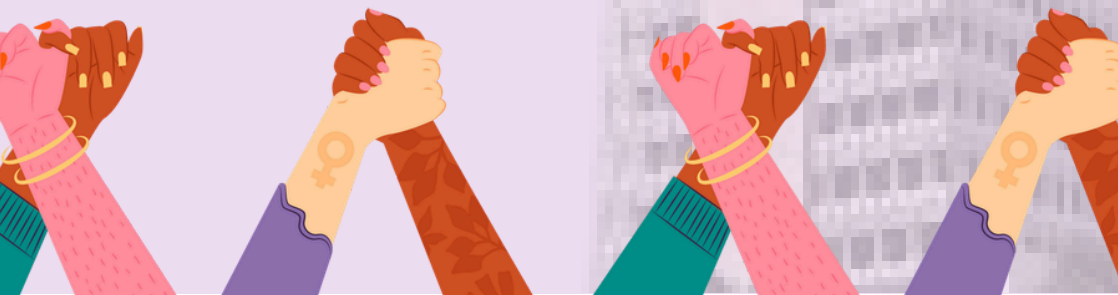


CEDAW Handbook: Legislating Equality



An Australian Government Initiative



Summary

Malaysia's commitment to gender equality is reflected by becoming a State party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), followed by the prohibition of gender discrimination read with equality before the law through Article 8 of the Federal Constitution. Parliament has a vital role in incorporating these human rights obligations into laws and guiding the scrutiny of the enforcement of policies to uphold the rights of women and girls.

The 2024 CEDAW Committee's Concluding Observations on Malaysia highlight areas of gender progress and concrete recommendations for legislative reforms needed to advance substantive equality nationwide. These recommendations provide an important framework towards evidence-based monitoring of lived realities.

This Handbook serves as a practical resource for Parliamentarians to understand CEDAW guided by women's lived experience, assess existing laws through a gender-sensitised lens, and support legislative reforms that fulfil Malaysia's constitutional and human rights commitments to gender equality.

Glossary

Gender: socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences, resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.

Intersectionality: a basic concept for understanding discrimination against women based on sex and gender. Discrimination is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, sexual orientation, gender identity and sex characteristics.

Gender-based discrimination: any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Glossary

Gender mainstreaming: the process of assessing the implications for women, men and people with diverse gender identities of any planned action – including legislation, policies or programmes – in all areas and at all levels. [Gender integration (or mainstreaming)] is a strategy for making the concerns and experiences of all persons an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes. This is done so that all individuals may benefit equally.

Gender-responsive law-making: Refers to the act of amending or repealing laws that discriminate on the basis of sex or gender, either explicitly or implicitly. It also implies enacting laws that affirm the gender equality principle and guarantee gender equality in practice.

Gender-responsive budgeting: Refers to government planning, programming and budgeting that contributes to the advancement of gender equality and the fulfilment of women's human rights. It entails identifying and reflecting needed interventions to address gender gaps in sectoral and local government policies, plans and budgets.



Introduction

What is CEDAW?

- an international bill of women's human rights
- the only near-universally ratified legally binding instrument that protects women's civil, cultural, economic, political rights—all societal aspects for gender equality to be made real
- Malaysia became a State Party to CEDAW in 1995. In 2001 gender discrimination was prohibited by the Federal Constitution



Why is it important?

- CEDAW is a tool that has been used to help women around the world to bring about change in their daily life.

Examples around the world

CEDAW was instrumental in the development of:

- Citizenship rights in Japan
- The right to property and political participation in Costa Rica
- Inheritance rights in Tanzania.
- Law on gender equality in Mongolia





Purpose of CEDAW

Eliminate Discrimination:

Prohibit and end any distinction, exclusion, or restriction made on the basis of sex that impairs women's enjoyment of human rights in political, economic, social, cultural, civil and political fields.

Achieve Substantive Equality:

Move beyond treating everyone the same to ensuring real equality of outcomes, allowing women equal access, opportunities, and benefits in education, health, employment, and gender equality in public life.

Bind Governments Legally:

Require member countries to take concrete legal, policy, and temporary special measures to dismantle discriminatory laws, archaic traditions, and stereotypes in both public and private life.



State Obligations

Article 2 of CEDAW sets out government obligations under CEDAW.

States parties must ensure compliance with the Convention

- to take all **legislative, administrative, budgetary** and other appropriate measures to eliminate discrimination against women and girls in all its forms and by any person, organization or enterprise, and
- as well as to **modify or abolish existing laws, regulations, customs and practices** that constitute discrimination directly or indirectly.

Parliament's main role in implementation of CEDAW:

- a) **Lawmaking** - Use CEDAW as a guide to parliamentary decision-making
- b) **Oversight** - Ensure proper oversight and compliance with CEDAW state obligations
- c) **Budgetary allocation** - Ensure equitable distribution of budget for the fulfilment of women's rights (gender responsive budgeting)

Article 8(2) of the **Federal Constitution** explicitly prohibits discrimination against citizens on the ground of **gender** (along with religion, race, descent, or place of birth) in laws, public appointments, and employment.



