

Country Gender Profile

*All data as available in November 2008

A. Human Development Indicators : Progress on the MDGs

Target Number/ Indicator Number	Series name	Data for Year 2005 or whichever is latest
3/6	Education enrolment ratio, net, primary level, both sexes (UNESCO)	<u>99.9% (2005)¹</u>
3/6	Education enrolment ratio, net, primary level, girls (UNESCO)	<u>99.7% (2005)²</u>
3/6	Education enrolment ratio, net, primary level, boys (UNESCO)	<u>100.0% (2005)³</u>
3/8	Literacy rates, aged 15-24, both sexes, per cent (UNESCO)	<u>98.3% (2007)⁴</u>
3/8	Literacy rates, aged 15-24, women, per cent (UNESCO)	<u>98.2% (2007)⁵</u>
3/8	Literacy rates, aged 15-24, men, per cent (UNESCO)	<u>98.4% (2007)⁶</u>
5/14	Infant mortality rate (0-1 year) per 1,000 live births (UNICEF estimates)	<u>10 (2006)⁷</u>
6/16	Maternal mortality ratio per 100,000 live births (WHO, UNICEF, UNFPA)	<u>62 (2005)⁸</u>
HDI Rank		GDI Rank
<u>63 (2007/08)⁹</u>		<u>58 (2007/08)¹⁰</u>
		GEM Rank
		<u>65 (2007/08)¹¹</u>

B. Women in Decision making roles - Gender disaggregated data

1) Legislature

	% of women	No. of women	Total No.
National	<u>10.0 (2008)</u>	<u>22 (2008)</u>	<u>219 (2008)¹²</u>
State (Provincial)	<u>10.8 (2008)</u>	<u>62 (2008)*</u>	<u>576 (2008)¹³</u>
Local Bodies (data maybe aggregated or indicative)	<u>12.4 (2007)</u>	<u>405 (2007)</u>	<u>3,274 (2007)¹⁴</u>

2) Executive

a) Government – Ministerial Positions

	% of women	No. of women	Total No.	Comment
National	<u>10.1 (2008)</u>	<u>7 (2008)</u>	<u>69 (2008)¹⁵</u>	<u>Ministers & Deputy Ministers</u>
State (Provincial)	<u>N.A.</u>	<u>N.A.</u>	<u>N.A.</u>	
Local Bodies	<u>N.A.</u>	<u>N.A.</u>	<u>N.A.</u>	

b) Decision Making Level in the Public Sector

	% of women	No. of women	Total No.	Comment
Secretary General	<u>14.8 (2007)</u>	<u>4 (2007)</u>	<u>27 (2007)</u>	
Director General (Federal)	<u>11.8 (2007)</u>	<u>8 (2007)</u>	<u>68 (2007)</u>	
Chief Executive (Federal Statutory Bodies)	<u>14.1 (2007)</u>	<u>9 (2007)</u>	<u>64 (2007)*</u>	

3) Judiciary¹⁶

	No. of women	Total No.	Comments
Supreme Court	<u>0 (2007)</u>	<u>9 (2007)</u>	<u>Supreme Court is Federal Court in Malaysia</u>
High Courts	<u>18 (2007)</u>	<u>48 (2007)</u>	<u>No. for Court of</u>

			<u>Appeal are 3/22 (2007)</u>
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4) Political Parties	
Membership	There has been a steady increase in women membership in the three major component political parties of the ruling Barisan Nasional (or National Front) coalition since 1957. Malay women through Kaum Ibu dominated the scenario of women in politics during the first decade of independence, so that by 1983 women comprised 54 per cent of the total membership of the United Malays National Organisation (UMNO). In 1975, the national women's wing – Wanita MCA – of the Malaysian Chinese Association (MCA) was established, followed by the Malaysian Indian Congress (MIC). Women members in the MCA had increased from 18 per cent of total membership in 1983 to 36 per cent in 2000. In contrast, efforts by two opposition parties, <i>Parti Islam Se Malaysia</i> (PAS) and the Democratic Action Party (DAP), to organise women supporters have been minimal. Women's membership in these parties is still small. Even for the other component parties of the Barisan Nasional, such as <i>Parti Gerakan Rakyat Malaysia</i> (Gerakan), the women's sections remained relatively undeveloped in the early years. ¹⁷
Women in executive committees or equivalent decision making bodies in the party	The participation of women as political leaders has undergone considerable change and growth over the five decades since independence. Malaysian women have progressed from a situation where they did not hold any positions in political parties to a situation where they have been elected as heads of party divisions and members of the respective party's supreme council or central executive committee. ¹⁸

