



"Violence against women: Good practices in
combating and eliminating violence against women"

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STRATEGIES FOR CHANGE THE WOMEN S MOVEMENT IN MALAYSIA

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Most activist women's groups in Malaysia can trace their beginnings to the early to mid 1980's when there was a convergence of interest on the issues of violence against women. Drawing from then existing NGO's like the Consumers' Association and Trade Unions, a small group of women began organizing as a new forum to look at issues on violence against women.

Thus women activists and activist women's groups had either by design or accident of history, since it early days, lobbied and campaigned together as an integrated voice for change.

The strategy to lobby as a platform (informal coalition) called the Joint Action Group Against Violence Against Women (JAG) rather than individually certainly has had its advantages. JAG has become a visible platform and to a certain extent, synonymous with the campaign for women's rights.

The platform which was established in early 1980's, was no more than an ad hoc coalition for NGO's and individual women to discuss the "woman question". JAG covered the issues of labour, media portrayal of women and violence against women, namely wife battery, rape and prostitution.

Arising from JAG's campaigns, new women NGO's were formed, amongst them, the Women's Crisis Centre (WCC) based in Penang and the All Action Women's Society (AWAM) in Kuala Lumpur. From its early days JAG concentrated on legal reform as a strategy for change.

This paper will focus on the legal campaign by JAG as well participation in the electoral process by women's group either through JAG or acting in coalition with other groups.

JAG's Early Campaign

As a new coalition proposing to undertake up a legal campaign on the issue of violence against women, it was important to first assess the present laws to identify laws that were discriminatory towards women.

Noting that the State has the ultimate responsibility in ensuring that society is governed by laws based on the principles of human rights and justice JAG together with National Council for Women's Organisations (an umbrella body of women's organisations set up by the State), undertook an audit of the then existing laws and identified laws that were discriminatory towards women. In 1985, the result of the audit of the then discriminatory laws was presented to the State.

Some of the laws were gradually amended with

This paper will also discuss the multi-prong strategy utilised by JAG, its members as well as NCWO to achieve change, namely:-

- (a) lobbying the State for reform of the law;
- (b) responding to incidences against violence against women;
- (c) undertaking training of the State service sectors including the police and medical sectors to enhance service delivery and compliment the legal reform being sought;
- (d) raising public awareness on the issues;
- (e) liaising with the state; and
- (f) addressing competing interests challenging the reform lobby.

(a) Rape Amendments

On 23rd - 24th March 1985, JAG organised a major campaign. A moot rape trial was conducted with a woman's sexual history critically examined in the mot court in order to highlight the trauma faced by women survivors and to demonstrate how a victim's/survivor's sexual history was used by defence counsels to attack and humiliate a victim. There was also a stage performance called "Arise", a positive dance about women surviving and overcoming violence. Workshops, exhibitions and poem recitations were organised and the campaign spread throughout Malaysia.

The widening of the definition of rape to include use of objects as well as marital rape was refused. The age for statutory rape was increased from 14 to 16 years and the penalty for rape increased to a minimum of 5 and maximum of 20 years. The rape shield provisions were added into the *Evidence Act* prohibiting the defence from introducing into court the sexual history of the victim except where it relates to the consent the accused alleges was given by the victim (what is now commonly called “the rape shield” provisions)².

This heralded the first successful campaign for legal reform by JAG.

Simultaneously with the campaign for legal reform, the women’s groups were conscious of the need for the police and medical personnel to collect forensic evidence for use in court proceedings. The manner of collection and type of evidence collected had to be streamlined and made efficient to ensure that the evidence collected was sufficient for the prosecution of the accused. Trainers were invited from the United Kingdom and Canada to assist in the compilation of a rape kit for this purpose.

(b) Domestic Violence

Simultaneously with the rape campaign, JAG also lobbied for a *Domestic Violence Act* (DVA). The Association of Women Lawyers (AWL) was at that time in the process of drafting the proposed *Domestic Violence Act*. In 1985, the draft proposed Domestic Violence Act was ready for public discussion and the JAG took the opportunity to solicit feedback from the public and embarking on a roadshow to raise public awareness of domestic violence and need for legislation.

The draft *Domestic Violence Act* which was initially proposed to the government was a legislation providing for civil remedies. Experience of some of JAG’s members from working with battered women indicated that women who were battered primarily required the abuse to stop immediately. As a significant, if not majority of battered wives were dependant on their spouses for financial suplice

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domestic violence which are determined by 2 separate systems of laws would have been wholly unsatisfactory.

