



Grounding Human Rights in Malaysia for All: Embracing Change

ADVOCACY BRIEF



Gender
Equality
Initiative
in Malaysia



Co-financed by the Connecting Europe Facility of the European Union

CONTEXT SETTING: MALAYSIA

Malaysia is a multi-diverse country in Southeast Asia that comprises two non-contiguous regions, namely Peninsular & West Malaysia.¹ In the first quarter of 2021, Malaysia's population reached 32.75 million with the sex ratio at 106 males per 100 females.² Heading towards an ageing nation, Malaysia has seen an increase in the numbers of population aged 65 and above as well as a decline in both the following age categories percentages - young and working.

Women and girls in Malaysia account for 48.6% of the total population, close to the percentage of women and girls in the East Asia Pacific region which is at 49.33%.³ Even though they represent almost half of the nation's population, they are still facing many forms of gendered injustice through discriminatory and archaic laws and policies that hinder Malaysia's progress towards achieving gender equality.

Since acceding to CEDAW in 1995, Malaysia maintains its reservation to Articles 9(2) and 16(1) (a), (c), (f) and (g) while accepting several UPR recommendations to promote and empower the rights of women and awareness towards gender equality.⁴ Malaysia has participated in three cycles of the UPR – 2009, 2013 and 2018. In Malaysia's last review, it received 268 recommendations covering a wide range of areas, including international obligations, civil and political rights, discrimination, and human rights education and training. Of these, 147 recommendations were accepted in full, 37 were partially accepted and 84 were noted.⁵ Inconsistencies pertaining to gender discriminatory laws can be resolved by enacting a Gender Equality Act which will then help the Malaysian government to attain its CEDAW commitments, upholding Malaysia's women's rights to the highest level.⁶



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¹<https://www.britannica.com/place/Malaysia/Climate>

²https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=430&bul_id=aVlJRDAvbjhWWEhQa1YvSWhsSjF3QT09&menu_id=LopheU43NWJwRWVSZkIWdzQ4TlhUUT09

³<https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=Z4>

⁴FRHAM, (2020), Monitoring Report: Gender Equality in Malaysia. Retrieved from: <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

⁵The Universal Periodic Review: A Practical Guide to the 3rd Universal Periodic Review (UPR) of Malaysia 2018 -2023, https://www.suhakam.org.my/wp-content/uploads/2020/05/UPR-Booklet-ENG_FINAL.pdf

⁶FRHAM, (2020), Monitoring Report: Gender Equality in Malaysia. Retrieved from: <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



FEMALE GENITAL MUTILATION/ CUTTING (FGM/C) IN MALAYSIA

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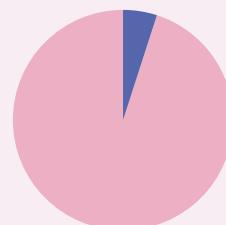
FEMALE GENITAL MUTILATION/CUTTING (FGM/C) IN MALAYSIA

Female genital cutting is a contentious subject in Malaysia. This divide between those who believe the practice should continue and those who do not, was compounded in 2009 after the National Fatwa Committee issued a fatwa that made it obligatory (wajib) for Muslim women to be circumcised unless this was potentially harmful to their wellbeing.¹

Furthermore, the Malaysian Islamic Department of Development (JAKIM) published guidelines for medicalised FGM/C in 2018, thus legitimising the practice as acceptable, despite international condemnation.² Though there is much debate on the issue, there is little to no prevalence data and research available on FGM/C within the country.

From the little research available, it is understood that 90% of Muslim women in the country have been circumcised, with reasons ranging from health and hygiene concerns to cultural and religious beliefs.

In its 2008 CEDAW review, the Malaysian government reported that the type of female circumcision practiced in the country fell under Type 4 of the World Health Organization FGM/C classification scheme, i.e., “all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterising the genital area.” However, in 2018, at their CEDAW review, the Malaysian government revised its categorisation of the practice and said that Type 1a, “removal of the prepuce/clitoral hood only” was also carried out. Though traditionally performed by village midwives, the practice is now becoming available and popular through the services of medical doctors. Malaysia has been consistent in reiterating that female circumcision that is practised in the country does not cause adverse effects on maternal or perinatal mortality or morbidity.³ Although WHO passed a resolution forbidding the medicalisation of FGM/C and discouraging health professionals from performing such surgery, unfortunately in Malaysia where it is illegal for doctors to perform FGM/C, some doctors are performing the procedure and are becoming a popular choice among parents.⁴



It is understood that about 90% of Muslim women in Malaysia have been circumcised.

¹<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

²<https://arrow.org.my/wp-content/uploads/2020/03/Asia-Network-to-End-FGMC-Report.pdf>

³CEDAW/C/MYS/FCO/3-5: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/042/74/PDF/N2104274.pdf?OpenElement>

⁴A Rashid, S Patil, A Valimalar. The Practice Of Female Genital Mutilation Among The Rural Malays In North Malaysia. The Internet Journal of Third World Medicine. 2009 Volume 9 Number 1.



Different communities have cited various reasons for the practice including religion, passage to womanhood, hygiene, social identity (norms), tradition, culture, health, controlling or enhancing women's sexuality, protection of virginity, peer pressure, socio economic status and marriageability.⁵ A study conducted by Rashid et al. (2019) found that almost everyone in the community believed FGM/C is compulsory in Islam and wanted the practice to continue, whereas the traditional practitioners and more importantly the Muftis, who are responsible for issuing religious edicts, say it is not a religious requirement.⁶

Data from UNFPA presents to us that an additional 12 million child marriages and two million cases of female genital mutilation or cutting in the aftermath of COVID-19 will need to be averted to achieve Agenda 2030.



Even so, this figure does not include potential survivors from most Asian countries. Asian countries in the region are signatories to the Convention on the Rights of the Child. This constitutes that States are obligated to act in the best interest of the child to enable the protection, promotion and fulfilments of the political, economic, social, health and cultural rights of the child. Yet again, there has been little to no progress on eliminating FGM/C in the region.

Based on studies, a majority of girls are violated through this irreversible procedure which is performed without the consent of the child. They are cut at the age of seven (India), under the age of 5 (Maldives), before their first birthday (Malaysia), and at less than 6 months old (Indonesia). FGM/C undermines the right of the child to bodily integrity and their rights to protection.