5) Trade Union			
	% of women	No. of women	
Women in the governing bodies of major National Trade Unions (here: Malaysian Trade Union Congress (MTUC) with 263 Trade Unions affiliated to it)			
<i>President</i>	<u>8.1</u>	<u>20</u>	
<i>General Secretary</i>	<u>2.2</u>	<u>5 (all 2008)¹⁹</u>	
<i>Working Committee</i>	<u>15.7</u>	<u>3</u>	
<i>General Council</i>	<u>7.9</u>	<u>10</u>	
<i>Executive Committee</i>	<u>10.2</u>	<u>5 (all 2008 – 2010)²⁰</u>	
	% of men	% of women	
Total membership of MTUC	<u>55 (2008)</u>	<u>45 (2008)²¹</u>	
Industry wise (as available in respective countries)	Industry	Male (%)	Female (%)
		<u>N.A.</u>	<u>N.A.</u>
Initiatives for gender equality in the trade unions			
a) <u>N.A.</u>			
b)			

c)
d)

6) Private and public corporate business		
	No. of Men	No. of Women
Top /middle management	<u>1,259 /111,392 (2006)</u>	<u>425 /132,227 (2006)²²</u>
Women entrepreneurs <u>above 3,000 (2001 – 2005)²³</u>		

7) Academic World			
	% of women	No. of women	Total No.
Top and middle academic positions			
<i>Postgraduate Diploma</i>	<u>54.5 (academic year 2005/2006)</u>	<u>N.A.</u>	<u>N.A.</u>
<i>Masters Levels</i>	<u>54.1</u>		
<i>PhD Enrolment</i>	<u>38.7*</u>		

C) Women in the workforce – Gender Disaggregated Data			
Formal Sector (2005) ²⁴	Sector	Male (%)	Female (%)
	Agriculture, Forestry, Livestock and Fishing	<u>15.2</u>	<u>9.0</u>
	Mining and Quarrying	<u>0.6</u>	<u>0.1</u>
	Manufacturing	<u>27.0</u>	<u>31.7</u>
	Construction	<u>10.2</u>	<u>1.4</u>
	Electricity, Gas and Water	<u>1.2</u>	<u>0.3</u>
	Transport, Storage and Communications	<u>7.8</u>	<u>2.4</u>
	Wholesale and Retail Trade, Hotels and Restaurants	<u>17.0</u>	<u>18.7</u>
	Finance, Insurance, Real Estate and Business Services	<u>6.1</u>	<u>7.8</u>
	Other Services	<u>14.9</u>	<u>28.6</u>
Informal Sector	% of women	No. of women	Total No.
	As household and caring work remains predominantly with women, many of whom subordinate formal employment to family responsibilities, an increasing number of women are involved in the informal sector with flexible working arrangements. ²⁵ Foreign domestic workers are not recognised as workers under the Malaysian laws but are categorised under the informal sector. They are labelled as maid, servant or domestic helper. Most importantly they are not covered under the Employment Act 1955 or any specific Act. Therefore their rights are not protected. ²⁶		
	Women wage employment in non-agricultural sector as percentage of total non-agricultural employees (ILO)		<u>38.1% (2004)²⁷</u>

D) Policy framework for gender equality
UN/International Conventions ratified
a) <u>ASEAN</u> : Declaration on the Advancement of Women signed on 05 July 1988. ²⁸
b) <u>CEDAW</u> : In 1995 Malaysia signed the Convention on the Elimination of All Forms of

Discrimination Against Women (CEDAW) which was adopted in 1979 by the United Nations General Assembly. A CEDAW Steering Committee, chaired by the Secretary-General of the Ministry of Women, Family and Community Development (MWFCD), was established to monitor the implementation of CEDAW and to prepare the report. The Committee comprised members from relevant ministries and government agencies and the National Council of Women's Organisations (NCWO).