In every custom, tradition and religion, there are vestiges of the perception that a husband has a right to “guide” “discipline” and “chastise” his wife and those within his household. Allowing Judges to interpret such concepts within their own understanding and social / religious bias would generate different standards of behaviour within the different communities in Malaysia.

Addressing the social, cultural and religious bias was particularly important to ensure that the relationship between the perpetrator of violence and the victim could not be used as an excuse to allow the perpetrator to continue abusing the victim with impunity. The basic right to be free from violence whether occurring within the home or in public cannot be subjected to these biases.

Domestic violence is further complicated by a second perception – that a woman cannot deny her husband her society as long as the couple is married. Any domestic violence law must have as its central theme, the protection of the victim of violence. As the law then stood, the remedy to restrain a husband from forcing his society on his wife was only available to women who have applied or undertaken to apply for divorce. The High Court under the *Law Reform (Marriage and Divorce) Act 1975* compels a woman to file or undertakes to files for divorce when attempting to access this remedy. This provision is replicated in the different syariah Family Law Enactments⁴.

The remedy was not only unsatisfactory in that it forced women to take the final step of dissolving the marriage (particularly difficult with the complication of financial dependence and children) in order to seek protection, it was also expensive (requiring the assistance of lawyers) and only available mainly in the capital cities (where High Courts are situated).

Thus JAG agreed that the domestic violence legislation, which was initially proposed as a civil legislation, be converted into a criminal legislation. After all the criminal provisions of assault, battery, false imprisonment, hurt and even murder, did not provide allowances for the relationship between the parties in determining whether the action was wrongful or otherwise.

Linking the *Domestic Violence Act* to the *Penal Code* also emphasised the fact that domestic violence was not merely a marital wrong but a crime where the State had an interest and therefore would intervene to prosecute the offender.

Throughout the lobby for the *Domestic Violence Act* there was vehement o 0in s p d t m 2016 DD (E) T 126

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separate seizable offence either under the *Penal Code* or in the *Domestic Violence Act*.

2. Rape

Similarly, the amendments of rape laws did not stand up well to the test of implementation. Amongst others, rape with the use of objects was not acknowledged as the grave crime that it is⁸. Marital rape remains an burning issue⁹.

Further while the sentences for rape was increased, the offence of carnal knowledge under the *Women and Girls* §

Therefore discussions were held with the State for separate consultation rooms for victims of violence. It was also suggested that a police beat be set up at the hospitals so that victims could be rushed immediately to the hospitals where they could lodge police complaints and be examined by qualified medical personnel in privacy. A direct line could also be established with relevant NGOs providing emotional and psychological support.

The discussions resulted in the successful establishment of an integrated service centre at public hospitals (otherwise called one stop centres). Training of doctors and nurses would ensure that both have special expertise to handle victim survivors of violence.

In relation to police services, sexual assault units were set up to assist victims women of violence. Part of the duties of the police officers of these units was effecting service of the protection order against the perpetrators of violence¹³ which had previously proved difficult.

JAG's Present Campaign

In 1999 the WCC received complaints of sexual harassment from 6 women working in a resort hotel in Penang. Due to the inability of the women to obtain redress under the law¹⁴, in 2000 the WCC requested that another JAG be reconvened to petition for legislation on sexual harassment at the workplace¹⁵. For a period to 6 weeks, WCC and other women's groups and unions / worker's association collected 12,800 signatures from individuals and the endorsement of 64 organisations comprising civil, professional, health, workers, social, political and other interest groups.

On 30th June 2000, the Minister for Human Resources was invited to accept the petitions. Extensive public campaigns were undertaken.

Subsequently and learning from past mistakes where the draft legislation was not prepared by JAG, this time, JAG drafted and submitted a full draft legislation on sexual harassment. An international round table discussion was held where international experts, with participants from the International Labour organisation, New Zealand Human Rights Commission and Hong Kong University, and local government officers including those from the Attorney General's Chambers, Labour Office and NGOs was unanimous in calling for legislation on sexual harassment. The draft Bill, was also studied and critiqued with amendments made thereafter and the amended bill resubmitted to the government.

¹³ Unfortunately sexual assault units are only established in each police station.

¹⁴ They complained that they were sexually harassed at work by their general manager. Two of them had resigned and four were afraid that they would be suspended after the New Year holidays. One by one they were all dismissed as the labour officer and women's groups realised there was no redress to stop the dismissals.

¹⁵ JAG's composition changes depending on what issues are taken up. JAG on sexual harassment comprise the WCC, Women's Development Collective, AWAM, WAO, Sisters in Islam, Women's Candidacy Initiative and Persatuan Sahabat Wanita and MTUC Women's Wing. JAG on sexual harassment is chaired by the WCC.