Noorfadilla Ahmad Saikin v Chayed Basirun & Ors [2012] 1 MLJ 832

Facts:

Noorfadilla was appointed as a temporary teacher. At a briefing, female candidates were asked to disclose whether they were pregnant. After disclosing her pregnancy, her appointment was withdrawn. She brought a claim alleging gender discrimination.

Finding:

The High Court found that the withdrawal of her appointment because of her pregnancy amounted to gender discrimination, contrary to Article 8(2) of the Federal Constitution.

Significance:

The case is particularly significant because the Court relied on CEDAW to interpret the constitutional meaning of gender discrimination. The Court recognised that the inclusion of “gender” in Article 8(2) was connected to Malaysia's obligations under CEDAW. The Government subsequently withdrew its appeal.

Outcome:

“The word ‘gender’ was incorporated into Article 8(2) of the **Federal Constitution** to comply with Malaysia’s obligation under the CEDAW.”

Landmark Indira Gandhi Case



Case Law

Facts: M. Indira Gandhi and her husband, K. Pathmanathan, were married in 1993 under civil law and had three children together. Pathmanathan converted to Islam, changed his name to Muhammad Riduan Abdullah, and secretly converted all three minor children using their birth certificates, without Indira's consent.

Finding:

The action of the Respondents in registering the conversion without the mother's consent was held to be unconstitutional. The Judge also held that both parents' consent was required before a child could be converted to Islam.

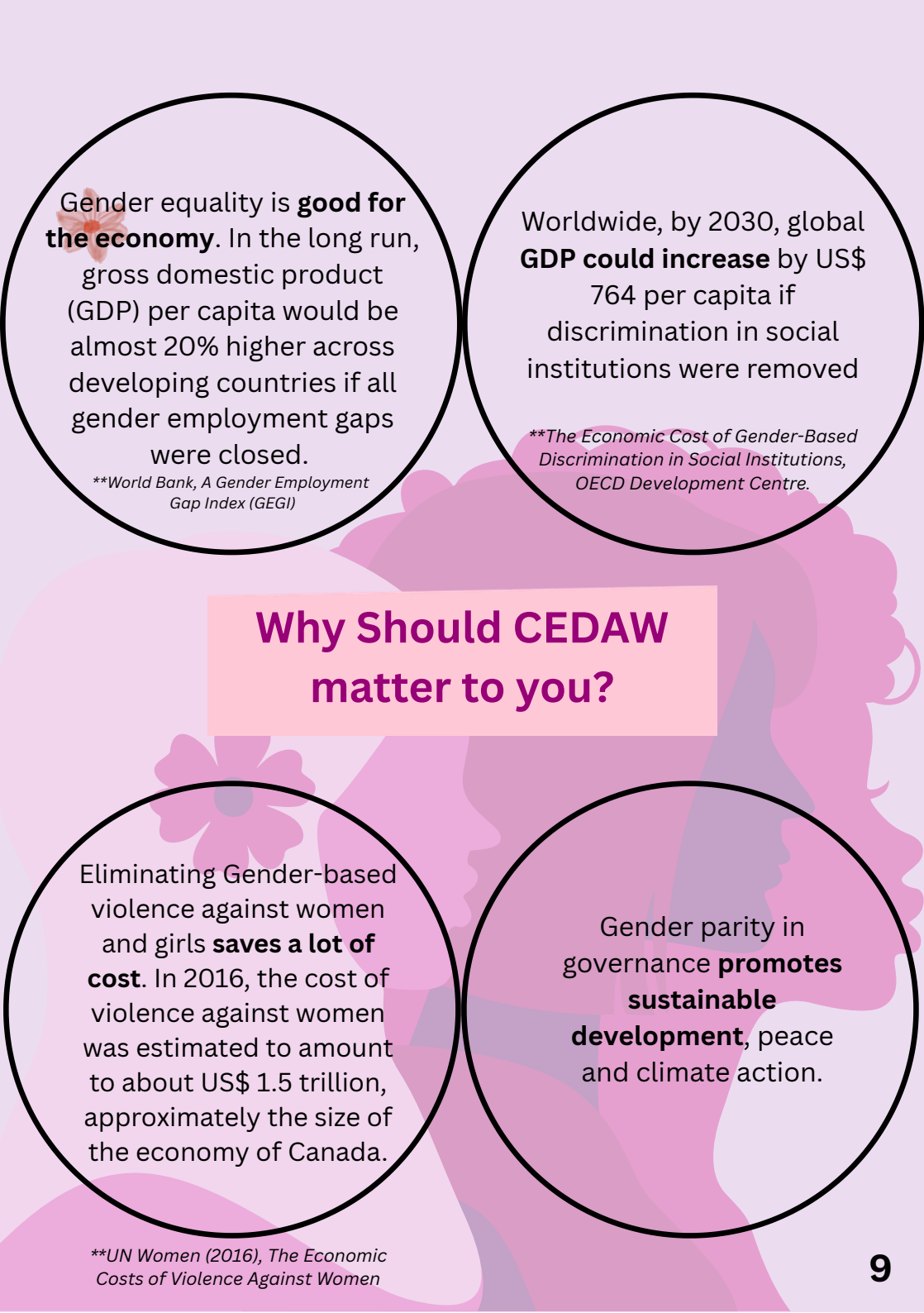
Significance: Breach of Malaysia's international obligations

The Court also applied the Noorfadilla case and held that Malaysia's ratification of the Convention on the Rights of the Child and **CEDAW** imposed a legal obligation on Malaysia to give effect to the rights set out in those Conventions.

