workers experience challenges in accessing health services even when they face with life threatening situations. This is compounded by language barriers and the lack of access to credible information on support services.³⁴⁷ Domestic migrant workers face additional challenges under MCO, including food insecurity, dismissal, lost incomes, labour right violations, increased workloads and care burden,

³³⁶ UNDP Accelerator Lab Malaysia. Sri Ranjani Mukundan (2020) Care Work in the Time of COVID-19: Women's Unpaid Care Burden in Four Charts.

³³⁷ IOM. May 2019. Migration Overview: Malaysia.

³³⁸ KII 11, October 2020

³³⁹ KII 30, November 2020

³⁴⁰ EU Spotlight Initiative, June 2020, Protecting the Rights of Domestic Workers in Malaysia during the Covid-19 pandemic and Beyond.

³⁴¹ KII 30, November 2020

³⁴² KII 30, November 2020

³⁴³ Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Third and Fifth Periodic Reports of Malaysia, 14 March 2018.

³⁴⁴ KII 29, November 2020

³⁴⁵ KII 30, November 2020

³⁴⁶ KII 11, October 2020

³⁴⁷ ILO (19 June 2020) Reaching women migrant workers in Malaysia amid the COVID-19 health crisis.

risk of infection from lack of PPE, risk of GBV, and more.³⁴⁸ Undocumented workers with less access to services, arrests, detentions, in the COVID-19 situation, requires a humanitarian response.^{349 350}

Support to undocumented workers during the pandemic is particularly challenging due to their migration status and language barrier. The Safe and Fair Programme helped undocumented migrant workers in Malaysia to have access to support and services during the COVID-19 outbreak. The Migrant Resource Centre (MRC) operated by a women's rights NGO named Persatuan Sahabat Wanita Selangor (PSWS) with support from SAF is a space where migrant workers and their families can obtain information, training and counselling on safe migration, violence and harassment and trafficking.³⁵¹

Responses

The UN will, in collaboration with MWFC and the Department of Social Welfare, conduct a mapping of social work services with a focus on child protection.

The ILO offers support to the government, workers, and employer organisations in labour law reform, industrial relations, forced labour, human trafficking, child labour, protection of migrant workers' rights including from gender-based discrimination, violence and harassment, social protection, green jobs, and skills development.

EU-UNDP Business and Human Rights Project is supporting the government in developing a National Action Plan on Business and Human Rights by providing training, organising stakeholder consultations and working on a National Baseline Assessment to inform discussions.³⁵²

Education

EU action should contribute to:

- *Promoting gender equality in and through quality, affordable and inclusive education at all levels by maintaining funding for education in emergencies at 10% of the humanitarian aid budget and by increasing overall funding for education;*
- *Building stronger gender responsive education systems to promote gender equality and deliver more equitable education results for girls and boys through safe and healthy learning environments, teacher recruitment, training and professional development, curricula and learning materials, work with parents and communities;*
- *Increasing investment in girls' education to achieve equal access to all forms of education and training, including science, technology, engineering and maths, digital literacy and skills, and technical and vocational education and training;*
- *Improving access to comprehensive sexuality education for in-school and out-of-school adolescents;*
- *Adopting robust measures to combat gender stereotypes, discriminatory social norms and school-related gender-based violence in and through education.*

Since the 1970s, Malaysia has first eliminated and then reversed gender gaps in enrolment at all educational levels. More girls and women are enrolled in school than boys and men. As of 2017, the reverse gender gap in secondary education is about 4.3 percentage points, while the reverse gender gap in tertiary education is about 6.8 percentage points.³⁵³ Girls have higher enrolment rates than boys at primary (98.2% vs. 97.6%), secondary (94.2% vs. 89.2%) and tertiary (50.3% vs. 37.8%) levels.³⁵⁴ Although more women than men are being educated in Malaysia, the enrolment rate of girls in secondary education remains low compared to that in other countries. Except for a relatively small number of

³⁴⁸ EU Spotlight Initiative, June 2020, Protecting the Rights of Domestic Workers in Malaysia during the Covid-19 pandemic and Beyond.

³⁴⁹ KII 4, October 2020

³⁵⁰ KII 27, November 2020

³⁵¹ EU Spotlight Initiative, June 2020, Protecting the Rights of Domestic Workers in Malaysia during the Covid-19 pandemic and Beyond.

³⁵² EU/UNDP, Business and Human Rights in Asia, Website accessed Dec 2020

³⁵³ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

³⁵⁴ Dept of Statistics Malaysia, Official Portal. Accessed 1 Jan 2021.

communities that are either remote or particularly precarious (such as stateless or refugee populations), primary enrolment is almost universal in Malaysia. In contrast, there are still noteworthy enrolment gaps in secondary education. The enrolment rate of boys in secondary education is even lower than that of girls, raising concern about “lost boys.”^{355 356} Mean years of schooling is 10 for girls and 10.2 for boys. Women’s share of graduates in Science, Technology, Engineering, Maths (STEM) at tertiary level is fairly high at 38.6%.³⁵⁷ More women than men are graduating with all types of degrees and from all types of institutions, including polytechnic and community colleges. certificate and diploma level, Bachelors, Post-Graduate and PhD.

Female students outperform male students in composite learning outcomes as captured by international standardized tests. The composite test scores show that in Malaysia girls have consistently outperformed boys, particularly after 2007. Female students not only outperform male students in composite learning outcomes but also in mathematics and science.³⁵⁸

After secondary school, a large share of Malaysian women enrolls in courses traditionally characterised as “female”. In 2017, women made up 73.1% of enrolment in education courses and 66% of enrolment in health and welfare courses. In contrast, men made up 66.1% of enrolment in engineering courses and 59.8% in ICT courses. The dominance of male students in engineering is noteworthy given the fact that girls have outperformed boys in standardized math and science tests for the past 10 years. Qualitative evidence suggests that the continued sorting of male and female students into different fields of study is due to different career expectations for men and women. Both young men and young women tend to select their fields of study and career direction with a view to long-term employment possibilities—but with different priorities. While many young women tend to look for stable employment paths and fields where they can combine a career with family responsibilities, many young men are most interested in fields that promise a good income and opportunities for quick promotion. In addition, a large proportion of young women and men strongly depend on their family’s advice when choosing a field of study.³⁵⁹

Despite a higher proportion of female enrolment in the sciences in tertiary institutions in Malaysia, the trend has not increased women’s participation in most STEM fields of study, including engineering, technology, and physics. A higher proportion of females are found in disciplines such as pharmacy, medicine and biology but they remain under-represented in engineering where only 31.6% of graduate engineers were women. Areas where women were highly represented were in medicine (46.7%), dentistry (63.5%), veterinary medicine (41.4%) and pharmacy (72.9 %).

Although Malaysia has done well in achieving gender parity in education, with 63% of public university enrolments being women, a significant number of them tend to drop out of the workforce due to personal or family commitments (e.g. caring for children and aged parents). Girls’ education in Malaysia does not translate to equal opportunities and empowerment once they finish school.³⁶⁰ According to one estimate, as many as 2.3 million Malaysian women are absent from the labour market, and this represents a skill and brain “drain” from the workforce.³⁶¹

Health

EU action should contribute to:

- *Promoting universal health coverage through sustainable and resilient health systems and equitable access to essential services and information, including sexual and reproductive health, maternal care and capacity to address communicable and noncommunicable diseases, with a particular attention to women and girls with disabilities;*
- *Taking into account the disruptions to access to care that were caused by the COVID-19 pandemic;*
- *Ensuring availability and equal access for women to diagnostics, vaccines and treatments for COVID-19;*

³⁵⁵ World Bank, 2019, “Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia”

³⁵⁶ KII 3, October 2020

³⁵⁷ UNDP HDR 2020.

³⁵⁸ World Bank, 2019, “Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia”

³⁵⁹ Ibid

³⁶⁰ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

³⁶¹ UNFPA, 2019, “Population Situation Analysis”

- *Increasing access to water and decent sanitation facilities and responding to inadequate menstrual hygiene management by awareness raising, promoting school sanitation programmes and by providing sanitary facilities in schools;*
- *Nutrition programmes, including in humanitarian settings, in particular for pregnant and lactating women and for children under five years of age.*

Malaysia is a country with a health system and health status commensurate with its level of development. Compared to other countries in the region, Malaysia has relatively high coverage of essential health services (70%). Despite a relatively high out-of-pocket spending as a percentage of current health expenditures (36%), the population is at low risk of experiencing financial hardship.³⁶²

Overall, Malaysia has a healthcare system that provides universal health care (UHC) to most of its population. It has also maintained “fairly good standards of availability, accessibility, acceptability and quality” at the same time been aware of and trying to respond to demographic and epidemiological changes. The overall number of reported HIV cases in the country fell by almost half from 6,120 in 2015 to 3,692 in 2018. Significantly, while men continued to outnumber women in these statistics, women’s share of reported HIV cases rose from 12% to 19% for the same period. During this time, the numbers for men declined far more drastically (from 5,383 to 2,988) than for women (737 to 704). In its budget for 2017, the Government allocated RM30 million for free mammogram screenings and Human Papilloma Virus (HPV) vaccinations. This allocation was cut down to RM20 million in 2019.

