

Goal 16 Target 16.9

- Statelessness has become one of the main issues in need of urgent actions in recent years. According to an in-depth coverage by Al Jazeera, at least **50,000 stateless children in Sabah** are always on-the-run, fearing the prospect of being deported. These children are mainly offsprings of migrants who form the backbone of Sabah's economy, working mainly in palm oil plantations, or the construction and fishing industries.¹²
- A local NGO, Development of Human Resources in Rural Areas (DHRRA) was established in late 2014 to understand the extent and underlying causes of statelessness among Indian Tamil communities in West Malaysia. **11,645** stateless persons were registered by the NGO in West Malaysia as of 31st March 2016. Among them, **over 4,000 are children**.¹³

Goal 16 Target 16.10

- Human rights defenders faced intense persecution in the previous 12 months in Malaysia. **11 out of 13 arrested on the eve of the Bersih 5 rally** were supporters and organizers of the rally. **The chairperson of Bersih 2.0**¹⁴ was **detained under the draconian Security Offences (Special Measures) Act 2012 (SOSMA)**, a procedural law that does not require judicial oversight and which denies access to legal representation. She was kept in solitary confinement in a windowless cell with two perpetually lit light bulbs throughout the 10 days' detention.¹⁵
- Another woman human rights defender faced intense persecution by the state. She screened the documentary "No Fire Zone: The Killing Fields of Sri Lanka" **during a private event in 2013**. On the 21st February 2017, the **magistrate's court convicted** her for allegedly screening the Sri Lankan civil war documentary that had not been approved by the Censorship Board, despite being acquitted of the same charges on 10th March 2016.¹⁶

12 Liz Gooch, "Malaysia's Invisible Children", Aljazeera.Com, 2016 <<http://www.aljazeera.com/indepth/features/2015/04/malaysia-invisible-children-150429064406390.html>> [accessed 16 February 2017].

13 Development of Human Resources in Rural Areas (DHRRA), JOURNEY TO BELONG: April Monthly Buletin, 2016.

14 Bersih 2.0 is the secretariat for the coalition for free and fair elections comprising of over 90 local NGOs.

15 SUARAM Human Rights Report Overview 2016, 2016, pp. 43-45 <<http://www.suaram.net/wordpress/wp-content/uploads/2016/12/Overview-2016-Digital-Edition.pdf>> [accessed 19 February 2017].

16 M Mageswari, "Activist Lena Hendry Disappointed Over Conviction - Nation | The Star Online", Thestar.Com.My, 2017 <<http://www.thestar.com.my/news/nation/2017/02/21/activist-lena-hendry-disappointed-over-conviction/>> [accessed 23 February 2017].

CONCLUSION & RECOMMENDATIONS

Respect for Human Rights

- ASEAN Human Rights Declaration has been in place since 2012. Yet human rights violations (human trafficking, ethnic cleansing and arbitrary killings) persist in the region. Governments in the regions should remove the principle of non-interference to strengthen the Declaration.
- Malaysia should speed-up accession to 6 core international human rights treaties, as recommended by numerous member states during Malaysia's past 2 reviews in the UPR.
- Remove reservations to ratified Conventions

Include CSOs/NGOs in National Plans

- Although CSOs/NGOs have a relatively higher participation rate in the national planning of rights-related SDGs pertaining to gender equality and environment, involvement of CSOs/NGOs in other taskforces and clusters are scarce.
- A wide range of CSOs/NGOs (grassroots and those working with marginalized communities) need to be included.

Development focusing on the people, environment and strengthened institution

- In addition to addressing the 'middle-income' trap, a just development should focus on reducing relative poverty narrowing the income gap between the rich and the poor through equitable taxations and equal access to development opportunities for all groups of people.
- Use an environmental justice framework for development, and include the indigenous peoples in managing the protection of the environment.
- The executive, legislative and judicial institutions should be able to effectively play its role to the fullest to ensure that the government remains transparent and accountable to the people of the nation in order to attain social justice in development.

Flexibility in accepting policy recommendations

- National short and long-term plans should be flexible to adapt to internal and external factors affecting national development. Implementing Agenda 2030 requires a bottom-up approach to develop policies, which are inclusive and representative.

Freedom of Information

- Important public data such as violence rates and government's expenditures should be made readily available rather than arbitrarily guarded from the public under the Official Secrets Act.

Monitoring and Review of the Sustainable Development Goals & Development Justice

Reviewed by
EMPOWER

COUNTRY CONTEXT

Malaysia utilizes an internationally accepted discourse at the United Nations, but state reports, such as Malaysia's combined third to fifth periodic reports of States parties to CEDAW, indicate that Malaysia's agenda is one of gender equity rather than gender equality. This is also evident by the government's reservations to CEDAW Articles 5(a), 7(b), 9(2), 16(a), (c), (f), (g).¹

Since the mid-80's, Malaysia's development agenda has been focused primarily on attracting Foreign Direct Investment (FDI) and embracing market liberalization. Government attention has been focused on providing an environment conducive for multinational corporations to set up businesses at the expense of workers' protection and rights.