⁵ Rashid A, Iguchi Y. Female genital cutting in Malaysia: a mixed-methods study. *BMJ Open* 2019;9:e025078. doi: 10.1136/bmjopen-2018-025078

⁶ Ibid



A long list of physical harms may be inflicted on and experienced by a girl during and immediately after cutting such as severe pain, hemorrhaging, shock, vaginal infections, cysts, urine retention, damage to adjoining organs, and in extreme cases, death. Inevitably, more severe forms of FGM/C will lead to greater risks. Nonetheless, all forms of FGM/C, including medicalised FGM/C, may cause immediate and life-long health adverse effects on the child. Long-term complications can include sexual problems such as pain during intercourse and decreased satisfaction, and psychological trauma. Regardless of the evidence of harm inflicted by FGM/C, there is still no sight of anti-FGM/C laws in the Asian region.⁷

RECOMMENDATIONS AND THE WAYS FORWARD⁸

The government must bring together all relevant stakeholders, including religious authorities, health professionals, and civil society, to participate in a constructive dialogue to break the existing impasse on female circumcision/genital cutting/genital mutilation caused by divergent viewpoints.

The government must look into intersectional, gender responsive, human rights based and multi-sectoral response and recovery efforts, especially to account for the particular needs and lived experiences of women and girls that are at risk of, or are survivors of, female genital mutilation or cutting.

Develop evidence-based National Action Plans, establish national budget lines and carry out national and community-level awareness and education programmes aimed at FGM/C prevention.

Take concrete steps to implement the recommendations of the Committee for the Elimination of Discrimination against Women and the Committee on the Rights of the Child which relate to prevention of FGM/C, where applicable.

Legislate laws and policies to prohibit all forms of FGM/C, sending a clear message that the practice is a violation of girls' rights.

Consult and engage religious leaders, scholars and institutions to issue rulings (fatwas) against all forms of the practice and support and fund awareness and education campaigns.

⁷ HRC statement

⁸ <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



Carry out representative household surveys and fund other forms of research to strengthen the evidence base on prevalence, incidence and types of FGM/C being practised nationally.

Support community-led data collection, monitoring and reporting on the impact of COVID-19 on female genital mutilation or cutting to inform real-time crisis response and recovery efforts.

Recognise that girls and women play a critical role in COVID-19 crisis management and mitigation and include them equally and meaningfully in the designing, implementation, financing and monitoring of emergency response for female genital mutilation or cutting at local, national, regional and international levels.

Commit to providing country-level data in relation to Sustainable Development Goal indicator 5.3.2: Proportion of girls and women aged 15–49 years who have undergone FGM/C, by age.



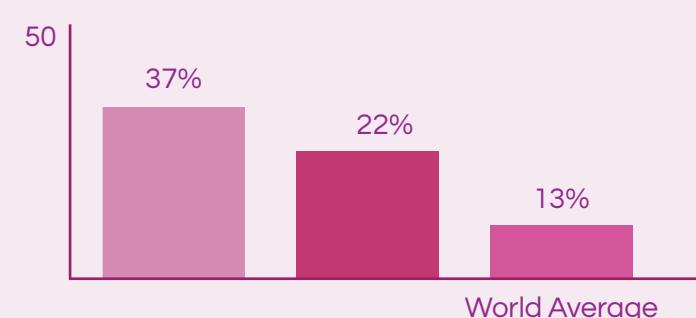
GENDER-BASED VIOLENCE IN MALAYSIA

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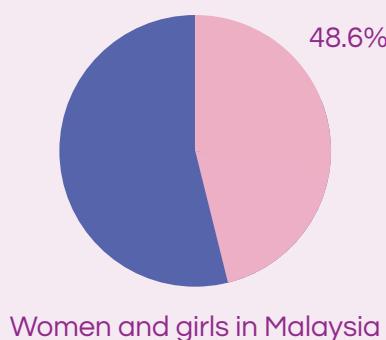


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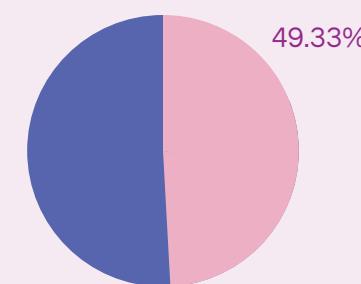
Globally, violence against women disproportionately affects the low- and lower-middle-income countries and regions. Thirty-seven per cent of women aged 15 to 49 living in countries classified by the Sustainable Development Goals as “least developed” have been subject to physical and/or sexual intimate partner violence in their life. Twenty-two per cent of women living in “least developed countries” have been subjected to intimate partner violence—substantially higher than the world average of 13 per cent.¹



Statistics of physical and/or sexual intimate partner violence in “least developed countries”



Women and girls in Malaysia



Women and girls in East Asia Pacific

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Even though they represent almost half of the nation’s population, they are still facing many forms of gendered injustice through discriminatory and archaic laws and policies that hinders Malaysia’s progress towards achieving gender equality. Since acceding to CEDAW in 1995, Malaysia maintains its reservation to Articles 9(2) and 16(1) (a), (c), (f) and (g) while accepting several UPR recommendations to promote and empower the rights of women and awareness towards gender equality.³

¹<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

²<https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=Z4>

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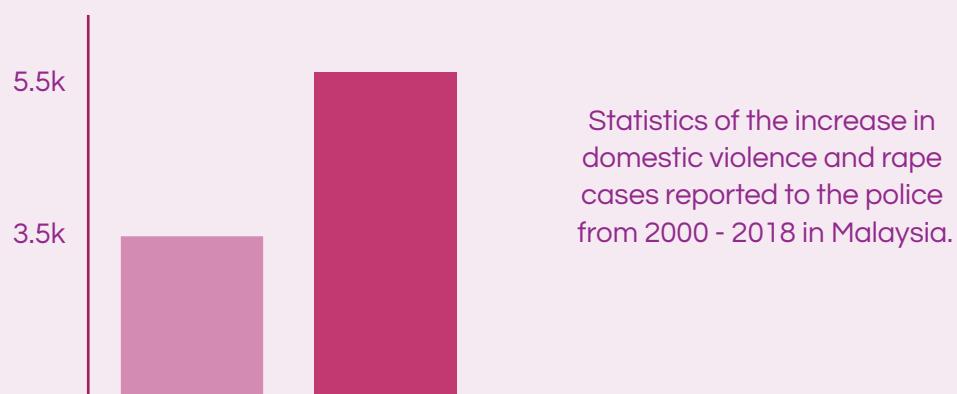
147	37	84
Accepted in Full	Partially Accepted	Noted



268 recommendations covering wide range of areas, including international obligations, civil and political rights, discrimination, and human rights education and training were received in Malaysia's last review.