- c) Malaysia also accepts the 1995 Beijing Platform for Action and the formulation of the 1997 Plan of Action for the Advancement of Women.²⁹
- d) ILO Convention No. 100: In September 1997 Malaysia ratified the Convention on the equality of wages between man and woman. Women therefore are paid the same amount as men for the same job in both the public and private sector.³⁰

National policies/plans for gender equality/mainstreaming

- a) In 1976 Malaysia has, in accordance to the UN Resolution to integrate women into the mainstream of the development process, established the National Advisory Council on the Integration of Women in Development (NACIWID). It was set up as a multi-sectoral body comprising representatives from the government and non-government bodies. It functions as the main coordinating, consultative, and advisory body on women's affairs through which women's issues are channelled to policy makers. Following the establishment of NACIWID, the Women's Affairs Secretariat (HAWA) was set up in the Prime Minister's Department in 1982 to administer capacity-development programmes and projects for women, gender sensitisation and awareness programmes, and planning courses for policy makers and implementers. HAWA expanded and subsequently grew into a full-fledged department that came under the purview of the Ministry of Women, Family and Community Development (MWFCD) when it was established in 2001.³¹
- b) In 1989 the National Policy on Women (NPW) was formulated by the Government and closely aligned with the Sixth Malaysia Plan (1991 – 1995) and the Outline Perspective Plan (1990 – 2000). It recognises that poverty, lack of education and sometimes culture and tradition are major hindrances to women's progress. The policy also recognises the international efforts, which have been made to improve the status of women, and thus draws on a number of international documents, in particular the Nairobi Forward Looking Strategies for the Advancement of Women and the Declaration of the Commonwealth Ministerial Meeting on Women in the Bahamas.³² In 1992 the National Action Plan for the Advancement of Women (APAW) was prepared to operationalise the NPW. Under the Plan various strategies and programmes were drawn up to be implemented by the government agencies, private sector, and NGOs. As a result of the Beijing Conference, the Plan was reformulated to integrate the strategies and programmes contained in the Platform for Action. The Action Plan for the Development of Women outlines 13 critical areas of concern to be addressed.³³
- c) In order to mainstream a gender perspective into the national budget, a pilot project of Gender Budget Analysis (together with the UNDP) has been introduced in five key ministries – Ministry of Health, Ministry of Rural and Regional Development, Ministry of Education, Ministry of Higher Education and Ministry of Human Resources.³⁴
- d) During the Ninth Malaysia Plan (2006 – 2010) period, the Government will undertake efforts in the following areas to address issues confronting women and to ensure women's full participation in the country's development: promoting greater female participation in the labour force; increasing education and training opportunities; enhancing participation in business and entrepreneurial activities; reviewing laws and regulations to promote the status of women; improving further the health status and well-being of women; reducing violence against women; reducing incidence of poverty and improving quality of life; strengthening national machinery and institutional capacity; and advancing issues pertaining to women at the international level.³⁵

Additionally the Third Outline Perspective Plan (2001 – 2010) (OPP3), which is the operational aspect of the 2nd phase of the overall developmental plan called Vision 2020 for Malaysia to become a fully developed country, contains a chapter about Women and development.³⁶

E) Institutional Mechanisms

Role and functioning of statutory bodies

MWFCD: The Government of Malaysia has adopted numerous measures to promote women's empowerment and address gender inequality. One of the main measures adopted was the creation of the Ministry of Women, Family and Community Development (*Kementerian Pembangunan Wanita, Keluarga dan Masyarakat*) (MWFCD) in 2001, pursuant to the Forth World Conference on Women which was held in Beijing in 1995, as the national machinery for promoting the advancement of women in Malaysia. The Ministry is responsible for providing strategic leadership in developing awareness, capacities and commitments for addressing gender issues toward promoting gender equality. It is the main governmental body in charge of gender topics and is a manifestation of the country's aspirations.