As pointed out by the CEDAW Committee, marginalised groups of women also face obstacles in trying to access healthcare services. These include asylum-seeking and refugee women, women migrant workers, and transgender women. The latest CEDAW Committee report for Malaysia also highlighted the higher cost non-citizens have to pay to utilise public hospitals, which adds further to the burden of those who are poor. The Government directive that obliges public hospitals to report those who are undocumented to the authorities as this has consequences for maternal, foetal and infant mortality.³⁶³ Life expectancy at birth is 77.1 for women and 72.2 for men.³⁶⁴

4.4. Promoting equal participation and leadership

EU action should contribute to:

- *Increasing the level of women participation, representation and leadership in politics, governance and electoral processes at all levels, via support for democracy and governance programmes and public administration reforms;*
- *Enhancing women’s capacity as political leaders in governments and parliaments through training, women’s caucuses, and promoting gender-responsive legislative processes and budgeting and promoting young leaders programmes;*
- *Encouraging young women and adolescent girls’ civic engagement, also in partnership with youth organisations, scaling up support to parliamentary monitoring organisations run by and engaging young people and bringing together EU and partner country representatives;*
- *Reducing gender stereotypes in media content, in cooperation with the audio-visual sector and the media, and empowering and supporting women’s rights as users and producers of information, and as entrepreneurs and decision-makers in the sector;*
- *Enhancing equal legal capacity and access for women to justice through support to grassroots efforts and to legal and justice systems reforms;*
- *Promoting an enabling and safe environment, including online, for civil society, girls and women’s rights organisations, women’s human rights defenders, peacebuilders, women journalists and representatives of indigenous people.*
- *Strengthen protection mechanisms and to support women’s leadership roles will include global and regional hubs, and advocacy and actions that document violations against defenders of women’s human rights.*

³⁶² Arrow, 2019, Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?

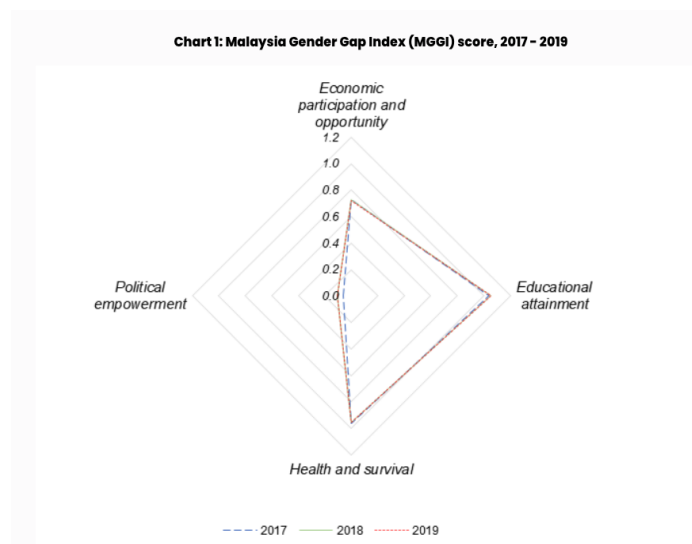
³⁶³ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

³⁶⁴ Dept of Statistics Malaysia, Official Portal. Accessed 21 June 2020.

Political Participation

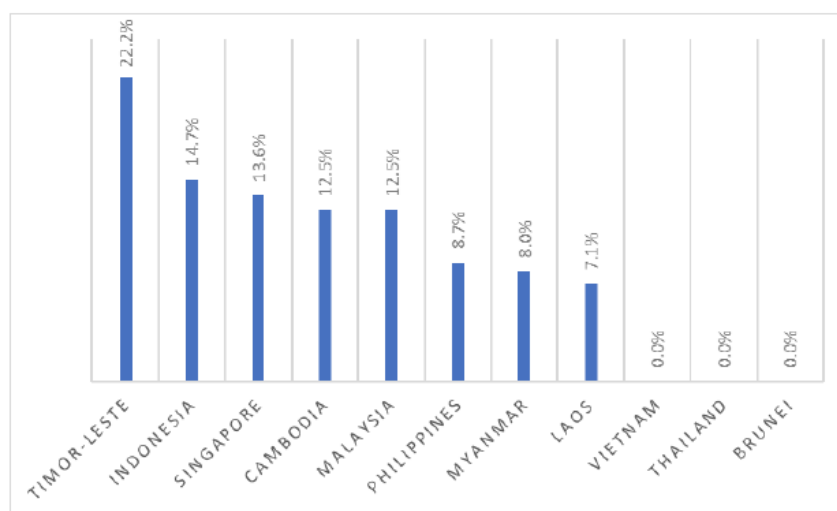
Available data within this area is conflicting between different sources. This report will present data from both primary and secondary sources; both governmental, international and national civil society.

There is low representation of women in politics and decision making despite their high educational achievements and professional qualifications, and the government's target of 30% by 2020.³⁶⁵ As can be seen in the spider graph below, gender gaps are highest for women in politics with little change over the past few years.



Women represent less than a quarter (22.2%) of all legislators, senior officials and managers. They are under-represented in parliament (14.4%) and in the ministerial cabinet (17.9%).³⁶⁶ Currently there are 5 women ministers who head the Ministries of Women, Family and Community Development, Tourism, Arts and Culture, National Unity, Housing and Local Government, and Higher Education.³⁶⁷ As seen in the chart below, Malaysia falls in the middle of ASEAN cabinets.³⁶⁸

Chart 1. Women's Representation in Southeast Asian Cabinets, August 2020.²



Women's representation in ministerial and parliamentary positions was fairly low and stagnant from 2010 to 2018 and increased significantly with the Pakatan Harapan administration from 2018 to February 2020.

³⁶⁵ OECD DEV SIGI Social Institutions and Gender Index (value as of 2014)

³⁶⁶ Dept of Statistics Malaysia, Official Portal. Accessed 21 June 2020.

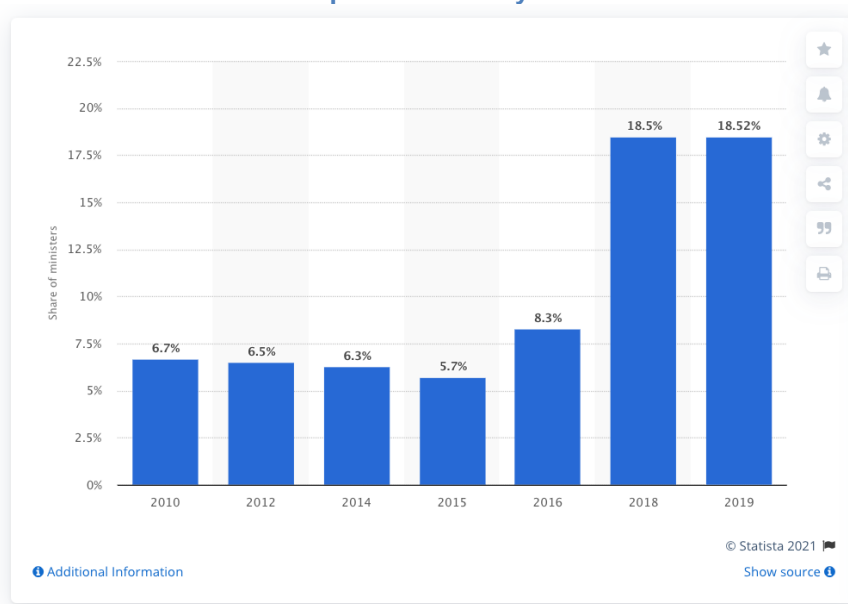
³⁶⁷ Wikipedia, List of female Cabinet Ministers of Malaysia, accessed 16/1/21.

