

Country	Malaysia
SIGI 2019 Category	N/A
SIGI Value 2019	N/A

Discrimination in the family		81%
	Legal framework on child marriage	1
	Percentage of girls under 18 married	6%
	Legal framework on household responsibilities	1
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	21%
	Female to male ratio of time spent on unpaid care work	3.2
	Legal framework on inheritance	0.5
	Legal framework on divorce	1

Restricted physical integrity		N/A
	Legal framework on violence against women	0.75
	Proportion of the female population justifying domestic violence	41%
	Prevalence of domestic violence against women (lifetime)	-
	Sex ratio at birth (natural =105)	106.9
	Legal framework on reproductive rights	0.75
	Female population with unmet needs for family planning	18%

Restricted access to productive and financial resources		N/A
	Legal framework on working rights	1
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	46%
	Share of managers (male)	89%
	Legal framework on access to non-land assets	0.5
	Share of house owners (male)	-
	Legal framework on access to land assets	0.5
	Share of agricultural land holders (male)	95%
	Legal framework on access to financial services	0.25
	Share of account holders (male)	62%

Restricted civil liberties		N/A
	Legal framework on civil rights	0.75
	Legal framework on freedom of movement	0
	Percentage of women in the total number of persons not feeling safe walking alone at night	67%
	Legal framework on political participation	0.25
	Share of the population that believes men are better political leaders than women	66%
	Percentage of male MP's	80%
	Legal framework on access to justice	0.75
	Share of women declaring lack of confidence in the justice system	51%

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0, 0.25, 0.5, 0.75 or 1.

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

1. Discrimination in the family

a) Overarching legal framework for marriage

Family law matters are governed by a combination of Civil law, *Syariah* (Islamic laws) and *Adat* (customary laws) (CEDAW, 2004). Islamic law is subject to the supremacy of the Constitution (*Federal Constitution*: 75). Muslims and non-Muslims are subject to different legal systems as it pertains family matters, with Article 121(1A) of the Federal Constitution preventing civil courts from ruling within the jurisdiction of the *Syariah* courts.

The Federal Constitution recognises and guarantees Malaysian women fundamental rights as citizens, providing that “there shall be no discrimination against citizens on the ground of religion, race, descent, place of birth or gender” (*Federal Constitution*: 8(2)). Article 8(2) was amended in 2001 to include the word “gender”. However, in both the *Syariah* and civil legal systems there are still provisions that discriminate on the basis of sex as it pertains issues of citizenship, marriage and inheritance (CEDAW, 2004).

Marriage is governed by the Islamic Family Law (Federal Territories) Act 1984 (IFLA) for Muslims and by the Law Reform (Marriage and Divorce) Act 1976 (LRA) with regard to non-Muslims. Even though the Constitution provides married women with the same rights as men to enter into marriage, the IFLA and the LRA do not share the same definition of forced marriage. Under civil law, full free consent of both partners shall be given and no threats or force shall be used to compel an individual to marry against his/her will. When it comes to Muslims, the IFLA stipulates that marriages shall not be recognised without the free consent of both partners, but also of the *Wali*, the woman’s guardian, who is always male. The Penal Code guarantees that whomever kidnaps or abducts a woman with the intent to compel her to marry any person against her will, will be punished with imprisonment for a term which may extend to ten years, and will be liable to fine (*Penal Code*, 366).

The Federal Constitution of Malaysia also officially recognises customary laws and, as a result, traditional Indigenous decision making mechanisms continue to administer local community affairs (WAO, 2012). As it pertains marriage matters, indigenous people are governed by native customary or aboriginal law, unless they elect to marry under the Law Reform Act (ADB, 2002).

b) Child marriage

In Malaysia either civil or *Syariah* law can determine the minimum age of marriage.

According to the LRA, a person under the age 18 cannot be married. However, women who have reached the age of 16 may marry provided they or their parents obtained prior permission from the Chief Minister of the relevant State (WAO, 2012).