Applying the "Bangalore Principles on the Domestic Application of International Human Rights Norms", the Judge in fact found that there was **no discrepancy between certain rights protected internationally and the fundamental liberties protected by our Federal Constitution.**

Outcome:

The Judge therefore issued an order of certiorari to quash the 3 certificates of conversion in respect of the children, and declared that the certificates were null and void and of no effect.



Gender equality is **good for the economy**. In the long run, gross domestic product (GDP) per capita would be almost 20% higher across developing countries if all gender employment gaps were closed.

***World Bank, A Gender Employment Gap Index (GEGI)*

Worldwide, by 2030, global **GDP could increase** by US\$ 764 per capita if discrimination in social institutions were removed

***The Economic Cost of Gender-Based Discrimination in Social Institutions, OECD Development Centre.*

Why Should CEDAW matter to you?

Eliminating Gender-based violence against women and girls **saves a lot of cost**. In 2016, the cost of violence against women was estimated to amount to about US\$ 1.5 trillion, approximately the size of the economy of Canada.

***UN Women (2016), The Economic Costs of Violence Against Women*

Gender parity in governance **promotes sustainable development**, peace and climate action.



Malaysia's Reservations

“The Committee remains concerned that the State party maintains its reservations to articles 9 (2) and 16 (1) (a), (c), (f) and (g) of the Convention, which are contrary to the object and purpose of the Convention and are thus impermissible under article 28 of the Convention and article 19 (c) of the Vienna Convention on the Law of Treaties, while noting the State party’s ongoing efforts to review its reservation to article 9 (2).”

“Article 9(2)

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;**
- (c) The same rights and responsibilities during marriage and at its dissolution;**
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;**
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;”**



Malaysia's Progress



List of legislative reform progress made since the last CEDAW report (not limited to, but including):

- The Anti-Sexual Harassment Act 2022 [Act 840];
- The Sexual Offences Against Children Act 2017 [Act 792], which criminalizes child pornography, child grooming, physical and non-physical sexual assaults, and the abuse of positions of trust;
- The law on anti-stalking through the amendments in 2023 to the Criminal Procedure Code [Act 593];
- The amendments to the Human Rights Commission of Malaysia Act 1999 [Act 597], which, inter alia, mandates a 30 per cent quota for women Commissioners and requires the appointment of at least one Commissioner who is a person with a disability.
- The amendment made to the Education Act 1996 [Act 550] making secondary school education compulsory.



The recent CEDAW Review focuses on:

**Child
Marriage**

**Female Genital
Mutilation/
Cutting

(FGMC)**

4

Thematic Areas

**Refugee
Women &
Girls**

**Anti-
Discrimination
Laws & Gender
Parity Bill**

Joint General Recommendations between CEDAW & CRC
Joint General Recommendation No. 31 / General Comment No. 18
identifies child marriage as:

- A harmful practice and a form of forced marriage because children cannot provide full, free, and informed consent.
- A violation of the rights to health, education, protection from violence, and development. States should establish 18 years as the minimum legal age of marriage without exception for all marriages.

Latest CEDAW Recommendation:

(a) Adopt and enforce legislation setting the legal minimum age of marriage at 18 years for both women and men, without exceptions, for both civil and Muslim marriages, and conduct public awareness-raising programmes, in cooperation with the media, on the negative consequences of child and/or forced marriage for girls' education, health and life choices, targeting in particular parents, teachers, religious and community leaders;

(b) Criminalize child and forced marriage and impose adequate penalties on those who aid and abet such unions, while ensuring that the children involved are protected and not criminalized.

Malaysian Context

Current Law

Civil marriages:-

Minimum age: 18 years; Girls aged 16–17 may marry with the permission of the Chief Minister/Menteri Besar under the Law Reform (Marriage and Divorce) Act 1976.

Muslim marriages:-

Minimum age: Male: 18, Female: 16. Marriage below these ages may be authorised by the Syariah Court under state Islamic family laws.

Education Dropout Rates

A stark state-level indicator presented to CEDAW noted that in Perak alone, 441 out of 445 students who dropped out of school specifically to get married were female.

Statistics

Malaysia recorded 2,098 approved applications for underage Muslim marriages between 1 September 2018 and 31 October 2021, according to the Government's replies to the CEDAW Committee (CEDAW/C/MYS/RQ/6, para. 108)

- 2016: 2,288 cases
- 2017: 2,107 cases
- 2018: 1856 cases
- 2019: 1,459 cases
- 2020: 1,124 cases
- Between 2023 to 2024: 300 cases.

Between 2019 and 2023, more than 4,000 applications for underage Muslim marriages were reportedly approved by Syariah Courts across Malaysia. Syariah Court Registrations from 2022 through 2024, nearly 900 underage Muslim marriages were legally authorized and registered via Syariah courts.

Gender Disparity: Data compiled by UNICEF Malaysia and civil groups like SIS Forum Malaysia (SIS) show that approximately 90% of all underage marriages involve girls.