SITUATIONAL ANALYSIS: GENDER-BASED VIOLENCE IN THE NATIONAL CONTEXT

Gender-based violence (GBV) refers to harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms and is a serious violation of human rights and a life-threatening health and protection issue.⁶ Sexual and gender-based violence (SGBV) denies the human dignity of the individual and harms human development. SGBV is largely rooted in individual attitudes that condone violence within the family, the community and the State.⁷ In Malaysia, statistics show that the numbers of domestic violence and rape⁸ cases reported to the police have sharply increased from 3.5k to 5.5k reported cases of domestic violence from 2000 - 2018⁹, with the actual unreported numbers considered to be much higher.



⁴ The Universal Periodic Review: A Practical Guide to the 3rd Universal Periodic Review (UPR) of Malaysia 2018 -2023, https://www.suhakam.org.my/wp-content/uploads/2020/05/UPR-Booklet-ENG_FINAL.pdf

⁵ <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

⁶ <https://www.unhcr.org/en-my/gender-based-violence.html#:~:text=Gender%2DBased%20violence%20refers%20to,threatening%20health%20and%20protection%20issue> ⁷ <https://www.unhcr.org/en-my/sexual-and-gender-based-violence-in-malaysia.html>

⁸ <https://wao.org.my/rape-statistics/>

⁹ <https://wao.org.my/domestic-violence-statistics/>



Based on statistics released by the Penang Women Centre for Change (PWCC), one woman is raped every 35 minutes in Malaysia.¹⁰ Though marital rape is not legally recognised in the country, Section 375A of the Penal Code states that any husband causing fear of death or hurt to his wife in order to have sex shall be punished for term which may extend to five years. However, as marital rape is not criminalised in Malaysia, women are not able to access justice.

In light of COVID-19, Malaysia is not alien to the terrors of gender-based violence which were aggravated in homes due to the lockdowns throughout 2020 and 2021. The Women's Aid Organisation (WAO) reported an eerie spike of domestic violence complaints and inquiries through their hotline for each lockdown Malaysia experienced.

Civil society organisations in Malaysia have raised their frustration regarding the national hotline for women and children, Talian Kasih, for failing to provide the assistance and support sought by victims due to the suspension of the hotline.¹¹ Many contended that the hotline is no longer relevant for GBV victims as the scope of the hotline had broadened to attending to COVID-19 relief as well.

According to SUHAKAM, between March and May 2020, the Department of Social Welfare (JKM) issued 17 Emergency Protection Orders (EPO). This reveals an increase of domestic violence cases during the lockdowns. SUHAKAM was also informed there was a devastating inadequacy of the numbers and capacity of temporary shelters for survivors, especially in rural areas and in Sabah and Sarawak.¹²

It must not be forgotten as well that this violence has seeped into the online sphere, endangering our women and children especially.

Cases of online sexual harassment and attacks involving minors were captured throughout the pandemic which proves to us that we have not informed our children enough on the harms of the internet and the ways in which they can protect themselves and seek support. Different forms of online gender-based violence such as doxxing, harassment, stalking and incitement are still not criminalised, and have heightened exceptionally during the peak of the pandemic.

According to the UNHCR, there are five main challenges for SGBV response in Malaysia: (1) Limited implementation of CRC, CEDAW and other legal instruments relevant to protection of survivors of SGBV; (2) Limited access to state services and systems; (3) Traditional harmful practices within the refugee community; (4) Low SGBV awareness among refugees, especially on prevention, identification and response; and (5) Limited relevant stakeholders and available resources.

¹⁰ <https://www.malaysiakini.com/news/322980>

¹¹ <https://www.thestar.com.my/news/nation/2020/08/04/talian-kasih-sees-500-increase-in-calls-during-mco-says-rina-harun>

¹² <https://www.suhakam.org.my/wp-content/uploads/2020/07/SUHAKAM-Matrix-Issues-and-Recommendations-COVID-19-and-Women.pdf>

¹³ Ibid



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Limited access to state services and systems

Traditional harmful practices within the refugee community

Low SGBV awareness among refugees, especially on prevention, identification and response

Limited relevant stakeholders and available resources

According to a recent report by Women's Aid Organisation (WAO), "Refugee women in Malaysia are at significant risk of sexual and gender-based violence (SGBV) as a result of their lack of legal status in the country, the normalisation of violence within refugee communities, and the inaccessibility of protection and justice mechanisms, all of which are further exacerbated by xenophobia against refugees."¹⁴

Malaysia is not a signatory to the 1951 Refugee Convention and also lacks any kind of comprehensive framework for refugees and asylum seekers. The lack of legal status puts refugee women at a higher risk of SGBV and GBV. Similarly, women and girls with disabilities are also at a higher risk.

RECOMMENDATIONS AND THE WAYS FORWARD¹⁵

Review existing laws and policies with the support of women NGOs, and assess its implementation. This includes assessing the data gathering process and its validity.

Continue supporting reform of the Domestic Violence Act, in particular, to broaden its definition to include intimate partner violence so that 'in-union' couples can benefit too from the law's coverage; improve rehabilitation provisions; and extend the maximum duration of Protection Orders.

Improve the kind of official gender data, especially statistics which are disaggregated by sex, age, ethnicity, religion, disability, etc., that are regularly collected and made accessible.