³⁶⁸ Welsh, Bridget, 2020, Worrying Flattening Curve: Women's Political Participation in Southeast Asia - Women, Policy and Political Leadership

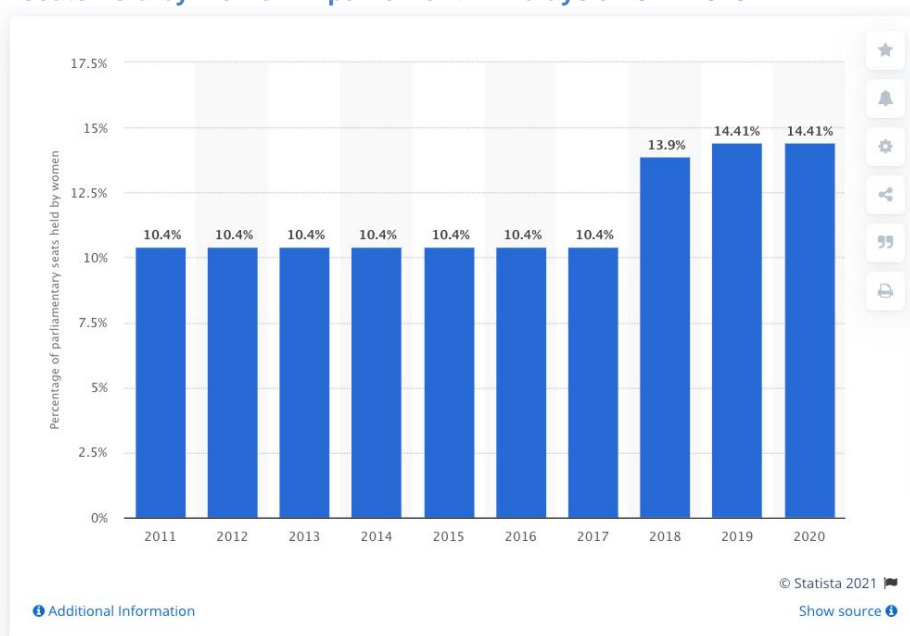
The current (Jan 2021) deputy speaker of Parliament is a woman for the first time.³⁶⁹ There have been a rising number of female judges in Malaysia's top courts in recent years, totalling 6 out of 10³⁷⁰ in 2019, and Malaysia's first female Chief Justice and President of the Court of Appeal were appointed in 2019.³⁷¹

In the annual "Women in Politics" map by UN Women and IPU for 2020, Malaysia scores low on women's political participation. The report ranks Malaysia at 98th place out of 190 assessed countries for women in ministerial positions, where the country only has 18.5% female ministries (5 women out of 27 in total). On women in the parliament, Malaysia scores even lower at 142/190, with 14.4% in lower house and 19.1% in upper house.³⁷²

Proportion of women in ministerial level positions Malaysia 2010-2019



Proportion of seats held by women in parliament in Malaysia 2011-2020³⁷³



³⁶⁹ KII 14, October 2020

³⁷⁰ Judiciary website, accessed Jan 2021.

³⁷¹ FTM News, 5 Dec, 2019, History to be made with 3 women judges promoted to Federal Court
Reuters, May 3 2020, Malaysia's first female top judge is 'big step' for women's justice

³⁷² Inter-Parliamentary Union (IPU) and UN Women, 2020, Women in Politics 2020

³⁷³ Statista Website, accessed 16/1/21.

The historic 14th General Election (GE14) on 9 May 2018, which saw a change in Government (PH) for the first time in over 60 years also, brought with it a notable increase in the representation of women in leadership and decision-making positions. For one, the share of women voted into Parliament, although still very small at 14.4%, was the largest yet, thanks primarily to efforts by women politicians and women's NGOs to raise the number of women candidates at the polls. The subsequent appointment of women into key decision-making positions in Government, however, was also unprecedented. For the first time, the country had a female Deputy Prime Minister. It has also seen its first woman Chief Justice, and women taking over important governance bodies like the Parliamentary Public Accounts Committee and the Malaysian Anti-Corruption Commission. There was also a significant increase in women heading statutory bodies and government-linked companies. In the PH administration women were holding portfolios traditionally given to men, such as science, technology and the environment, local housing and development and rural development. However, all these women along with the rest of the government was ousted in February 2020.³⁷⁴ Currently all the Parliamentary Committees are effectively stalled. Parliament will not reconvene soon, and the proposed Bills are stagnating.³⁷⁵

CSO Advocacy resulted in the formation of the 1st Parliamentary Select Committee on Gender Equality and Human Rights, then renamed Gender and Family Development, and is currently the Select Committee on Family, Women and Social Development as of November 2020.^{376 377}

Rather than embrace temporary special measures like women's quotas, which have been shown to successfully bring about greater gender equality in decision-making elsewhere in the world, the Government under both BN and PH has chosen to reject these. No quotas for women in political representation has been set by political parties except the Democratic Action party (DAP)³⁷⁸.

Political analysts suggest that the political parties are not inclusive structures, starting from the leadership, resulting few female candidates. Due to the highly competitive nature of elections, where money politics are the driving force, and politics is a 'business', women end up being pushed of political processes, as they have less access to the necessary financial backing.³⁷⁹ Well established political parties have 'women's wings' which are meant to serve as a stepping stone for women entering into politics, and while there is some value to this, they also serve as a barrier: women tend to stick to women's wings rather than move into mainstream aspects of leadership.³⁸⁰ Political parties do not emphasise and value diversity in leadership and women in politics are subjected to harassment including sexual harassment.³⁸¹

Many women who have climbed the ladder and hold decision making positions must demonstrate religious conservative values which reinforce the traditional family unit, do not encourage a culture of accountability for GBV, and do not challenge prevailing norms.³⁸² There are more women in merit based civil service positions than politically elected positions.³⁸³

Local elections have been discontinued since 1965 under Section 15 of the Local Government Act 1976, Councillors are appointed by the state. The lack of local elections has closed off opportunities to give women experience in public office at local levels. The most recent data available (online) shows that in 2012 approximately 13.1% of local councillors were female, up from 9.8% (285/2,921) in 1999. In 2015 one mayor, three municipal council presidents and two district council presidents were female (6 out of 154), mirroring the position in 2012.³⁸⁴ Observers note greater political empowerment for women in the state government context than at national level. Significant changes have occurred at the state government in Penang, demonstrating the role pivotal female leaders can make in changing discussions,

³⁷⁴ Welsh, Bridget, 2020, Worrying Flattening Curve: Women's Political Participation in Southeast Asia - Women, Policy and Political Leadership

³⁷⁵ KII, February 2021

³⁷⁶ KII 33, November 2020

³⁷⁷ KII 11, October 2020

³⁷⁸ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

³⁷⁹ KII 14, October 2020

³⁸⁰ KII 14, October 2020

³⁸¹ KII 1, October 2020

³⁸² KII 39, December 2020

³⁸³ KII 1, October 2020

³⁸⁴ CLGF, 2018, The Local Government System in Malaysia, Country Profile 2017/2018.

this is also seen in also Selangor.³⁸⁵ These two states are moving in the direction of adding more seats for women.³⁸⁶

In 2014, according to an ABS survey, 71% of respondents agreed that women should be involved in politics as much as men. This points to a disconnect between public attitudes and practices. More women than men vote, however men are more engaged in contacting offices, signing petitions, campaigns, handling local problems.³⁸⁷

The new government has a long pending list of laws to be enacted or amended to strengthen the rights of women and girls, which it inherited from the previous administration. At the top of the list is the Gender Equality Act that aspires to be CEDAW compliant, that the Government started to look into as early as 2010, and which continues to be deliberated on; similarly, with the Sexual Harassment Act and amendments to employment laws that amongst others, may extend 90 days of maternity leave and three days of paternity leave to those in the private sector. Promises have also been made to enact a law against stalking, as well as to introduce legislation for a minimum age of marriage. Civil society has pressed for other reforms such as a domestic workers law and the introduction of temporary special measures to enhance women's participation in public and political life but to no avail.³⁸⁸ Organizations such as UNDI18 are pushing for 50% women in Parliament, through changing cultural norms rather than via quotas.³⁸⁹

4.5. Integrating the women, peace and security agenda

EU action should contribute to:

- *Supporting and conducting capacity-building and mentoring on women's leadership, for women negotiators and mediators, to improve their effectiveness and the quality of their participation in peace processes;*
- *Working towards reaching at least 33% of women participating in all EU activities and projects related to peace processes;*
- *Establishing and institutionalising consultative mechanisms on all conflict-related issues with grassroots women activists and CSOs, both in Member States and in conflict-related settings, where there are CSDP missions and operations;*
- *Rolling out mandatory training on mainstreaming gender perspectives for all staff at HQ, EU delegations, CSDP missions and operations, etc.;*
- *Promoting and supporting inclusive policies/activities across the whole WPS agenda with full and equitable participation, also by men and boys;*
- *Promoting the strengthening of the rule of law, the criminal justice system through transitional and restorative justice, and Security Sector Reform (SSR), to end impunity for perpetrators of SGBV crimes;*
- *Promoting the provision of medical, psycho-social, legal and safety support to all victims/survivors of conflict-related sexual and/or gender-based violence/SGBV.*

Malaysia as a member state of ASEAN was party to a joint official statement recognising the Women, Peace and Security Agenda in 2017. The statement recognises the disproportionate impact of armed conflict on women, and the occurrence of sexual and gender-based violence during armed conflict. It emphasises the importance of women's equal, full and effective participation at all stages of peace processes given their necessary role in the prevention and resolution of conflict, peace building, peacekeeping, as embodied in UN Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), and 1889 (2009). Malaysia has still not developed a National Action Plan on the Implementation of the Women, Peace and Security Agenda, Resolution 1325 (2000).