Under the ISLA, the minimum age of marriage is 16 years for females and 18 for males, with an exception that permits Muslim girls and boys below these ages to marry with the *Syariah* Court’s consent (WAO, 2012).

Even though in 2010 the Malaysian government has removed its reservation to Article 16(2) of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), child marriage is still legal in Malaysia.

In April 2017 the country passed a law on sexual offences against children without criminalising child marriage, with a Malaysian member of parliament stating that girls as young as nine were “physically and spiritually” ready for marriage (Asia News Monitor, 2017).

A high number of Muslim teenagers are reported to marry just before reaching the legal age. This is often due to unwanted, early pregnancies and religious taboos around sex outside of marriage, while in poorer communities many girls often get married at a young age to ensure their families’ economic survival (Girls Not Brides, 2017).

c) Household responsibilities

Both civil and Syariah laws reinforce stereotypical roles of men and women in the household. Under both legal systems, a husband is legally bound to maintain his wife, while there is no such obligation for a married woman who possesses means of her own (CEDAW, 2004). On the other hand, the law expects women to be the primary carers in the household, and does not provide for the role of men in child-raising, entitling only women to parental leave for example.

Women are often expected to play a disproportionate role within the household. Even when they work full time, they take care of most of the cooking, housecleaning and childcare at home (Hirschman, 2016).

As it pertains legal guardianship of children, Muslim and non-Muslims are subject to different obligations. Under the IFLA, the mother is considered more suitable to hold custody of her infant during the marriage as well as after its dissolution (CEDAW, 2004). However, it is the duty of a man to maintain his children, whether they are in his custody or the custody of any other person (CEDAW, 2004).

Under civil law, parental authority and guardianship is granted equally to both spouses since the amendment of the Guardianship of Infants Act in 1999. Previously, fathers were recognised as the sole legal guardians of a child’s person and property (CEDAW, 2004). Syariah law, however, only recognises the rights of men to be guardians (Islamic Family Law Act, art. 88). This creates difficulties for both Muslim and non-Muslim women, as men can easily convert to Islam, depriving Malaysian women of any rights related to guardianship (WAO, 2012).

d) Divorce

Under civil law, women have the same rights as men to initiate divorce. The LRA provides that couples may seek a divorce and determine the terms of the divorce by mutual consent. Divorce can also be obtained on the grounds that the marriage has irretrievably broken down in situations of adultery, behaviours that prevent one of the parts to be reasonably expected to live with the other, continuous desertion for a period of at least two years or proof that the parties have lived apart for at least two years. (CEDAW, 2004).

Under the IFLA, the Syariah Court can order a divorce and permit a husband to pronounce a *talaq* (repudiation of marriage) in court. Women cannot pronounce the *talaq*, however they can divorce their husbands on grounds based on the prescribed *ta'lik*, which consist in failure to provide financial maintenance, absence of the husband for a period that exceeds four months or on the grounds of violence against the wife (CEDAW, 2004).

Under both civil and Islamic law, the court can order a man to make maintenance payment to his wife or former wife upon dissolution of marriage. Civil law also considers the corresponding power to order a wife to pay maintenance to her husband or former husband, however this scenario arises only in very limited circumstances (CEDAW, 2004).

e) Inheritance

Under civil law, inheritance is governed by the Inheritance (Family Provision) Act 1971 and Distribution Act 1958. Since 1997, there is no discrimination on the basis of sex on this issue and when one of the parties dies intestate all his/her property must go to the partner whether or not the marriage produced children.

The Islamic system of inheritance entails distribution of property between the surviving parents, spouses and offspring. The general rule behind the distribution of means is that the share of a man is double that of a woman in the same degree of relationship regardless of her marital status (CEDAW, 2004). This is based on the assumption that men provide for the family, and does not take into consideration the evolution of the role of women in the workforce in contemporary Malaysia (WAO, 2012).

Non-Muslim women can be affected by this system as well in the eventuality their husband decides to convert to Islam during marriage. These women are reported to often seek assistance from Muslim women groups on this matter, as the husband's conversion can have a drastic impact on their rights as it pertains issues of divorce, division of assets, maintenance and inheritance (WAO, 2012).

