

## **TOPIC BRIEF**

### **An update on gender-specific policies in Malaysia**

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Based on the World Economic Forum's Global Gender Gap Report 2020, Malaysia is placed at 104 globally, in a gender gap ranking for 153 countries. This can be attributed to our country's employment policies and "social norms" which are not so women-friendly. The Gender Equality Bill, which seeks to level the economic playing field in Malaysia, is still in the process of being drafted after close to 2 decades of discussion and deliberation. The fact that a number of very "ideologically different" stakeholders are part of the drafting the GEA, has made it that much harder for such a law to be finalised, let alone be passed in Parliament. Gender equality even through a legal structure, which includes the highly sought after "equal pay for work of equal value" remains a distant reality.

#### **Bridging the gender gap: Opportunities for Malaysia**

##### ***To move or not to move (towards Meritocracy)?***

The concept of meritocracy and its feasibility has long been debated in Malaysia. Should opportunities and positions be available to persons only based on merit (disregarding any other parameters such as race, gender, religion, etc.)? Tan Sri Rafidah Aziz in a speech in 2013 spoke about meritocracy and how it would ensure inclusiveness regardless of gender or ethnicity. She urged that in this changing world, inclusiveness was no longer about being politically correct, having a quota, appeasement of women or about tokenism (Mok, 2013). It is in fact, about qualified individuals being given the space to thrive and earn a living by their own merit. In Malaysia, however, it has never been so black and white. There has been growing evidence of using meritocracy as an excuse to keep women hires in low numbers, citing reasons beyond their control such as "gap years" in employment, lack of specialist experience, etc. It would not be an exaggeration also, to state that meritocracy is a "convenience card" in our country since the concept only surfaces when there are nationwide protests against the lack of women in cabinet, parliament or even elections. It is frustrating because "power" for women is always plagued with these "technicality issues". Adopt meritocracy, there are major loopholes; apply the quota and women are reduced to "tokens" and dismissed as "diversity hires" to silence activists. Policy makers and top decision makers in Malaysia need to acknowledge these very real, persistent problems in our society and employment practices and strike a balance between merit and rightful reservation. Malaysian policies must reflect an absolute conviction that women must be supported with a platform that allows them to

function at their most optimum level. This “support” would allow for a more **level playing field** that will, in the long run, enable a more “gender equal” society that no longer requires quotas. The Malaysian government and its people could hence benefit from more **equitable** policies which allows for timely “space” for women that do not ignore merit.

### **Sexual crimes against women: Malaysia’s time to *up the ante***

The current state of laws and provisions that are aimed at protecting women in Malaysia are rather superficial and outdated. In fact, the existing local law governing sexual harassment cases can be found in the Employment Act, in addition to the Malaysian Penal Code that lays out the punishment for serious crimes such as rape and assault. These laws, however, do not adequately address sexual harassment as they have **ambiguous definitions, insufficient coverage** and **restricted access to justice**. Similar to the GEA, the KPWKM worked with JAG in the early 2000s on a sexual harassment bill. Only as of 2020, it has been announced that the Sexual Harassment Bill is expected to be tabled for the first reading in Parliament at the end of the year. It can be predicted then, that it would be some time before this law is officially adopted. The KPWKM Minister also stated that amendments would be made to the Penal Code to include a section on stalking.

### ***Malaysia’s Sexual Harassment Bill: Circa 2000***

JAG has been vocal about a Sexual Harassment Bill in Malaysia and has been working in this direction since the early 2000s. In fact JAG has long advocated for a Sexual Harassment Bill that “consists of a clear definition of sexual harassment based on international best practice, minimum standards and oversight mechanisms of organisational obligations, civil standards and procedures to handle sexual harassment cases; as well as proposed changes to the Criminal Procedure Code (CPC) that would render court process more sensitive to survivors of sexual offences” (WAO, 2019 as cited in Nasri, 2020). It is increasingly clear, even to the common man, that this need-of-the-hour bill has taken too long a time to come into force. As in the case of the GEA, the progress on the tabling of the bill remains in limbo due to the sudden change in Government earlier this March and the Covid-19 pandemic, both of which may greatly affect the bill’s trajectory (Nasri, 2020).