³⁸⁵ KII 39, December 2020

³⁸⁶ KII, February 2021

³⁸⁷ Welsh, Bridget, 2020, Worrying Flattening Curve: Women's Political Participation in Southeast Asia - Women, Policy and Political Leadership

³⁸⁸ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

³⁸⁹ KII 1, October 2020

In 2019, Malaysia increased the number of women military personnel deployed within its contingent under the United Nations Interim Force in Lebanon. Of the 38 women on mission in Lebanon, four were officers and the remainder came from other ranks. They played a significant role especially in conducting certain activities such as market walks and medical support for local communities and were also involved in operational activities such as foot and vehicle patrols. The Government of Malaysia is also currently taking steps to ensure that the Malaysian contingent reaches the 15% target of women military personnel deployed in Lebanon. Malaysia also promoted gender issues in peacekeeping through organising an international seminar on Gender in Peacekeeping, the first of its kind in Malaysia.³⁹⁰ In 2016 women represented 8% of army personnel, 8.4% of navy personnel, and 6.4% of air force personnel.³⁹¹

In December 2019, the Malaysian Ministry of Defence launched a White Paper which underlined the importance of having more diverse and gender balance in the Malaysian armed forces.³⁹² This paper encourages more women to join the armed forces and the need to acknowledge the “*gender-specific challenges that they face in order to advance in their military careers*”.³⁹³

The government of Canada and the Malaysian armed forces have furthermore jointly funded the training course “Integration of Women, and Gender Perspectives into the Armed Forces” (IWGPAF) to further boost the mainstreaming of gender in the security sector.³⁹⁴

4.6. Addressing the challenges and harnessing the opportunities offered by the green transition and the digital transformation

Green transition

EU action should contribute to:

- *Promoting girls’ and women’s participation and leadership in order to ensure gender-responsive strategies to climate mitigation and adaptation, disaster risk reduction, and the inclusive and sustainable management of natural resources;*
- *Supporting women networks in green transition sectors such as sustainable forest management, agriculture and energy;*
- *Capacity-building, financing and support for investment in gender-responsive national climate, environment and disaster risk reduction strategies and action plans;*
- *Supporting women’s entrepreneurship and employment in the green, blue and circular economy, including clean cooking and sustainable energy, sustainable fishing activities, by promoting a gender-transformative approach to agriculture, fishing and aquaculture and food systems, based on (i) capacity building for rural women; (ii) policy reforms to regulate more fairly land tenure and to manage natural resources and (iii) economic empowerment and access to finance;*
- *Improving data collection on the gender-differentiated impacts of climate change and environmental degradation to inform gender-responsive policies and action.*

The World Economic Forum recognises that “*green-energy transitions provide opportunities to tackle systemic gender discrimination and enable societies to reap the benefits of a more diverse workforce*”.³⁹⁵ For example, in Turkey the company Garanti BBVA signed the world’s first gender loan with an energy provider to the construction of Turkey’s largest wind farm. The company’s performance will be annually assessed based on a series of gender criteria, and improvements in their performance will also enhance the terms of the loan.³⁹⁶ This is one of many innovative ways of boosting a gender perspective when embarking the transition to greener solutions. The Green Economy Coalition, also recognize that green economies must also be fair and equal economies; “*Without taking a gender perspective to green economy policies and practices, the barriers to women’s participation in the brown*

³⁹⁰ National Council of Women’s Organization, 2019, “The Beijing +25 CSO Parallel Report Malaysia”

³⁹¹ Dept of Statistics, 2017.

³⁹² <https://liewchintong.com/2020/02/17/integrating-women-in-defence-for-greater-peace-and-stability/>

³⁹³ Ibid.

³⁹⁴ Malaysian Peace keeping Center.

³⁹⁵ <https://www.weforum.org/agenda/2020/07/how-women-can-power-the-green-transition/> from 2020, retrieved 27 January 2021.

³⁹⁶ <https://www.bbva.com/en/garanti-bbva-finances-wind-farm-in-turkey-with-gender-loan-to-polat-energy/> from Sept 2019, retrieved 27 January 2021

economy risk being perpetuated in the green economy".³⁹⁷ Some key obstacles identified for an improved participation of women in the green economy are barriers to education, lack of time, limited access to productive inputs, lack of land rights and access to finance.

Malaysia is working towards achieving goals 14 and 15 of the SDGs through the Eleventh Malaysia Plan Strategic Thrust 4 in "Embarking on Green Growth". This is further supplemented by other sectoral plans and policies. In pursuing green growth for sustainability and resilience, Malaysia has embarked on strengthening institutional and regulatory frameworks as follows:

- Enhancing coordination between Federal and State levels through a single platform;
- Strengthening legislative and regulatory frameworks by reviewing relevant Acts such as the Environmental Quality Act 1974;
- Developing management plans based on an Ecosystems Approach to Fisheries Management (EAFM);
- Building capacity for effective EAFM implementation.³⁹⁸

Malaysia has taken steps to protect its biodiversity with the formulation of various policies and legislation such as:

- The National Policy for Biological Diversity 2016–2025;
- National Forestry Policy 1978 (Amendment 1992);
- Second National Mineral Policy 2009;
- Wildlife Conservation Act 2010 (Act 716);
- National Parks Act 1980;
- Biosafety Act 2007 and others.

Budget 2021 has an explicit focus on environmental sustainability. In particular, strategy four, under the economic resilience goal focuses on ensuring resource sustainability.³⁹⁹ That said, environmental policies and all measures taken by Malaysia in addressing Goals 14 and 15 of the SDGs lack a gender perspective. Sex-disaggregated data to measure the intersection between gender inequalities and environmental concerns, vital to put Malaysia on the path of sustainable development, remains unavailable across many environmental dimensions. The lack of environmental justice is connected to the continued lack of consultation of women in the Environmental Impact Assessment (Article 10 of the Rio Declaration and the Aarhus Convention). There is a lack of recognition of indigenous communities and indigenous women in matters related to natural resource management and protected area management. In forestry and conservation, there is a lack of recognition of women's knowledge of the environment and biodiversity.⁴⁰⁰ Observers note that gender is not adequately reflected in this area. Most women's groups do not work at the rural community level. The Third World Network works on biodiversity, community rights, and tries to bring in the gender dimension, however this is still quite nascent at the moment, and most of community level environmental leadership is male.⁴⁰¹

Digitalisation

EU action should contribute to:

- *Promoting policy and regulatory reform in partner countries, ensuring that digital transformation aligns with the EU's human-centric approach, bringing benefits to all, while protecting human rights, both online and offline, and ensuring a safe and secure cyber space, where data are protected in line with EU standards (e.g., GDPR);*
- *Improving access of girls and women to affordable, accessible, safe and secure digital connectivity, reaching out to the rural and remote areas;*
- *Promoting digital literacy for girls in education, as well as digital skills for jobs and entrepreneurship while addressing the gender norms and stereotypes that steer women and girls away from technology;*

³⁹⁷ <https://www.greeneconomycoalition.org/news-analysis/women-powerful-agents-of-change-for-an-economic-transition>, retrieved 27 January 2021

³⁹⁸ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

³⁹⁹ Malay Mail, 14 Nov 2020, Budget 2021: Will Malaysia keep up with the global green economy transition?

⁴⁰⁰ National Council of Women's Organization, 2019, "The Beijing +25 CSO Parallel Report Malaysia"

⁴⁰¹ KII 23, November 2020

- *Supporting women digital innovators and entrepreneurs across multiple industrial ecosystems to build an inclusive digital economy, for example via public-private partnerships such as the International Finance Corporation, with the aim of closing the digital gender gap in big tech companies;*
- *Supporting the provision of public and private services through gender-responsive digital channels, technologies and services (e.g., e-government, digital financial services) that will enhance women and girls' inclusion and participation in the society.*

Digital

Malaysia's digital economy grew 9% annually in value-added terms between 2010 and 2016, higher than overall GDP growth. It is estimated the digital economy now contributes as much as one-fifth of GDP.⁴⁰² Malaysia is on track to be one of the first countries in the region to access 5G Internet Connectivity, which will provide a boost to employment, productivity, as well as health and emergency services.⁴⁰³ Malaysia has the ingredients for promoting women in the digital economy: in addition to the highly educated female labour force, it has been moving steadily ahead of the global trend with the percentage of women in senior management at 28% in 2018, against the global average of 24%, according to the Grant Thornton International Ltd's annual *Women in Business* reports. Furthermore, women hold 38% of management roles and half of the executive roles. In 2017, women made up 21% of the country's cybersecurity workforce. In 2019, Malaysia launched '*Empowering Women in Cyber Risk Management*' made up of a collaboration of government bodies led by Malaysia Digital Economy Corporation (MDEC) together with MWFCDD, Ministry of Communications and Multimedia (KKMM), Department of Women's Development (JPW), National Cyber Security Agency (NASCA), and TalentCorp. A woman successfully led that government agency Malaysia Digital Economy Corporation (MDEC) for four years, and the heads of TM R&D and IBM Malaysia are women.⁴⁰⁴

Khazanah finds that around half of jobs, mostly semi-skilled, were estimated to be at high risk of being automated, and Covid-19 may further accelerate automation. Sales workers, who make up the largest share of total employment, are at a high risk of automation. By contrast, teaching and health professionals are likely to be least affected. This further aggravates worries related to the expansion of "traditional services" and the contraction of "modern services" and social services employment, observed in the past decade. Moreover, Covid-19 might accelerate the automation risks for some jobs, as they cannot shift to be home-based during the pandemic.⁴⁰⁵

The gap between men and women's use of the internet is fairly small, at 73% compared to 69%, but the urban-rural divide is more significant, at 71 to 55% respectively.⁴⁰⁶ Establishments owned by women and SMEs are less likely than the average business establishment to access and use the internet. The gap is particularly large for women-owned establishments: only 41% have access to the internet compared to 62% for all businesses. In order to prevent a digital gender gap, the government needs to increase the benefits and reduce the risks of the growing digital economy, and eliminate barriers to digital adoption, especially by increasing access to inexpensive, reliable, and high-speed internet, and encourage entrepreneurship, particularly among SMEs and women-owned businesses.⁴⁰⁷

⁴⁰² Edge Malaysia, 16 Dec, 2020, Growing Champions: Building Digital Success with Women in Gechnology in Malaysia.

