



COUNTRY PROFILE

**ON UNIVERSAL
ACCESS TO SEXUAL
AND REPRODUCTIVE
RIGHTS:
MALAYSIA**



1. Introduction

Malaysia's population stands at 29.3 million in 2012 (Department of Statistics [DoS] Malaysia, 2012a). Average annual population growth rate has declined markedly during 1980-1981 to 1991-2000, from 2.7% to 2.1%. It is projected that population will increase to 32.4 million in 2020 (DoS Malaysia, 2012b).

Life expectancy at birth for men and women in 2012 is measured at 72.3 and 77.2 years old, respectively (DoS Malaysia, 2012a). In 2012, the young population constitute about 26.4% of the total population and is expected to decline to 24% in 2020. For the aging population, it will increase from 5.3% in 2012 to 6.8% in 2020 (DoS Malaysia, 2012a). The proportion of working age population (15-64 years old) is increasing steadily from 63.3% in 2006 to 68.3% in 2012 (DoS Malaysia, 2012a), indicating that Malaysia is still benefiting from the demographic dividend.

In terms of health financing, government expenditure in health as percentage of total health expenditure has been in the range of 54%-59% in the time period 1995 to 2011 (see Table 1). During the same time period, the trend for out-of-pocket expenditure fluctuated in the range of 32%-36%.

In recent years, even though public health care is available at minimal cost, however, many are opting for private health services, including the poor, because they needed immediate treatment (Tan, Arman, and Vijandren, 2013). The National Health and Morbidity Survey II in 1996 reported that 79% of respondents paid from out-of-pocket for private healthcare services (Institute for Public Health of Malaysia, 1996). The percentage would have increased by 2014. Increasing out-of-pocket expenditure for health care services will add burden to the population, especially the marginalised women, young people and the poor.

The total health expenditure as percentage of the Gross Domestic Product (GDP) is between 3-4% for the same time period. This indicates that the Malaysian government has for many years allocated less than the ideal percentage for total health expenditure compared to the minimum of 5% of the GDP recommended by World Health Organization (World Health Organization [WHO], 2011).

2

COUNTRY
PROFILE ON
UNIVERSAL
ACCESS TO
SEXUAL AND
REPRODUCTIVE
RIGHTS:

MALAYSIA

Table 1. Expenditure on Health (%)

	1995	2000	2007	2009	2010	2011
General government expenditure on health as % of total health expenditure	57	56	54	59	57	55
Out of pocket expenditure as % of the total health expenditure	33	34	36	32	33	35
Total health expenditure as % of the GDP	3	3	4	4	4	4

Source: WHO, 2011.

Malaysia is a member of the UN Human Rights Council and a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD). For CEDAW, though the Malaysian government has adopted the Optional Protocol to the CEDAW, there are reservations on five CEDAW articles: 9(2)¹, 16(1)(a)², 16(1)(c)³, 16(1)(f)⁴ and 16(1)(g)⁵ (Women's AID Organization [WAO], 2012; Office of the High Commissioner for Human Rights [OHCHR], 2013). The reservations are related to: 1) "transmission of citizenship to children from Malaysian mothers to children born overseas," 2) polygamy, 3) child marriage, 4) guardianship and custody, and the religious conversion of the children when a spouse converts to Islam (WAO, 2012). As for CRC, Malaysia has adopted the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography; and the Optional Protocol to the CRC on the involvement of Children in Armed Conflict (OHCHR, 2013).

Malaysia has yet to ratify the International Covenant on Civil and Political Rights (CCPR); the International Covenant on Economic, Social and Cultural Rights (CESCR); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); and the 1951 Refugee Convention (OHCHR, 2014; United Nations High Commissioner for Refugees, 2014).

Malaysia implements the Programme of Action of the International Conference on Population and Development (ICPD PoA) 1994 and the Platform for Action of the Fourth World Conference on Women 1995. Two reviews have been conducted on Malaysia's performance towards achieving the Millennium Development Goals (MDGs).

2. The sexual and reproductive rights status in Malaysia

Policies on sexual and reproductive health

Malaysia has had a Family Planning Policy since 1967. The National Policy on Reproductive Health and Social Education and its Plan of Action were approved in November 2009 (National Population and Family Development Board, [NPFDB], 2009). This policy aims to pave "the way for increased access to reproductive health education, information and services for adolescents and youths" (Ministry of Women, Family and Community Development [MWFCD] Malaysia, 2014). Resulting from this policy, in 2011, the reproductive health and social education was integrated into the National Service Training curriculum, and also into schools and known as PEERS and implemented beginning from Year 1 students in primary schools (MWFCD Malaysia, 2012). However, there has yet to be a review of the Plan of Action 2009-2012, and any subsequent Plan of Action; nor has a review of the comprehensiveness of the content been done.

¹ CEDAW Article 9(2): State Parties shall grant women equal rights with men with respect to the nationality of their children (United Nations [UN] Women, no year).

² CEDAW Article 16(1)(a): State 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: the same right to enter into marriage (United Nations [UN] Women, no year).

³ CEDAW Article 16(1)(c): State Parties shall take ... on a basis of equality of men and women: the same rights and responsibilities during marriage and at its dissolution (United Nations [UN] Women, no year).