More

Polygamy is illegal for non-Muslims under the Law Reform (Marriage and Divorce) Act, but legal for Muslim men. The Islamic Family Law provides specific procedures for polygamous marriages, allowing Muslim men to take no more than four wives. This comes under the condition that the husband will be able to support all his partners and dependents, ensuring equal treatment and no harm to all his partners.

The law however does not prevent unfortunate incidences to occur, as in practice the concept of fairness and equality are often misunderstood and dissatisfaction among wives is a common issue (Kamaruddin and Abdullah 2008). Women are often reported unhappy with the way their husbands carry out their responsibilities, which are not only related to financial factors but also issues such as infertility, infirmity, breakdown of the marriage and bad behaviour (Kamaruddin and Abdullah 2008).

According to the Islamic Family Law, the proposed marriage must also be "just and necessary." Such a definition is debatable and it is up to the Syariah Court to decide whether to grant the man the permission of marrying a second or subsequent wife (WAO, 2017). Even though the judge could decide

to hear the wife's view, in practice this almost never happens. The proposed wife is generally not required to attend the hearing and in some cases she might not be aware that her spouse is already married. In fact, checking Muslim marital status is particularly difficult, as there is no central computerised database of Muslim marriages, even though the law requires their official registration (WAO, 2017).

Polygamy also poses questions regarding fairness in the distribution of pension payments; on the one hand the husband is entitled to inherit any allowance from his late wife, whilst the wives have to share between them any pension left behind by the deceased partner (Kamaruddin and Abdullah, 2008).

2. Restricted Physical integrity

a) Violence against women

Violence against women and girls (VAWG) is prohibited by the body of laws on various violent crimes such as assault and rape in the Penal Code and by the Domestic Violence Act 1994. Even though there is no one comprehensive legislation addressing VAWG, these laws are applicable to both Muslim and non-Muslims and they address the issue with specific provisions relating to investigation, prosecution and punishment of the perpetrator. The legal framework does not provide for protection and support services for victims and survivors, however Malaysia accessed to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995. In 2001 the Ministry of Women and Family Development was then created with a mandate to address issues on women and uplift the stature of women in the country. In the 1990s the Ministry of Health established a system of One-Stop Crisis Centres (OSCC) in all major hospitals to handle survivors of violence and sexual assault. The services and assistance provided include: medical treatment and examination, collection of specimen and statements, counselling, shelters and legal assistance (OSCC, 2017). OSCCs are reported to be functioning well in some hospitals and inadequately in others as they are funded as part of the emergency department within hospitals (WAO, 2012).

b) Domestic violence

The Domestic Violence Act 1994 (DVA) aims to provide protection for survivors of violence in homes pending investigation or other criminal proceedings in court. The Act protects spouses, as well as former spouses, children, incapacitated adults or any other member of the family subject to violence in a domestic situation (CEDAW, 2004). The policy approach of adopting a family-focused strategy has limited the range of people who can seek legal recourse, excluding unmarried couples living together and homosexual relationships (Amirthalingam, 2005).

In 2011 the definition of domestic violence was expanded to include physical, sexual, psychological abuse as well as emotional injury (WAO, 2012). However, the definition provided by the DVA still falls short as it does not recognise stalking and intimidation as forms of domestic violence (WAO, 2012). The Malaysian legal framework also fails to recognise domestic violence as an offence in the Penal Code, as it does not distinguish it from other types of violent offences (WAO, 2012). In practice, the law charges perpetrators under the 'hurt' provisions in the Penal Code, failing to reflect the persistent and often repetitive nature of domestic violence (WAO, 2012).

