

## **JAG Press Statements in 2012**

- 1) 12-year Jail Sentence Not the Way to Address the Issue of Unwanted Babies [Feb 5]
  - 2) Right of Pregnant Women to Work [Feb 7]
  - 3) Anti-Ambiga posters [Feb 24]
  - 4) Lynas – a ticking time bomb? [March 6]
  - 5) Guppy: Women must be able to retire at the same age as men [March 23]
  - 6) On Najib's role as Women's Minister [April 10]
  - 7) Kedah's New Fatwa Ruling Equates Man's Word to God [April 19]
  - 8) Malaysia's questionable process of law reform [May 14]
  - 9) Gender stereotyping of women: Stop controlling women's appearance and behaviour [June 29]
  - 10) On attacks against Ambiga [June 29]
  - 11) Joint Action Group for Gender Equality (JAG) urges Judiciary to Clarify the Noor Afizal Azizan judgement [August 10]
  - 12) Consider needs and perspectives of our young [August 30]
  - 13) Not a routine investigation (SUARAM) [September 24]
  - 14) On PM's 'no need for women's groups' [October 2]
  - 15) More consultation in rape laws [October 18]
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### **12-year Jail Sentence Not the Way to Address the Issue of Unwanted Babies**

*5 February 2012*

The Joint Action Group for Gender Equality (JAG) is appalled at the 12-year jail sentence meted out to the teenager found guilty of throwing her baby out of a second floor window.

The issue of unwanted pregnancies and babies is a serious one in Malaysia, and we believe that there is an urgent need to deter and prevent such incidents from recurring.

Nevertheless, the sentence is too harsh as the teen was a minor at the time of the offence. It does not take into account the different factors that may have affected her actions then, including post-partum depression.

We support the position of the Social Welfare Department that instead the court imposes a good behaviour bond. The teen requires emotional support and counseling to help her understand the gravity of her actions.

The fact that she was unrepresented in court is also a grave concern and raises questions about our justice system. By right, the courts should facilitate the right to counsel even it means that the government has to pay for legal expenses so as to ensure a fair trial for all.

We are not convinced either, that decisions like that handed down by Sessions Court judge Maziah Joary Mohd Tajudin in this case, will help address the matter of unwanted pregnancies and babies in the long run. JAG reiterates our position that a systematic and non-punitive approach, including the provision of sex education in schools, will yield a more positive outcome in this regard.

We call upon the Federal government to revisit this court decision immediately.

### **Released by the Joint Action Group for Gender Equality (JAG)**

All Women's Action Society (AWAM)

Perak Women for Women Society (PWWS)

Persatuan Kesedaran Komuniti Selangor (EMPOWER)

Persatuan Sahabat Wanita Selangor (PSWS)

Sabah Women's Action Resource Group (SAWO)

Sisters in Islam (SIS)

## **Withdraw The Fight Against The Right of Pregnant Women to Work**

7 February 2012

In July 2011, the Shah Alam High Court ruled that the act of revoking a woman's employment offer as a temporary teacher due to her pregnancy was unconstitutional and breached Malaysia's obligation as a state party to the United Nations' Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

In her judgment, Justice Zaleha Yusuf affirms that it is the Court's role *"to promote the observance of human rights in this country"*. She also states that *"CEDAW is not a mere declaration. It is a convention. Hence...it has the force of law and [is] binding on members states, including Malaysia."* Therefore, *"the Court has no choice but to refer to CEDAW in clarifying the term 'equality' and gender discrimination under Article 8 (2) of the Federal Constitution."*

The landmark ruling is significant as it serves to prohibit dismissals on the grounds of pregnancy.

In her judgment, Justice Zaleha Yusuf systematically refutes the arguments which had been put forward by the Attorney-General's Chambers in defence of the revoking of the job offer, finding that they lack merit.

The Joint Action Group for Gender Equality (JAG) is therefore appalled to learn that the Attorney-General's Chambers is appealing against this progressive ruling. JAG is deeply concerned that this decision to appeal shows a blatant disregard for:

- i) The principles of equality and the prohibition of gender-based discrimination in the Federal Constitution,
- ii) Malaysia's obligations under CEDAW, and
- iii) Malaysia's re-election to the UN Human Rights Council.