⁴⁰³ The Star, 19 Feb, 2021, Malaysia to get 5G in stages by year-end, says PM.

<https://www.thestar.com.my/news/nation/2021/02/19/malaysia-to-get-5g-in-stages-by-year-end-says-pm>

⁴⁰⁴ Disruptive Asia, 17 March, 2020, Women in Tech: Three women leading Malaysia's digital economy

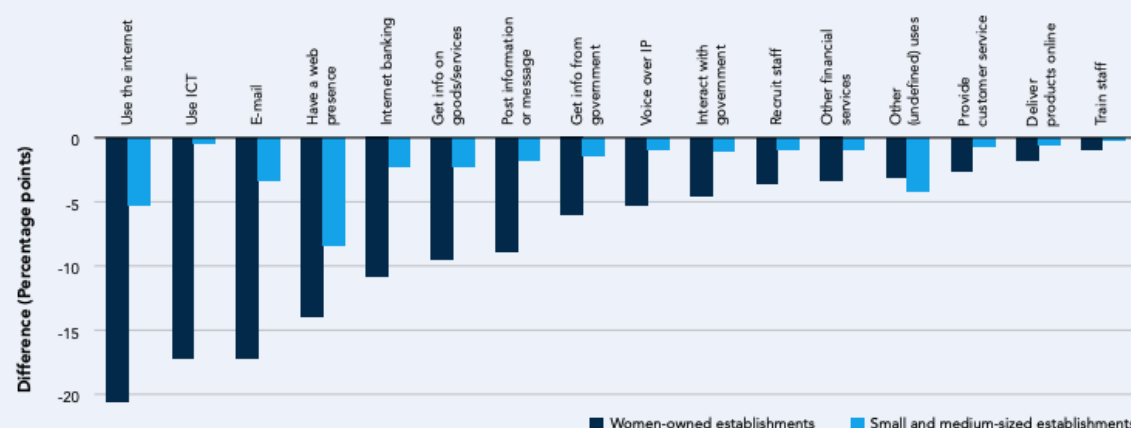
⁴⁰⁵ Khazanah, 2020, Work in an evolving Malaysia.

⁴⁰⁶ According to the HDR 2020, 81.2% of the total population have access to the internet and 78.7% of women do, suggesting a smaller gap in access. <http://hdr.undp.org/en/indicators/178106>

⁴⁰⁷ World Bank, 2018, "Report on the Digital Economy"

FIGURE 2.7 Women-owned and small-and medium-sized establishments use the internet less

Percentage-point difference between listed types and the average business establishment



Source: Government of Malaysia, Department of Statistics, Economic Census 2016: Usage of ICT by Businesses and E-Commerce, November 2017; Government of Malaysia, Department of Statistics, Malaysia in Figures 2017, August 2017.

The government is implementing an electronic system, known as e-PBT, (e - Pihak Berkuasa Tempatan) to bring local government closer to citizens. The four elements of the system are accounts, taxation, e-submission and complaints.⁴⁰⁸ The government's digitalisation plans also include digital ID cards, renewing passports and driving licence online, collecting fees for services.⁴⁰⁹

The Ministry Energy Science Tech and Environment covers both environment and digitalization. They are aware of the opportunities in digitalization and incorporating gender into addressing the digital divide, and the importance of ensuring equal opportunities between men and women particularly in relation to STEM education.⁴¹⁰

USM is the main partner in an ERASMUS project promoting competency in digital education in South East Asia. They have developed a MOOC to empower marginalised communities, focusing on single FHH. Their pilot project found that women dropped out due to lack of familiarity with tech, access to the necessary devices, some only have phones and not computers, and time constraints.⁴¹¹

Moreover, linked to online GBV, the digitalisation is both an opportunity and a great part of the problem. This is not to say that these harassments, often sexual, would not take place without the digital revolution, as it has its foundation in oppression of women in general. The digitalisation has however expanded the arenas for where and how this kind of GBV can be expressed. The digitalisation efforts in Malaysia need to ensure that online activities are safe for all segments of society, including women, girls and members of the LGBTQI community, and that such actions are recognized and regulated in the legal framework.

A report by local Malaysian civil society organisations states that "*Anecdotal cases have shown that where women did report instances of online VAW, their experiences are often trivialised and normalised. The failure of the police officer to recognise online threats and harassment as VAW or even as crimes under*

⁴⁰⁸ CLGF, 2018, The Local Government System in Malaysia, Country Profile 2017/2018.

⁴⁰⁹ KII 12, October 2020

⁴¹⁰ KII 36, November 2020

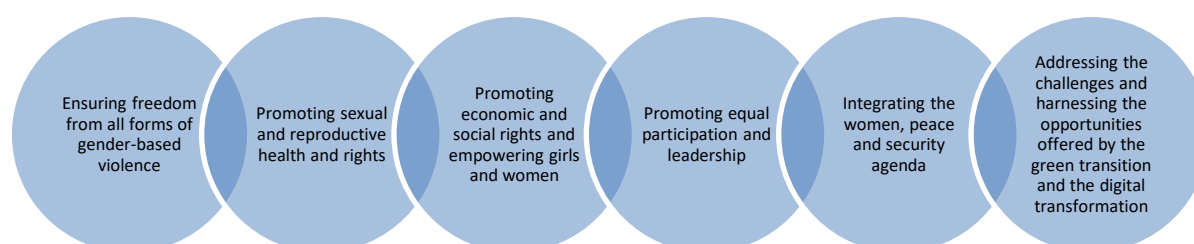
⁴¹¹ KII 20, November 2020

the domestic laws, affects women's access to justice in a systematic way".⁴¹² This report furthermore underlines that there are existing structures within the Malaysian government and its agencies that ought to handle these cases, for example the Cyber Investigation Response Centre and the Sexual, Women and Child Investigation Division of the Royal Malaysian Police, the Communications and Multimedia Content Forum, and the Ministry of Science, Technology and Innovation's agency CyberSecurity.

5. Key findings and recommendations

5.1. Key findings

In November 2020, EU introduced the EU Gender Action Plan (EU GAP) III which outlines the objectives and thematic areas for EU's global response to gender inequalities and discrimination of women and girls. The EU GAP III focuses on six thematic engagement areas, namely:



As part of the process, all EU delegations are encouraged to develop gender country profiles to analyse the current situation for women and girls in the country and to identify possible ways forward. This analysis is built on an extensive literature review in combination with key informant interviews with 52 respondents during the period October 2020 – February 2021. This chapter presents the key findings of this review.

Malaysia has made remarkable progress over the past years in terms of development and is now ranked at 62/189 in the Human Development Index; making Malaysia a member of the top group of countries with very high human development. Likewise, within the area of gender equality and women's empowerment, the country has achieved significant progress for example within the areas of education and maternal health. The legislative and policy reforms on gender-based violence and women's economic empowerment are some examples of progressive work of the Malaysian government which has resulted in the introduction of the Domestic Violence Act, Sexual Offences against Children Act and a number of initiatives to ensure women's role in the labour market. Efforts have also been undertaken by the government to increase and strengthen female political participation to raise their power and voice, for example through the introduction of quotas for women at various levels. However, as this analysis shows, Malaysia has faced problems in reaching its goals within this area and many challenges remain. Many processes have been halted when changes in political leadership have been introduced, and others have not been as successful as needed to lead to substantial changes for women's and girls' positions in Malaysian society.

The capacity and skills to address gender inequalities and discrimination against women and girls are uneven between the various ministries and agencies, and the political will to push for change and to tackle patriarchal structures is weak. The politicisation of ethnicity and religion further contribute to the reluctance to address certain parts of the gender equality agenda, especially those labelled as "sensitive issues" such as LGBTIQI, abortion, child marriage, FGM, and the application of Sharia laws. Despite efforts of introducing systems of gender focal points, gender responsive budgeting and gender mainstreaming, the impact of these measures remains low on the situation for women and girls.