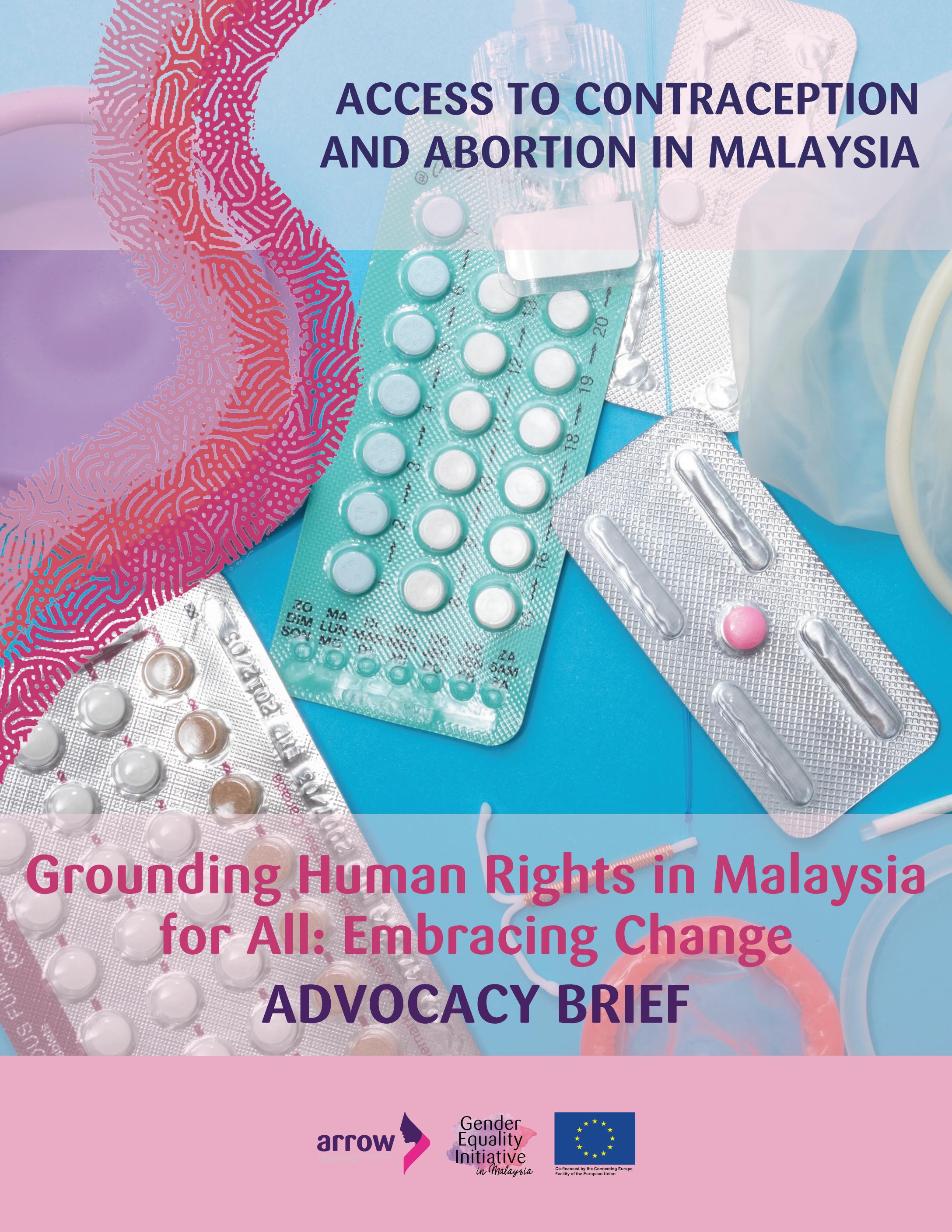
Ensure that survivors of gender-based violence have better support services regardless of their social status and location. Improvements can be made in relation to, for example, lodging police reports, obtaining protection, getting services via the One Stop Crisis Centre, and support during court proceedings.

¹⁴ <https://wao.org.my/refugee-women-in-malaysia-are-at-increased-risk-of-gender-based-violence-while-having-limited-access-to-protection-and-justice/>

¹⁵ <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



Support the CEDAW Committee recommendations to eliminate all forms of discrimination against women by withdrawing the remaining reservations to ensure the full applicability of CEDAW in Malaysia, and adopt a comprehensive legal framework for refugees and asylum seekers, to remove the barriers in accessing justice and seeking help to refugee women survivors of SGBV.



ACCESS TO CONTRACEPTION AND ABORTION IN MALAYSIA

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ACCESS TO CONTRACEPTION AND ABORTION IN MALAYSIA

Contraception and abortion are both issues that were discussed at the Cairo Programme of Action and the Beijing Platform of Action in 1994 along with their review conferences outcome documents, of which Malaysia is a part of. There were three indicators identified:

- (i) laws to guarantee women and men aged 15 years and older access to sexual and reproductive healthcare, information and education;
- (ii) the proportion of women (15–49 years old) who made their own informed decisions regarding reproductive healthcare, contraceptive use, and sexual relations, and could access sexual and reproductive healthcare services in a public health facility;
- (iii) the proportion of married or in-union women of reproductive age (15–49 years old) who have had their need for family planning satisfied with modern methods as well as are able to access sexual and reproductive healthcare services in a public health facility.

The Ministry of Health Malaysia (MOH) has made a commendable effort in writing a thorough guideline for healthcare providers to bolster young people's access to Sexual Reproductive Health services in governmental health facilities, aligned with the recommendations from the UN Special Rapporteur on Health back in 2014.¹ On paper, maternity care (antenatal and postnatal services) as well as contraception and family planning services are offered to women in Malaysia from primary and community-based health clinics or hospitals.² Despite the effort, the impact of the guideline is still in question due to the lack of evidence for this particular intervention. With the continuous rise of baby-dumping cases and teenage pregnancies, it is an obvious assumption that there are still barriers for young people and adolescents in accessing these crucial reproductive health services in this country.

Furthermore, the MOH's approach in improving young people's accessibility to sexual reproductive health and rights services is not reflected in the National Population and Family Development Board Malaysia (NPFDB)'s service provision. Contraception services in NPFDB are only offered to married women and do not cover unmarried individuals regardless of age. This further perpetuates stigma and confusion on the accessibility of these services towards unmarried individuals in Malaysia.

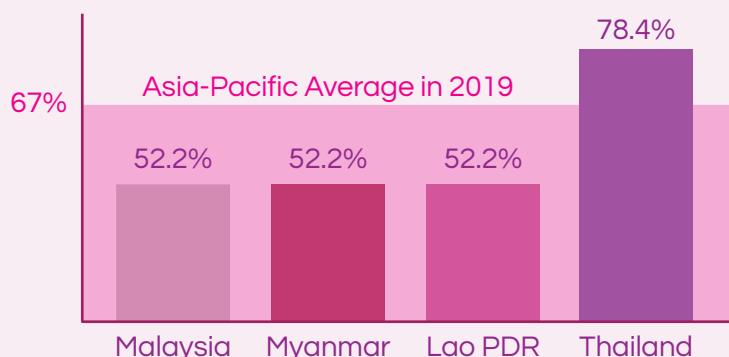
¹<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

²Ibid



In 2019, the prevalence rate for married women at reproductive age who fulfilled their need for contraception using modern methods - including male and female sterilisation, IUD, the pill, injectables, hormonal implants, condoms and female barrier methods was 39%, tripled from the 13% prevalence rate in 1969.⁶ The increase was incredibly slow as it happened over the span of 50 years and the prevalence rate is still considered low in comparison with the 62% Asia-Pacific regional average. Despite the rising numbers of teenage pregnancies, access to contraceptive services prove difficult for young women due to socio-cultural factors and the taboos around premarital sex. Discriminatory attitudes of service providers towards girls trying to access contraceptive services have been noted.