Because its nature is legally ignored, procedural problems often occur. Domestic violence offenses are often categorised as non-seizable, hampering the immediate response and protection of the victim (Amirthalingam, 2005). It is reported that obtaining an interim Protection Order against a perpetrator of domestic violence may take between 24 hours and 3 months, and the implementation of the legislation is often inconsistent across states (WAO, 2012). Alongside unreported offences, several cases also ended up ignored because service providers were reluctant to help the victim obtain protection orders due to the misconceived belief that women tend to withdraw the reports (WAO, 2012).

The Women Aid Organisation (WAO) has been monitoring the implementation of the Domestic Violence Act since its creation in 1996, to examine the experiences of battered women post-DVA, and to make recommendations to strengthen the Act (WAO, 2017). Even though the implementation of the Act is considered a monumental achievement, Malaysian Women's organisations believe that the DVA is not as far reaching as was originally intended given its limitations in protecting victims and overcoming traditional barriers (WAO, 2017).

c) Rape

The Penal Code, the Criminal Procedure Code and the Evidence Act govern offences against women in relation to rape. The Penal Code provides that rape is punishable by a prison term of up to 30 years, caning, and a fine and criminalises potential or actual physical harm within marriage (Penal Code Act 574). Marital rape is not considered a criminal offence and even though the concept of rape was introduced into the Penal Code, the definition of marital rape is based on potential or actual physical harm, rather than the act itself. An earlier exception still remains in the Code, which provides that "[s]exual 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" (*Penal Code Amended 2006*, ss. 375A). In addition, rape with an object is not considered rape but rather as an unnatural offence and the court may decide the minimum jail term for a man convicted of statutory rape of a girl aged 16 years or less (*Penal Code*, Amended 2006, 375).

d) Sexual harassment

In Malaysia incidences of sexual harassment are covered by the law only for matters relating to the workplace. The law does not cover sexual harassment in educational establishments or other public spaces. In addition, the provisions included in the Employment Act 1955 in 2011 contain several weaknesses, which disregard the rights of victims. The law allows the employer to decide on whether or not an inquiry should be conducted; it does not provide for compensation or an apology to victims; and only gives the victim the option to resign with payment in lieu of notice, termination of benefits and indemnity (WAO, 2012).

The Malaysian Government, through the Ministry of Human Resources, promulgated a *Code of Practice on the Prevention and Handling of Sexual Harassment in the Workplace* with the intent to raise awareness around this issue and offer behavioural guidelines to employers and employee. However, this Code is not a legally binding instrument and employers are not obliged to adopt it.

e) Female genital mutilation

Female genital mutilation (FGM) is not addressed by criminal law and therefore it is not considered as a harmful practice. The picture around this form of violence is not clear, especially when it comes to Muslims girls and women. In 2009, the National Fatwa Council declared a series of fatwas focussing on limiting the rights of women to physical integrity (WAO, 2012). A fatwa in particular made it obligatory for girls to undergo circumcision during childhood. Even though it did not carry the weight of law, this fatwa deeply influenced the behaviours of the Muslim community (WAO, 2012).

f) Abortion

Abortion is not available on demand and only permitted to save a woman's life and to preserve a woman's physical and mental health (*Penal Code Act 574:312*). Abortion in Malaysia is stigmatised and costly, and government hospitals are reported to provide a very limited service. In addition, under the Penal Code, it is one doctor alone who makes the decision to carry out a termination and in the case of Muslim women consent of the husband is also needed. In 2012, the Malaysian Government began to provide universal access to all health care services, including reproductive services, to all adolescents in health care facilities nationwide. Young girls have access to all services, including termination, regardless of their marital status. However, most adolescents are unaware of this service (FRHAM, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Non-Muslim women have equal rights to own, use, make decisions over and inherit land under the Federal Constitution and the land legislation regardless of their marital status. As it pertains married women, with the amendment of the Land (Group Settlement Areas) Act 1960, a wife or ex-wife is entitled to co-own the developed land under the Federal Land Development Authority scheme. The Married Women Act of 1957 also guarantees the right of married women to acquire, hold and dispose of any property.

Muslim women's right to own and inherit land is regulated by Syariah law, with male heirs being entitled to a double share of inheritance (WAO, 2012).