It is significant to note that upon its re-election to the UN Human Rights Council, the Government had made the following statement: *"It signifies the international community's recognition and appreciation of Malaysia's commitment to respecting and upholding the inalienable and indivisible nature of all human rights at the international and domestic levels"*.

The government's appeal against this ruling reflects extremely poorly on its sincerity in upholding its commitments. It serves no purpose to proudly claim to uphold the rights of women in the international arena but to maintain a regressive stand in the country. The decision to appeal blatantly contravenes our obligation under CEDAW, which states in article 11(2)(a) that State parties shall take appropriate measures to prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave.

The full participation of women in the labour force is integral in any economy. The Government has made numerous statements and commitments about encouraging and recognising the importance of including women in the workforce. The Attorney-General's announcement to appeal this decision taints all other government initiatives relating to women in the workforce.

The government of the day should rightly lead the way in acknowledging the contributions of women in the workforce, be they pregnant or not. The Government ought to discard unconstitutional policies and abolish all forms of dismissal or sanction on the basis of pregnancy or maternity leave.

JAG reiterates our statement from June 2011, that *"the government and society must acknowledge maternity as a vital social function and accept that a woman's human rights must not be denied if she chooses to have a child. JAG*

*calls on the Malaysian government and society to recognise that they are duty bound to accommodate pregnant women and not to dismiss employees or prospective employees on the basis of pregnancy."*

**The Joint Action Group for Gender Equality (JAG) comprises:**

Women's Centre for Change, (WCC) Penang  
All Women's Action Society (AWAM)  
Persatuan Kesedaran Komuniti Selangor (EMPOWER)  
Women's Aid Organisation (WAO)  
Perak Women for Women Society (PWW)  
Sabah Women's Action Resource Group (SAWO)  
Sisters in Islam (SIS)

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**Press Release from the Joint Action Group for Gender Equality**

*24 February 2012*

The Joint Action Group for Gender Equality (JAG) condemns the posters depicting Ambiga Sreenevasan and A. Samad Said that have recently been displayed in parts of Selangor and Kuala Lumpur.

The posters, which display the words "Undi Ambiga, Undi Seks Bebas", are part of a desperate attempt to undermine the integrity of Ambiga, who is a Malaysian of exemplary character and a role model to many.

Ambiga is a human rights defender who has achieved much in her career. She is a pioneer member of Women's Aid Organisation and past President of the Malaysian Bar Council. She has continually demonstrated an unwavering commitment to social justice. As a leader with a strong social conscience, Ambiga is to be commended for her tireless work for the betterment of our country.

The posters insult the intelligence of Malaysians, who can see that they are a crude attempt to discredit BERSIH 2.0, the civil society movement led by Ambiga and Pak Samad that calls for clean and fair elections and demands an end to government corruption and dirty politics.

The intent of the posters is to link Ambiga with the Seksualiti Merdeka festival, itself the focus of a smear campaign and wrongly accused of promoting "seks bebas". Seksualiti Merdeka is an annual festival that provides a safe space for people of all sexual orientations and gender identities to come together to share knowledge about human rights. We should be clear: Ambiga was never involved in the organising of Seksualiti Merdeka, but was invited by the organisers to launch the festival.

To employ terms that identify diverse sexual orientations and gender identities as an insult perpetuates a culture of stigmatisation, persecution and hatred. Such action should not be tolerated. JAG condemns the continued vilification of people who are lesbian, gay, bisexual or transgender in Malaysia.

JAG is appalled by the campaign to tarnish the character of Ambiga and other human rights defenders. We are shocked that fellow Malaysians can treat human rights defenders so poorly.

***Released by the Joint Action Group for Gender Equality, which comprises:***

Women's Aid Organisation (WAO)  
Persatuan Kesedaran Komuniti Selangor (EMPOWER)  
Perak Women for Women Society (PWWS)  
Women's Centre for Change, Penang (WCC)  
Persatuan Sahabat Wanita Selangor (PSWS)  
Sisters in Islam (SIS)

## **Lynas – a ticking time bomb?**

*6 March 2012*

The Joint Action Group for Gender Equality (JAG) gives our support for the Himpunan Hijau 2.0 protest of February 26. We join thousands of our fellow Malaysians in calling for an immediate cancellation of the proposed Lynas rare earth plant. We understand that this plant would involve the production and handling of radioactive waste materials that are highly toxic and not easily disposed of. Moreover, public concerns about the plant have not been addressed nor have adequate measures been taken to ensure that the plant's operations pose no threat to the residents of Gebeng and its surroundings.