### **Women and socio-politico-economic issues: Challenging the status quo**

Gender equality and sexual harassment are only the tip of the iceberg. One cannot deny the effects of some socio-political issues that especially affect women in our society. These “realities” are so pervasive and remain embedded in Malaysian society that it takes genuine will to change this status quo. In fact, it

begs the question as to why this insidious socio-politico-economic environment has been accepted as a given, thus far. This comes back to the lack of women representation in top decision-making positions. Could it be that there are too few women in governance to actually say “we need change”? Even so, how is change facilitated when even laws reflect the male psychology? (Faruqi, 2020)

### ***Perpetual socio-politico-economic inequalities***

According to the Statistics Department (DOSM)’s Salaries & Wages Survey Report Malaysia 2018, the average Malaysian male employee had a median salary of RM2,342 a month while women made RM2,227 (**Figure 1**). This, contrary to stereotypical beliefs, is not due to incompetence, per se. According to the Women’s Aid Organisation (WAO), many women are often wrongfully penalised at work due to a number of reasons which include discrimination and misperceptions about a woman’s ability to contribute. Also, the gender wage gap appears to widen as employees get promoted because the effects of gender discrimination are compounded over time. “Caring professions” such as teaching and nursing, are often female-dominated professions and also, gravely underpaid (Murad, 2019). Furthermore, what’s most worrying and disappointing is that despite having the same certification/qualifications, women are still paid far less than men (**Figure 2**). This only indicates that in the Malaysian employment environment, qualification seems to be insignificant, considering the “skew” in filling positions and determining salaries. This is also a major indicator that Malaysia is regressing relative to other countries (such as the UK) which have policies in place to facilitate **transparent** reporting of average wage of men and women employees, the proportion of men and women employees in different salary brackets and the proportion of men and women employees who receive bonuses (Murad, 2019). These policies hold organisations accountable to their employees and is a step in the right direction towards equality.

While a “progressive society” such as Malaysia may deny the prevalence of gender stereotypes, it is in fact one of the biggest issues faced by women, be it in employment or even education. The concept of “occupational segregation” i.e. the latent “socio-psychological creation” of male or female professions is sourced from deeply rooted gender stereotypes in society. It is absolutely imperative that gender stereotypes are systematically addressed and challenged, thereby expanding the range of career options available to women. Barriers that hinder women from pursuing careers in traditionally male-dominated fields must also be removed (Murad, 2019). Stereotypes about married women and mothers in employment (such as being less committed to jobs, less competent, etc.) must also change to retain women in the workforce which is crucial for the growth of the Malaysian economy. It is important to remember that while the government cannot alter social roles, individual life choices or family systems, it

is the duty of the government to introduce policies and provisions that ensure equal opportunities for each citizen to thrive in society.

Besides employment and wages, it is alarming to note that even some laws that govern marriage and the birth of children are also unfavourable towards women in Malaysia. In laws relating to permanent residence (PR) for a spouse, there is discrimination against Malaysian women with foreign spouses. This has proved to be quite a predicament during the Covid-19 pandemic where women are separated from their foreign spouses for months because of travel/visa restrictions, etc. It should be noted that it is relatively easier for foreign female spouses of Malaysian men to obtain PR. With the case of illegitimate children, it is also distressing to note that the citizenship of the child is dependent on the mother's and not the father's citizenship status (Faruqi, 2020). This automatically puts the woman in a very vulnerable position and gives the man much room to manoeuvre the situation based on his own discretion. Besides this, laws on provocation and self-defence are also highly prejudiced. In criminal law, provocation is a defence only if it was immediate. Seeing how our legal system is still based on male psychology, in instances where a woman's reaction to abuse is delayed, it becomes too late to seek recourse to the defence in cases of manslaughter or even murder (Faruqi, 2020). It is hence increasingly clear that much needs to be done even within our legal system to protect women.

