

**MEMBERS OF THE CEDAW STEERING COMMITTEE**

1. Ministry of Foreign Affairs
2. Ministry of Human Resources
3. Ministry of Rural and Regional Development
4. Ministry of Entrepreneur and Cooperative Development
5. Ministry of Agriculture and Agro Based Industry
6. Ministry of Higher Education
7. Ministry of Education
8. Ministry of Internal Security
9. Ministry of Home Affairs
10. Ministry of Housing and Local Authority
11. Ministry of Health
12. Attorney General's Chambers
13. Department of Legal Affairs, Prime Minister's Department
14. Department of Islamic Development of Malaysia (JAKIM)
15. Public Services Department
16. National Registration Department
17. Department of Syariah Judiciary Malaysia
18. Department of Social Welfare (DSW)
19. Department of Women's Development (DWD)
20. Employees Provident Fund (KWSP)
21. Social Security Scheme (PERKESO)
22. Department of Immigration
23. Legal Aid Bureau
24. Small and Medium Industries Development Corporation (SMIDEC)
25. Central Bank of Malaysia
26. National Council of Women's Organisations (NCWO)

**SEVERAL LEGISLATIONS THAT HAVE BEEN ENACTED OR AMENDED BY THE GOVERNMENT**

- The amendments to the Income Tax Act 1967 provides an option for married women to have separate income tax assessment from the husband;
- The amendments to the Distributio

## ACHIEVEMENTS OF THE MINISTRY OF WOMEN, FAMILY AND COMMUNITY DEVELOPMENT SINCE ITS INCEPTION

### INTRODUCTION

1. The Ministry of Women and Family Development was established on 17 January 2001.
2. Subsequently, the ministry was expanded on 27 March 2004 and renamed the Ministry of Women, Family and Community Development.
3. The Ministry of Women, Family and Community Development functions through three main approaches:
  - (i) drafting of policies, legislations and Government regulations;
  - (ii) advocacy programmes with the cooperation of other ministries, departments and agencies as well as non-governmental organisations (NGOs) and the private sector; and
  - (iii) implementation of the Ministry's own programmes as well as with other Government agencies.

### ACHIEVEMENTS

4. It is noted that since the inception of the Ministry, other Government agencies, the NGOs and the private sector are more sensitive to matters and issues related to gender equality. Among the major achievements of the Ministry are:
  - (i) **Drafting of policies, legislations and Government regulations**
    - (a) **Amendment to the Article 8(2) of the Federal Constitution**
      - Article 8(2) of the Federal Constitution was amended on 1 August 2001 to disallow discrimination on the basis of gender apart from religion, race, descent and place of birth.

- This amendment has a profound impact on all existing legislations and Government regulations. It means that legislations and regulations that have elements of gender discrimination have to be amended accordingly.
- Policy makers are more aware now on the importance of gender equality at all levels of the Government machinery.

**(b) Pensions Act 1980**

- The Pensions Act was amended so that widows (whose husbands were civil servants) will not lose their pensions even after they remarry. The purpose of this new ruling is to protect and ensure the well-being of widows and their

**(f) Policy on 30% Women in Decision-**



who adopt children of single mothers and support them financially in pursuing their education.

**(e)**

**(d) Women's Health and Healthy Lifestyle 2005**

- This programme aims at enhancing the awareness of women on all aspects of health.

**(e) State Women and Family Development Councils**

- State Women and Family Development Councils were established in all states and parliamentary constituencies



family development. At the first meeting of this committee, three important decisions were made as follows:

**i. Gender Focal Point**

A Gender Focal Point (GFP) to be established in every ministry and relevant Government agencies. The GFP will act as a liaison officer for the Ministry of Women, Family and Community Development in implementing Government programmes and projects with the ultimate aim of achieving gender equality. This will bring about more consideration to be given to issues related to women's development and gender equality in the country.

**ii. Special Protection Homes for Women and Children**

Special Protection Homes for Women and Children will be set-up in the existing Rumah Nur in five states, namely Kelantan, Pahang, Selangor, Melaka and Sabah. These homes will provide temporary shelter to women and children who are victims of violence. The Rumah Nur in Selangor will be a dedicated shelter for foreign victims of trafficking-in-persons.

**iii. Uniformity of Islamic Laws**

Action to implement the uniformity of Islamic Laws in Malaysia will be expedited. This is to overcome problems related to the implementation of different Islamic Laws by the various states in the country, which affects the well-being of women and children.