Rural women in Malaysia have the right to own and inherit land. Most ethnic groups have their own customary laws regarding inheritance, with matriarchal communities favouring women by restricting ownership and inheritance of tribal lands to female members (FAO, 2017). However, Malaysia is not a signatory of the ILO Indigenous and Tribal Peoples Convention and therefore it is not abided to protect indigenous communities. Indigenous women experience many barriers to accessing health care and protection, as well as financial services. *Penan* communities in the Sarawak region are reported to experience a denial of their rights to access land and social services, with women and girls being particularly vulnerable and experiencing abuses (WAO, 2012).

Under the Constitution, men and women share the same rights to own, acquire, manage and dispose of non-land assets (CEDAW, 2004). This does not change upon marriage, as under civil law both partners need the consent of the spouse to dispose property. The Malaysian civil law recognises the right of a man and a woman to hold separate properties even when married, however any asset

acquired during the marriage is considered joint property. In case of divorce, both men and women are entitled to claim for the division of the matrimonial assets, however it is not clear whether this is an equal division (CEDAW, 2004).

In the early 90s the Malaysian Government launched the National Agriculture Policy (NAP) (1992-2010) to enhance women's involvement in agriculture and rural development. The intent was to increase female labour force participation, involving women in horticultural enterprises as well as other occupations requiring dexterity and skill (FAO, 2017). The NAP was revised in 1998 to address the challenges faced by the agricultural sector following the 1997-1998 Asian Financial Crisis and the liberalisation of the financial markets to Malaysia's economy. In 2011 the Government launched the National Agro-Food Policy (2011-2020) to address challenges in domestic and global markets to ensure production for food security and safety (FFTC, 2004). The Malaysian Government has committed to enable all citizens – regardless of gender, ethnicity, socio-economic level and geographic location – to participate in and benefit from the country's prosperity. The Eleventh National Policy Plan particularly focuses on vulnerable groups, committing to transforming rural areas with improved connectivity, mobility and better access to quality education and training (Malaysian Government, 2016).

A number of agencies including RISDA, the Department of Agriculture and Farmers' Organisations Authority, have been involved in supporting women's rural microenterprises since the launch of the Malaysia's Fifth Plan (UNDP, 2008). However, the large number of microfinance trainings and instruments in the country does not reach the most vulnerable communities. Operating in isolation and lacking institutional affiliations, these services have showed a predisposition towards grooming big, leading to a neglect of the smaller and more segregated communities (UNDP, 2008).

b) Secure access to formal financial resources

The Banking and Financial Institution Act 1989 and other related banking and financial legislations do not discriminate on the basis of gender (CEDAW, 2004). The Malaysian law guarantees both men and women equal rights to access formal financial resources, including opening a bank account and obtaining credit regardless of their marital status. The law does not require married women to obtain the signature and authority of their husband to open a bank account at a formal institution (World Bank, 2015).

Under the Islamic Family Law (Federal Territories) Act 2005, Muslim women can claim one-third of the properties acquired by the husband during the marriage in recognition of her contributions in looking after the family. This provision, amended to enhance the protection for women in case of polygamous marriages, does not take into account the fact that it can be abused by the husband, as he would be able to seek the sale of the matrimonial home and divide the proceeds (WAO, 2012).

For rural women, however, accessibility to credit often depends on their income level. Women coming from the poorest backgrounds have better access than those from non-poor households, being often a target group of most micro-credit programmes set by non-governmental organisations or the Government (CEDAW, 2004).

In order to enhance the level of financial literacy and financial management capability among rural households, the Eleventh Malaysia Plan committed to intensify financial education and debt advisory

services, assisting household with financial management and responsible practices (Malaysian Government, 2016).

c) Workplace rights

The Federal Constitution mandates non-discrimination on the basis of sex in employment under a public authority (*Federal Constitution*: 8(2)). Workplace rights are governed by the Employment Act 1955, a legal framework covering matters such as payment of wages, rest days, hours of work, holidays and termination (CEDAW, 2004). The Act includes some provisions that apply exclusively to women, such as maternity leave and women's legal right to choose a profession.