An extensive campaign was conducted which received good media coverage. Meetings with the relevant ministries were sought but yet, in 2005, still there is no sight of any legislation being tabled in Parliament.

During this time also, 2 of JAG's members independently decided to revisit both the *Domestic Violence Act* as well as amendments to the rape laws¹⁶. Again extensive discussions were held and in the case of legislative reform to criminal provisions, a special select committee of parliament was convened to study the laws. In relation to domestic violence, the Women's Ministry convened a technical working group to study the memorandum and call for meetings with the relevant agencies to facilitate implementation of the *Act*. A report on the shortcomings of the *Act* and its implementation was released. Unfortunately to date, such lobby has yet to result in further amendments to the laws.

Electoral Politics – The Women's Agenda for Change and Women's Candidacy Initiative

1999 was an election year for Malaysia. The women's groups participated in this election in 2 ways. The first is the Women's Agenda for Change and the second is the Women's Candidacy Initiative.

1. Women's Agenda for Change

WAC was however not the first foray by the women's groups into electoral politics. In 1990, the Women's Manifesto was launched with the support of 11 organisations. Unfortunately the Women's manifesto did not make an impact on the general election, having been endorsed only by the Opposition but not the ruling government.

In contrast, the WAC initiative generated a lot of interest. Within days, members of WAC organising committee were approached by the components of the general

Given this scenario, the WCI opted to stand under the banner of one of the opposition parties. Although the women's candidate lost to the government candidate, the experience was extremely important to women's groups. The WCI was the "bridge between political participation as party members and social activism through non-governmental organisations".

3. Women Monitoring Election Candidates (WoMEC)

The monitoring of election candidates continued in the 2004 election with JAG again taking up the challenge through the institution of a loose group called WoMEC. Although the initiatives of the 1999 elections generated a lot of interest, it did not have any impact or follow through from politicians after the elections.

The issues of the 2004 election were different. The political battle within UMNO between the Prime Minister and his then Deputy in the late 90s and early 2000's exposed the weaknesses of the system and the level of corruption as each side flung accusations at the other, to the consternation of the Malaysian public¹⁸.

Independence of the Judiciary, the rule of law, and political will and commitment of the government in addressing the burning issues and to deliver on election promises became issues of concern. Women's support and votes which proved crucial in returning the government in 1999 was not translated into real headway on the advancement of the status of women despite the setting up of the Ministry for Women and Family Development.

The objective of WoMEC was to hold electoral candidates accountable and to monitor their performance in advancing and upholding social justice and equality goals¹⁹. This was also to avoid any use of the gender card merely to garner votes every 5 years.

WoMEC undertook this monitoring process by firstly evaluating the political parties' manifestos and responses of candidates and secondly to solicit responses from candidates on their commitment to the key issues of WoMEC. This time however, no response was returned to WoMEC by the candidates and elected representatives.

Still, the media coverage and wide publicity of WoMEC's demands had the effect of raising public consciousness on what the public should expect from their candidates and their candidates' commitment to issues.

EVALUATING JAG's STRATEGIES

JAG has come a long way from the formative years since the early 1980s. With its first foray into legislative reform, successes were clocked but lessons were similarly learned.

¹⁸ This battle was continued in the courts of law when Anwar was charged with corruption and sodomy.

¹⁹ Maria Chin Abdullah, *Expanding Democracy, Enlarging Women's Spaces in Ten Years After Beijing – Gaining Ground?*

The choice of JAG to work with the State to expedite change in advancing the status of women and bringing about political reform has so far proved successful. However, like any negotiations with a stronger party, the pitfalls of this mode of strategising is real. During the 1988 political instability, a few of JAG's members were actually arrested and charged²⁰.

JAG is also conscious of its bargaining position and inability to control the outcome of any negotiations with the government. On several occasions, JAG was left to cope and remedy the unintended and incidental result of this form of negotiations. For example, the government took the opportunity in its reform of the rape laws, to re-phrase and

1. Cecilia Ng, *The Women's Movement in Malaysia : Towards Building Dialogue and Peace Building*
2. Cecilia Ng, Maznah Mohamad and Tan beng Hui, *Feminism and the Women's Movement in Malaysia*, yet to be published, Routledge
3. Francis Loh and Johan Saranamuttu (editors), *New Politics in Malaysia*, Institute of Southeast Asian Studies, Singapore (2003)
4. *Gaining Ground? Southeast Asian Women in Politics and Decision-Making, Ten Years after Beijing*, a compilation of five country reports, Candid Printers (2004)
5. Zarizana Abdul Aziz, *Remembering JAG and the Early Campaign against Violence*, Herizons, Women's Crisis Centre (2000)