

WOMEN'S RIGHTS IN MALAYSIA

Politics

Women face no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that do exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the elected lower house of Parliament, and they held 19 of 69 seats in the appointed upper house. In 2001 the Prime Minister established the Ministry of Women's Affairs and Family Development, and appointed a prominent female politician as its first Minister. In 2000 Tan Sri Doctor Zeti assumed the post of Central Bank Governor as the first woman to be appointed to the post. Also in December 2000, Ainum Mohamed Saaid was appointed as the Attorney General, the first woman to hold that position. Originally appointed for a 2-year term beginning in January 2001, Ainum, citing ill health, was replaced at the end of 2001. In 1998 the Minister of National Unity and Social Development said that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister said that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was between 6 and 7 percent. The Islamic opposition party does not allow female candidates to stand as candidates for the lower house; however, the party has a female senator. In the past, it has supported female candidates of other parties.

Violence against Women

Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Family and Women Development Ministry, there were 3,107 cases of domestic violence reported in 2001, compared to 3,468 in 2000.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police need additional training in handling domestic abuse as well as rape cases.

Domestic violence complaints are rare under Islamic law. Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Shari'a generally (each state has a separate code) prohibits wives from disobeying the lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, in Shari'a courts against their husbands, although Muslim women are able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, women's rights activists claimed that no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to Royal Malaysian police statistics, as of August there were 984 reported cases of rape during the year. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under age 16. Many government hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. The NGOs and political parties also cooperate in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. According to the Ministry of Women and Family Development and a leading woman's NGO, only 10 percent of rape cases are reported to the police. In a 2000 study involving 417 court files from 7 state capitals and Kuala Lumpur, even when alleged rape was reported, only 1 in 5 cases was heard in court, and only 1 percent of the reported cases resulted in a rape conviction. The Penal Code states that a convicted rapist shall be punished with imprisonment for a term not less than 5 years and not more than 20 years. Some rapists received heavy punishments, including caning, but women's groups complained that some rapists received inadequate punishments. In September a police constable was acquitted of charges of raping two foreign women who were in police custody. The Session Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal, which was still pending at year's end.

In July the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill. The Government, led by Women and Family Development Minister Sharizat Abdul Jalil, argued that the proposed law discriminates against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women or non-Muslims would be barred from testifying. An amendment to an earlier version of the law provides for rape convictions (with lesser penalties) even if four male eyewitnesses could not be produced, in the event that circumstantial evidence was deemed sufficient. Illicit sex is still punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100

lashes and 1 year in prison. One prominent NGO critic of the law said that it was contrary to Islamic teachings, as the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. However, this law remained in limbo at year's end, as its implementation required an amendment to the Federal Constitution. The suit filed at the Federal Court challenging a similar proposed law in the State of Kelantan on the constitutional grounds that states have no authority over criminal law was pending at year's end.

According to a well known activist, some girls in provincial areas are subject to varying forms of female genital mutilation (FGM). Some Malay girls receive a tiny ritual cut to the clitoris or participate in a ceremony where a blade is brought close to the clitoris. Almost all Malay women, including Muslim women activists, do not believe that this constitutes mutilation.

A 1998 International Labor Organization (ILO) study estimated that there were approximately 40,000 to 140,000 prostitutes in the country. The Government strongly disputed this estimate, and the police stated that they would investigate NGOs that might have provided the information that formed the basis of the study. Since prostitution itself is not illegal, statistics are only available for foreigners arrested for immigration or other offenses with suspected involvement in prostitution. The number of foreign persons arrested with suspected involvement in prostitution increased during the year. Police attributed the increase to more vigorous enforcement efforts. Police also believed that the increasing number of arrests was a result of greater numbers of women trafficked to the country from ASEAN countries, China, and Uzbekistan.

The country was a source and destination country for trafficking in women for purposes of prostitution.