⁴ CEDAW Article 16(1)(f): State Parties shall take... on a basis of equality of men and women: 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 interest of the children shall be paramount (United Nations [UN] Women, no year).

⁵ CEDAW Article 16(1)(g): State Parties shall take... on a basis of equality of men and women: the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation (United Nations [UN] Women, no year)

The NPFDB carried out sexual and reproductive health education through programmes such as Kafe@Teen, which is aimed at urban adolescents, the National Service Programme, and PEKERTI (sex education for students aged 12 and 15 years old) in collaboration with the Ministry of Education. The Federation of Reproductive Health Associations, Malaysia (FRHAM) developed the PEKERTI module targeted at post-UPSR (aged 12) students while the NPFDB developed the module for post-PMR (15 years) students. For the PEKERTI programme piloted in 2012, FRHAM was invited to train selected teachers on sexual and reproductive health so that they could conduct similar sessions to the post-UPSR (age 12) students at selected schools. However, the planned PEKERTI programme was not conducted in 2013 due to lack of funding. It will resume in 2014.

Grounds under which abortion is legal

Abortion is legal under Section 312 Penal Code to save a woman's life, to preserve a woman's physical health as well as her mental health (Attorney General's Chambers [AGC], 2013). This is generally not known by most people. The Fatwa allows abortion below 120 days if the foetus is abnormal, and the pregnancy endangers the mother's life (Ministry of Health [MOH] Malaysia, 2012a). However, married Muslim women need the consent of their husband before getting an abortion according to the National Fatwa Council.

Abortion is a taboo topic and there is stigma attached to it. Hence, it is done in clandestine by women who sought the service. Private practitioners take advantage of this to charge exorbitant fees for the service. This is deemed unaffordable for the marginalised and poor women, including migrants and refugees. Access to abortion service is limited at government hospitals.

In 2011, FRHAM coordinated the first ever abortion research in Malaysia, which was funded by WHO (Loh, Tong and Gunasegaran, 2013). Three studies were conducted and a dissemination seminar was held in December 2011 to share the studies' findings. A Statement of Resolutions was

developed and agreed upon by the participants representing various organisations including the MOH, NPFDB, and Reproductive Rights Alliance Advocacy Malaysia (RRAAM). This document was used by RRAAM, in which FRHAM is a member, as a key tool to advocate for revision in the existing policies related to abortion. One of the resolutions was that a consensus guideline on the provision of safe abortion services taking cognizance of the current medical and surgical developments should be developed by all involved agencies led by the MOH (Loh, Tong and Gunasegaran, 2013).

Subsequently, the MOH took the lead to develop a guideline on termination of pregnancy for public hospitals which aims to "create awareness among government health care professionals of the complexity of the issues of induced abortion and to be mindful of the existing provisions given by the professional ethics, legislation, religion and reproductive rights during consultation with the woman client" (MOH Malaysia, 2012a). The Guideline provides the Standard Operating Procedures for termination of pregnancy (pre-termination management, methods of termination and post-termination management) as well as legal and religious perspectives (Islam, Buddhist, Hindu, Christian, and Sikh) on abortion (MOH Malaysia, 2012a). The Guideline on Termination of Pregnancy in government hospitals takes effect immediately. This is a lauded effort as it is estimated that there are about 90,000 abortions annually, based on statistical calculation (FRHAM, RRAAM and SRI, 2012). It will ensure safe abortion service being available to women, including the youths, thus preventing unsafe abortion service or safe abortion service at an exorbitant price. However, this will take some time before all government health care professionals at every level of care are briefed and trained on this guideline.

It is hopeful that the 2012 Guideline on Termination of Pregnancy for government hospitals developed by MOH will address the barriers and ensure the provision of safe abortion services.

It is hopeful that the 2012 Guideline on Termination of Pregnancy for government hospitals developed by MOH will address the barriers and ensure the provision of safe abortion services.

There are many barriers for the provision of safe abortion services in Malaysia. In a Study on Medical Doctor's Knowledge, Attitude and Willingness to Provide Abortion-related Services as a Reproductive Right of Woman, "over 80% of doctors (respondents) have some understanding of abortion including what is a safe medical procedure, but have limited knowledge on CPR, abortion methods, and their associated risk of complications" and "most of the medical doctors were conventional and 'pro-life' in their attitudes towards sexuality and abortion" (Low, Tong and Gunasegaran, 2013).

"We both go to the clinic. We both talked about it. He doesn't want it [baby]. I vomit, I was tired, sleepy, he didn't want [baby]. He didn't want because we still got small children. I have housework to do, I cook. Again, I vomited, for about two months I vomited and had headache. So, we came here [to the clinic for abortion]."

Interview with a married woman aged 28 years old. Excerpt from Issues of Safe Abortions in Malaysia: Reproductive Rights and Choice (Loh, Tong and Gunasegaran, 2013).

Policies on HIV and AIDS

The National Strategic Plan on HIV and AIDS, 2011-2015 is a follow-up from the first National Strategic Plan on HIV and AIDS, 2006-2010. The Strategic Plan continued to focus on prevention, treatment, care and support (MOH Malaysia, 2006 and 2011). In the 1990s, the transmission trend was one sexual transmission for every nine injecting drug use reported (MOH Malaysia, 2012b).