While we are heartened to see that Malaysians are increasingly mindful of and willing to speak up on issues of public interest, we are disappointed with the Government's dismissive attitude towards the legitimate concerns of ordinary Malaysians on this issue.

If most governments around the world steadfastly refuse to build similar plants in their own countries despite the economic incentive to do so, why is Malaysia going ahead with building this plant? Development should not come before public health and safety nor jeopardise the integrity of our environment. We are concerned that this plant will not only damage our environment but will have an adverse, lasting effect on the health of those who live around the plant.

We are deeply concerned that the Lynas plant received its licence to operate without a detailed environmental impact assessment. Although Lynas claims to have plans to "recycle" the waste into industrial products, these plans have not been explained. Nor has Lynas identified permanent disposal grounds for the radioactive waste. There have been reports in international press alleging shoddy design and building materials for the plant. A failure to build according to high standards and follow proper protocol, combined with the material contained within, makes such constructions ticking time bombs.

Mitsubishi's now-defunct rare earth plant in Bukit Merah sets an alarming precedent. Two decades after ceasing operations, the plant is still in the process of being cleared of radioactive waste. While it was in operation, residents and plant workers faced various horrifying effects of radiation. The Government's decision to grant that plant a licence despite popular resistance caused needless suffering for a prolonged period of time to the community. Such a decision should not be repeated.

Man-made disasters affect women acutely because they intensify existing inequalities in terms of mobility and access to resources. As caregivers, many women bear the burden of supporting the-victims of maldevelopment: children born with severe deformities, adults who develop cancer and other illnesses.

Indeed, such maldevelopment affects communities unequally; often it preys on the most vulnerable among us. It is no accident that plants such as this one are built away from centres of politics and affluence and high population density so there is little or no transparency of its operations to the local community.

All Malaysians stand in solidarity with the people of Gebeng and Pahang and for the basic principle that everyone should have the right to a decent life. The onus is on the government to provide a healthy, safe, and sustainable environment for all Malaysians.

Disasters like Chernobyl, Bhopal, or Bukit Merah were not inevitable, but the result of deliberate decisions to put short-term thinking of profits before longer-term concerns about our lives and environment. Furthermore, it does not

become a democratic government to ignore the thousands of protestors who have rallied, written complaints, and voiced consistent and popular objections against this plant. JAG urges the Government of Malaysia to withdraw the Lynas plant licence immediately.

*The Joint Action Group for Gender Equality includes the following organisations:*

*All Women's Action Society (AWAM)*

*Persatuan Sahabat Wanita Selangor (PSWS)*

*Women's Aid Organisation (WAO)*

*Sisters in Islam (SIS)*

*Perak Women for Women Society (PWWS)*

*Persatuan Kesedaran Komuniti Selangor (EMPOWER)*

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## **Women must be able to retire at the same age as men**

*23 March 2012*

The Joint Action Group for Gender Equality (JAG) is deeply disappointed by the recent Court of Appeal decision to dismiss an appeal by eight women who were forcibly retired by their employer, Guppy Plastic Industries, after they reached the age of 50. Men employed at the company are able to work until they are 55 years of age. This difference in retirement age for men and women is a clear case of gender-based discrimination.

In 2001, eight women workers from Guppy Plastic Industries were forced to retire after a new handbook of employment regulations was introduced by the company, in which the difference in retirement age was stipulated. The women filed a complaint at the Industrial Court. In 2008, the Industrial Court decided in favour of the women workers, finding that the difference in retirement age constituted gender discrimination. Guppy Plastic Industries sought a review of this decision and in 2010 the High Court overturned the Industrial Court's decision, finding in favour of the company.