The median monthly salaries and wages for individuals is RM1,700 (USD 378). This is reflected in Malaysia's GDP where salaries² and wages make up 37.7% of the GDP in 2011. Malaysia had a workforce of 12.3 million employed persons in 2011, of which 1.7 million (13.8%) were migrant workers. By 2013, this had grown to 13.2 million, with 1.76 million (13.4%) documented migrant workers. Even when Malaysian labour productivity increases, wages do not increase in tandem. It is symptomatic of the lack of bargaining power of low-skilled labour, Malaysia's laws against unionisation, Malaysia's over-reliance on low cost as a competitive advantage, and the inclination for policy-making and tax incentives to favour those who own capital.

Malaysia's context is increasingly one of authoritarian control over its citizens. This is reflected in the many laws that have been passed in Parliament that increasingly limit the freedoms guaranteed under the Federal Constitution. There is greater inclination towards by-passing judicial overview in the enforcement of these laws, including laws enforced by Ministries and line agencies. Laws under the powers of Ministries are given wider scope of power such as the Communications and Multimedia Act, which gives very little room for Malaysians to resort to judicial redress.

The Prime Minister of Malaysia in his speech during the UN Sustainable Development Summit in New York in 2015 affirmed that the nation is fully committed to the 2030 Agenda. Realizing the aspirations of "no-one left behind" would however require an overhaul of the current political and socio-economic realities in Malaysia. ASEAN's non-interference policy is a major hindrance in the region from setting and enforcing international standards of human rights that will serve the achievement of the SDGs.

MALAYSIA



Palma Ratio (Income Inequality)

2.6

UNDP Gender Inequality Rank

42

HEALTH BUDGET USD 46.7 MILLION VS

MILITARY BUDGET USD 3.6 BILLION

MALAYSIA'S MINIMUM WAGE IS USD 2,496 (PER ANNUM) VS RICHEST INDIVIDUAL NET WORTH USD 11.6 BILLION

OVERVIEW OF SYSTEMIC & STRUCTURAL BARRIERS TOWARDS ACHIEVING DEVELOPMENT JUSTICE

Internationally, Malaysia is successfully portrayed as a model Islamic country with people of many ethnicities and religions living in peace. At the national level, the State-sponsored version of Malaysia's Islam is increasingly self-righteous, purist, misogynist and supremacist.³ This has created a growing divide not only between Muslims and non-Muslims in Malaysia, but a gender divide as well as Muslims are subjected to two legal systems in which the perception of women as secondary to men is mainstreamed through Islamic religious institutions, the educational system, government-owned mass media, and the bureaucracy in general. The brunt of moral policing in the name of Islam is experienced by women and women's bodies.

3 Riaz Hassan, Inside Muslim Minds (Carlton, Vic.: Melbourne University Press, 2008).



Persatuan Kesedaran Komuniti Selangor, better known as EMPOWER was formed in 2005. Promoting and supporting justice and democracy, guided by feminist and human rights principles, EMPOWER aims to strengthen the promotion and protection of human rights in Malaysia by holding their government accountable on their expressed commitment to the achievement of the SDGs. This research was carried out by EMPOWER as part of an eight country project on Monitoring and Review of the SDGs with the Asia Pacific Forum on Women, Law & Development (APWLD).



1 "CEDAW Sessions", Un.Org, 2017 <<http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>> [accessed 4 March 2017].

2 Including salaries of CEOs

Patriarchy and the State's greater emphasis on gender equity severely undermine the State's efforts towards achieving social justice and gender equality. Data on violence against women in 2014 shows 4807 reported cases of domestic violence, 2045 on rape, 304 incest cases, and 1590 cases of molestation in Malaysia. These statistics exclude other forms of gender-based violence against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people.

Public institutions are not seen to be independent. In 2016, the country was shocked by the abrupt replacement of the previous Attorney-General and key personnel of the Malaysia Anti-Corruption Commission (MACC). Annual reports of the Human Rights Commission of Malaysia (SUHAKAM) should be reviewed and debated in parliament, as decreed in an act issued by Parliament, however this is never carried out. It is also unclear how the selection and final appointment of commissioners is determined. The Election Commission's recent exercises to redraw electoral boundaries resulted in court challenges against the legality of the exercises.