Civil society actors furthermore underline the non-participatory processes and exclusion of gender expertise from civil society. The civil society parallel report on Beijing +25 states: "[...] these programmes

⁴¹² Persatuan Kesedaran Komuniti Selangor (EMPOWER), Bersih 2.0, Justice for Sisters, Malaysian Centre for Constitutionalism and Human Rights, National Council of Women's Organisations, Malaysia, and Women's Aid Organisation, 2017, Joint Civil Society Submission to the UN Special Rapporteur on Violence Against Women- Online Violence Against Women

have been challenged by a fundamental lack of understanding amongst government officials, particularly policy makers and those implementing them, about the concepts of gender, gender equality and women's empowerment. The absence of clarity is not only reflected in the content of what is offered but also in the choice of indicators — usually numerical targets — to measure the effectiveness of a programme. A serious impediment was the absence of a minimum standard of gender expertise in the formulation of schemes for women. This raises the question of the seriousness of the support for gender equality.”⁴¹³ Civil society in Malaysia is vibrant with regards to GEWE, but as mentioned, often sidelined.

In addition, the efforts to fight gender inequalities have not reached all segments of society. Migrant women and the members of the LGBTQI community are largely excluded in the reforms, leaving these groups behind in the wider GEWE agenda. Female headed households and senior women in the work force are other groups that receive less attention.

The traditional gender roles in Malaysian society can only to some extent be ascribed to religious and/or traditional practices, but the religious influence on politics is strong. Working with religious leaders, of all faiths, is an important approach to ensure that those in power share a progressive view on GEWE. The intertwining of religion and politics also creates two parallel legal systems which create further obstacles for women girls and non-binary peoples to access justice.

The area of **gender-based violence**, in its different forms, is difficult to assess as data is not regularly collected nor analysed. Domestic violence and intimate partner violence are seen as issues to solve within the family/household, leading to a great underreporting of cases. Despite reforms and amendments of laws, challenges remain. Marital rape is for example not illegal. There are also high levels of sexual harassment in the workplace, and online GBV is a growing problem. Trafficking is a serious problem in Malaysia as a destination country, putting women asylum seekers and refugees at great risk. Moreover, violence against members of the LGBTQI community is widespread due to the conservative forces in society that push for an anti-LGBTQI agenda. This group also has less access to all kind of services, including, but not limited to health and justice. When addressing GBV one needs to adapt a holistic approach. In addition to supporting legal reforms or strengthening awareness about rights and services, and supporting the OSCCs, there is a need for a multi-sectoral approach that uses several entry points, including addressing stereotyped views on women and girls as well as challenging negative and harmful forms of masculinities.

Sexual and reproductive health, addressed without the R (rights), has received some attention, but only on selected topics. Malaysia's progress on maternal health has resulted in significant decreases in fertility rates, increases in access to services and boosted antenatal coverage. However, use of contraceptives remains low, and undocumented for unmarried women. The country's rigid abortion laws limit women's access to safe abortion services and neglect a woman's right to take health decisions on her own body. Many intra household decisions on SRH are made by the husband. Low awareness and lack of comprehensive sexual education in parallel with strong religious and traditional influence make access to information and services low for adolescent girls and single women. Female genital mutilation is very widespread with rates well above 90% in certain areas. Girls and women lack power and voice on FGM, leaving them without choice and in some cases, with lifelong negative consequences. There are successful case studies from other countries to learn from, for example Senegal, where FGM has gone from being almost universal to significant decreases. This cannot be done without involving religious and traditional leaders as well as other influential groups in society, such as doctors and midwives. Moreover, the lack of comprehensive sexual education in schools, which goes beyond reproductive health and includes topics such as consent, sound relationships, healthy sexual behaviour and gender roles, constitutes a great concern for women and girls. By removing the rights perspective from the SRHR agenda, crucial aspects of which build on a human rights approach of all individuals, Malaysia is not taking the comprehensive, holistic approach needed. In 2018, the Guttmacher Lancet Commission⁴¹⁴ adopted an integrated definition of SRHR, which many countries adhere to. This underlines the right of individuals to make free and responsible decisions and choices concerning their bodies and their sexual and reproductive health. This includes the rights to choose whether, when, and whom to marry and to pursue a satisfying, safe, and pleasurable sexual life, free from stigma and discrimination. A guiding principle is that information and services should be accessible and affordable to all individuals who need them

⁴¹³ NCWO, 2019, "The Beijing+25 CSO Parallel Report Malaysia 2019, p. 9

⁴¹⁴ The Lancet, 2018, Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission.

regardless of their age, marital status, socioeconomic status, race or ethnicity, sexual orientation, or gender identity.

The area of **women's economic empowerment** covers both access to education and the right to employment. These are fundamental rights from the lens of a multidimensional poverty approach, which goes beyond resource poverty and which looks at opportunities and choice. A thematic area of concern is the transition from the education system to employment. This is a challenge that Malaysia shares with other countries, some of them ranking very high on human development. Despite the fact that women outnumber men at university level in Malaysia, fewer women enter, and stay, in the labour market in their prime age. The reason for this can be attributed to rigid, traditional gender roles in Malaysian society, which place the burden of family obligations and unpaid care work on women, and outbids their right to employment, and consequently women's right to an independent income. This shows that it is not enough to invest in a gender equal education system, and that efforts to address social norms need to be undertaken simultaneously. Malaysian women work in many different sectors, but the gender pay gap (76% of what men earn) illustrates that women's input is undervalued. The progress made within employment is primarily focused on urban areas, resulting in an uneven spread of possibilities for women in the country. Women are represented in leadership positions both within government and in the private sector but only to a limited extent, despite efforts to increase and strengthen their role. When basing the division of labour on a traditional view on gender roles as in Malaysia, and not on real capabilities and potential, one ends up with an untapped resource which could, if better used, contribute significantly to the country's development and economic growth.

Women's political participation and leadership are low and stagnant in Malaysia despite the introduction of quotas and other measures to promote a greater representation of women in decision making forums. The most recent election in 2018 led to an increased female participation, but it still remains at low levels following the change in administration in early 2020. Moreover, women who are offered leadership positions need to conform to the traditional view on women which is characterised by submissiveness and which does not challenge prevailing norms. The creation of women wings in political parties has further side lined the issue of women's political participation, steering it away from the core mandate and as an important objective. The government of Malaysia needs to recognise the value of female representation in order to adopt a gender inclusive approach in politics. Evidence from other countries shows that a higher representation of women in power results in more resources allocated to social services. Female representation furthermore plays an important role in role modelling and inspiration for the younger female generation to enter into the domain. The same argument can be used to promote the representation of youth, members of the LGBTQI community and other under-represented groups.

The **women, peace and security agenda** is almost absent in Malaysian politics. Few women are represented in the security sector, both nationally and internationally. Small project-like interventions such as training courses on UNSCR 1325 have been implemented with foreign funding, but these alone cannot contribute to the larger impact needed. The WPS agenda is not prioritised by the Malaysian government, illustrated by the lack of political will to develop a national action plan for UNSCR 1325. There is a common misunderstanding that the WPS agenda is primarily for countries that are engaged in armed conflict, but the agenda is valid for all countries, including those in peace. A national action plan could furthermore contribute to a more holistic approach to the agendas to fight gender-based violence and women's political participation; two prominent areas of the WPS agenda.

Although Malaysia is making efforts and invests resources within the field of **green transition**, this is done without a clear gender perspective, despite the fact that women can play a significant role in this process. Green leadership in the country is primarily male. Indigenous women are especially sidelined despite having both knowledge and skills which could push the agenda in the right direction. Women may play the role of powerful agents of change in the economic transition. *"Gender equality and environmental sustainability are two sides of the same coin - both women and the environment are undervalued in our global systems and economies. And both are essential if we are to see transitions to inclusive and sustainable economies."*⁴¹⁵ Reforms need to be undertaken on women's access to land, credits and voice to make use of their full potential in this process. Malaysia is investing in **digitalisation** within many areas of the society. Female representation in digital leadership is satisfactory (28%) and above the global average. Internet access is fairly good, with no significant variation between sexes. However, the regular

⁴¹⁵ <https://www.greeneconomycoalition.org/news-analysis/women-powerful-agents-of-change-for-an-economic-transition>

use of internet in businesses is much less for women-owned enterprises. Digitalisation is a great opportunity for women to participate in both the economic sphere and debate in society on equal terms as men, but for this to be realised, investments need to be done through the lens of GEWE.

