

Main elements of JAG's proposed Gender Equality Act for Malaysia

A Policy Brief by the Joint Action Group for Gender Equality (JAG), May 2017

What does the proposed Gender Equality Act do?

1. Prohibits gender discrimination and facilitates fulfilment of gender equality.

- **Defines gender discrimination**, including stating prohibited grounds for discrimination, defining direct and indirect discrimination, noting knowledge and motive is irrelevant, describing vicarious liability, describing gender-based violence, etc.
- **Defines gender equality**, as substantive equality.
- Ensures that **gender discrimination is prohibited in the private sector**, not just in the public sector.
- Clarifies that **temporary special measures** can be used to help achieve gender equality.

2. Implements the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). (Malaysia ratified CEDAW in 1995)

3. Mainstreams gender equality.

- Recommends that a **national gender policy** is developed, and **integrated with overall development plans and budgets**.
- Mandates a **review of existing laws** to remove gender discrimination.
- Elaborates **responsibilities of relevant ministries** and how KPWKM should work with these ministries.
- States that government must exercise **due diligence** to prevent gender discrimination.

4. Establishes new institutions towards fulfilling gender equality.

- A **Gender Equality Commission** – to advise and monitor the government, investigate complaints of gender discrimination, and promote and generate knowledge.
- A **Chief Conciliator** – alternative dispute resolution for cases which can be conciliated.
- A **Gender Equality Tribunal** – a specialised court to handle cases involving the Act, which can award redress to victims/survivors and issue orders to wrong-doers.

Other characteristics of the proposed Gender Equality Act

1. **Under the Ministry of Women, Family and Community Development (KPWKM).**
2. **Does not derogate from SUHAKAM's powers and responsibilities.**
3. **Consistent with and in the spirit of the Federal Constitution.**