In Malaysian legislation the term parental leave does not exist and the law only guarantees paid maternity leave, with Malaysia being a signatory of the ILO Maternity Protection Convention (No. 183). Maternity leave is provided under the Employment Act 1955 for a period of at least 60 consecutive days (*Employment Act 1955*: 37). The maternity leave may not commence earlier than 30 days prior to the expected date of confinement or later than the day immediately following it.

Although the Malaysian legislation guarantees non-discrimination on the basis of sex in employment, it does prevent women from entering certain professions. Malaysian women cannot work at night in any industrial or agricultural undertaking or carry out underground work (*Employment Act 1955*:34,35).

The Act also explicitly denies migrant domestic workers the same rights as other workers, as they are not entitled to maternity protection, rest days or holidays and they are not granted a minimum wage (*Employment Act 1955*: 59).

Non-citizen women married to Malaysian men also face discrimination in terms of employment. They are authorised to work under a long term social visit pass, but they are still required to have their husband's permission to work (WAO, 2012).

In general, declining global growth has held back human capital development discouraging women's participation in the economy (OECD, 2015). Despite the fact that there are more women than men in higher education in Malaysia, the degree of women's participation in the workforce remains low (Anuar, 2015).

As a response to these economic challenges, the Malaysian Government launched its Eleventh Malaysia Plan, committing to more family-friendly employment strategies. These include providing better access to quality childcare facilities, flexible working hours, work-from-home options, and employment re-entry opportunities (Malaysian Government, 2016).

4. Restricted civil liberties

a) Citizenship rights

Citizenship in Malaysia is determined by a number of factors, such as birth and parentage. A child is granted Malaysian citizenship if s/he was born within the Federation and has at least one of the parents who at the time of birth is either a Malaysian citizen or permanent resident. If the child was

born outside the Federation, citizenship can only be conferred by the Malaysian father. Women and men, however, share the same rights to register the birth of their children (*Federal Constitution:16*).

Women can get an ID, a passport and travel outside the country in the same way as men regardless of their marital status (World Bank, 2015).

Non-Malaysian women are free to acquire Malaysian citizenship and Malaysian women to change or retain their nationality, regardless of their marital status (CEDAW, 2004). Nationality is not affected by marriage or by a change of nationality of the partner and although the Federal Constitution does not prevent a Malaysian woman from marrying a foreign national, it does prohibit dual nationality (*Federal Constitution: 14,15*).

Non-citizen wives married to Malaysian husbands are particularly vulnerable when on long term social visit passes, as they are completely dependent on their partners for visa renewals, application of residency and they need their husband's permission to work (WAO, 2012). In addition, married women cannot pass nationality to their foreign spouse on an equal basis with men. Malaysian organisations, including Women's Aid Organisation, continue to campaign for equal rights for women and men in relation to nationality (Equality Now, 2016).

b) Voting

Since Independence in 1957, Malaysian women have had the right to vote and to hold office. They have the same rights as men to vote in all elections, to be elected and to participate in political and public life (CEDAW, 2004). However, this has not translated into equal political representation, with women being under-represented in politics and decision-making positions (WAO, 2012). The Malaysian majoritarian system is said to limit the probability of women's equal representation; with a single-member constituency and a majority formula to determine seats, political parties need to put forward their most powerful candidates and these are traditionally men (Yusoff, Sarjoon, Othman, 2016).

c) Political voice

Under the Federal Constitution, women share the same rights as men to hold public and political office. However, the proportion of women gaining electoral office in local and state government is limited and gender disparity still persists in this sphere (Yusoff, Sarjoon, Othman, 2016). Even though women wings had been set in major political parties, their existence was only expected to increase party membership, rather than produce opportunity for women candidates to emerge (Yusoff, Sarjoon, Othman, 2016).