The COVID-19 pandemic has imminently aggravated the situation as we anticipated a baby boom in 2021.⁷ Further economic impact will surface if parents do not practise family planning which can ensure quality of life by properly spacing out births and providing adequately for their children.⁸ On top of that, Malaysia continues to face an annual average of over 100 babies being dumped.



Statistics of contraceptive prevalence rate (CPR) for women in the regional Asia-Pacific and South East Asia.

RECOMMENDATIONS AND THE WAYS FORWARD

Support the Ministry of Health in its efforts to ensure that Sexual Reproductive Health services are accessible for all - regardless of their marital status. This includes ensuring information on contraception and abortion services are widely disseminated, and working with healthcare providers to raise their awareness about providing services that are gender-sensitive, youth-friendly and rights-based.⁹

The services by NPFDB need to incorporate unmarried individuals who are sexually active into contraception programmes.

Ensure gender-disaggregated data is regularly updated and be made publicly available.

The government must collaborate with civil society organisations and academia on conducting in-depth research in creating evidence-based policies related to Sexual Reproductive Health and Rights.

⁷ <https://malaysia.unfpa.org/en/news/malaysias-covid-19-recovery-needs-centre-women-and-girls>

⁸ Ibid

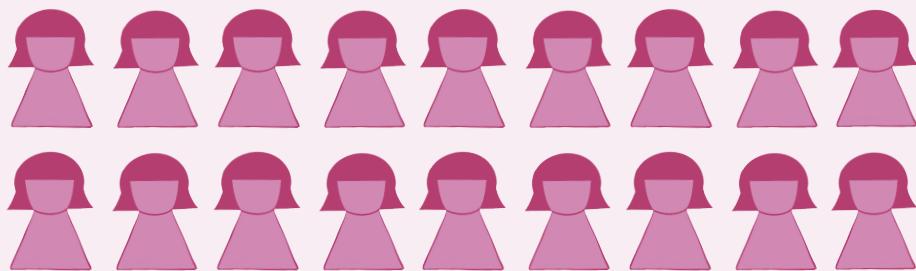
⁹ <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



In relation to safe abortion services, Malaysia has quite a progressive provision in the Penal Code since its amendment in 1989 where abortion is permissible to save the life of the pregnant individual, or to preserve their mental and physical health. This can only be determined by a registered medical practitioner under the Medical Act 1971. For those 18 years old and below, abortion services can only be obtained with parental or guardian consent. Even with these positive exceptions, abortion services continue to be highly stigmatised due to misinformation on abortion, personal biases amongst health practitioners and lack of awareness regarding its legality. This hinders women and girls from getting timely health services.

With respect to gender-sensitive data, there is a lack of public data available in health services, especially in sexual reproductive health and services in Malaysia. This can be seen through the publication of The State of World Population 2019 by United Nation Population Funds (UNFPA) Report where the percentage of married or in-union women aged 15–49 years who make their own decisions regarding sexual intercourse with their partner, use of contraception and healthcare, does not include Malaysia's data. This may cause the inability to determine the actual status of women and girls' sexual reproductive health in this country and halt any further effort in improving their status.

CONTRACEPTION AND ABORTION: WHERE DOES MALAYSIA STAND?



Statistics show that the rates of unplanned teenage pregnancies is at an average of 18,000 every year (or 50 a day).

Since 1984, the contraceptive prevalence rate (CPR) for women aged 15–49 years in Malaysia has remained stagnant to this day at 52%, whereas the regional Asia-Pacific average in 2019 was 67%.³ In the South East Asia region, Malaysia and Myanmar have the lowest CPR at 52.2% together with Lao PDR while their own neighbour, Thailand, has the highest rate at 78.4%. The unmet need for family planning in Malaysia is 17.6% for women in reproductive age, the highest among all her ASEAN counterparts.⁴ The unmet need continues to grow especially amongst young unmarried women with low educational attainment, as seen with the numbers of unplanned and unwanted pregnancies to this day. Young women and girls yet again are exposed to increased risk of maternal mortality and childbirth difficulties when the rates of unplanned teenage pregnancies, is at an average of 18,000 every year (or 50 a day).⁵

³ WAO and JAG, 2019:49, 152, 155.

⁴ World Population Day poster 2018, LPPKN.

⁵ <https://malaysia.unfpa.org/en/news/malaysias-covid-19-recovery-needs-centre-women-and-girls>



COMPREHENSIVE SEXUALITY EDUCATION IN MALAYSIA

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COMPREHENSIVE SEXUALITY EDUCATION IN MALAYSIA

Comprehensive Sexuality Education (CSE) is a teaching syllabus on sexuality which comprises multiple aspects - from cognitive to social skills. It supports young people's sexual and reproductive health development in preparing them with evidence-based information on their sexual and reproductive health and rights (SRHR) so they are able to make informed decisions while living a fulfilling life. According to the International Technical Guidance for Sexuality Education by UNESCO (2018)¹, CSE includes 8 key components; 1) relationships, 2) values, rights, culture and sexuality, 3) understanding gender, 4) violence and staying safe, 5) skills for health and wellbeing, 6) the human body and development, 7) sexuality and sexual behaviour, and 8) sexual and reproductive health. These topics are introduced with children's age progression to make it age-appropriate and are tweaked so they are relevant to the culture of the specific audience.

According to the Technical Guideline for Sexuality Education by UNESCO (2018)¹⁸ CSE includes 8 key components:

Relationships

Values, rights, culture and sexuality

Understanding gender

Violence and staying safe

Skills for health and wellbeing

The human body and development

Sexuality and sexual behaviour

Sexual and reproductive health

In Malaysia, efforts in advancing reproductive health through education, information and services of the young people can be seen through the National Policy on Reproductive Health and Social Education (Pekerti) and its Plan of Action that was approved by the Parliament in 2009. This policy implementation was tasked on the governmental agency under the Women's Ministry, the National Population and Family Development Board (Lembaga Penduduk dan Pembangunan Keluarga Negara, LPPKN)². Later on, LPPKN introduced a module together with FRHAM and the Women's Centre for Change (WCC) for its Kafe@Teen Adolescent Centres for 13-24 year old urban youth and oversaw the no-longer-operating National Service Training Programme (Program Khidmat Latihan Negara, PLKN) which integrates reproductive health and social education in their programme for 18 years olds.

However, the glaring limitation of CSE implementation in Malaysia is that the approach to sex education is too academic and is commonly conveyed ambiguously to mitigate the shame of the topic by educators in schools.