The electoral system in Malaysia is first-past-the-post, with elections for parliamentarians and state assembly representatives. Members of local government are appointed based on political affiliation. In the 2013 general election, the incumbent ruling party won more parliamentary seats despite losing the popular vote. This led to court challenges and protests of gerrymandering.⁴

Development policies have contributed to environmental degradation and the denial of basic rights to the indigenous people, one of the most marginalised communities in Malaysia. A study conducted by the University of Maryland estimated the state of Kelantan lost around 15 percent of its natural forest between 2001 and 2012 due to excessive concession licenses for logging, commercial farming, mining and property development on forest reserves and native customary lands.

ARCHITECTURE FOR SDGs IMPLEMENTATION

Government ministries, departments, agencies, civil society coalitions, UN bodies and professional unions form Malaysia's SDG Steering Committee, spearheaded by the Economic Planning Unit (EPU), one of 61 department/agencies in the Prime Minister's Department, a federal government ministry. In the committee's inaugural meeting, EPU conceded that there are limited resources especially in funding to implement the SDGs, without disclosing the amount of funding.

The SDG Steering Committee monitors, evaluates and reports the implementation of the 2030 Agenda. For detailed planning and implementation, the SDGs were grouped based on the following clusters:

1. Inclusivity - Goals 1, 2, 5 and 10
2. Well-Being - Goals 3 and 16
3. Human Capital - Goal 4
4. Environment & Natural Resources - Goals 6, 7, 12, 13, 14 and 15
5. Economic Growth - Goals 8, 9, 11 and 17

Each cluster comprise of either one or several taskforces (i.e. Taskforce Goal 5 – Gender Equality in Cluster 1 – Inclusivity), consisting of the private sector, NGOs, CSOs and academia. One of the core tasks of the taskforce is to draft Malaysia's Roadmap to implement the 2030 Agenda. However, segregating these goals by clusters has resulted in a silo approach of implementation. There is also resistance by government representatives to apply gender-sensitive analysis to other taskforces, apart from Taskforce Goal 5 – Gender Equality. The Steering Committee, which sits above the clusters and taskforces, has initiated discussions on interlinking these Goals especially on environmental sustainability and economic development. However, it has not reached any viable solution.

While NGOs and CSOs are well represented in the 'inclusivity' (especially women rights organizations) and 'environmental & natural resources' (especially environmental organizations) clusters, the involvement of civil societies is scarce in the three remaining clusters. Effective CSOs participation is unlikely when memberships of taskforces are dependent upon the leader of each cluster, who are appointed by the EPU.

The EPU opines that the SDGs mirror the Eleventh Malaysia Plan (11MP). This raises the issue of the government's inflexibility in addressing some SDG targets, which are slightly contentious in the national context. For example, the 11MP does not have any concrete plans to address Target 5.3 of the SDGs, to eliminate harmful practices to women such as female genital mutilation (FGM).

INITIAL FINDINGS ON SELECTED SDGs GOALS & TARGETS

World Economic Forum Gender Gap Ranking	2016	2015	2014	2013	2012	2011	2010	2009
	106	111	107	100	100	97	98	100

⁴ "Malaysian Politics: What's Malay For Gerrymandering?", Economist.Com, 2014 <<http://www.economist.com/news/asia/21611139-years-delineation-electoral-boundaries-will-determine-future-malaysian-politics-whats>> [accessed 3 March 2017].

Goal 5 Target 5.1

- The Federal Constitution (FC) protects women and girls in Malaysia from any form of discrimination. Clause 2 of Article 8 explicitly mentions "...there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender..."
- In practice, laws on gender equality and provisions towards the protection of women from violence are piecemeal in nature. Examples are the **Domestic Violence Act 1994** and **Part XVA – Sexual Harassment in Employment Act 1955 (2012 Revision)**.
- A **Gender Equality Bill** is currently being drafted by the Joint Action Group for Gender Equality (JAG), a coalition of women's rights NGOs. However, there are concerns about the speed of legislation of the said bill, considering the coalition's past experience in pushing for the aforementioned Domestic Violence Act.

Goal 5 Target 5.2

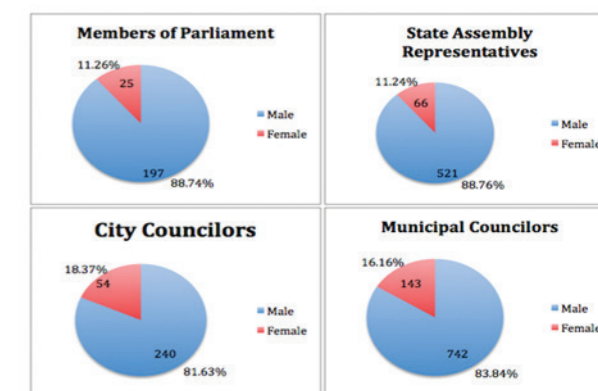
- According to classified data which the Malaysian police compiled and shared, **12,987 cases** of child sexual abuse were reported to police between January 2012 and July 2016. **Charges were filed in 2,189 cases**, resulting in just **140 convictions**.⁵
- While violence towards women and girls remains a pressing issue, **sexual exploitation towards children via online means has been worryingly increasing**. In an effort to verify this, a group of journalists from R.AGE initiated a **Predator In My Phone**⁶ operation to uncover the modus operandi of these sexual predators for 6 months in 2016.
- Child sexual abuse **data is protected under Malaysia's Official Secrets Act**. The government provides data on child abuse only at the request of a member of parliament.