In 1999 the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. Women's groups noted the code's detailed definition of sexual harassment and attempted to raise public awareness of the problem, but they criticized the fact that adherence to the code is voluntary and not legally binding. Women's rights activists claimed that a law on sexual harassment would be more effective than a code of practice. In the first year following the issuance of the code, the Human Resources Minister advocated voluntary compliance by employers and advised unions to incorporate policies against sexual harassment into their collective labor agreements. The Malaysian Employers Federation criticized any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Since the code's introduction, the number of reported incidents of sexual harassment has risen. The number of cases reported to the Labor Department in 2000 was 61, more than double the 29 cases reported in 1999. However, the Human Resources Ministry acknowledged in 2000 that shame and embarrassment often prevented women from reporting sexual harassment. There still are many cultural obstacles to women who try to pursue sexual harassment charges.

Despite increased public awareness of the problem of sexual harassment in the workplace, in 2000 the Government acknowledged that the reluctance of employers to adopt the code may force it to enact additional legislation regarding sexual harassment. In 2001 the Human Resources Minister announced the creation of a special monitoring unit in the Labor Department to monitor and investigate discriminatory practices, including sexual harassment, against women in the workplace. According to Women and Family Development Minister Shahrizat, by September 2001 only 1 percent of registered companies in the country had adopted the code. Shahrizat also said in September that her Ministry would conduct a review of the code's effectiveness in March 2002. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

Others

In matters of income tax, government pension benefits, and transmission of citizenship, women were disadvantaged. The cultural and religious traditions of the major ethnic groups also heavily influenced the condition of women in society. In family and religious matters, Muslim women are subject to Shari'a, which is not interpreted uniformly among the country's 13 states. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, is increasing steadily.

A 2001 constitutional amendment rendered gender discrimination in immigration policy illegal. Prior to the change, foreign spouses of male citizens and female citizens were treated differently under the law. Male citizens faced fewer legal and administrative obstacles to obtaining permanent residency status for their foreign wives than did female citizens with foreign husbands. While the change allowed some foreign men to acquire permanent residence, the new regulations do not apply to foreign laborers who marry female citizens. In addition, foreign women who become estranged or divorced from their citizen husbands would no longer face deportation. These women would be eligible for 12-month social visit passes, and they would be able to apply for permanent residency.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In July the Sultan of Selangor, who is also head of the Islamic religion in the state, acknowledged the bias against women of Shari'a court judges. An April 1999 press report described complaints by NGOs and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. Women activists asserted that these problems continued.

Muslim couples are required to take premarital courses. In previous years, female activists complained that the courses, as implemented, perpetuated gender discrimination by misinforming women of their rights in marriage. However, there were no reports during the year of such misinformation regarding marriage rights.

State governments in Kelantan and Terrengganu, which are controlled by the Islamic opposition party, made efforts to restrict Muslim women's dress. Between January and May, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000 the Terrengganu state government introduced a dress code for government employees and workers on business premises. Terrengganu's executive counselor in charge of women's and non-Muslim's affairs claimed that the dress code was designed to protect the image of Muslim women and to promote Islam as a way of life. One Muslim women's NGO criticized the new requirement, stating that forced compliance with a state-mandated dress code is not consistent with the values of the Koran.

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act increased the protection of married women's rights, especially those married under customary rites. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In September Parliament approved an amendment to the Group Settlement Act that gives wives of settlers joint stake in the land awarded to their husbands.

In 2001 the Prime Minister established a cabinet post for Women's Affairs and Family Development. Shahrizat Abdul Jalil heads the new ministry and is credited with leading the successful effort to amend the federal Constitution to prohibit sex discrimination and launch a public campaign in August 2001 against violence in the home.

Government policy supports women's rights, and the Government undertook a number of initiatives to promote equality for women. The Government also promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in professional positions, but women's groups argued that the level of participation was still disproportionately low. However, in the scientific and medical fields, women made up more than half of all university graduates and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to statistics released in the Government's Economic Report 2000-01, women constituted 44 percent of the labor force. The proportion of women in the civil service rose from approximately 33 percent in 1990 to approximately 44 percent in 2001, and women occupied some high-ranking civil service positions. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

Source: <http://www.state.gov/g/drl/rls/hrrpt/2002/18252.htm> (Human Rights Report 2002)