However, in 2011, it was six sexual transmissions for every four injecting drug use reported (MOH Malaysia, 2012b). The decreased in transmission via injecting drug use is due to the success of the harm reduction programme, which was implemented since 2005 (MOH Malaysia, 2012b). The increase in sexual transmission is alarming and a matter of concern as it indicates an increase in HIV infection among female. It was also noted that in 2011, young people aged 13-29 years old comprised 26% of the total reported HIV infections (MOH Malaysia, 2012b).

There is no legislation on prohibiting arbitrary discrimination on the basis of HIV status of an individual or any non-discrimination laws in Malaysia. Similarly, there is also no regulation that protects the vulnerable populations such as the female and transgender sex workers, injecting drug users, and men who have sex with men (MSM). Hence, cases of discrimination on the basis of HIV and AIDS in the internal regulations and procedures of public or private bodies or groups do occur.

A study by the Positive Malaysian Treatment Access and Advocacy Group (MTAAG+) funded by UNAIDS conducted in 2011 among 491 men, woman and transgender living with HIV found that 32.2% said they were assaulted by known persons, and about 31% reported they were assaulted by unknown persons (Positive Malaysian Treatment Access and Advocacy Group [MTAAG+], 2012). Another 11.8% reported they were assaulted either by their husbands, wives or partners. In terms of employment, 15.5% lost their jobs, 12.4% were refused employment, and 5.7% were denied promotion or had their job description changed (MTAAG+, 2012).

Laws, policies and strategies need to take into account the emerging trends. Policies are needed to prohibit arbitrary discrimination on the basis of a person's HIV status in all areas, including health care, employment, education, and sexual and reproductive and family life.

Policies on adolescent sexual and reproductive health services

The MOH developed the National Adolescent Health Policy in 2001 and the National Adolescent Health, Plan of Action, 2006-2020 in 2007 (MOH Malaysia, 2001 and 2007) to “empower adolescents (aged 10-19 years) with the appropriate knowledge and assertive skills to enable them to practice healthy behaviours and lifestyles (MWFCD Malaysia, 2014).

Previously, the public health care facilities do not provide contraceptive services to unmarried young people. However, in recent years, the MOH has been taking initiatives in advocating for the provision of sexual and reproductive health services for adolescent regardless of their marital status. The Guidelines on Managing Adolescents Sexual and Reproductive Health Issues in Health Clinics was developed by MOH in 2012 (MOH Malaysia, 2012c).

The guidelines provide health care providers the standard operating procedures on how to treat adolescents, especially young girls, for pregnancy and abortion; sexually transmitted infections (STIs), including HIV/AIDS; sexual violence; and contraceptives (MOH Malaysia, 2012c). Despite the guidelines which underscored youth-friendly services, the quality of service depends very much on how sensitised the health care providers are towards universal access to reproductive health for all, including the adolescents. Research is needed to assess the accessibility and usage of the services by the young people.

In 2012, Malaysia began to provide universal access to health care services, including sexual and reproductive health services, to all adolescents in all primary, secondary and tertiary healthcare facilities nationwide (United Nations, 2012). If a service is unavailable at the primary health care, adolescents will be referred to either secondary or tertiary health care facility. Though sexual and reproductive health services, including contraceptives, are available in all government hospitals and clinics, information on the availability of the services was not made known to the adolescents. This is a case of where the services are available but the adolescents are unaware of it, hence, they continue to have unmet need.

For termination of pregnancy, young girls irrespective of their marital status have access to this service at government health facilities, including the health clinics and community clinics. However, for girls below 18 years old, parental or guardian consent is needed as they are still considered a child⁶. Also, sexual intercourse with a girl aged below 16 years old whether with her consent or against her will is considered statutory rape (MOH Malaysia, 2012c). Again, most adolescents are unaware of the services available for them at these health facilities.

Though the policy on adolescent sexual and reproductive health is in place, and information and services on sexual and reproductive health are available, however, the lack of awareness of the availability of the information and services seem to be the major barrier to access services. The government needs to channel its effort to ensure that the adolescents have access to sexual and reproductive health information, education and services.

Difference between median age at marriage and legal minimum age at marriage

In Malaysia, a child is defined as a person under 18 years old (AGC, 2006a). However, child marriage is legally permitted in Malaysia based on the Syariah Law and Civil Law. This permissibility with regard to child marriages in Malaysian law goes against Article 16(2) of CEDAW as well as General Recommendation No. 21 (paragraph 36). For Muslims, Section 8 of the Islamic Family Law (Federal Territories) Act 1984 states that Muslim boys can marry when they reach the legal age of 18 years old (AGC, 2006b). For Muslim girls, they can marry as soon as they turn the legal age of 16 years old (AGC, 2006b). An exception allows both Muslim boys and girls below the minimum legal age (no minimum age is stated here) to marry if the boy/girl receives permission in writing from the Syariah Judge in certain circumstances (AGC, 2006b).

6

COUNTRY
PROFILE ON
UNIVERSAL
ACCESS TO
SEXUAL AND
REPRODUCTIVE
RIGHTS:

MALAYSIA

⁶The Malaysian Child Act 2001 defines anyone below 18 years old as a child.