The EUD in Malaysia is equipped with a wide range of instruments to address gender inequality in the country. Through the **development cooperation** (i.e., poverty-oriented projects and programmes), EUD can fund various initiatives, through the government, civil society, private sector or academic institutions. These can be *targeted* interventions where gender equality is the primary objective, or *gender mainstreamed* initiatives where gender is sub-ordinated as goal, but still an important transversal aspect. These interventions can strengthen the capacity of the government to act on gender equality and ensure a vibrant civil society that can bring attention to important issues and advocate for change. The EUD Malaysia already supports gendered interventions, but these can be reviewed to be better aligned with the agenda of EUGAP III. EUD may also consider continuing their funding of women's organisations to ensure a vibrant civil society to push for progressive reforms. In addition to development cooperation, the EUD can address gender inequality through **political dialogue**. This can be translated into making sure that gender equality is raised in all decisions with the Malaysian government, that gender initiatives are recognised and promoted, and political analyses are undertaken through a gender lens. Emphasis should be placed on supporting the government to comply with the CEDAW principles and Concluding Observations. EUD can also work with gender equality in its **communication and dialogue**. This work could for example include undertaking campaigns on gender equality in social media, writing articles in local newspapers, participating in podcasts or events, recognising international days for women and LGBTQI, among other things. Within this work, EUD needs to ensure a gender responsive language which steers away from gender stereotypes and presents women's and girls' full potential.

In order to effectively push the GEWE agenda in the right direction towards the full enjoyment of rights for women, girls and non-binary people, the EUD moreover needs to be equipped with sufficient gender expertise and skills. This is another important part of the internal aspects of EUGAP III; including but not limited to strengthened internal capacities on GEWE, development of tools to facilitate gender integration and ensuring a gender sensitive monitoring and evaluation. Although this analysis was not meant to assess the capacity within this area at EUD Malaysia, it is nevertheless crucial to mention this as a precondition to the realising of the goals and objectives of EU GAP III. Thus, EUD needs to strengthen both its internal and external focus on GEWE to be able to deliver on expected results in a holistic, transformative and sustainable manner. The recommendations that will follow in the next chapter provides possible ways forward to pursue this.

5.2. Key recommendations, relative to each Thematic Area of Engagement to feed into the GAP III Country Level Implementation Plan (CLIP).

This chapter outlines a number of key recommendations for EUD Malaysia to consider in its work on gender equality and women's empowerment. The section starts with overall recommendations which are recommendations of a more general character that are not specific to the thematic areas. This is followed by recommendations as per the six thematic areas of engagement as outlined in EU GAP III.

5.2.1. Overall recommendations

- Support processes of ensuring **sex disaggregated data** at all levels; in collection, analysis and usage. Aggregated data may hide discriminatory practices or unequal distribution and access to services, which may lead to poor targeting in actions taken. This can be done through support to the Department of Statistics, or in dialogue with key stakeholders such as the MWFC. Lead by example by ensuring that the EUD Malaysia use SADD to the extent possible;
- Support the government of Malaysia in reintroducing and strengthening capacity of the system of **gender focal points** to ensure that GEWE is captured and addressed in all governmental work. If needed, strengthen the **MWFC with gender equality capacity**, either by an extensive capacity building programme or through the secondment of staff, to boost their voice and minimise the risk of being sidelined. In this work, push for finalisation of ongoing reforms, including but not limited to the Gender Equality Act, Sexual Harassment Bill and the revision of the Employment Act. This work can also include pushing for the integration of CEDAW into the legal framework to make sure that international commitments are aligned with the national legal framework;

- Ensure that EUD Malaysia has access to sufficient (in-house or through the regional EUDs, EU HQ gender team, etc.) **capacity and skills** to address gender inequalities in the country; in dialogue, technical assistance, public diplomacy and communication;
- Ensure a long-term sustainable approach in the work on gender equality and women's empowerment, with a focus on **transformative**⁴¹⁶ processes which challenge gender norms, and address power inequities between persons of different genders;
- Ensure **meaningful engagement** of boys and men to the extent possible in all gender equality work which at the same time does not steer away from the focus on advancing women's and girls' rights. Boys and men's participation in transforming the gender equality agenda is crucial in order to address patriarchal structures and to tackle negative forms of masculinities;
- Considering the intertwining of religion and politics, ensure that **religious leaders** are targeted in gender equality outreach and advocacy, with an aspiration that they can become agents of change and lead the way and abolish some of the harmful gender practices that are commonly practiced in Malaysia.

5.2.2. Recommendations per thematic area of engagement

Ensuring freedom from all forms of gender-based violence

- Support initiatives to **strengthen data collection** on gender-based violence (including IPV, Child Marriage, trafficking, FGM, etc) to ensure accuracy, regularity and transparency in this process. Ensure that data is collected, and disaggregated by sex, for all segments of society;
- Ensure that **crisis and reintegration services** to survivors of GBV, especially domestic violence, remain functioning or are enhanced. Moreover, strengthen the capacity for government frontline officers, organisations, as well as community members to respond to GBV. This could include such actions as strengthening the national helpline by expanding capacity or funding and increasing coordination with NGO service providers;
- Address **GBV both offline and online**. Online GBV and virtual sexual harassment constitute a global growing problem, resulting in women and girls being unprotected at all hours of the day. Engage young feminists in this work to voice their needs;
- Advocate to halt further funding reductions in the **social service sector**, in line with stronger social protection programs. The social work profession bill should also designate social workers and the social service system as essential workers and services to ensure support systems for the most vulnerable continue to function during crises;
- Where possible, encourage **alternative care arrangements** for vulnerable children, including children affected by migration, such as kinship care and other alternatives to detention. Rights-based policies that strengthen safe and fair labour migration should be introduced;
- Continue to provide **women migrant workers** with information about their rights and the support services needed;
- Strengthen the **capacity for OSCC** manned by the Welfare Department, ensuring integrated response to sexual and gender-based violence by key agencies including the consolidation of an integrated information and referral system to enable a fast and efficient response to GBV survivors;
- Support the **development of frameworks for the NAPEVAW**, to provide guiding principles and to serve as a reference for further policy development;
- Provide relevant **guidance for GBV victims**, such as printed guidelines including a GBV Pocket Guide Resources for Risk Mitigation and referral during crisis situation in several languages;

⁴¹⁶ CARE, 2015, Hillenbrand E, Karim N, Mohanraj P and Wu D. 2015. Measuring gender- transformative change: A review of literature and promising practices. CARE USA. Working Paper defines this as: "Gender-transformative approaches aim to move beyond individual self-improvement among women and toward transforming the power dynamics and structures that serve to reinforce gendered inequalities. [...] a gender-transformative approach to development goes beyond the "symptoms" of gender inequality to address "the social norms, attitudes, behaviors, and social systems that underlie them". This approach entails engaging groups in critically examining, challenging and questioning gender norms and power relations that underlie visible gender gaps."

- Advocate for an **inclusive approach on GBV** to include other vulnerable groups such as members of the LGBTQI community who are at great risk.

Promoting sexual and reproductive health and rights

- Support the development of an **integrated SRH plan** through a participatory process which includes civil society, academia and private sector, with a focus on women and youth;
- Advocate for **comprehensive sexual education (CSE)**, which goes beyond reproduction, to be included in the national curriculum in the education system. By providing CSE at an early age, youth and adolescents will be better equipped to face adulthood and take responsibility for their sexual health;
- Advocate for the **abolishment of FGM**, which is at alarmingly high rates and increasing. This harmful practice has tremendous consequences – physical and mental – for those women and girls affected;
- Support programmes to increase the **use of contraceptives**. Engage male youth and men to ensure that all sexes are responsible to protect themselves, and that stigmas and taboos are tackled;
- Support **existing SRH programs** that are already in place, such as the KafeTEEN Youth Centers and other nongovernmental organisations, to increase their outreach and ensure their sustainability particularly during the disruptions caused by the pandemic.

Promoting economic and social rights and empowering girls and women

- Be guided by the **Women's Empowerment Principles (WEPs)** in the work on women's economic empowerment; which offers guidance to business on how to promote gender equality and women's empowerment in the workplace, marketplace and at community level;
- Support the **completion of the planned reforms to Malaysia's laws and regulations, including support for working parents**. Recommended changes—some already planned—include abolishing restrictions on women working at night or underground, mandating equal pay for work of equal value, and banning discrimination based on gender in hiring;
- Ensure that **legal reforms** include criminal penalties or civil remedies for sexual harassment in the workplace and a prohibition on terminating a woman's employment during pregnancy;
- Advocate for closing the gap in terms of protecting mothers and fathers through **paid paternity or parental leave** of substantial duration and the extension of mandatory maternity leave in the private sector to the internationally recognized minimum of 14 weeks. Work with the private sector to develop similar systems;
- Support the development of **policies that provide benefits and social protection** and improve the income of women opting for informal employment. Strengthen social protection measures for primary caregivers, by dispensing care grants and gender-sensitive cash transfer programmes in subsequent rounds of the stimulus package, as well as enforcing workers' rights in cases of unfair workplace dismissals due to increased care work taken up by workers;
- Support efforts to increase **public awareness of government support for working women** and their legal rights and obligations, as well as to address gender norms and attitudes in education and among the community at large;⁴¹⁷
- Encourage **changing employment practices**, such as enabling flexible working arrangements for workers where possible, and initiate steps to improve **employers' family-friendly facilities**;
- Support **tax incentives and subsidies** to grow the formal social care sector.

