

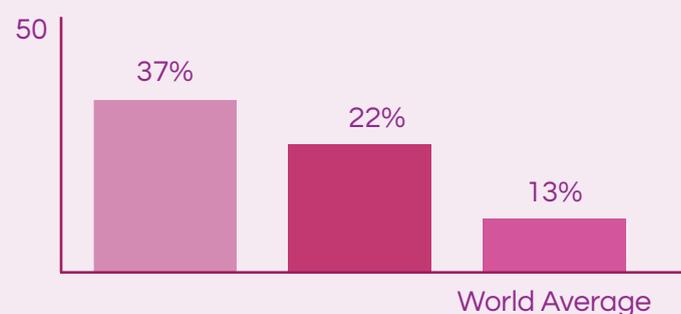
GENDER-BASED VIOLENCE IN MALAYSIA

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

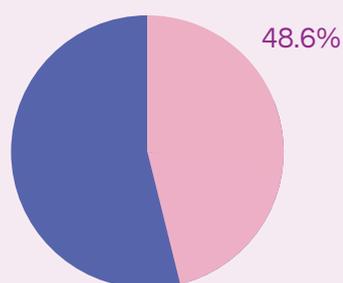


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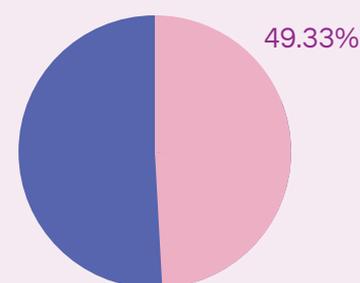
Globally, violence against women disproportionately affects the low- and lower-middle-income countries and regions. Thirty-seven per cent of women aged 15 to 49 living in countries classified by the Sustainable Development Goals as “least developed” have been subject to physical and/or sexual intimate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



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



Women and girls in Malaysia



Women and girls in East Asia Pacific

Women and girls in Malaysia account for 48.6% of the total population, close to the percentage of women and girls in the East Asia Pacific region which is at 49.33%²

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

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

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

³<https://arrow.org.my/wp-content/uploads/2021/01/Gender-Equality-In-Malaysia-.pdf>



Malaysia has participated in three cycles of the UPR – 2009, 2013 and 2018. In Malaysia’s last review, it received 268 recommendations covering a wide range of areas, including international obligations, civil and political rights, discrimination, and human rights education and training. Of these, 147 recommendations were accepted in full, 37 were partially accepted and 84 were noted.⁴ Inconsistencies pertaining to gender discriminatory laws can be resolved by enacting a Gender Equality Act which will then help the Malaysian government to attain its CEDAW commitments, upholding Malaysia’s women’s rights to the highest level.⁵



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SITUATIONAL ANALYSIS: GENDER-BASED VIOLENCE IN THE NATIONAL CONTEXT

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



Statistics of the increase in domestic violence and rape cases reported to the police from 2000 - 2018 in Malaysia.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

¹³ Ibid



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Limited implementation of CRC, CEDAW and other legal instruments relevant to protection of survivors of SGBV

Limited access to state services and systems

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

Limited relevant stakeholders and available resources

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

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

RECOMMENDATIONS AND THE WAYS FORWARD¹⁵

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

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

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

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

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

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



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