For non-Muslims, they can marry when they reach the legal age of 18 years old. However, the Family Law permits the marriage of girls at 16 years of age with the authorization of the Chief Minister according to Section 10 of the Law Reform (Marriage and Divorce) Act 1978 (AGC, 2006c).

The average age of marriage for male and female are 28 and 25.7 years old respectively (DoS Malaysia, 2012a). However, the number of Muslim child marriages approved by the Syariah Court has increased from 900 in 2011 to 1,200 in 2012 (Azizan, 2013). This is a great concern as early marriage among girls will have serious harmful consequences such as “denial of childhood and adolescence, denial of education, premature pregnancies leading to higher rates of maternal and infant mortality, vulnerability to sexually transmitted infections, including HIV/AIDS, and not least domestic violence” (Zainah, 2010).

The 2010 UNGASS Country Progress Report for Malaysia indicates 32 Muslim girls vs. none Muslim boy undergoing mandatory premarital HIV screening (MOH Malaysia, 2010). For the age group of 10-14 years, 445 Muslim girls and only two Muslim boys undertook premarital HIV screening (MOH Malaysia, 2010). This trend points to marriages of young girls to older men (WAO, 2012). There is a need to amend both the civil and Islamic family laws to ensure girls are protected from child marriages (WAO, 2012).

Gender-based violence

Reform of legislation related to gender-based violence has been progressive to an extent and much more needs to be done in terms of

“An 11 year old girl, Siti Nur Zubaidah Hussin, who was married off to a 41-year old man last month, has been found at a mosque near Batu Caves in Selangor, is in a weak state, her mother said...It was reported that Siti Nur Zubaidah was married off to the man on February 20 after he convinced her father that there was nothing wrong with the marriage... Siti Sarnan, who lodged a police report on the incident on February 25, said her daughter was stable but traumatised”

Excerpt from Girl, 11 Married to Husband, 41 Found Semi-conscious (The Star, 2013).

amendments to the policies as well as its strict enforcement. The key legislations related to gender-based violence are Domestic Violence (Amendment) Act (2011); Penal Code (2013), Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace (1999), Employment (Amendment) Act (2011), and Anti-Trafficking in Persons and Act (2007). The National Woman Policy (2009) also emphasized on gender-based violence.

Reported rape cases have been rising from 1,217 in 2000 to 3,595 in 2010 as shown in Table 2. A double fold increase for a period of 10-year is a serious concern. The ruling by the Syariah court that deems the victim “as a willing partner in the commission of the crime” would not encourage Muslim rape victims to lodge police report if they are unable to receive justice and protection (Sisters in Islam, 2000). There is also no law protecting the migrant women workers or refugees.

Table 2. Number of Police Reports from 2000 - 2012

Police Report	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Domestic violence	3468	3107	2755	2555	3101	3093	3264	3756	3769	3643	3173	3277	3488
Rape	1217	1386	1431	1479	1760	1931	2454	3098	3409	3626	3595	3301	2998
Abuse of domestic workers*	56	66	39	40	66	37	45	39	*	*	*	78	29

* Data not available

Source: Royal Malaysian Police and Ministry of Women, Family and Community Development as cited by WHO, 2012.

With marital rape not being criminalised, no cases on marital rape have been reported (WAO, 2012). Despite the civil society organizations' pressure for the reform of the Penal Code to criminalise marital rape, this endeavor has not been successful. The Penal Code continues to "not recognise rape within marriage as a crime" (WAO, 2012). In the new Sub-section 375A of the Penal Code, there is no mention of rape at all. Ironically, the following paragraph remains in the Penal Code (AGC, 2013):

Exemption - Sexual intercourse by a man with his own wife by a marriage which is valid under any written law for the time being in force, or is recognised in Malaysia as valid, is not rape.

Domestic violence cases reported to the police indicated that on average it exceeds 3,000 cases a year, except for year 2002-2003, for a period of 10 years (Table 2). Considering the under-reporting of domestic violence this figure may be higher (WAO, 2012). The first prevalence study in Malaysia using the WHO multi-country questionnaire on domestic violence--in the form of emotional, physical and sexual against women--also concluded that there "may still be an under-reporting considering the sensitivity of violence against women" (Rashidah et al., 2013).

Violence against women is also committed by the State under the Syariah law. In 2009, Kartika Sari Dewi Shukarno was sentenced by the Pahang state Syariah Court to six strokes of the rotan in addition to a fine of RM5,000 for drinking beer in the public (WAO, 2012). Due to the public uproar on the sentence, the sentence was later commuted to a community service order (WAO, 2012). In 2010, three Muslim women became the first women to be caned in Malaysia (Mazwin, 2010). They were punished for engaging in "illicit sex" (Mazwin, 2010).

Abuse of migrant domestic workers is highlighted in recent years due to some high profile cases involving the death and torture of Indonesian domestic workers (WAO, 2012). For example, the Nirmala Bonat's case, in which the employer was found guilty for causing grievous hurt to her maid and jailed for 18 years (The Star, 2008). In another case, a couple was charged for the murder of an Indonesian maid (The Star, 2011). The Royal Malaysian Police reported an average of 50 cases of abuse of migrant domestic workers

annually (Ng, 2011). Civil society organisations believe that the figures are under reported.