## **ACHIEVEMENTS AT THE INTERNATIONAL LEVEL**

- (a) The Ministry of Women, Family and Community Development, acting on behalf of the Government of Malaysia, signed a Memorandum of Understanding with the Indonesian Government on 8 August 2002. The spirit of this Memorandum is towards strengthening women and family development cooperation as well as exchanging experiences, knowledge and programmes for the benefit of both countries.
- (b) The Memorandum of Understanding between the Ministry of Women, Family and Community Development and the Government of Iran was signed on 22 July 2002. This Memorandum also aims to enhance cooperation between the two countries in matters related to women and family development.
- (c) The endorsement of the Declaration on Elimination of Violence against Women in the ASEAN Region. This Declaration, signed by the ASEAN Foreign Affairs Ministers in June 2004, stresses the importance of regional cooperation to eliminate violence against women.
- (d) As chairman of the Non-aligned Movement (NAM), Malaysia undertook an initiative to include the concerns of women as part of the agenda of the Movement. In this regard, for the first time, the Ministerial Meeting of NAM on the Advancement of Women was held in May 2005 with Malaysia as the host. The meeting endorsed the Putrajaya Declaration and the Programme of Action for the Advancement of Women in Member Countries of NAM. Among the outcomes of this meeting was the establishment of the NAM Centre for Gender and Development in Kuala Lumpur.
- (e) The Ministry of Women, Family and Community Development organised several workshops and dialogues at the international level. Among them are:
  - i. Asia Regional Workshop on Strengthening Partnerships for Eliminating Gender-based Violence (Kuala Lumpur, 20 – 22 May 2002);
  - ii. The First Ladies' Dialogue on Investing in Peace in conjunction with the Thirteenth Non-Aligned Movement Summit (Putrajaya, 24 February 2003);

- iii. Organisation of Islamic Countries First Ladies' Dialogue on Women, Peace and Development in conjunction with the Tenth OIC Summit (Kuala Lumpur, 17 October 2003); and
- iv. Regional Training Workshop for NGOs and Women Organisations from South East Asia on Poverty Alleviation with the cooperation of the Islamic Development Bank (Kuala Lumpur, 14 – 16 October 2002).

**TERM OF REFERENCE FOR GFP**

The ministry involved appoints an officer at grade M54 and above as the GFP for that ministry. The officer appointed will have to carry out the following duties:

- i) assist the Government with the implementation of the National Women Policy and the National Action Plan for Women as well as other government policies;
- ii) assist to facilitate the implementation of gender budgeting in the ministry involved;
- iii) assist in compiling sex-disaggregated data and statistics;
- iv) assist to facilitate the implementation of gender mainstreaming in their respective ministries;
- v) provide inputs for talks/intervention notes/reports for delegations to attend conferences/international meetings, and if needed, be part of the country's delegation to the said conferences and meetings;
- vi) provide inputs and assist in preparing country reports with regard to women issues under the purview of their respective ministries;
- vii) provide feedback to MWFCDC, as the main coordination agency, with regard to the progress, challenges and problems faced by the ministry involved, and its agencies in implementing the National Women Policy and the National Action Plan for Women, and also the implementation of other conventions / resolutions that are agreed by Malaysia at the international level;
- viii) attend meetings that are organised by MWFCDC pertaining to the development of womenher g0 Tw 6 6

**Table II: Foreigners Suspected to be Involved in Prostitution Arrested from the Year 2000 until 2005**

<b>Years</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<b>Arrestee</b>	3,607	4,132	5,149	5,878	5,783	6,484

*Source: Royal Malaysian Police, Malaysia*

**Table III: Statistics on the Number of Foreign Women Saved from Vice Activities from the Year 2004 until February 2006**

*Source: Royal Malaysian Police, Malaysia*

**Table IV: Statistics of Action Taken Against Syndicate of Prostitutions, 2000-2005**

<b>Year</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<b>Accused In</b>						

**Table V: Key Officials in Ministry of Education  
According to Sex, 2005**

<b>Post</b>	<b>Total Post</b>	<b>Male</b>	<b>Female</b>	<b>Vacancy</b>	<b>% Female</b>
Secretary General	1	1	0	0	<b>0</b>
Director General	1	1	0	0	<b>0</b>
Deputy Secretary General	2	0	2	0	<b>100</b>
Deputy Director General	6	4	2	0	<b>33.33</b>
Divisional Heads	34	27	5	2	<b>14.71</b>
State Director	15	11	4	0	<b>20</b>

*Source: Ministry of Education*

**Table VI : Participation by Rural Women in Cooperatives under KEDA  
(Kedah Regional Development Authority)**

*Source : Ministry of Rural and Regional Development*

**Table VII : Board of Directors of Cooperatives under KEDA  
(Kedah Regional Development Authority)**

Total No. of Woman As Board of Directors of Cooperatives	2002	2003	2004	2005
		27	30	32

*Source : Ministry of Rural and Regional Development*

**Table VIII : Trainings for Rural Women to Enhance Skills and Leadership Abilities under  
the Ministry of Rural and Regional Development**

No.	Name of agencies	Name of the programme	2004-2005		2003	
			M	F	M	F
1	INFRA Institute For Rural Advancement	Management of Community Institutions Courses	3,490	1,974	2,181	758
2	KEDA	Institutional Development Programme (Cooperatives)	310			

