LACK OF GENDER SENSITIZATION IN MALAYSIAN LAWS AND REGULATIONS: NEED FOR A RIGHTS-BASED APPROACH

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Abstract
Malaysia continues to have a mixed record on human rights issues, partly explained by some idiosyncrasies in the laws and regulations pertaining to women. Clearly, there has been some neglect on the women folk in nation building. To put into perspective the treatment towards women workers and their rights, one has to first understand the role of women in the Malaysian labour market, and second, the Malaysian laws and regulations pertaining to the employment of women. The paper therefore appraises historically the changing role of women in the labour force from the colonial days to the present, and the evolving gender dimensions embedded in the related laws and regulations. The paper contends that the early economic and political landscape in Malaysia, which viewed women as having complementary roles instead of equal roles with their male counterparts, has given rise to a lack of or limited gender sensitization in the labour laws and regulations. The current move from gender insensitivity to gender mainstreaming, through various policies/mechanisms and programmes in the developmental framework, remains grossly inadequate. It merely reflects lack of operationalizability and social reality of some of the existing labour laws and regulations. This calls for gender equality legislation that emphasizes the centrality of human rights in matters related to equality and non-discrimination.

Introduction
In the early 2000s, it was admitted by the then Prime Minister, Abdullah Ahmad Badawi that women were marginalized in Malaysia. In 2006, Ahmad Badawi assured the women folk that the government would continue to facilitate higher participation of women into the nation’s labour force, and review existing laws and regulations that discriminate against women”. In 2011, the current Prime Minister, Najib Tun Razak, upheld the agenda of women under the 10th Malaysian Plan. The Prime Minister said that “measures will be undertaken to increase the female labour force participation rate from 46 percent in 2010 to 59 percent in 2020.1 The current female labour force participation at 54 percent, though close to the proposed target, is much lower than that of the male labour force participation rate at 80 percent (see Figure 1). The looming problem is that it is perceived that a large number of highly educated women are absent from the labor force, given that the gross enrollment ratios of women in tertiary education far outweigh that of their male counterparts. The World Bank survey findings revealed that 17 percent women leaving the labour force cited reasons related to lack of career progression opportunities whereas 11% pinpointed inequality in the workforce. Many respondents perceived the Malaysian workplace to be patriarchal and male-dominated.2