Case Study & Good Practices

Selangor

Introduced stricter Syariah Court procedures requiring comprehensive assessment before approving any application for underage marriage, including welfare reports and counselling, and the completion of secondary school. Established a state committee to review child marriage practices.

Indonesia

In 2019, Indonesia amended its Marriage Law to raise the minimum marriage age for girls from 16 to 19, making it equal for both sexes. The reform was accompanied by national efforts to reduce child marriage through education, social protection, and community engagement.

What you can do as a parliamentarian?

1

Strengthen oversight of child marriage data, Syariah Court approvals, and implementation of national action plans.

2

Engage religious leaders, community leaders, and youth to promote social norms that support delaying marriage until adulthood.

3

Raising the Legal Age for Child Marriage:

Ensuring a consistent legal age for marriage across all states to protect young girls from early and forced marriages.

Malaysian Context

There is **no specific law criminalising the offence** of FGM/C (*Khitan Perempuan*) in Malaysia; it is reinforced by a non-binding Fatwa, medicalisation is prevalent and constitutes a clear violation of medical ethics and professional standards under Malaysian law. FGM practices fail to meet these standards. The procedure lacks recognition within clinical practice, devoid of therapeutic objectives or health advantages.

FGM also contributes to the **denial of bodily autonomy** and informed consent. From lived realities, individuals subjected to FGM/C in Malaysia are unaware that the procedure was performed on them in infancy or early childhood. This lack of knowledge reflects a fundamental denial of bodily autonomy and informed consent.

Malaysia also has **no national disaggregated data** on FGM despite increasing prevalence of FGM and medicalisation. This means Malaysia lacks the evidence base necessary to inform effective legal, policy, and survivor-led responses.

The Latest Recommendations from CEDAW

From Malaysia's 2024 review, the Committee reiterated its concern about the persistence of FGM among Muslim communities, reinforced by a non-binding fatwa on female circumcision issued by the Malaysian National Council of Islamic Religious Affairs in 2009.

In that regard, the Committee notes with concern reports that female genital mutilation is practised on more than 95 per cent of Muslim girls and it has serious effects on the health of many of them. FGM cannot be justified on religious grounds and constitutes a harmful practice to exert control over the bodies and sexuality of women and girls is in violation of the Convention, irrespective of whether or not these practices are performed within or outside a medical institution.

The Committee recommends that the State party:

1. Criminalize all forms of female genital mutilation, ensuring that such criminalization cannot be overruled by fatwas or other rulings issued by religious or clerical authorities
2. Conduct awareness-raising and educational campaigns aimed at promoting understanding of the criminal nature of, and the need to eliminate, female genital mutilation, in particular among medical staff, parents, community leaders, religious scholars, men and boys; allocate sufficient resources and adopt a systematic monitoring and evaluation framework for such activities.

Case Study / Good Practice:

In **The Gambia**, FGM is an entrenched cultural practice perpetuated by patriarchal norms, and three out of four girls experience FGM before the age of six. In 2015, the practice was criminalized through the Women's (Amendment) Act.

The act incorporated punitive measures to address the issue of FGM. It outlawed the act of performing, procuring, or aiding in the practice of FGM, with penalties ranging from fines to up to three years in prison.

What you can do as a parliamentarian?

1

Commission and support in-depth legal and governance analysis examining the interaction between statutory law, child protection frameworks, medical regulations, and Islamic governance structures in relation to FGM/C.

This analysis should identify legal gaps, inconsistencies, and areas of regulatory failure that enable the continuation and medicalisation of FGM/C, with a view to informing legislative and policy reform in line with the CRC.

What you can do as a parliamentarian?

2

The State should support community-level and practitioner-focused research to examine the sociocultural drivers of FGM beyond broad or assumed motivations. This should include investigation into why healthcare providers continue to perform FGM/C despite ethical prohibitions and lack of medical justification, using behavioural science and public health frameworks to inform effective prevention strategies.

3

Establish a transparent, disaggregated national monitoring system to track the prevalence of FGM, including trends in medicalisation, age at which the procedure is performed, and involvement of healthcare providers. Data should be regularly collected, published, and used to inform prevention, accountability, and child protection policies.

4

Ensure that regular awareness-raising on the Allied Health Professions Act 2016 & Medical Act 1971 and the negative consequences of FGM on women and girls, and ensure that they are designed to reach all parts of society, including religious, traditional, rural, indigenous communities and those living in remote areas, and are designed to be suitable for the various cultural contexts.

Malaysia Context

Malaysia hosts approximately 190,000 UNHCR-registered refugees and asylum seekers, the majority originating from Myanmar. Approximately 50% are women and children. Malaysia is not a party to the 1951 Refugee Convention or the 1967 Protocol and has no domestic refugee law; refugees are treated under immigration law.

Current Legal Position

Refugees and asylum seekers are not legally recognized under Malaysian law. Even individuals registered with UNHCR remain subject to arrest, detention, and immigration offences.

Refugee women face barriers in accessing

Public healthcare; formal employment; education; legal remedies; protection from gender-based violence.

