

24 January 2008

YB Dato' Seri Shahrizat Abdul Jalil  
Minister of Women, Family and Community Development  
Ministry of Women, Family and Community Development  
Level 3, Block E  
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**URGENT**

By Fax (letter only)  
Fax No. 03-2693 8564  
& By Courier  
(letter & enclosures)

Also for the attention of : Cik Wan Nur Ibtisam Wan Ismail  
KPSU (Wanita) Bahagian Dasar

By Fax (letter only)  
Fax No. 03-26985982

Dear YB Dato' Seri,

Re : Feedback on the Draft National Plan of Action for Women's Development  
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The Joint Action Group for Gender Equality (JAG) wishes to thank the Ministry of Women, Family and Community Development for providing us with the Draft National Plan of Action for Women's Development dated 17 December 2007.

To recapitulate, a Focus Group meeting was held in June last year where JAG had given our preliminary comments on the initial drafts of the National Policy on Women and only two sectors of the Draft National Plan of Action for Women's Development, namely the sectors on "Women and Law" and on "The Elimination of Violence Against Women, Social Ills and Trafficking of Persons". We enclose a copy of our letter dated 25 June 2007 which contains a summary of our earlier comments for convenient reference.

While we are pleased to receive the latest Draft Plan of Action with all its sectors, this Draft was only received at the end of December 2007 when many of the key staff and volunteers in our organisations were away.

Given the overall shortage of time, we have only managed to peruse certain sectors of the Draft Plan of Action and our brief comments are as follows :-

**A. Draft National Policy on Women (NPW)**

As the NPW contains the guiding principles for the Plan of Action, it is imperative that all those involved in giving feedback be provided with the proposed NPW. Unfortunately, to-date we have yet to be furnished with the latest Draft NPW.

## **B. Draft National Plan of Action dated 17 December 2007**

### 1. Absence of introductory sections

JAG suggests that for each sector, there should be an introductory section containing a detailed explanation of the objectives of the sector and the rationale for the actions proposed to reach these objectives.

### 2. Problems with drafting and clarity

In our earlier letter dated 25 June 2007, we had highlighted that there were problems with the drafting of several sectors of the earlier Draft Plan of Action. These included :

- (a) a general failure to link each “sasaran” or target with a specific and comprehensive strategy, method, time frame and responsible agency;
- (b) the lack of indicators for the monitoring of specific actions; and
- (c) a general confusion and inconsistency between categories, for instance, certain “objectives” were listed as “target groups” or as “strategies”;

We are concerned to note that such inconsistency is still to be seen in certain portions of the revised Draft Plan of Action. For instance, under the sector on Women and the Economy (Wanita dan Ekonomi), Item 1.2.1 which states “Meningkatkan bilangan dan peluang saksama untuk wanita dalam pasaran pekerjaan” is stated as a strategy instead of an objective.

### 3. Brief comments on specific sectors

While we are heartened to note that some of the recommendations from the CEDAW Committee’s Concluding Comments of 2006 have been included in the present Draft Plan of Action, we also note that a number of equally important recommendations were left out.

- (a) *Under the sector on Women and the Economy (Wanita dan Ekonomi)*
  - (i) There should be introductory section that the objective, strategies and general activities should be in line with Article 11 of CEDAW.
  - (ii) To add a second objective (p.1) ‘to promote the equal treatment of women in the economy and in the workplace, both formal and informal’.
  - (iii) Under Strategi 1.2.1 (p.3), to add: ‘equal treatment’ after ‘peluang saksama’.
  - (iv) Under Aktiviti Umum 1.2.1.2 (p.3) to add: ‘at least 30 percent of women in decision making’.

- (v) Aktiviti Umum 1.2.1.4 (p.4) might be redundant and confusing given Objektif Khusus 1.4 (p.8), both of which are about eliminating discrimination and exploitation at the workplace. We suggest replacing 1.2.1.4 with: ‘to conduct studies on and to monitor the changing pattern of women’s employment and equal treatment, including non-formal work and housework’.
- (vi) Under Aktiviti Umum 1.2.2.1 (p.4) to add after ‘kesedaran gender’: ‘women’s rights’.
- (vii) Under Aktiviti Umum 1.2.2.2 (p.5) to add after tele-kerja: ‘for men as well’
- (viii) Aktiviti Umum 1.2.3.1 (p.5) is not clear. Please clarify.
- (ix) Under Aktiviti Umum 1.4.1.1 (p.8) to add: ‘in relation to reproductive rights, maternity and paternity benefits, wage equality, equal pay for work of equal value, and retirement age and benefits’.
- (x) Under Aktiviti Umum 1.4.1.2 (p.8) to add: ‘women’s rights’.
- (xi) Under Aktiviti Umum 1.4.2.3 (p.9): please note that JAG does not agree with the amendment to the Employment Act 1955 regarding sexual harassment. Instead, we propose the enactment of a Sexual Harassment Act. Our proposed Sexual Harassment Bill was submitted to the government in 2001. Hence, we would suggest replacing this Aktiviti Umum with ‘to promote a Sexual Harassment Act in the workplace’.
- (xii) To add another Aktiviti Umum 1.4.2.3 (p.9): ‘to ensure that wage equality and equal wages for work of equal value be implemented at all levels and spheres of work’.
- (xiii) To add another Aktiviti Umum 1.4.2.4 (p.9) : ‘to ensure that women workers have the right to equal treatment in the collective bargaining process and the right to organise and form national unions, including a national union of electronics workers’.
- (xiv) Under Aktiviti Umum 1.5.1.3 (p.10) to clarify ‘aspek ekonomi dan kewangan Islam’.
- (xv) Under Aktiviti Umum 1.5.2.1 (p.12): please note that the use of ‘teknologi yang lebih sesuai’ should be a strategy rather than an Aktiviti Umum. Hence, we suggest adding ‘new technologies’ to this added objective.
- (xvi) Under Aktiviti Umum 1.5.6.2 (p.16): to delete ‘kemungkinan’ as women in the informal sector SHOULD be protected, of which PERKESO is one mechanism.