Women refugees and asylum seekers are vulnerable to gender-based violence due to their stateless status as the Malaysian government has not ratified the 1951 UN Refugee Convention or established mechanisms for the protection of the rights of refugees and asylum seekers (WAO, 2012).

This is a grave concern as the women are at risk of being abused due to their vulnerability. In 2009, 236 cases of sexual and gender-based violence towards refugee women were reported according to UNHCR (Ng, 2011).

Legislation and policies on sexual orientation

The Malaysian Prime Minister stated that "...the government is committed to implementing the agenda of Islam in the national administration....any deviant aspects such as liberalism, pluralism, and lesbian, gay, bisexual and transgender (LGBT) would not have a place in the country" (Bernama, 2012). The Deputy Prime Minister also commented that "attempts to promote liberalism, pluralism and LGBT in the country could threaten the future of the new generation" (New Straits Times, 2013).

The legislations in Malaysia are discriminating towards sexual orientation. For example, Section 21 of the Minor Offences Act 1955 allows for women and transgender to be charged for indecent behavior (AGC, 2006d). The Penal Code criminalises sex "against the order of nature" and State Syariah laws criminalise same-sex consensual sexual relations between women (AGC, 2013). The laws cited are often used by religious enforcement authorities and the police to assault, harass and sexually abuse the transgender women merely for expressing themselves (WAO, 2012).

In public schools and universities, persons of diverse sexual orientation are at times punished and discriminated because of their sexual orientation (WAO, 2012). There is no avenue for redress for victims of discrimination and violence on the basis of sexual orientation (WAO, 2012).

There is no law in Malaysia that prohibits change of gender identity on a Malaysian identity card. However, the court decisions have been inconsistent. There has been a case where a transwoman was able to change her name and gender (WAO, 2012). Another transwoman was unsuccessful in changing her name and gender (WAO, 2012).

The National Fatwa Council has declared several fatwas targeting sexual orientation and gender identity such as condemning pengkids loosely translated as tomboys), criminalising 'cross-dressing,' and prohibiting sex change operations (WAO, 2012).

Grievance redress mechanisms for sexual and reproductive health services

There is no guideline or mechanism for the public on grievance redress mechanisms for sexual and reproductive health services. The only approach is for the public to bring the matter to court. Individuals would sue the public and private hospitals for medical negligence when dealing with delivery complications (Fung, 2008; Loh, 2013).

However, marginalised and poor population such as the Orang Asli, refugees, migrant workers, female sex workers and transgenders are not aware of their sexual and reproductive health rights. Moreover, they do not have the access, information or "know-how" to voice their grievance on this matter.

3. Recommendations

The recommendations for sexual and reproductive health and rights, including adolescent sexual and reproductive health are:

- We call upon the government to strengthen provision of comprehensive sexual and reproductive health information (e.g., promote a broad range of method-mix contraceptives) and services (e.g., counseling for contraception) at government and non-government health facilities, for all especially to the marginalised, poor, migrant workers and refugees.
- We call upon the government to strengthen capacities and sensitise health care service providers on the rights-based approach and to improve their quality of service to all without discrimination and stigma regardless of age, marital status, citizenship, sexual orientation and gender identities.
- We call upon the government to strengthen the provision of comprehensive sexuality education that is rights-based, age-appropriate, gender-sensitive in schools, and in out-of-school and workplace settings. Topics should include promotion of condom use for dual protection, and HIV and AIDS as well as development of life skills such as critical thinking, decision making and empathy.
- We call upon the government to enhance government-NGOs partnership in the provision of comprehensive sexuality education at schools. For example, with the Federation of Reproductive Health Associations, Malaysia (FRHAM) who has the expertise in terms of subject matter and competent trainers to ensure sustainability of the programmes and activities as indicated in relevant action plans under NPFDB and MOE.
- We call upon the government to increase efforts to promote the availability of sexual and reproductive health services at government health facilities, including contraceptives and termination of pregnancy, for young people.

Under the Penal Code, any registered medical practitioner could provide abortion when the pregnancy threatens a woman's life or either her physical or mental health. However, most women, medical practitioners and medical students are unaware of this law. Generally, they believe that abortion is illegal. Most medical practitioners have poor attitudes and are judgmental towards women seeking abortion. The government of Malaysia needs to put in place the following actions:

- Sensitisation of medical students and medical practitioners on abortion law according to the Penal Code and National Fatwa Council.
- Increase awareness among the population, especially women, on the laws regarding abortion and safe abortion.
- Inclusion of abortion service as a part of the universal reproductive health services package according to the WHO guidelines by government health care facilities (WHO, 2012).
- Pre and post-abortion counseling should be mandatory, especially by private health care providers, and post-abortion counseling should include safer sex and contraception.

The Malaysian government should develop policies or strategies on sexual and reproductive health and HIV/AIDS linkages as recommended by UNFPA and the outcome document of the 6th Asia Pacific Population Conference which underscored the importance of "integrating HIV/AIDS intervention into programmes for primary health care, sexual and reproductive health, and maternal, neonatal and child health, including by strengthening efforts to eliminate vertical transmission of HIV from mother to child, by preventing and treating other sexually transmitted infections, expanding access to essential commodities" (Sixth Asian and Pacific Population Conference, 2013). The following initiatives would strengthen the required linkages:

- Mainstreaming sexual and reproductive health services, including HIV and AIDS as part of outpatient care.
- Strengthen management and follow-up of sexually transmitted infections to reduce transmission of HIV.