Latest CEDAW Recommendation

The CEDAW Committee recognises that refugee and asylum-seeking women often face multiple and intersecting forms of discrimination and calls on States to:

- **ensure gender-responsive asylum procedures;**
- **protect women from sexual and gender-based violence;**
- **uphold the principle of non-refoulement;**
- **guarantee access to education, healthcare, employment and justice without discrimination.**

What you can do as a parliamentarian?

1

Encourage the ratification of the 1951 Refugee Convention.

2

Support legislation establishing a national legal framework for refugee protection.

3

Strengthen legal safeguards for refugee and asylum-seeking women experiencing gender-based violence.

4

Ensure refugee women and girls can safely access healthcare, education and justice regardless of immigration status.

5

Promote alternatives to immigration detention for women and children.



Articles 7 and 8 of the CEDAW Convention require States parties to ensure equal participation of women in political and public life.



Current statistics: 13.5% women in the Dewan Rakyat, 11% in the DUN; 30% women's representation in Parliament will take **135.6 years**.

***World Economic Forum's 2021 Global Gender Gap Report*

Balanced political participation and power-sharing between women and men in decision-making is the internationally agreed target set in the **Beijing Declaration and Platform for Action**.

Malaysia formally committed to the UN Women Beijing Declaration and Platform for Action in **1995**, pledging to advance gender equality, empower women, and remove structural barriers to their participation in national development.

Dasar Wanita Negara - adopted a 30% target for women's representation in political and public decision-making



Benefits of increased women's representation in parliament:

- ✓ **Improved social policies:** prioritised investments in healthcare, education, childcare and social welfare;
- ✓ **Gender sensitive legislation:** Stronger laws on violence against women, reproductive rights, family policy, and anti-discrimination measures;
- ✓ **Higher GDP:** Better policies that raise labour force participation, which drives equal pay for equal work and boosts overall economic output;
- ✓ **Reduced corruption:** More transparent, innovative decision-making, less susceptible to corruption;
- ✓ **Enhanced collaboration:** Increased collaboration across parties and ethnic and gender divides.

Sources: World Economic Forum, 'Why we need more women leaders in politics for the future of work', (Mar 13, 2025)
Jacob C 'The Significance of Women's Political Participation towards Gender Equality' J Pol Sci Pub Aff. 11:025 (2023)
UN Women, Asia and the Pacific, Political Participation of Women
Westminster Foundation for Democracy, 'Women political leaders: the impact of gender on democracy' (2020)2

Current Barriers:



Women MPs disproportionately face harassment, bullying, and intimidation.



Lack of flexibility in parliamentary structures/meetings to allow for care burdens disproportionately carried by women.



Political party policies and practices that disempower women's political leadership.



Women are restricted to traditional "women-only" roles rather than being placed based on their actual skills and merit.



Insufficient structured & widespread learning, development & networking opportunities for women within political parties.



Lack of funding assistance for women candidates.

In General Recommendation No. 23 (1997), which focuses specifically on women's participation in political and public life, the CEDAW Committee stresses that:

“in all nations, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children”

Current proposal to increase women's political representation in Malaysia:

Gender Parity in Political Representation Bill

The Parliamentary Special Select Committee on Women, Children and Community Development, supports legislation requiring political parties to field **at least 30% women candidates** in general and state elections. Kempen Projek 30% have drafted and proposed a Gender Parity in Political Representation Bill.

Proposed Bill from Projek 30% includes

Enactment of a Gender Parity in Political Representation Act, establishment of a Gender Parity Commission, use of existing Election Commission (EC) structures, and an incentive-based funding mechanism to encourage the nomination and election of women candidates. Mandatory reporting on the gender ecosystem and funding within each political party.

PROJEK30%: Wanita di Dewan Undangan Negeri: 2026



NUMBER OF WOMEN IN STATE ASSEMBLIES AS AT AUGUST 2026

State	Number of Women	Total Seats	% ♀	NUMBER OF WOMEN ADUNS FROM EACH POLITICAL PARTY														
				HARAPAN (PH)			BARISAN (BN)		PERIKATAN (PN)		GAGASAN RAKYAT SABAH (GRS)				GPS	MUDA	INDEPENDENT	
				PKR	DAP	AMANAH	UMNO	MCA	PAS	BERSATU	GAGASAN	STAR	PHRS	PBS	WARISAN			PBB
Johor	10	56	17.9		3		6	1										
Kedah	4	36	11.1						2	2								
Kelantan	3	45	6.7			1			2									
Melaka	5	28	17.9		1		4											
Negeri Sembilan	3	36	8.3%		1		2											
Pahang	2	42	4.8		1		1											
Perak	12	59	20.3	3	5		2		1	1								
Perlis	3	15	20	1					1	1								
Pulau Pinang	4	40	10		4													
Sabah	6	79	7.6								1			1	3			1
Sarawak	5	82	6.1		1											4		
Selangor	9	56	16.1	1	5	2				1								
Terengganu	1	32	3.1						1									
TOTAL	67	606	11.1	5	21	3	15	1	7	5	1	0	0	1	3	4	0	1

***Table above is sourced from Kempen Projek30% led by Persatuan Kesedaran Komuniti Selangor (EMPOWER), Association of Women Lawyers (AWL) & Penang Women's Development Corp. (PWDC), with backing from groups like BERSIH, the Joint Action Group for Gender Equality (JAG), Wanita Berdaya Selangor (WBS), CSO Platform for Reform (CSOP4R) and other NGOs.