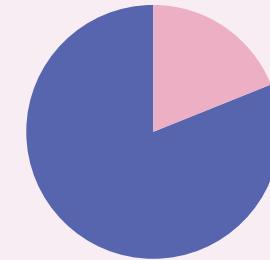
¹UNESCO, (2018), International Technical Guideline for Sexuality Education. Retrieved from: <https://www.unfpa.org/sites/default/files/pub-pdf/ITGSE.pdf>

²<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



The emphasis in Malaysia's sex education is geared towards the pros and cons of sexual intercourse rather than the many pertinent aspects of a child's sexual health and reproductive rights. The detriment of keeping these important conversations in the dark is that our adolescents eventually have to endure the consequences of unsafe sex.

According to a survey conducted by Malaysia's Health Ministry, 35 per cent of Malaysian female youths believe that having sex for the first time does not lead to pregnancy, and one in five Malaysians believe that sexually transmitted infections (STIs) could be transmitted by mosquitoes³ – a disturbingly high amount for such glaringly incorrect.



1/5 Malaysians believe that STIs could be transmitted by mosquitoes.



35% of Malaysian female youths believe that having sex for the first time does not lead to pregnancy.

Using FRHAM's Reproductive Health for Adolescents and LPPKN's Cakna Diri module, LPPKN hand in hand with the Ministry of Health (MOH), initiated the Pekerti@School programme for 12-year old and 15-year old teens respectively. Another module was also created focusing on 16-year old teenage boys in five selected states. Independently, in the 1980s, the Ministry of Education integrated a form of sex education in secondary schools and extended the effort towards primary schools in the mid 1990s in the Health Education curriculum which later evolved to become the Reproductive Health and Social Education (PEERS) programme.

PEERS adopts a harm reduction approach where the information given is abstinence-based and fear-mongering on the 'consequences' of premarital sex. The syllabus is taught separately in several different subjects like science, biology, religious and moral education or physical education in Year 1 to Form 5 and not as a standalone subject. The topics discussed emphasise on the importance of safe sex where sexually transmitted infections (STIs) are concerned but is very limited on the topic of prevention of pregnancy where it is taught exclusively in the context of marriage. UNICEF reported that despite the numerous policies and initiatives in place, Malaysia's policies on sex education continue to lack clarity as none of them recognise the importance of having comprehensive sexual and reproductive health and rights (SRHR) services which include education. During the Universal Periodic Review in 2019, it was recommended that Malaysia's sexuality education be updated in line with ITGSE.

³https://umsc.my/umsc_news/teenage-pregnancy-who-is-to-blame/#:~:text=According%20to%20a%202015%20survey,by%20mosquitoes%20%E2%80%93an%20alarming%2ointerpretation!



The policies created do not complement the MOH's effort in boosting SRHR services among young people in governmental health facilities. Instead, it instills fear and judgment in youth which hinders them from seeking these crucial services. The prevalence of baby-dumping, teenage pregnancies and child marriage suggests policies on reproductive health education implemented did not benefit the targeted audience as intended, making them unaware of reproductive health services available.⁴

CSE plays a crucial role in addressing the health and well-being of young people. Over the last decades, evaluations of CSE programmes helped us learn how to design and deliver effective programme that improve sexual and reproductive health outcomes and promote safe and gender equitable learning environments. Yet, less than 5% of all validated development interventions ever reach scale. Most CSE interventions remain limited in duration and cease to exist after a donor funded demonstration phase. This has implications for the young people we are aiming to support. With only 5% of the \$2.5 trillion investment still required to reach the SDGs covered by Official Development Assistance⁵, many remain left behind. The development sector is unable to provide for sustainable universal CSE coverage with its limited resources and capacity.

RECOMMENDATIONS AND THE WAYS FORWARD

Develop new strategies for the most critical elements of Comprehensive Sexuality Education (CSE) and widen the coverage of the existing syllabus in line with the ITGSE.

Invest in inclusive, robust monitoring and evaluation mechanisms on CSE implementation at different levels as well as periodic research and data collection efforts.

Introduce training and sensitisation programmes for teachers and administration departments in curriculum/education policies. Training modules for teachers implementing CSE programmes should be revised periodically to ensure they are in line with the current needs.

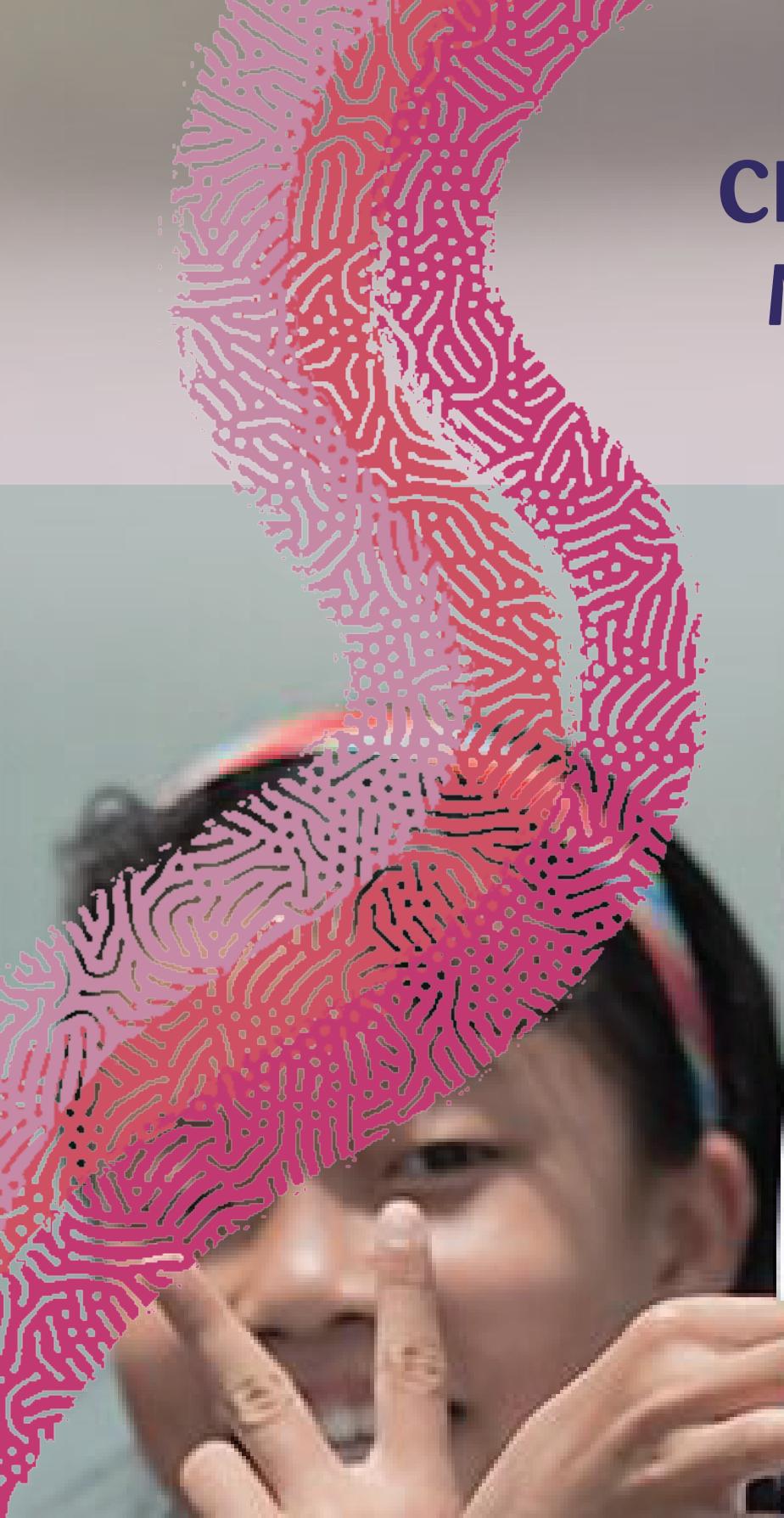
Create an enabling support system for adolescents to access CSE by ensuring continuous training and desensitisation programmes for all stakeholders that are directly involved in the implementation of CSE for in-and-out of schools.