The MWFCD now oversees four (4) agencies under its direct jurisdiction i.e.:

- Department for Women Development (JPW)
- Social Welfare Department of Malaysia (JKMM)
- National Population and Family Development Board (LPPKN)
- Social Institute of Malaysia (ISM)³⁷

In order to set up the required institutional and administrative machinery to plan, coordinate, implement and monitor the development progress of women, among others following institutions have been established:

The National Advisory Council on Women, Inter-Ministerial Committees on Women, Inter-Ministerial Committees on Women, Technical Working Groups, and the various state level liaison and consultative committees, task forces and ad hoc committees on women's issues;

Appointment of representatives from NGOs such as the National Council of Women Organisations (NCWO) and All Women Action Malaysia (AWAM) to sit on various advisory councils in order to promote co-operation between governmental agencies and NGOs;

Women's Service Centres (WSC) at the state level and district to provide services such as training, counselling and as a one-stop information centre for women's programmes. At present, 14 WSC were established at the state capitals and 15 at the district level.³⁸

Parliamentary Committees

Cabinet Committee on Gender Equality: It was officially set up on 06 December 2004 and showed the readiness and commitment of the Malaysian government in raising the social status of women in line with the wave of national development. Its main occupations and terms of references are:

- a) Formulate policies, strategies and programmes to achieve gender equality in the country;
- b) Advocate gender equality in the public and private sectors;
- c) Identify, study and support amendments to government laws which are gender-sensitive;
- d) Ensure and monitor the implementation of the nation's obligations and commitments under international conventions on gender equality, such as the Beijing Platform for Action, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Commonwealth Plan of Action; and
- e) Monitor and coordinate measures to achieve gender equality in all sectors at all levels.³⁹

Other

VAW: In October 2000 the then Deputy Minister of the Women's Affairs Secretariat (HAWA) initiated a National Steering Committee on Violence Against Women (VAW). The committee comprises governmental agencies and non-governmental organisations.⁴⁰

Various major organisations implement programmes for the development of women. They include the Community Development Department (KEMAS), National Population and Family Development Board (NPFDB), Department of Agriculture (DOA), and the Federal Land Development Authority (FELDA). While KEMAS focuses on women as part of family development, NPFDB and the Federation of Family Planning Associations, Malaysia (FFPAM) focus on population and family development programmes. DOA and FELDA carry out agriculture-related programmes that enhance the financial position of families for the benefit of women.⁴¹

NIEW: The NAM Institute for the Empowerment of Women (NIEW) was established on 17 May 2006. It falls under the purview of MWFCD after Malaysia had been given the mandate to establish this Institute by NAM (Non-aligned Movement) Member Countries. With the support of the Ministers and Heads of Delegations from NAM Member Countries, NIEW is the movement's international institute dedicated to women's development and empowerment. Its vision is to be a training and research centre.⁴²

F) Legal Equality

The Federal Constitution of Malaysia provides equal protection to all persons. In all spheres, the provisions in the Federal Constitution and in the law (for example, the provisions for participating in elections or for holding any political and administrative office or in terms of education) do not discriminate between men and women. In 2001, Article 8 (2) of the Constitution was amended to include 'gender' as one of the prohibited grounds for discrimination. Consequently, a number of laws were amended and many are currently being reviewed.⁴³

Some laws are specifically aimed at the recognition and protection of women.