In the most recent concluding observations, the CEDAW Committee stated that **the absence of anti-discrimination legislation** explicitly prohibiting discrimination against women by State and non-State actors is concerning.

They also mentioned **the long delays** in the consultative process with civil society organizations, in particular women's rights organizations, concerning the **Anti-Discrimination Against Women Bill** (formerly the Gender Equality Bill), which has been **pending since 2019**.

Why is this an immediate need?

According to a study by WAO, more than 50% of **women experienced gender discrimination in the workplace**, and 40% of women polled have experienced **job discrimination due to their pregnancy**.



***WAO Survey: "Voices of Malaysian Women On Discrimination & Harassment in the Workplace"*



***UN Women Data Hub: Country Fact Sheet (Malaysia)*

In a UN Women finding, women and young girls aged 15 devote roughly 19.1% of their daily routine to **uncompensated care duties and household chores**, in contrast to a mere 6% allocated by men in Malaysia.

Even when it comes to **bodily autonomy**, a SIS Forum survey finds that **Malaysia scored just 45%** on the United Nations Population Fund's bodily autonomy indicator, **short of the global average of 55%** and even more so behind the regional average of 75%.



***SIS Forum Survey: Bodily Autonomy in Malaysia Perceptions and Experiences Across Women's Life Stages 18 to 65*

Current Context

Malaysian CSO's have been advocating for the establishment of a **Gender Equality Act/Anti-Discrimination Against Women Act**, and this has been **stalled since 2018**.

In 2023, the bill was said to be in 'discussion' at the "special projects team" level and that it needed further study. **There has been no movement since.**



The proposed bill by CSOs aims to enable a **comprehensive legal framework** that protects against gender based discrimination.

This can ensure the **prohibition of gender-based discrimination** in education, the private and public sectors, and even in politics, and **ensure access to equal opportunities and protection for women**.

Some practical provisions also included easier work-from-home arrangements, longer paternity leave, and the formalisation that gender based discrimination is illegal and that everyone is equal in the eyes of the law.

CEDAW Committee Recommendations

1

Expedite and ensure the consultative process with women's rights organizations on the Anti-Discrimination against Women Bill and ensure the **systematic and meaningful representation** of women's organizations, including those representing women with disabilities, Indigenous women, and other disadvantaged groups of women, **in the formulation, adoption, and implementation** of draft laws and policies on gender equality.

2

Ensure that there is a **system for the collection of data** on discrimination against women, **disaggregated** by age, nationality, ethnicity, geography, disability, socioeconomic status, and lesbian, bisexual, transgender and intersex status, **to inform the formulation** of anti-discrimination legislation and policies.

3

Ensure that the adoption of the Anti-Discrimination Against Women Bill **includes a comprehensive definition** of discrimination against women covering direct and indirect discrimination in the public and private spheres, as well as **intersecting forms of discrimination**, in accordance with articles 1 and 2 of the Convention.

What you can do as a parliamentarian?



Demand to know what is **the status of the bill**; request that the **process be pushed forward**.



Repeal, amend and adopt legislation, as necessary, to ensure **substantive equality** of women and men, paying due attention to the **intersecting forms** of discrimination that many women from disadvantaged groups face.



Adopt a **comprehensive definition of discrimination** against women, in line with article 1 of CEDAW.



Provide for **mechanisms to monitor the effects of laws and policies**, with a view to achieving substantive equality between men and women.



Adopt temporary special measures, including through legislation and budgeting, in order to accelerate the achievement of substantive equality for women and girls facing intersecting forms of discrimination.

What you can do as a parliamentarian?

-  Regularly **engage with institutions responsible for monitoring and promoting the rights of women and girls** facing intersecting forms of discrimination, and **take action on the recommendations** of such institutions including by enacting new laws or amending existing ones
-  Provide **regular gender-sensitive capacity-building to parliamentarians and parliamentary staff** on the differentiated impact of laws, policies and plans on women and girls belonging to disadvantaged or marginalized groups.
-  Ensure **budgetary allocations and adopt legislation** providing for gender-sensitive training for the judiciary, prosecutors, police and other law enforcement officials to **recognize, prevent, investigate, punish and/or redress intersectional discrimination and abuses** inflicted on women, in accordance with the due diligence responsibilities.
-  Ensure the **adoption of appropriate age-sensitive laws and policies** to ensure the protection of girls, young women and older women

Summary 4 Key Thematic Areas

CHILD MARRIAGE

- Around 1,500 children were married each year as of 2018.
- Malaysia continues to operate a dual-track civil and Syariah marriage system.
- Under the Syariah system, Selangor is currently the only state to have raised the minimum marriage age to 18.

Key gap:

⚠️ Policy commitments have not yet translated into a uniform minimum marriage age of 18.

⚠️ No progress made on The National Strategy Plan in Handling the Causes of Child Marriage (2020–2025).