Malaysia has also been reluctant to implement legislative measures to enhance women's representation in politics. In 2011, the Malaysian government committed to achieving better women's representation by implementing gender quotas on corporate boards. However, this has not been set for the political sphere and as of today Malaysia has no quota for women at the national or sub-national levels (WB, 2015). Without being abided to a gender quota system, the structures of most political parties are reported to not be conducive to women's involvement (WAO, 2012).

According to the statistics provided by the Malaysian Election Commission (EC), the number of women nominated as candidates for the 13th General Election increased, with women's nomination at parliamentary and assembly level progressing as well since 2008 (Lim, 2016). However, a disproportionate representation of women candidates still persists, with women representing only the 8.8% of nominated candidates in the last election (Lim, 2016). Women's participation in politics is believed to be influenced by a number of cultural and social elements, which might be reinforcing unequal gendered power relations (Lim, 2013). Women's opportunity of running in winnable positions can be affected by factors such as assessment of the time involved, financial commitments, the likelihood of winning, personal ambition, family commitments, access to political networks (Ballington, Matland, 2004).

Women groups appear to be active since the 1980s, when they started to mobilise to promote women's rights in public debates and politics and increase women's participation in the public sphere (Alifa, 2017). However, women's rights NGOs are reported to face many challenges in carrying out their objectives, as they are subject to repressive and restrictive laws that limit their freedom of speech, association and movement (NCWO, 2005). Since the 2013 elections, activities and civil society groups who criticise the government have come under increasing pressure and 2015 amendments were made to the Sedition Act to give the government more control over social media and the Internet (Human Rights Watch, 2015).

d) Access to justice

The judicial system in Malaysia treats men and women equally, and both genders have equal access to the judicial system. Any individual, regardless of gender, can be a witness in court and can testify as long as he or she possesses a sound mind and rational understanding of the questions put to him or her (CEDAW, 2004). The testimony of men and women is treated equally and the acceptability is based on the credibility of the witness and relevance of the testimony rather than on the gender of the witness (CEDAW, 2004).

The Married Women Act 1957 guarantees all married women the same capacity to sue and being sued, and therefore marital status does not affect their access to justice (Married Women Act 1968: 4).

Muslim women are abided to Syariah law only for family matters related to marriage, divorce, custody and guardianship, maintenance of children, matrimonial properties and inheritance. With regard to criminal laws, the jurisdiction of the Syariah laws is limited and confined to moral offences in respect of polygamous marriage, close proximity, indecent dressing and behaviour, violation of the pillars of Islam and apostasy (Chevallier-Govers, 2010).

Legal pluralism raises many issues concerning women's rights, considering that some offences are addressed only to women (Chevallier-Govers, 2010). These include women's right related to marriage, divorce, guardianship and inheritance. For example, in the Syariah criminal offences enactments there is no distinction between illicit sex between unmarried persons and rape, and the Islamic code contradicts civil law where women are not punishable by caning (*Criminal Procedure Code*:289). Therefore, even though under the Constitution men and women share the same rights to access justice, Muslim women still suffer of discriminatory practices.

In Malaysia's dual legal system, Malaysian women have been appointed to serve as judges in the High Courts since the 1980s and in the lower courts since the 1960s (Badlishah, Masidi 2009). In January 2003 the Malaysian Government made a decision to have women as Syariah Court judges and in April 2006 the National Fatwa Council of Malaysia made a ruling that qualified women to be appointed (Badlishah, Masidi 2009). It was only in 2016 that these policies were implemented and two women were appointed as Syariah judges for the first time in the history of Malaysia (The Indian Express, 2016).

Following the UN Declaration of the Women's Decade (1975-85), the Malaysian Government started to increase its support to increase the role of women in the development process. The National Advisory Council on Women in Development (NACIWID) and HAWA were instituted with the aim to advise the Government on gender related issues in development. Subsequently in 1982-83, the Women's Affairs Secretariat was created and funds were allocated for the development of women. HAWA is now considered to be the lead gender agency in Malaysia, responsible for coordinating, monitoring and evaluating policy formulation and reporting to government (Fallahi, 2015).

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