**Table XI: Women Participation in Women Smallholders Group (PWPK) of RISDA  
(till August 2005)**

<b>State</b>	<b>No. of PWPK</b>
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**RESPONSE TO THE ASSERTION REGARDING CERTAIN PROVISIONS IN THE ISLAMIC FAMILY LAW (FEDERAL TERRITORIES) (AMENDMENT) BILL 2005**

The Bill makes polygamy easier for men

- (i) We reiterate that Islam favours monogamy and polygamy under Syariah is regarded as an exception. In Syariah polygamy is only permissible when certain conditions are fulfilled. This is reflected in the provisions relating to polygamy in the Islamic Family Law (Federal Territories) Act 1984 (hereinafter referred to as "IFLA"). Under section 23(1) of IFLA before a polygamous marriage can be entered into by a man, the permission of the Syariah Court must be obtained. In considering the application, the existing wife or wives have the right to be present at the hearing of the application. Section 23(4) of IFLA provides that the Court may grant the permission to polygamy if it is satisfied that the proposed marriage is **just and necessary** having regard to circumstances such as sterility, physical infirmity, physical unfitness for conjugal relations, wilful avoidance of an order for restitution of conjugal rights, or insanity on the part of the existing wife or wives.
- (ii) In addition it shall also be satisfied that the applicant is able to support all his wives and dependants, capable of according equal treatment to all his wives and that the proposed marriage would not cause *darar syarie* (harm according to what is normally recognised by Islamic law affecting a wife in respect of religion, life, body, mind, moral or property) to the existing wife or wives.
- (iii) The Bill amended section 23(4) of IFLA by providing that the Court may grant the permission for polygamy if it is satisfied that the proposed marriage is **just or necessary** having regard to the circumstances stated in the above paragraphs. We wish to highlight to the Committee that although the phrase "just and necessary" in section 23(4) of IFLA was amended to "just or necessary" by the Bill, the circumstances such as sterility, physical infirmity, physical unfitness for conjugal relations, wilful avoidance of an order for restitution of conjugal rights, or insanity on the part of the existing wife or wives are still being considered by the Court to determine the permissibility of polygamy. In addition conditions on the ability of the applicant to support his wives and dependants, to accord equal treatment to all his wives and that the polygamy would not cause *darar syarie* to the existing wife or wives must still be fulfilled by the applicant before the Court may grant the permission for polygamy.
- (iv) As such the amendment to section 23(4)(a) of IFLA as stipulated by the Bill in no circumstances makes polygamy easier for men.

Allowing a Muslim man the right to claim a share of his existing wife's assets upon his

- (a) to require a person to pay maintenance to his existing wife and wives; or
- (b) to order the division between the parties of the marriage of any assets acquired by them during the marriage by their joint efforts or the sale of any such assets and the division of the proceeds of the sale."

(ii) It has been held by the Court that whether the word "or" should carry an exclusive force or otherwise depends on the context in which the word is used in the whole phrase.<sup>1</sup> If the word "and" is used in sub-section (b) of section 23(9), it would connote that application to the Court shall be for both, an order for maintenance and an order for the distribution of assets jointly acquired by the husband and wife during marriage. This would be contrary to Syariah which provides that only maintenance is compulsory on the husband.

during the subsistence of their marriage if the Court is satisfied that it is necessary to do so.

(2)...”.”

(The relevant phrase in the section is as underlined.)

- (ii) We would like to clarify to the Committee that the intention of this section is to prevent parties to the matrimonial proceedings from disposing their assets whether jointly or solely acquired before the conclusion of the proceedings. This is to ensure that order relating to the assets made by the Court at the conclusion of the proceedings is complied with by the parties to the proceedings. Assets which are solely acquired by the Parties are also mentioned in the provision because it would be difficult to determine the status of the asset (whether it is a jointly acquired asset or otherwise) before the conclusion of the matrimonial proceedings.
- (iii) The language of section 107A can being reviewed to ensure that the provision will not operate to allow the husband to prohibition the disposal of assets solely acquired by the wife and to provide for maintenance of the wife and children to from assets prohibited by the Court from being disposed.

Extending the wife’s right to fasakh divorce to the husband while not giving the husband’s right of talaq to the wife.

- (i) Under Syari’ah different implications arise when a husband divorces a wife by *fasakh* compared to divorce by talaq. Where a wife is divorced by *talaq*, the husband is obligated to provide *iddah* maintenance and *mutaah* (consolidatory gift). In the case of *fasakh* divorce by the husband he is only obligated to pay *mahar* (payment to the wife at the time of marriage) and *mutaah* if the marriage is consummated. Where the marriage is not consummated the husband is not

- (iv) We wish to highlight to the Committee that the right of *fasakh* divorce is extended to the husband only on the above grounds. This is founded on the grounds that it is only fair that a husband is not obliged to pay maintenance to the wife where the