Penal legislations such as the Penal Code enumerate specific offences against women such as assault or use of criminal force on a person with intent to outrage modesty, offences in relation to prostitution, rape, and offences relating to marriage (such as cohabitation caused by a man deceitfully inducing a belief of lawful marriage or enticing, taking away or detaining with a criminal intent a married woman). Other legislation include:

Woman and Girls Protection Act, Act 106 (1973)

A law to protect women and girls from any violence and sexual harassment. It contains provisions for prosecuting persons involved in prostitution and trafficking of women.

Domestic Violence Act 1994 (Act 521)

Although the act affords protection to male as well as female victims and thus is not specific to women, the Government and NGOs have recognised that the victims of domestic violence are mainly women. The value of this act is that it contributes to the elimination of a culture that gives men authority to abuse their spouses.

Child Act 2001 (Act 611)

The law protects girls against prostitution activities as well as provides for 'protection homes'.

In civil matters there are legislation such as:

Married Women Act 1950 (Act 450).

Married Women and Children (Maintenance) Act 1950 (Act 263) and other legislation which have provisions for women such as the laws relating to employment. For example, under the Employees' Social Security Act 1969 (Act 4), a husband's social security payment goes to his wife upon his death.

In addition, legislation have been enacted or amended by the Government on its own initiative or in response to calls by women's organisations in order to eliminate discrimination against women: ⁴⁴

Distribution Act 1958

First it was based on the idea that women wouldn't have the capacity to administer property in case of the death of their. The amendment of 1997 provides for a more equitable distribution of an interstate's estate to the beneficiaries, especially women.⁴⁵

Discriminatory laws/ policies/practices

- a) The Constitution of Malaysia only protects women from discriminatory acts by the government pursuant to Article 8(2) of the *Federal Constitution*. But fundamental liberties as enshrined in Article 8(2) (prohibition of discrimination on the grounds of gender) do not extend to the protection of a person against gender discrimination by a non-state actor. In any event, even if Article 8(2) exempts discrimination entrenched in the Constitution, the Constitution itself allows discrimination against women in articles 15, 24, 26 and the Second Schedule.⁴⁶
- b) Civil and criminal laws come under the Federal Government's jurisdiction. The State Governments however determine, among other areas, *Shari'a* (Islamic) Law and Native Laws that apply to indigenous groups. For Muslims, family laws, including marriage and divorce laws, are governed by the *Shari'a* Courts. Each of the 13 States is able to enact its own set of laws governing the personal laws of Muslims in that state. With the application of *shari'a* law, Muslim women are being discriminated under certain legal provisions of the State Islamic family laws. For example, amendments in the civil legal system pertaining to personal law like guardianship do not apply to Muslim women where the father and not mother is the legal guardian of a child.⁴⁷
- c) The *de facto* reality is that, even where there are substantive laws in place, the structures of implementation, prevailing societal attitudes and the culture of the law hinder a woman's full access to and enjoyment of her rights as was intended in the spirit of the law (in particular laws related to family, marriage, divorce and violence against women).⁴⁸

G) Affirmative Action Measures

Although the Government has not yet practiced the quota and preferential rules, various measures have been taken to accelerate equality between men and women:

to reduce poverty among women, the Ministry of Entrepreneurial Development and the Ministry of Rural Development have introduced income-generating projects for women, provided incentives for home-based industries and introduced marketing schemes for their products; to increase the women participation in business, several funds have been established to promote Women entrepreneurship; scholarships are provided for those who have the capacity to pursue tertiary education; inequality between men and women in the family are addressed by various measures aimed at achieving more equitable sharing of parental roles and household and family responsibilities.⁴⁹

Since there is an under-representation of women at key /decision making levels in the public sector, several measures are undertaken in order to eradicate stereotypical /negative assumptions about women in the workplace; to enhance training and skills development; to formulate family-friendly policies; to shape career choices; and to increase women's empowerment.⁵⁰

In cooperation with UNDP-projects several measures have been set up to promote gender issues:

- Capacity Building on Gender Mainstreaming: The project aims to enhance capacity of the MWFC and

other key government agencies in the area of gender mainstreaming. The project will also build the capacity of MWFC and related agencies to monitor and report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and to develop a gender-related development index. The Malaysian Gender Gap Index (MGGI) is designed as a measuring instrument for gender inequality in the country. It is established to measure and monitor the extent of gender inequality and to observe the development and effects of different gender projects. MGGI consists of four parts and takes into account different aspects as health, education, economic activity and political and economical empowerment.⁵¹

- Towards Achieving At Least 30 Per Cent Participation of Women at Decision Making Levels in Malaysia: In 2004, the Government of Malaysia announced its policy to have at least 30 per cent participation of women at decision making positions in the public sector. In the Ninth Malaysia Plan (2006 – 2010), the Government reiterated this commitment. This project is conducted in partnership with the MWFC and aims to analyze the current status of women as decision makers in both the public and private sectors in Malaysia in order to arrive at a Plan of Action to achieve at least 30 percent participation of women in decision-making structures and processes.⁵²

H) Women's Movement in the country

Although Malaysian women were given the right to vote right from the beginning in 1957 – which however was owed partly to the suffrage movements elsewhere in the world that made the idea plausible and acceptable – it took many years for women to be recognised as people with rights to participate in determining who had political control over their lives because societal structures were mainly male-dominated.⁵³ Many non-governmental institutions have tried and were successful in promoting women's rights, and they have supported the taken actions by the government in order to create gender equality in society. One of them is the National Council of Women's Organisation (NCWO) which was established in 1960. It has taken the role of an umbrella organisation for all non-governmental women's organisations in Malaysia and has been a catalyst for change in all areas of national activity. From equal pay to the position of women in marriage separation, divorce, to legal question of maintenance, custody of children, division of property in cases of divorce, to the appointment of women to assist in Departments of Islamic Affairs in the States, the NCWO has been the most effective, determined and vocal advocate for women in Malaysia. The NCWO president Tan Sri Fatimah Hashim was even the first women minister in the Malaysian cabinet.

From 1966, the Organisation had urged the Government to establish a special Women's Bureau. The National Advisory Council for the Integration of Women in Development (NACIWID) was officially established on the 20 June 1976. Through the Advisory Council working with the Women's Section of the Prime Minister's Department (HAWA) and NCWO, women in Malaysia were able to pursue both short term and long term programmes in order to achieve their goals. In the 1970's the NCWO celebrated the International Year for Women by calling for representation of Women's Organisations in the ASEAN Region. This led to the formation of the ASEAN Sub-Committee on Women and the ASEAN Confederation of Women's Organisations (ACWO).⁵⁴ Today, the NCWO has more than 200 welfare, political, and labour organisations affiliated to it. Its main role is to be a consultative and advisory body to women's organisations with the aim of bringing them Together to raise the standard of living of women.⁵⁵

From 23rd to 24th March 1985, a workshop and exhibition against violence against women was organised to commemorate International Women's Day. This event witnessed the attendance of more than 1,000 women, men and youth. Four main issues were highlighted: physical violence (rape, domestic violence and sexual harassment); portrayal of women in the media; prostitution; and laws that discriminate against women. The pioneers of this initiative were the Association of Women Lawyers (AWL), Malaysian Trades Union Congress (MTUC)-Women's Section, Selangor and Federal Territory Consumers Association-Women and Media Section, University Women's Association, and Women's Aid Organisation (WAO). Since 1985, the Joint Action Group Against Violence Against Women

(JAG-VAW) has continued to focus its efforts on championing issues related to violence against women, Islamic family laws, and other laws that discriminate against women. JAG-VAW was later renamed as the Joint Action Group for Gender Equality (JAG). Today, JAG's core members are: the All Women's Action Society (AWAM), Sisters in Islam, Women's Aid Organisation (WAO), Women's Centre for Change (WCC) Penang, Women's Development Collective (WDC), and Malaysian Trades Union Congress (MTUC)-Women's Committee.⁵⁶