FEMALE GENITAL MUTILATION/CUTTING (FGM/C)

- Malaysia has no specific law prohibiting FGM/C.
- A 2009 JAKIM fatwa states that FGC is compulsory for Muslim girls.
- Available research has reported very high prevalence among Malay women and girls.
- FGM/C has increasingly shifted from traditional practitioners to healthcare settings.

Key gap:

⚠️ FGM/C remains largely unregulated despite being recognised internationally as a harmful practice.

Summary 4 Key Thematic Areas

ANTI-DISCRIMINATION LAWS & GENDER PARITY BILL

- Malaysia does not yet have comprehensive legislation prohibiting discrimination against women.
- The proposed Anti-Discrimination Against Women Bill is still under review and discussion.

Key gap:

⚠️ No comprehensive legal framework to prevent and address discrimination against women.

REFUGEE & MIGRANT WOMEN AND GIRLS

- Malaysia has not ratified the 1951 Refugee Convention.
- There is no comprehensive domestic legal framework recognising asylum seekers and refugees.

Key gaps:

- ⚠️ Risk of arrest, detention and deportation
- ⚠️ Limited access to legal employment and affordable healthcare
- ⚠️ Fear of arrest may prevent women from reporting crimes or seeking medical care
- ⚠️ Increased vulnerability to poverty, exploitation and violence



Gender-Based Violence

The CEDAW Committee notes a **high incidence of domestic violence** in the State party, owing to discriminatory social norms legitimizing such violence.

The barriers deter Indigenous, asylum-seeking, and refugee women who are victims of sexual and other forms of gender-based violence from seeking access to justice and medical treatment. As well as the **barriers to women's access to remedies** due to biases and social stigma, including among law enforcement personnel, legal practitioners and service providers, and the lack of gender-sensitive procedures.

Current Legal Position

That **marital rape and intimate partners violence are NOT specifically criminalized**. Discriminatory laws against all genders expose them to violence in the public and private spheres.

- Penal Code Sec 375 – Exception to rape (Marital rape): Non-consensual sex within marriage is not generally prosecuted as rape.
- Domestic Violence Act 1994 (Act 521): Does not cover intimate partner violence/scope of protection.



Gender-Based Violence

What you can do as a parliamentarian?

General Recommendation No. 35 (2017) on gender-based violence against women, updating General Recommendation No. 19, and in line with the State party's Human Rights 75 pledge to promote human rights literacy to eliminate violence against women, the Committee recommends that the State party:

1

Intensify awareness-raising among Indigenous and refugee communities, as well as the general public, on the criminal nature of all forms of gender-based violence, including domestic and sexual violence, and on the need to enable all women to report such cases without fear of reprisals, stigmatization or revictimization;

2

Support the dedication of sufficient human, technical and financial resources to victim support services, shelters and the Talian Kasih hotline, and ensure the availability of psychosocial rehabilitation and reintegration programmes for all survivors of gender-based violence in all parts of the State party;



Gender-Based Violence

What you can do as a parliamentarian?

3

Continue to provide effective capacity-building for members of the judiciary, law enforcement officials and lawyers on gender-sensitive investigation and interrogation methods and to address judicial gender bias;

4

Amend the Domestic Violence Act, specifically to define intimate partner violence, thereby allowing unmarried women to gain access to protection orders and compensation under the Act, and amend the Penal Code explicitly to recognize marital rape as a crime;

5

Repeal or amend all discriminatory laws; and enact laws ensuring the constitutional obligation to recognize that "all persons are equal before the law and entitled to the equal protection of the law." (Federal Constitution Article 8(1))

Where Do We Start?

Gender Sensitive Parliament

Parliament can help alleviate many of the issues faced by women and girls **by ensuring the implementation, adoption, and domestication of CEDAW**, which remains the most comprehensive treaty on women's rights.



Gender Sensitive Parliament:

A parliament that responds to the needs and interests of both men and women in its structures, operations, methods, and work.

Gender-sensitive parliaments remove the barriers to women's full participation and offer a positive example or model to society at large

Gender Sensitive Parliament

Key elements of gender-sensitive parliaments:

1

It accepts that the responsibility to achieve gender equality, both as a policy outcome and as a process, rests with the parliament as a whole (its women and men members and staff) and with the organizations that drive substantial policy, procedural, and normative development (political parties).

2

It is guided by institutional policies and legal frameworks, which allow the parliament to monitor its achievements towards gender equality and allow for follow-up and review.

3

It institutionalizes a gender mainstreaming approach throughout its representational, legislative, and oversight work to ensure that all the parliament's outputs consider and counteract any potential discrimination against women or men, girls or boys. This element requires a reconsideration of the process and structures of the parliament, including the respective roles and capacities of members of parliament and parliamentary staff.

4

It constantly strives to eliminate institutional cultures that sanction and perpetuate discriminatory, prejudicial norms and attitudes in the workplace against women members and staff.

Tools You can Use as Parliamentarians:



1) Gender Incorporative
Legislation



2) Gender Sensitive
Oversight



3) Gender Responsive
Budgeting

Tools You can Use as Parliamentarians:



1) Gender Incorporative Legislation



In its General Recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention, the CEDAW Committee clarifies that States parties:

Must take all appropriate measures to give effect to their obligations under the Convention, including by adopting anti-discrimination legislation, establishing legal protection for the rights of women, and modifying or abolishing discriminatory laws and practices.