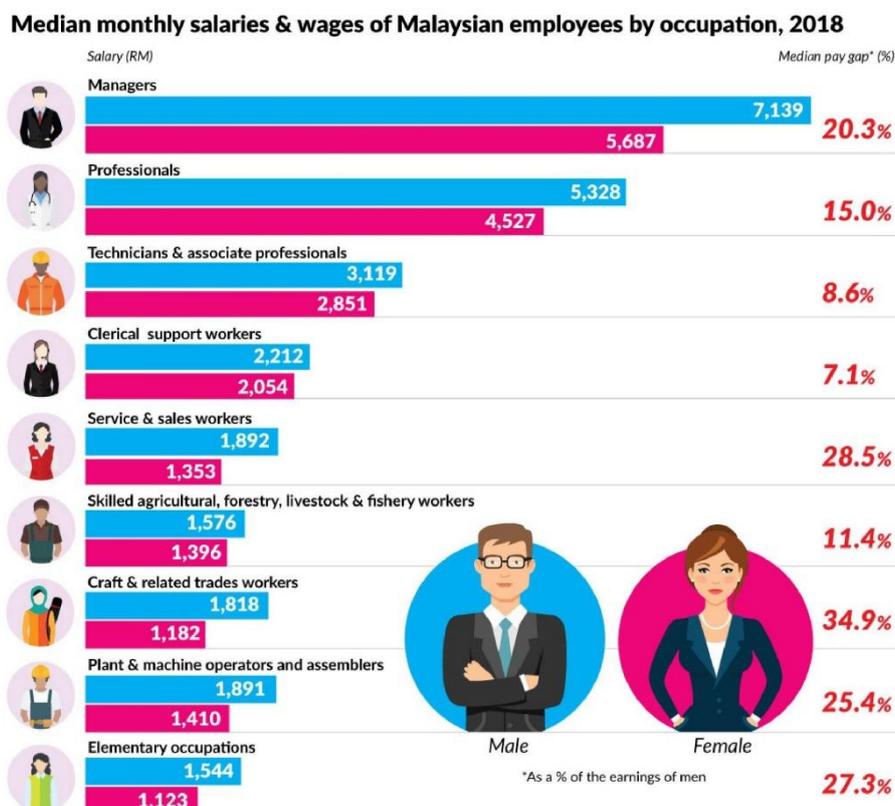


Figure 1. Calculations by The Star based on the Salaries and Wages Survey Report Malaysia 2018 by the DOSM. Retrieved from <https://www.thestar.com.my/news/nation/2019/11/24/the-gender-wage-gap-is-real>

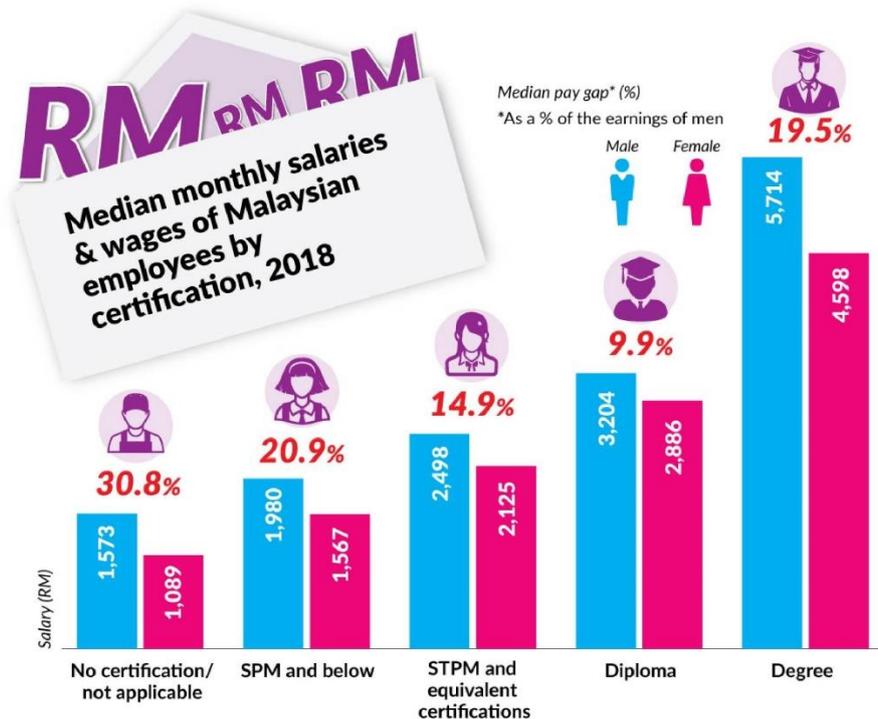


Figure 2. Calculations by The Star based on the Salaries and Wages Survey Report Malaysia 2018 by the DOSM. Retrieved from <https://www.thestar.com.my/news/nation/2019/11/24/the-gender-wage-gap-is-real>

### Moving forward: Looking to our peers and stakeholders

Malaysia's position in the Global Gender Gap Index 2020 is underwhelming, considering how our peers in ASEAN have performed much better. It must be acknowledged that our country is still restricted by its anachronistic policies and perspectives which has been a bane to the struggle for gender equality. **The women agenda is important in Malaysia politics because we can no longer ignore the plight of half of the population.** Political parties, leaders and decision makers cannot expect to gain support from women only through **welfare aid or assistance** anymore. The basic rhetoric must change and be backed with promises that uplift and empower women in the long run.

Malaysia can look to her neighbours such as Singapore to model on certain gender-responsive policies. For example, the Singapore government rolled out several programmes to address the difficulties women have in juggling both their career and childcare needs. The Work-Life Grant offers a monetary incentive for companies implementing flexible work arrangements. In March 2020, Ministry of Manpower, Singapore announced an increase in the budget for the grant from S\$30 million to S\$100 million (Phua, 2020). While there was some talk on flexible working hours in our country during Pakatan Harapan's time

in government, no new policies (for all sectors) were introduced. Top decision-makers hence, could benefit from being more aware and receptive to such policies that are in effect in the region and analyse its feasibility in Malaysia.