Promoting equal participation and leadership

- Promote **female participation and leadership in decision making structures**. This is a critical component in achieving the sustainable development goals (SDG5) and the UNWOMEN led global campaign to reach 50-50 parity in 2030;

⁴¹⁷ World Bank, 2019, "Breaking Barriers Toward Better Economic Opportunities for Women in Malaysia"

- Support **women's organisations** from civil society that address these issues, as these often go unfunded and/or operate with limited budgets. Set up a call for proposals or develop a fund where women's organisations from all parts of the country can apply for funds for innovative activities to enhance women's participation in decision making;
- Recognise and support the link between women's political participation and education through the promotion of **mentorship programmes for young women**. This will build their confidence and skills to head for leadership positions; in governmental structures or in the private sector;
- Support the government of Malaysia to **identify measures to meet the quotas** of at least 30% of women at various levels.

Integrating the women, peace and security agenda

- Support the government in developing a **national action plan (NAP)** for the women, peace and security agenda which includes an action plan of concrete measures to increase female participation in the security sector;
- Advocate for a strengthening of **sexual harassment policies within the security sector**, where (the few) women often are subject to stereotyped gender norms;
- Link this work to the **overall agendas for women's participation and to fight GBV** in society.

Addressing the challenges and harnessing the opportunities offered by the green transition and the digital transformation

- Ensure equal **access to information and technology** to increase the benefits and reduce the risks of the growing digital economy, and eliminate barriers to digital adoption, especially by increasing access to inexpensive, reliable, and high-speed internet, and encourage entrepreneurship, particularly among **SMEs and women-owned businesses**;
- Advocate for **women's access to land and natural resources** and make use of their **local knowledge** and skills to ensure an inclusive transition to a greener economy;
- Use **modern technologies within ICT and non-traditional platforms** to address gender equality and women's empowerment. Malaysia is a modern country with relatively high access to internet and technologies for all sexes, which admits the use of social media as a key channel in programming, dialogue and communication;
- Support initiatives such as Safe Sisters in Uganda, who advocate for **safe spaces online** for women and girls;
- Support initiatives of **digitalisation of gender related data collection** within key line ministries, for example for GBV with MOH, OSCC, MOHA, the Police, HR and MOFA.

Annexes

Annex 1: List of Documents consulted

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Annex 2: List of Stakeholders interviewed

Sector	Agency	Name	Position
SUHAKAM	Human Rights Commission	Prof. Dato' Noor Aziah	Director of Institute Islam Hadhari - Children
	Human Rights Commission	Dr. Madeline Berma	Commissioner - IP
	Human Rights	Prof. Madya Dr. Nik Salida Suhaila	Commissioner
Gender Specialists, Academia	APFWLD	Ivy Josiah	
		Dr. Prema Devaraj	Gender Consultant
	Monash University Malaysia	Sharon Bong	Academic Researcher
	APFWLD	Honey Tan	lawyer
	KANITA, USM Penang	Rashida Shuib	Professor of Women's Development Research Centre (KANITA)
	University of Nottingham Asia Research Institute Malaysia	Bridget Welsh	Political Analyst
	KANITA Universiti Sains Malaysia	Noraida Endut	Professor and Director Centre for Research on Women and Gender
	University of Malaya	Dr. Shanthi Thambiah	Deputy Dean Faculty of Arts and Sciences
	Centre for Independent Journalism	Wathshalah Naidu	Executive director
	Third World Network	Chee Yoke Ling	Director
	Tenaganita	Glorene Amala	Directors
	Women's Aid Organisation	Sumitra Visvanathan	Executive Director
	Women's Aid Organisation	Yu Ren Chung	Advocacy and Deputy
	Women's Aid Organisation	Meera Samanather	Civil Rights Lawyer
	UND118	Qyira Yusri	Education Director
	Justice for Sisters	Thilaga Sulathireh	Lead Advocate
	Sisters in Islam	Rozana Isa	Director
	IDEAS	Aira Azhari	Manager, Democracy and Governance
	DHRRRA	Nantini Ramalo	Executive Director
	ARROW	Sai Jyothirmai Racherla	Deputy Executive Director
	ARROW	Sivananthi Thanenthiran-	CEO
	30% Club - Lead Women	Anne Abraham	Director
	Institute Wanita Berdaya	Siti Kamariah Ahmad Subki	CEO
	Association of Women Lawyers	Meera Samanather	Vice President
	Engender	Omna Sreeni Ong	

	AWAM - All Women's Action Society	Nisha Sabanayagam,	Programme and Operations Manager
	AWAM	Lilian	SH officers
UN Agencies	ILO	Ms. Bharathi	CTA Safe and Fair
	ILO	Foo, Yen Ne	Officer Safe and Fair
	ILO	Jodelen Mitra	Rights at Work
	UNFPA	Saira Shameem	Dept Director, Pacific
	UNFPA	Aira	Gender Results Group
	UNFPA	Rita Reddy	Gender Consultant
	United Nations University International Institute for Global Health	Pascale Allotey	Director
	UNDP	Puteri Noor Jehan Wan Abdul Aziz	Bus & HR
	UNDP	Asfaazam Kasbani	Assistant Resident Representative
	UNDP	Mae Tan	Advisor to Min Of Women
Donors	WB	Mei Ling Tan	Economist
	WB	Achim Daniel Schmillen	Economist
	ADB	Thiam Hee Ng	Economist
EU	EUD Bkk	Jenni Lundmark	Programme Officer
	EUD Bkk	Laura Liguori	Foreign Policy Instruments
	EUD KL	Francesco Floris	Trade Specialist
	EUD KL	Pekka Pentilla	Trade Specialist
	EUD KL	Camelia Tudose	Political officer
	EUROCham	Sven Schneider	EU Malaysia Chamber of Commerce
	EU Brussels	Maria Chiara Piazza	International Cooperation and Development
	EU Bkk	Arunsiri PHOTHONG	Development Officer

Annex 3: Guide Questionnaire for Key Stakeholder Interviews

For Government Agencies:

1. What is your overall mandate, how does your agency promote gender equality and women's empowerment?
2. What are the main advances and achievements in gender in the past 5 years?
3. Does your agency have a specific gender policy/strategy/programme, or does your sector policy/strategy include any gender related elements?
4. Does your agency have institutional mechanism and capacity to address gender in your sector? do you have a gender unit or gender focal points? (Please share relevant documents)
5. To what extent do women participate in decision making / are employed in your sector?
6. Is there an inter-agency gender working group? What issues do they address?
7. What are the key/persistent gender issues in your particular sector?
8. Does your agency collect and use sex disaggregated data and gender analysis to inform sector policy and programmes?
9. What key challenges do women face in your sector (e.g. access to services, opportunities, decision making, etc.)?
10. What barriers or challenges do you encounter when addressing gender issues? How do you resolve them?
11. How is your government agency using digitalisation, and how might this affect m/w differently?
12. Which other relevant stakeholders and/or documents should we consult?

For Donors:

1. What are the key/persistent gender issues in your particular sectors of interest?
2. What are the main advances and achievements in gender in the past 5 years?
3. What new research has been done that addresses gender, sector research that integrates gender? What are the knowledge gaps on gender?
4. What are the key mechanisms for gender related policy dialogue with the government? Is there a gender coordination mechanism or working group? What issues do they address?
5. Which sector level government agencies are the most interested in working on gender?
6. What has been done to analyse and address gender issues in your programmes? What have been the most impactful approaches?
7. What barriers or challenges do you encounter when addressing gender issues? How do you resolve them?
8. How are intersectionality issues being addressed (ethnicity, age, disability, LGBT, etc)
9. Who are they key actors working on gender and sustainable growth and trade, climate change and environment, digitalisation, human rights, amongst donors and civil society? Which other relevant stakeholders / documents should we consult?

For Civil Society/Academia:

1. What are the key/persistent gender issues in your particular sectors of interest?
2. What are the main advances and achievements in gender in the past 5 years?
3. What new research has been done that addresses gender, sector research that integrates gender? What are the knowledge gaps on gender?
4. What have been the most impactful approaches from Government, from Donors, from Civil Society? What could be done better?
5. What are the key mechanisms for gender related policy dialogue with the government? Is there a gender coordination mechanism or working group? What issues do they address?
6. Which sector level government agencies are the most interested in working on gender? Do they collaborate with civil society and how?
7. What are the key barriers or challenges in addressing gender issues in Malaysia?
8. Is there sufficient space for civil society to take action related to GEWE?
9. How are intersectionality issues being addressed (ethnicity, age, disability, LGBTQI, etc.)?
10. Who are they key actors working on gender and sustainable growth and trade, climate change and environment, digitalisation, human rights, amongst donors and civil society? Which other relevant stakeholders / documents should we consult?