- Strengthen initiatives on universal access to voluntary HIV counseling and testing, particularly for individuals involved in high risk behaviours.
- Currently, only 30% of eligible people living with HIV are receiving antiretroviral treatment. There is a need to upscale antiretroviral treatment to a larger population to reduce the community viral load.
- Strengthen involvement of faith-based organisations in consolidating HIV and AIDS related stigma and discrimination, especially from the religious and cultural perspectives.
- Promote the 'Code of Practice on Prevention and Management of HIV/AIDS at the Workplace' to ensure a non-discriminatory work environment.

Recommendations for minimum age of marriage are (Voice of the Children, 2013):

- We call upon the government to strengthen collaboration with Muslim and women organisations, and policy makers who speak out against the practice of child marriage.
- We call upon the government to amend the Law Reform (Marriage and Divorce) Act 1976 and Islamic Family laws to set the minimum age of marriage at 18 years old.
- We call upon the government to strengthen collaboration with civil society organizations to create public awareness on the risks and consequences of child marriage to young girls' education, health, including their SRHR and future.
- We call for increased sensitisation of judges, officials and religious personnel involved in the administration of child marriages on how the practice violates the rights of the girl child.

Other recommendations include(WAO, 2012):

- We call upon the government to amend the Penal Code to criminalise marital rape and remove the exception to Sub-section 375A, which explicitly states that sexual intercourse within marriage though against a wife's consent is not rape.
- We call upon the government to amend the Penal Code to criminalise rape with an object and not consider it as an "unnatural offense." This requires moving the provision from Section 377CA to Section 375.

- We call for more concerted media campaigns to increase awareness among the public on women's rights, particularly on issues such as domestic violence, rape, sexual harassment, and rights of migrant domestic workers and refugees.
- We call upon policy makers and relevant agencies to address the issues of stigma and discrimination amongst the marginalised population, including people of diverse sexual orientation and gender identities, which perpetuates discriminatory practices, and violates their human rights.

4. Reference List

- Attorney General's Chambers. (2006a). *Act 611: Child Act 2001 (as at 1 January 2006)*. Kuala Lumpur, Malaysia: The Commissioner of Law Revision and Percetakan Nasional Malaysia Bhd.
- Attorney General's Chambers. (2006b). *Islamic Family Law (Federal Territories) Act 1984 (as at 1 January 2006)*. Kuala Lumpur, Malaysia: The Commissioner of Law Revision and Percetakan Nasional Malaysia Bhd.
- Attorney General's Chambers. (2006c). *Law Reform (Marriage and Divorce) Act 1976 (as at 1 January 2006)*. Kuala Lumpur, Malaysia: The Commissioner of Law Revision and Percetakan Nasional Malaysia Bhd.
- Attorney General's Chambers. (2006d). *Minor Offences Act 1955 (as at 1 January 2006)*. Kuala Lumpur, Malaysia: The Commissioner of Law Revision and Percetakan Nasional Malaysia Bhd.
- Attorney General's Chambers. (2013). *Penal Code: Act 574 (as at 1 February 2013)*. Kuala Lumpur, Malaysia: The Commissioner of Law Revision and Percetakan Nasional Malaysia Bhd.
- Azizan, H. (2013, October 6). Child Marriages on the Rise, *The Star*. Retrieved from <http://www.thestar.com.my/News/Nation/2013/10/06/Child-marriages-on-the-rise-1022-applications-approved-in-2012-compared-to-900-in-2011.aspx>
- Bernama. (2012, June 25). Spiritual, Islamic Aspects Important in National Transformation Process. *Bernama*. Retrieved from https://www.pmo.gov.my/?menu=newslist&news_id=10043&page=1731&news_cat=13
- Department of Statistics Malaysia. (2012a). *Demographic Indicators of Malaysia 2012*. Retrieved from http://www.statistics.gov.my/portal/download_Population/files/demo/Risalah_Indikator_Demografi_Malaysia_2012.pdf
- Department of Statistics Malaysia. (2012b). *Population Projections Malaysia 2010-2040*. Retrieved from http://www.statistics.gov.my/portal/download_Population/files/population_projections/Population_Projection_2010-2040.pdf
- Federation of Reproductive Health Associations, Malaysia (FRHAM) Reproductive Rights Advocacy Alliance, Malaysia (RRAAM) and The Sexual Rights Initiative (SRI). (2013). *Joint Stakeholder Submission on Sexual and Reproductive Rights in Malaysia for the 17th Session of the Universal Periodic Review October 2013*. Retrieved from <http://sexualrightsinitiative.com/wp-content/uploads/UPR-Submission-by-FRHAM-RRAAM-SRI-final.doc>
- Fung, C. (2008, May 14). Mother Sues Medical Officer after Newborn Dies, *AsiaOne*. Retrieved from <http://webcache.googleusercontent.com/search?q=cache:FhQf7qiFEYgJ:digital.asiaone.com/Health/News/Story/A1Story20080514-65098.html+&cd=6&hl=en&ct=clnk>
- Institute for Public Health of Malaysia. (1996). *Second National Health and Morbidity Survey*. Putrajaya, Malaysia: Ministry of Health.
- Loh, I. (2013, January 9). Couple to Sue Hospital over Death of Newborn, *The Star*. Retrieved from <http://www.thestar.com.my/News/Nation/2013/01/09/Couple-to-sue-hospital-over-death-of-newborn.aspx>
- Low, W.Y., Tong, W.T. and Gunasegaran, V. (Eds.). (2013). *Issues of Safe Abortions in Malaysia: Reproductive Rights and Choice*. Kuala Lumpur, Malaysia: University of Malaya.
- Mazwin Nik Anis. (2010, February 18). 3 Women Caned for Having Illicit Sex. *The Star*. Retrieved from <http://www.thestar.com.my/story.aspx?file=%2f2010%2f2%2f18%2fnation%2f5697699&sec=13>