As religion is an important component of the countries' culture, certain organisations are specialised on this topic. Malaysia might not be an Islamic state, but the Islamic supremacy also cannot be denied. Since the 1970's Malaysia experiences an Islamic resurgence. One manifestation of that has been the appearance of an Islamic fundamentalist movement, popularly known as *dakwah*. The *dakwah* movement advocated a return to the roots of Islam through Islamic teachings calling for personal morality, restraint, and ethical behaviour and supported the creation of an Islamic state in Malaysia. In 1988 Sisters in Islam (SIS) was formed as a group of Muslim women committed to promoting the rights of women within the framework of Islam. Their efforts to promote the rights of Muslim women are based on the principles of equality, justice and freedom enjoined by the *Qur'an*.⁵⁷

I) Issues in the country that need immediate attention for gender justice

- a) Domestic Violence, Rape and Sexual Harassment: Over the years there appears to be an increase in the number and intensity of reported cases of violence against women. Especially the number of rape cases reported to the police has increased steadily over the years. Under the Penal Code, rape is narrowly defined as penile penetration, excluding offences that involve the insertion of objects into the vagina or anus or forced oral sex. As a result of this, such offenders are charged with molestation or assault with intent to outrage modesty, which carry lesser sentences. Moreover, under the *shari'a* law and under the Penal Code marital rape is not recognised as a crime. This exclusion of rape as well as marital rape as a sexual crime retains the traditional notion of rape as a sexual act instead of a violent crime. Besides that there is also an urgent need for legislation on sexual harassment to require employers to prevent its occurrence and to provide victims with timely and meaningful access to legal redress.⁵⁸
- b) Migrant Workers: An analysis conducted by the Women's Aid Organisation (WAO) of the media coverage of foreign domestic worker abuse cases reveals that this is a recurring phenomenon. There are no specific legislations that protect the rights of migrant domestic workers in Malaysia. Conversely, migrant domestic workers who are abused are ensured redress through our criminal justice system as Malaysian criminal laws are applicable to all nationals who stay in this country. But due to reasons like a lack of resources and a case overload the migrant domestic workers cases receive low priority and are thus often not followed up.⁵⁹

J) Enabling factors in the country for gender justice

- a) The inclusion of gender aspects and women rights in the national policy as well as the ratification of several international conventions
- b) Several different NGOs for women rights and gender equality, e.g. Women's Aid Organisation (WAO), Tenaganita, All Women's Action Malaysia (AWAM), and National Council of Women's Organisations (NCWO).
- c) Women continue to advance in various fields of development, largely due to their access to education and training, health care as well as improved employment opportunities. The number of female candidates elected to political decision-making bodies in Malaysia also has increased (however only at a moderate rate).