Ensure adequate resource allocation for effective implementation and monitoring process of CSE programmes in terms of human resources, budget and monetary allocation.

Strengthen multi-disciplinary collaborations and efforts for CSE implementations and include/increase youth participation at all stages of advocacy, development, implementation, monitoring and evaluation of CSE.

⁴FRHAM, (2018), Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?, Retrieved from: <https://arrow.org.my/wp-content/uploads/2019/04/-FRHAM-ICPD-25-Final-Report-proofread-and-formatted-Jeremy-Final.pdf>

⁵<https://unctad.org/press-material/developing-countries-face-25-trillion-annual-investment-gap-key-sustainable>



CHILD, EARLY AND FORCED MARRIAGES IN MALAYSIA



Grounding Human Rights in Malaysia for All: Embracing Change ADVOCACY BRIEF



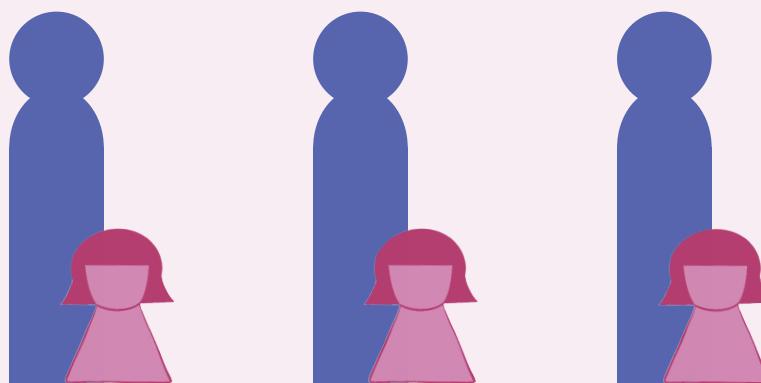
Gender
Equality
Initiative
in Malaysia



Co-financed by the Connecting Europe Facility of the European Union



CHILD, EARLY AND FORCED MARRIAGE IN MALAYSIA



Malaysia is a multi-diverse country in Southeast Asia that comprises two non-contiguous regions, namely Peninsular & West Malaysia.¹

In the first quarter of 2021, Malaysia's population reached 32.75 million with the sex ratio at 106 males per 100 females.² Heading towards an ageing nation, Malaysia saw an increase in the numbers of population aged 65 and above over the years and saw a decline in both age categories percentage - young and working.

Women and girls in Malaysia account for 48.6% of the total population, close to the percentage of women and girls in the East Asia Pacific region which is at 49.33% (World Bank, 2020).³ Even though they represent almost half of the nation's population, they are still facing many forms of gendered injustice through discriminatory and archaic laws and policies that hinders Malaysia's progress towards achieving gender equality. Since acceding to CEDAW in 1995, Malaysia maintains its reservation to Articles 9(2) and 16(1) (a), (c), (f) and (g) while accepting several UPR recommendations to promote and empower the rights of women and awareness towards gender equality.⁴ Malaysia has participated in three cycles of the UPR – 2009, 2013 and 2018. In Malaysia's last review, it received 268 recommendations covering a wide range of areas, including international obligations, civil and political rights, discrimination, and human rights education and training. Of these, 147 recommendations were accepted in full, 37 were partially accepted and 84 were noted.⁵ Inconsistencies pertaining to gender discriminatory laws can be resolved by enacting a Gender Equality Act which will then help the Malaysian government to attain its CEDAW commitments, upholding Malaysia's women's rights to the highest level.⁶

¹<https://www.britannica.com/place/Malaysia/Climate>

²https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=430&bul_id=aVlJRDAvbjhWWEhQa1YvSWhsSjF3QT09&menu_id=LopheU43NWJwRWVSZklWdzQ4TlhUUT09

³<https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=Z4>

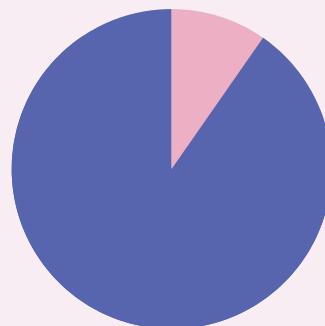
⁴<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

⁵The Universal Periodic Review:A Practical Guide to the 3rd Universal Periodic Review (UPR) of Malaysia 2018 -2023, https://www.suhakam.org.my/wp-content/uploads/2020/05/UPR-Booklet-ENG_FINAL.pdf

⁶<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

SITUATIONAL ANALYSIS: CHILD MARRIAGE IN THE NATIONAL CONTEXT

Malaysia has a dual legal system which practices a civil legal system and an Islamic (Sharia) legal system. Muslim marriages must be contracted and regulated under the Islamic family laws of each of the states. Section 8 of IFLA stipulates the minimum age of marriage for Muslims to be 18 years for boys and 16 years for girls.⁷ However, an exception is provided that allows a child under those ages to marry with the consent of the Sharia Court, for which there is no minimum age provided. There is no specific penalty provided if such an approval is not obtained.⁸ From 2005–2015, the Department of Syariah Judiciary Malaysia (Jabatan Kehakiman Syariah Malaysia, JKSM) received 10,240 applications where there was, on average, an approval rate of around 82%.⁹ Nonetheless, the department has issued a standard operating procedure for underage marriage applications to promote and strengthen the court's jurisdiction in overseeing and regulating applications of a marriage of a Muslim girl child under the age of 16.