- Ministry of Health Malaysia. (2001). *National Adolescent Health Policy*. Putrajaya, Malaysia: Ministry of Health.
- Ministry of Health Malaysia. (2006). *Malaysia: National Strategic Plan on HIV/AIDS 2006-2010*. Retrieved from <http://www.aidsdatahub.org/en/reference-librarycols2/surveillance-situational-analysis-assessments/item/14442-malaysia-national-strategic-plan-on-hiv/aids-2006-2010-ministry-of-health-malaysia-2006>
- Ministry of Health Malaysia. (2007). *National Adolescent Health Plan of Action 2006-2020*. Putrajaya, Malaysia: Ministry of Health.
- Ministry of Health Malaysia. Disease Control Division, HIV/STD Section. (2010). *UNGASS Country Progress Report-Malaysia*. Retrieved from: http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2010countries/malaysia_2010_country_progress_report_en.pdf
- Ministry of Health Malaysia. (2011). *National Strategic Plan on HIV/AIDS 2011-2015*. Retrieved from http://www.moh.gov.my/images/gallery/Report/NSP_AIDS_2011_2015.pdf
- Ministry of Health Malaysia. (2012a). *Guidelines on Termination of Pregnancy (TOP) for Hospitals in the Ministry of Health*. Retrieved from <http://www.moh.gov.my/images/gallery/GarisPanduan/Guideline%20On%20TOP%20for%20>
- Ministry of Health Malaysia. Disease Control Division. (2012b). *Malaysia 2012 Global AIDS Response Country Progress Report*. Putrajaya, Malaysia: Ministry of Health.
- Ministry of Health Malaysia. Family Health Development Division. (2012c). *Garis Panduan Pengendalian Masalah Kesihatan Seksual dan Reproduksi Remaja di Klinik Kesihatan*. Retrieved from <http://fh.moh.gov.my/v3/index.php/ms/component/jdownloads/finish/11-unit-kesihatan-remaja/97-garis-panduan-pengendalian-masalah-kesihatan-seksual-dan-reproduktif-remaja-di-klinik-kesihatan/0>
- Ministry of Women, Family and Community Development Malaysia. (2012). *National Experience in Population Matters: Adolescents and Youth* (Excerpts from Malaysia's Country Statement at the 45th Session of the United Nations Commission on Population and Development, 24 April 2012, New York).
- Ministry of Women, Family and Community Development Malaysia. (2014). *National Statement by Dato' Sri Dr Noorul Ainur Mohd Nur, Secretary-General of the Ministry of Women, Family and Community Development of Malaysia at the 47th Session of the Commission on Population and Development*, 8 April 2014, New York.
- National Population and Family Development Board. (2009). *National Policy on Reproductive Health and Social Education*. Retrieved from <http://familyrepository.lppkn.gov.my/247/>.
- New Straits Times. (2013, May 2). Education a Fortress to Ward Off Unhealthy Foreign Cultures: DPM. *New Straits Times*. Retrieved from <http://www.nst.com.my/latest/education-a-fortress-to-ward-off-unhealthy-foreign-cultures-dpm-1.270003?localLinksEnabled=false/Article>
- Ng, C. (2011). *Gender and Rights: Analysis for Action*. Good Governance and Gender Equality Society, Penang (3Gs) and Women's Development Research Centre (KANITA). Penang: University Sains Malaysia.
- Office of the High Commissioner for Human Rights. (2013). *Human Rights Bodies*. Retrieved from <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>
- Office of the High Commissioner for Human Rights. (2014). *Ratification Status for Malaysia*. Retrieved from http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=105&Lang=EN
- Positive Malaysian Treatment Access and Advocacy Group. (2012). *The People Living with HIV Stigma Index: Malaysia*. Retrieved from <http://www.stigmaindex.org/download.php?id=115>
- Rashidah, S, Noraida, E., Siti Hawa, A., Intan, O., Sarimah, A., Siti, W.O.,...Siti, S.H.S. (2013). Domestic Violence and Women's Well-being in Malaysia: Issues and Challenges Conducting a National Study Using the WHO Multicountry Questionnaire on Women's Health and Domestic Violence Against Women. *Procedia- Social and Behavioural Sciences 2014: 91: 475-488*.