(xvii) Strategi 1.7.1 and its concomitant Aktiviti Umum (p.18 onwards) are too vague and may absolve employers from the responsibility to protect their employees in relation to health and safety. We suggest that this whole part be redrafted to ensure that employers protect the health and safety rights of workers, including reproductive rights, in relation to Article 11 of CEDAW.

(xvii) To include the CEDAW Committee's recommendation that monitoring measures be introduced to ensure effective implementation of efforts to promote change concerning the stereotypical expectations of women's roles and the equal sharing of domestic and family responsibilities between women and men, including by making the flexible work arrangements envisaged in the Ninth Malaysia Plan equally available to women and men.

(b) *Under the sector on Women and Poverty (Kemiskinan di Kalangan Wanita)*

Our comments on this sector are attached as a separate document.

(c) *Under the sector on Women and the Law (Wanita dan Undang-Undang)*

To include the following recommendations by the CEDAW Committee :

(i) To incorporate in the Constitution and/or other appropriate national legislation, the definition of discrimination, encompassing both direct and indirect discrimination, in line with Article 1 of CEDAW.

(ii) To ensure that CEDAW and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, so as to establish firmly in the country a legal culture supportive of women's equality and non-discrimination.

(iii) To undertake a process of law reform to remove inconsistencies between civil law and Syariah law, including by ensuring that any conflict of law with regard to women's rights to equality and non-discrimination is resolved in full compliance with the Constitution and the provisions of the Convention and the Committee's general recommendations, particularly General Recommendation No. 21 on equality in marriage and family relations.

(iv) To obtain information on comparative jurisprudence and legislation, where more progressive interpretations of Islamic law have been codified in legislative reforms.

(v) To put into place a strong federal mechanism to harmonise and ensure consistency of application of Syariah laws across all states.

(d) *Under the sector on Violence Against Women (Menangani Keganasan Terhadap Wanita)*

- (i) To include the CEDAW Committee's recommendation to enact legislation criminalizing marital rape, defining such rape on the basis of lack of consent of the wife.

#### 4. Missing sectors

While we recognise and are encouraged that the Ministry has begun work in the following areas, we urge the Ministry to insert them as separate sectors in the Draft Plan of Action in accordance with the CEDAW Committee's recommendations:

(a) *To insert a sector on **Trafficking of Persons**, including the following specific recommendations :*

- (i) To consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementary to the United Nations Convention against Transnational Organized Crime and to intensify its efforts to combat all forms of trafficking in women and girls, including by enacting specific and comprehensive legislation on the phenomenon.
- (ii) To increase its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange.
- (iii) To collect and analyse data from the police and international sources, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls.
- (iv) To ensure that trafficked women and girls are not punished for violations of immigration laws and have adequate support to be in a position to provide testimony against their traffickers.

(b) *To insert a sector on **Migrant Domestic Workers**, including the following specific recommendations :*

- (i) To enact comprehensive laws and establish procedures to safeguard the rights of migrant workers, including migrant domestic workers.
- (ii) To provide migrant workers viable avenues of redress against abuse by employers and permit them to stay in the country while seeking redress.
- (iii) To make migrant workers aware of such rights.

(c) *To insert a sector on Asylum Seekers and Refugees, including the following specific recommendations :*

- (i) To adopt laws and regulations relating to the status of asylum seekers and refugees in Malaysia, in line with international standards, in order to ensure protection for asylum seekers and refugee women and their children.
- (ii) To fully integrate a gender-sensitive approach throughout the process of granting asylum/refugee status, in close cooperation with appropriate international agencies in the field of refugee protection, in particular the Office of the High Commissioner for Refugees (UNHCR).

In closing, we reiterate that the NPW and the Plan of Action form the blueprint for the protection and advancement of women in the country.

Hence, we strongly urge the Ministry to allow a more realistic timeframe for further study and consultation with members of civil society including JAG in order to facilitate the formulation of a Policy and a Plan of Action which are both cogent and comprehensive.

Again, we state that our comments in this letter are by no means exhaustive. JAG is willing to provide further feedback on the Draft NPW and the Draft Plan of Action, but we certainly need much more time to do so given our limited resources.

Thank you.

Yours faithfully

Loh Cheng Kooi  
Executive Director  
Women's Centre for Change, Penang (WCC)

**For and on behalf of the Joint Action Group for Gender Equality (JAG) comprising:**

All Women's Action Society (AWAM)  
Women's Aid Organisation (WAO)  
Sisters In Islam (SIS)  
Women's Centre for Change, Penang (WCC)  
Empower

Encl.