From 2005–2015, the Department of Syariah Judiciary Malaysia (Jabatan Kehakiman Syariah Malaysia, JKSM) received 10,240 applications where there was, on average, an approval rate of around 82%.⁹

For civil marriages, the legal age of marriage for non-Muslims is 18, but interestingly, there is also an exception for females aged 16 to 18 marry with the consent of their state Chief Minister prescribed under the Law Reform (Marriage and Divorce) Act 1976 (LRA). It is equally essential to note that Malaysia acknowledges native customary marriages that are practised by the customs of the Orang Asli of Peninsular Malaysia, the Bumiputera of Sabah and Sarawak and Hindu communities.¹⁰

The LRA does not have overarching powers over these communities thus allowing their children to marry without any minimum age of marriage as opposed to the statutory minimum age of 16 for girls and 18 for boys. As reported by UNICEF as well, there is no stipulation whatsoever for the registry of these marriages which inevitably may expose these children to discriminative and gender-biased customs or practices as there is no law that prescribes their rights as a spouse.

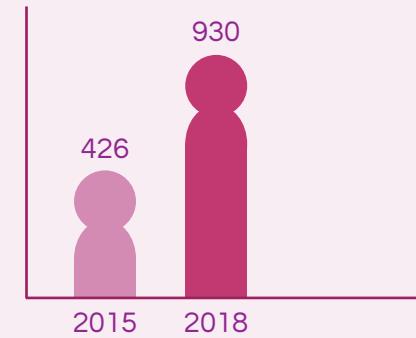
Statistics from the Ministry of Women, Family and Community Development (MWFCDF) and the National Registration Department showed that a total of 14,999 registered child marriages occurred from 2007 to 2017, of which 10,000 involved Muslims. The number of such marriages for non-Muslims also rose from 436 (2015) to 930 (2018).¹¹

⁷ http://www2.esyariah.gov.my/esyariah/mal/portalv1/enakmen2011/Eng_act.lib.nsf/858a0729306dc24748257651000e16c5/1d314361e2750042482569810025fofc?OpenDocument

⁸ <https://arrow.org.my/wp-content/uploads/2018/03/National-Report-Child-Marriage.pdf>

⁹ <https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>

¹⁰ <https://www.unicef.org/malaysia/media/711/file/Child%20marriage%20in%20Malaysia.pdf>



Statistics of the increase of child marriages for non-Muslims in Malaysia from 2015 to 2018.

Studies have shown that the reason given for supporting child marriage in the country was not poverty but to avoid premarital sex and being charged for khalwat (close proximity), family pressure and pregnancy and that “religious dogmatism and moral shaming of sexual relations outside marriage” are the main determinants.¹² Stigma and fear of prosecution around premarital sex and teenage pregnancy is so great that parents would rather opt for their children to enter into early marriage.

The stigma against premarital sex is similarly a strong driving force for the practice of child marriage in non-Muslim communities. Child marriage is seen as a solution for non-Muslim families for their children who have engaged in pre-marital sex or in some circumstances, their children are subjected to arranged marriage.¹³

As a United Nations member state, Malaysia has affirmed acceptance of the Universal Declaration of Human Rights (UDHR), whose provisions are broadly accepted to reflect customary international law. Malaysia is also signatory to the Convention on the Rights of the Child (CRC) as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The main thrust of international human rights conventions is that “early marriage is a violation of fundamental human rights and that both state and non-state actors must be held accountable under international treaty obligations to combat early child marriage...”.¹⁴

The General Assembly affirms the necessity for States to better the gathering and usage of quantitative, qualitative and comparable data on violence against women and harmful practices, disaggregated by sex, age, disability, civil status, race, ethnicity, migratory status, geographical location, socioeconomic status, education level and other key factors, as appropriate, to strengthen research and dissemination of evidence-based and good practices relating to the prevention and elimination of child, early and forced marriage and to strengthen monitoring and impact assessment of existing policies and programmes as a means of ensuring their effectiveness and implementation.¹⁵

¹¹ Ibid

¹² Ibid

¹³ <https://www.unicef.org/malaysia/media/711/file/Child%20marriage%20in%20Malaysia.pdf>

¹⁴ UNICEF 2008

¹⁵ A/RES/71/175



Fast forwarding to the year 2022, there is still no national law that prevents or limits child marriage. Despite having Sabah, Selangor and Penang agreeing to raise the minimum age of marriage, seven other states denounced their willingness to participate in the anti-child marriage campaign. Not much has progressed since the launch of the National Strategy Plan in Handling the Causes of Child Marriage due to the multiple series of change of governments which sheds some light on the absence of political will by persons in power to enact laws to protect children in Malaysia.¹⁶

RECOMMENDATIONS AND THE WAYS FORWARD¹⁷

Implement the CEDAW concluding observation to raise the minimum age of marriage to 18 for women and men for both civil and Muslim marriages and to require the full consent of women for any marriage. The ultimate solution must be a total ban on child marriage through reform of legislation. The minimum age of marriage must be raised to 18 for both genders, regardless of faith and ethnicity, with no exceptions.

Support a campaign for the implementation of the National Strategy Plan in Handling the Causes of Child Marriage, drawn up under the previous administration.

The government and its relevant ministerial departments must provide more comprehensive sex education for the youth. Comprehensive sex education is defined as an “age-appropriate, culturally relevant approach to teaching about sexuality and relationships by providing scientifically accurate, realistic, non-judgmental information.”¹⁸

A national level advocacy programme needs to be put in place to raise awareness and educate and convince relevant parties, particularly religious leaders, that this is in the interest of healthy social and cultural development.

Education to raise awareness, empower girls, and dismantle patriarchal beliefs may be done through various means such as community and school programmes.

Create awareness on the causes and harmful impact of child marriage. Targeted audience should include:

- (i) parents; (iv) policymakers;
- (ii) teachers; (v) Sharia Court judges; and
- (iii) religious leaders; (vi) community leaders.

These are the people who wield the power of decision whether to allow a girl or boy to get married.

¹⁶ <https://www.nst.com.my/news/nation/2019/09/522946/seven-states-against-increasing-minimum-marriage-age-18>

¹⁷ <https://arrow.org.my/wp-content/uploads/2018/03/National-Report-Child-Marriage.pdf>

¹⁸ (UNESCO 2015).