- Sisters in Islam. (2000). *Rape and Incest as Penal Code Offences [Press Statement]*. Retrieved from <http://www.sistersinislam.org.my/news.php?item.850.12>
- Sixth Asian and Pacific Population Conference. (2013). *Draft Ministerial Declaration on Population and Development to be Considered by the Sixth Asian and Pacific Population Conference*. Retrieved from http://www.unescapsdd.org/files/documents/APPC6_WP1ER3.pdf
- Tan, C. C., Arman, A. and Vijaindren, A. (2013, (2013 September 8). Upward Spiral of Health care Cost. *New Straits Times*. Retrieved from <http://www.nst.com.my/nation/general/upward-spiral-of-health-care-cost-1.351392>
- Teh, Y. K. (2002). *The Mak Nyahs: Malaysian Male to Female Transsexuals*. Singapore: Times Academic Press.
- The Star. (2008, November 27). Nirmala Bonat Case: Housewife Found Guilty, 18 Years Jail. *The Star*. Retrieved from <http://www.thestar.com.my/story.aspx/?file=%2f2008%2f11%2f27%2fnation%2f20081127110151>
- The Star. (2011, June 15). Couple Charged with Murder of Indonesian Maid. *The Star*. Retrieved from <http://www.thestar.com.my/story.aspx/?sec=nation&file=%2f2011%2f6%2f15%2fnation%2f20110615181359>
- The Star. (2013, March 13). Girl, 11, Married to Husband, 41, Found Semi-conscious. *The Star*. Retrieved from <http://www.thestar.com.my/story.aspx/?file=%2f2010%2f3%2f13%2fnation%2f20100313205049>
- United Nations. (2012). *Malaysia: Permanent Mission to the United Nations - Country Statement 45th Session of the Commission on Population and Development*. Retrieved from http://www.un.org/esa/population/cpd/cpd2012/Agenda%20item%204/Country%20statements/Malaysia_Item4.pdf
- United Nations High Commissioner for Refugees (2014). *2014 UNHCR Country Operations Profile - Malaysia*. Retrieved from <http://www.unhcr.org/pages/49e4884c6.html>
- Voice of the Children. (2013). *Child Marriage in Malaysia, a Child Rights Issue*. Retrieved from <http://www.girlsnotbrides.org/tackling-child-marriage-in-malaysia-a-child-rights-activists-perspective/>
- Women's AID Organisation. Malaysian NGO CEDAW Alternative Report Group. (2012, April 1). *CEDAW and Malaysia: Malaysian Non-Government Organisations' Alternative Report assessing the Government's progress in implementing the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*. Retrieved from http://www.wao.org.my/Reports_74_6_1.htm
- World Health Organization. (2011). *World Health Organization Statistics Report*. Retrieved from http://www.who.int/gho/publications/world_health_statistics/en/index.html
- World Health Organization. Department of Reproductive Health and Research. (2012). *Safe Abortion: Technical and Policy Guidance for Health Systems (2nd Edition)*. Retrieved from http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1
- Zainah Anwar. Nothing Divine in Child Marriage (2010, June 6). *The Star*. Retrieved from <http://www.thestar.com.my/story.aspx/?file=%2f2010%2f6%2f6%2ffocus%2f6406864>

About FRHAM

The Federation of Reproductive Health Associations, Malaysia (FRHAM), formerly known as the Federation of Family Planning Associations, Malaysia (FFPAM). Established in 1958 is a federated organization of 13 State Member Associations. It is the leading non-profit NGO in Malaysia advocating and promoting sexual and reproductive health, including family planning, and reproductive rights of women, men and young people. In the provision of information and services to our target beneficiaries, we do not discriminate on the basis of sex, politics, race, religion or status. Services are based on informed choice and no coercion will be used in the promotion of any services. FRHAM is an accredited member of the International Planned Parenthood Federation (IPPF).

In 2012, FRHAM was awarded the United Nations Population Award due to our works and services on population and SRH related concerns, including making specific efforts to the marginalised communities (e.g., rural communities, sex workers, people living with HIV, refugees and young people).

FRHAM

Address: 81-B Jalan SS15/5A,
47500 Subang Jaya, Selangor, Malaysia
Tel: 603-5633 7514
Email: frham@frham.org.my

Production Team

Author:
Hwei Mian Lim
Editor:
Yeok Kim Yeoh
Research Assistant:
Juliana Ooi
Reviewers:
Dato' Dr Rashidah Shuib
P. Balasubramaniam
Maria Melinda Ando
Sai Jyothirmai Racherla
and Yukari Horii
Template Designer:
TM Ali Basir
Layout Artist:
Atiqah Shakirin
Photographer:
Shammila
Printer:
Syarikat Kota Raya

About the Country Profile

This country profile is developed by the Federation of Reproductive Health Associations, Malaysia (FRHAM). It is one of 15 country profiles on universal sexual and reproductive rights, produced with support from the Asian-Pacific Resource and Research Centre for Women (ARROW). Countries covered are Bangladesh, Burma, Cambodia, China, India, Lao PDR, Maldives, Malaysia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, and Vietnam. These are available at www.frham.org.my, www.arrow.org.my and www.srhr4allnow.org.