K) Main Challenges/deterrents

- a) The Government of Malaysia acceded to CEDAW only with reservations (in respect of Articles 5(a), 7(b), 9(2), 16(1) (a), (c), (f), (g) and 16(2)). It also has not ratified the Optional Protocol to CEDAW. Furthermore, besides for the amendment to Article 8(2) of the Federal Constitution, CEDAW's principles of substantive equality and non-discrimination have not been incorporated into domestic legislation and cannot be invoked and given effect by courts, tribunals and administrative authorities.
- b) Under the Federal Constitution a plural legal system operates in Malaysia. In Peninsular Malaysia, *shari'a* law applies to the personal law of Muslims while the civil law applies to Muslims in all other respects and to the Non-Muslim populace in general (In East Malaysia both *shari'a* law and the civil law apply, but there is an additional provision for native customary law and legal system which have jurisdiction over native laws or customs where at least one of the parties is a native). But Malaysia's two legal systems are often in conflict. Over the years, there have been several cases and concerns arising e.g. out of the conversion of one spouse to Islam. While the right to religion is protected in the Federal Constitution, in light of the dual legal system governing Muslim and non-Muslim personal law separately, such conversions can lead to difficult and complex situations involving maintenance, guardianship and custody of children, conversion of children and inheritance issues. In the case of *Shamala Sathiyaseelan v Dr Jeyaganesh C Mogarajah & Anor* [2004] 2 CLJ 416, a Hindu mother filed for custody of her two children. Her former husband had converted to Islam and converted their minor children without her knowledge or consent. The High Court decided in April 2004 that the civil court had no jurisdiction to hear a case involved the issue of conversion to Islam. The decision meant that the Hindu mother who has no legal standing in the *Shari'a* Court is left with no remedy at law.⁶⁰
- c) Although there have been substantive changes on the face of the law, the challenge lies in interpretation and implementation; and changing the prevailing societal attitudes that continue to present obstacles for the effective exercise by women of their rights.⁶¹ Various cultural and institutional factors which are predicated on restrictive notions of a woman's role in society often intersect to form barriers to the advancement of women's career and upward mobility in an organisation. It is a common observation that a working or career woman is faced with the difficult situation of having to perform and cope with multiple roles as a wife, mother and worker. Given the intense pressure posed by social conditioning and cultural imperatives to conform to the idea that a woman's duty is first and foremost to her children and husband, it is not surprising that many women choose to prioritise their family rather than their career. Although the ideas about the role of women have changed and become more liberal among the educated or modern communities in Malaysia, there are still many people who cling to the traditional socio-cultural stereotypes and attitudes about the role of women. These gender stereotypes are not only reinforced in the mass media, the conservative and traditional attitudes are also highlighted in the literature on women in primary school textbooks. These books portray women's primary role as a wife and mother. Women are not presented as having the abilities and potential for developing professional careers. Men are considered having the responsibility to provide money, shelter and safety for their wives and family. The Ministry of Women, Family and Community Development (MWFCDD) has requested the Ministry of Education to eliminate these stereotypical images and representations of women and to ensure that women in textbooks and education programmes are presented in diverse occupations and roles rather than solely as wives and mothers.⁶²
- d) The lack of a critical mass is another stumbling block in the way of moving the agenda of women speedily forward. Due to the fact that there are only a few women in leadership

positions in key institutions like political parties, top ministries and executive and legislative bodies, women are viewed as not only lacking the political clout but also the ‘critical mass’ or collective bargaining power in key positions to effectively influence decision making processes and shape the party or government agenda.⁶³

- e) According to UNICEF Malaysia, future challenges to be considered include: addressing the continued poverty among female-headed households; combating violence against women; raising the effectiveness of gender mainstreaming strategies; reducing women’s risk of contracting HIV; removing attitudinal challenges that impact capacity-building; and raising the level of women’s participation in the labour force, in business and in politics and government.⁶⁴

L) Comments

In the construction of gender role, each ethnic group in Malaysia is influenced by Asian values, which determine the role of women in the domestic / private sphere while men dominate the public sphere. The Malays are influenced by the customs or “adat” and religious (Islamic) teachings. Likewise, the Indian community is also influenced by the Hindu religion and Indian customs. The Chinese, on the other hand, determine gender roles through customary rather than religious practices.

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² Ibid.

³ Ibid.

⁴ Ibid. UNESCO Institute of Statistics estimates.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid. Classified under the group of countries with estimates from special maternal mortality studies.

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¹¹ Ibid.

¹² UNSTAT: MDG Indicators for Malaysia.

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¹⁴ All numbers MWFC: *Local Authorities Council Members by State and Sex, 2007* (http://www.kpwkm.gov.my/BI/Upload/20080624_010452_11326_t7.6.pdf) (accessed 04 Nov 2008).

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(http://www.undp.org.my/index.php?option=com_content&view=article&id=341&Itemid=649) (accessed 07 Nov 2008).

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²¹ Both numbers *ibid.*

²² Both numbers MWFC: *Public Sector Personnel by Service Group and Sex, June 2006* (http://www.kpwkm.gov.my/BI/Upload/20080623_082314_19868_c7.4.pdf) (accessed 04 Nov 2008).

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* numbers from a yet unpublished report from EMPOWER, for internal FES usage only