Ensure laws are in line with CEDAW, include anti-discrimination laws [Gender Equality bill], and repeal discriminatory laws.

Pass laws that take into account intersecting identities

Ensure laws are passed that encourage cultural and social change for the advancement of women's rights and a human rights-based approach in law-making



2) Gender Sensitive Oversight



Gender-sensitive oversight ensures that all aspects of government action promote gender equality. This can help to identify areas where affirmative action or other measures might be required to rectify the ongoing impacts of historical and present-day gender-based discrimination.



Case Study in Malaysia: **APPGM-Gender Equality**



Good entry point to discuss oversight and dedicated focal points on gender and inter-party co-operation.



International Case Study:

In Spain, Organic Act 1/2004 was enacted to prevent and combat gender-based violence and to protect victims.

The law required the establishment of the State Observatory on Violence against Women, an interministerial body mandated to create an official database to collate and analyse information provided by the relevant public institutions with a focus on gender-based violence, and to make this information available to key institutions, such as parliament.

This was considered key to informing parliament's oversight work. In 2008, the parliamentary Commission on Equality also set up its own subcommittee with a specific mandate to review the implementation of the law. The subcommittee spent more than a year receiving submissions from a range of experts within and outside government. The resulting report and recommendations were unanimously approved by the Commission.



3) Gender Responsive Budgeting

Gender-responsive budgeting is a strategy that creates budgets that work for everyone. By considering and analyzing the unique and diverse needs of every person, gender-responsive budgets strive for a fair distribution of resources. Gender-responsive budgets foster a sense of justice, strengthen government accountability, and support better alignment of national budgets with Sustainable Development Goals (SDGs).

State Case Study:

Penang's Gender Responsive and Participatory Budgeting (GRPB) project was a pioneering state-level initiative launched by the Penang Women's Development Corporation (PWDC) in collaboration with local municipal councils. It integrates gender analysis with community engagement to ensure public funds address the distinct needs of both women and men.

- **Methodology:** The GRPB model was implemented in 4 phases: I. Household demographic survey; II. Focus group discussions with a range of men and women; III. Voting on priority needs and allocating budget ballots accordingly; and IV. Consultative planning, decision-making and implementation



3) Gender Responsive Budgeting

International Case Study:

In **Bangladesh**, gender is integrated into the Medium-Term Budget Framework, which requires ministries to clearly link their targets to the advancement of women's human rights. Ministerial annual budgets must also identify how gender equality is being promoted. The Ministry of Finance carries out a gender budget analysis of all ministries, which is submitted to parliament for each budget session. The Government has presented a gender budget since the 2009–2010 financial year across 43 ministries/divisions.

What can you do?

Ensure that **adequate budgets** are allocated to the **implementation of laws and policies** that aim at advancing women's human rights and establish the institutions for such implementation.

What can Parliamentarians do?

- Encourage Malaysia to ratify the Optional Protocol to CEDAW to demonstrate its commitment to accountability, transparency, and the protection of women's rights
- Lifting reservations made by Malaysia to the CEDAW Convention.
- Ensuring respect for the principles of the CEDAW Convention and the implementation of its provisions, including the incorporation into national legislation of the prohibition of discrimination against women, commitment to gender equality, and the various rights in the Convention.



What can Parliamentarians do?

- Overseeing government action on gender equality, ensuring gender-responsive budgeting, shaping public opinion, and promoting equality through diplomacy and international cooperation.
- Contributing to Malaysia's state reporting to the CEDAW Committee, in terms of drafting reports on the implementation of the Convention, dialogue with the Committee, and follow-up to the concluding observations of the Committee, and coordination with national mechanisms for implementation, reporting, and follow-up (NMIRFs).

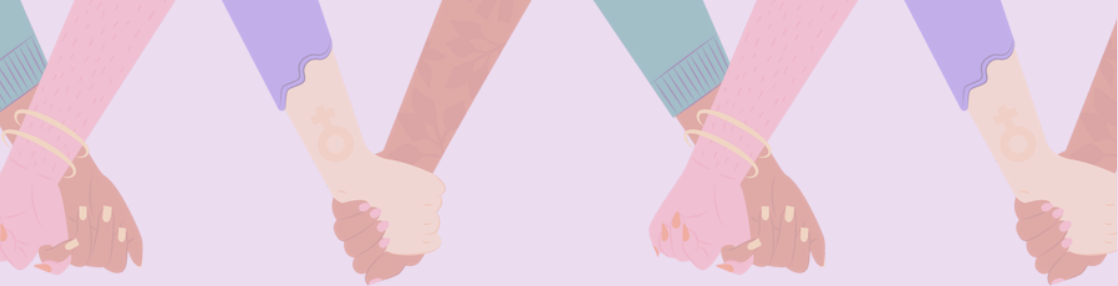




CEDAW Toolkit



Scan for Resources



Co-writers:

Vilasini Vijandran

Ireeny Muzammel

Jaskirath Kaur Sohanpal

(Kemban Kolektif & APPGM-GE CSO Partner)

Reviewer:

Omna Sreeni-Ong

Founder & Principal Consultant of
ENGENDER Consultancy