Goal 5 Target 5.3

- In a 2012 study of 1,196 respondents, **93% of Muslim women in the country revealed that they have undergone circumcision**.⁷ While arguments arise around the difference between female circumcision and female genital mutilation (FGM), the Malaysian National Council of Islamic Religious Affairs (JAKIM) introduced a Fatwa in 2009 declaring that female circumcision is obligatory for all Muslim women, unless deemed harmful. Sources cited that female circumcision in Malaysia involves slitting the 'just one millimeter' off the top of the clitoris, which according to the World Health Organisation (WHO), any form of procedure that intentionally alters or inflicts injury to the female genitalia for non-medical purposes is recognised as FGM.⁸

Goal 5 Target 5.4

- Women's representation in decision-making level of governance in Malaysia does not show encouraging statistics. Based on a study by Persatuan Kesedaran Komuniti Selangor (EMPOWER) across the parliament, state assemblies, city councils and municipal councils, women are severely under represented.
- As of 2017, Women constitute only **25 out of 222 elected Members of Parliament** or **11.26%**. In State assemblies, across 13 states in Malaysia, women make up **66 out of 587 State Assembly Representatives**, or **11.24%**. A little more encouraging is the figures of women's representation across city councils in Malaysia - **54 out of 294 City Councilors**, or **18.37%**. In municipal councils, women's representation is recorded at **143 out of 885 Municipal Councilors** or **16.16%** of the total.⁹



Goal 16 Target 16.1 - Malaysia's military budget in 2017 underwent significant cuts. The amount allocated to the Ministry of Defence for 2017 is MYR15.06 billion, equating to a 13% drop from a similar allocation in 2016. Out of a total budget of MYR 260.8 billion for 2017, **the percentage of military budget to total government budget is 5.77%**.

Goal 16 Target 16.3

- Confidence in justice system in Malaysia is largely negative. A 2014 survey conducted by the Merdeka Center For Opinion Research found that only 38 percent of Malaysians felt confident in the country's judicial system, with **48 percent responding negatively**.¹⁰
- There is little to suggest that the confidence has since improved from its records in 2014. Since then allegations of corruption, such as the alleged MYR 2.6 billion found deposited into Prime Minister Najib's personal bank accounts and the United States' Department of Justice revelation of a MYR 4.1 billion graft involving him, have yet found any concrete legal conclusions in the country.
- Instead, in March 2016, more doubts arose when the newly-appointed **Attorney General (A-G)**, who was appointed on the advice of the **Prime Minister, cleared the Prime Minister of any wrongdoings on the MYR2.6 billion found in his personal bank account**. Specifically, the A-G decided not to proceed with the three investigation papers submitted by the Malaysian Anti-Corruption Commission (MACC) on the MYR2.6 billion 'donation'.¹¹

⁵ <http://www.reuters.com/article/us-malaysia-sexcrimes-insight-idUSKBN1390AT>

⁶ For more information about this operation refer here: <http://rage.com.my/predator/>

⁷ Dahlui, M., 'The Practice of Female Circumcision in Malaysia', paper presented at Universiti Sains Malaysia (USM), Penang, 10 May 2012, <<http://web.archive.org/web/20131004225752/http://spm.um.edu.my/news/20120503-female-circumcision-My-USM/index.php>>

⁸ Khoo Vi-Jean, "Female Circumcision: A Common Practice In Malaysia And Singapore", MIMS News, 2016 <<http://today.mims.com/topic/female-circumcision--a-common-practice-in-malaysia-and-singapore>> [accessed 16 January 2017].

⁹ Data based on research by EMPOWER on women representation across municipal councils, city councils together with updates of state assembly representatives and members of parliament. All data based on time of research, February 2017.

¹⁰ "Rule of Law", Bti-Project.Org, 2017 <<http://www.bti-project.org/en/reports/country-reports/detail/itc/MYS/>> [accessed 18 January 2017].

¹¹ "Press Release – Restoring Public Confidence In The Criminal Justice System", Transparency.Org.My, 2016 <<http://transparency.org.my/media-and-publications/press-release/press-release-restoring-public-confidence-in-the-criminal-justice-system/>> [accessed 12 February 2017].