The importance of consulting and engaging civil society and important stakeholders in the country must be realised by the government to ensure that policies are inclusive and all-encompassing. Trends do show that the government is rather slow to respond to the demands and suggestions of civil rights groups, advocacy groups and activists who are usually grassroots experts with vast knowledge on the needs of vulnerable groups of society. While this may be attributed to bureaucratic red tape and internal mechanisms which may be ineffective, this should not deter the progress of policy-making or its adoption.

## Recommendations

1. The Gender Equality Bill is yet to be tabled in Parliament even after close to two decades. This can be taken as an opportunity to introduce the concept of “equity” within the act which could strike a balance between merit and quota in employment. This could serve as precedence for future bills that involves gender-based reservation. Using the principle of equity as a guideline, policy-makers should look beyond “sameness” and aim for “fairness” in the policy. For example, the 30% reservation can exist as a **baseline** but with solid provisions to further hire based on qualification and experience. This will ensure that the quota is not restrictive or “lacking in quality”. There should also be more stricter vetting of qualifications and psycho-metric testing prior to hiring. On a more “policy-image” front, it would be useful to drop the mention of “quota” and instead highlight the bill’s focus and commitment to equity.
2. KPWKM should review the **Women Directors’ Programme** that was aimed at achieving the government’s 2011 policy target of at least 30% decision making positions for women in the corporate sector. Considering the programme’s lack of visibility and impact, it needs to re-strategize and develop a diverse pool of talent for all businesses to strive for better gender balance in organisations.
3. A permanent, formal women’s parliamentary caucus must be established with a resolution by Parliament which would hence allow for allocation of funds. This would also ensure that the caucus is given substantive power to deal with issues like the Gender Equality Bill.
4. Malaysia should increase its visibility and involvement in the Commonwealth Women Parliamentarians (CWP) which is the network of women members of Commonwealth

Parliamentary Association (CPA) parliaments. It aims to build the capacity of women elected to parliament to be more effective in their role, improve the awareness and ability of parliamentarians to include a gender perspective in all aspects of their role and help parliaments to become gender-sensitive institutions. The International Steering Committee was chaired by Hon. Dato' Noraini Ahmad MP, Member of Parliament of Malaysia until 2019. This is a good learning platform for international best practices with regards to representation in parliament.

5. Policy-makers must be more receptive to civil society reports and recommendations and make appropriate amendments to laws and policies with **relevant, progressive** and **logical** input from stakeholders. Government officials must ensure that this process is not too time-consuming as policies become more and more irrelevant with time.
6. With regards to the Sexual Harassment Bill and the anti-stalking law, the need of the hour is to expedite the process of tabling it in Parliament. It is worthy to note that Schedule 9, List III, Item 1 of the Federal Constitution empowers both the federal and state governments to enact laws on social welfare, social services, protection of women, children and young persons. This is an underutilized provision in Malaysia according to constitutional lawyers.
7. The government is set to relaunch the Shared Prosperity Vision 2030 (SPV 2030) which is aimed at sustainable growth for all groups within the society. Since women are one of the nine target groups within this initiative, socio-economic issues that adversely affect women can be addressed such as the wage gap (equal pay for equal work of equal value), unemployment, allowances for transportation and childcare, etc. Since SPV 2030 is being improved accordingly, recent social and economic developments must be taken into account, such as effects of the Covid-19 pandemic, large scale downsizing/closure of organizations, retrenchments, etc. to provide long-term solutions for women who may or may not be employed.
8. To address gender stereotyping, the KPWKM can launch a video campaign that highlights individuals who have “broken” the gender stereotype and normalize this through experience sharing or by focussing on “human stories” behind their careers. This is a small but significant step towards breaking gender stereotypes.
9. Seeing how Malaysia’s position in the Global Gender Gap Index 2020 is underwhelming, and considering how our peers in ASEAN have performed much better, Malaysia can emulate her neighbours and model certain gender responsive policies that may lead to greater equality in the long run. For example, Singapore’s Work-Life Grant, which offers a monetary incentive for companies implementing flexible work arrangements.

## Conclusion

Malaysia is still far behind in fulfilling existing commitments such as the Gender Equality Bill and the Sexual Harassment Bill. The sense of urgency when drafting policies that address these issues is sorely lacking and this is why despite drafting and redrafting of bills, it takes even longer to reach Parliament. Malaysia needs to be more steadfast and diligent with regards to gender equality. Looking towards regional and global peers and engaging the civic sector to work the women agenda would benefit Malaysia greatly in the years to come.

**INSAP**

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