The eight women appealed the 2010 High Court decision. On 21 March 2012, the Court of Appeal dismissed the women's appeal. The decision of the three-member panel of judges was unanimous. Judge Datuk K. N. Segara reportedly said that the company was merely following its own employment regulations and that it was the industry norm to have different retirement ages. JAG disagrees with the judges – the argument that there is no discrimination because the company was merely following its own employment regulations and was acting in accordance with the industry norm is not acceptable. JAG wishes to stress that companies' harmful and/or discriminatory policies cannot be accepted when they violate Article 8(2) of the Federal Constitution, which prohibits discrimination on the grounds of gender.

Women must not be discriminated against by being forced to retire at a younger age than men – such a practice effectively robs women of five years of salary and benefits. The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Malaysia is a party, defines discrimination against women as **“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”** The provisions of CEDAW apply to all fields, including, “contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women.”

In July 2011, in a judgement by Justice Zaleha Yusof in the Shah Alam High Court in relation to a women's job offer being revoked because of pregnancy, it was affirmed that CEDAW has the “force of law” and is “binding” on Malaysia.

All arms of the Malaysian government, including the judiciary, legislature and executive, have a legal obligation under CEDAW to ensure that there is no discrimination based on gender. By finding against the women, the judges in the

Court of Appeal have not fulfilled this obligation. This decision sends a message to employers that gender discrimination is a non-issue and is acceptable.

Ironically, according to the women's lawyer, it is often the industry norm that upon reaching the age of 50, women workers in the plastics industry are forced to retire, and many are then re-hired on a short term contract basis. Besides elements of labour exploitation, their livelihood becomes insecure as they do not receive the benefits of permanent employment. Women are often disproportionately and negatively affected by unfair and unjust labour practices. This discrimination is unacceptable and must not continue.

**The Joint Action Group for Gender Equality (JAG) comprises:**

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Women's Centre for Change, Penang (WCC)  
Persatuan Sahabat Wanita Selangor (PSWS)  
Perak Women for Women Society (PWW)  
Sabah Women's Action Resource Group (SAWO)  
Sisters in Islam (SIS)  
All Women's Action Society (AWAM)  
Persatuan Kesedaran Komuniti Selangor (EMPOWER)

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**JAG Press Statement**

*10 April 2012*

The Joint Action Group for Gender Equality (JAG) is dismayed to learn that the Prime Minister Datuk Seri Najib Abdul Razak has taken over the portfolio of the outgoing Minister of Women, Family and Community Development, Datuk Seri Sharizat Abdul Jalil (*Malaysiakini*, 7 Apr 2012). This undermines the government's purported commitment towards ensuring that women occupy 30% of decision-making positions. It makes a mockery of all the time, effort and resources that have been poured into making this a reality.

Prior to 2001, women's affairs was under the purview of the Prime Minister's Department, taken care of by a Deputy Minister within this Department. Eleven years later, we are uncertain what it means for women of Malaysia, that this portfolio has been returned to the stables of the Prime Minister's office. From our experience, women's affairs languished at the bottom of the pile when it used to be located in this office. What we need is a standalone Ministry for Women, one which can focus its energies on women rather than compete with other equally important concerns of other constituencies: the elderly, children, Orang Asli, persons with disabilities, etc.

Does this move mean that after 55 years of being in power, there is really no one else within the Barisan Nasional component parties who is capable of taking over the women's portfolio? If so, what does this mean for Malaysian women when women's leadership within the ruling government cannot be entrusted to take charge of our concerns? We are also surprised that none of the *wanita* wings of these parties have protested that women's representation in cabinet is reduced, suggesting again that after all these years, they remain subservient to male interests within the ruling political parties in the country.

Or does this mean that after 55 years of being in power, the government ~ and in particular, the Prime Minister ~ is finally taking Malaysian women seriously? Over the last decade or so, it has become increasingly apparent that more and more authority is being concentrated in the office of the Prime Minister. If the Prime Minister directly taking over women's affairs means that the concerns of Malaysian women will be addressed with greater urgency and efficiency, then JAG looks forward to the following actions:

**1. Enact:**

- i. Legislation to incorporate the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) into national law;
- ii. A Gender Equality Act;
- iii. A new Muslim Family Law based on the principles of equality and justice to ensure that Muslim women enjoy the same rights as men and as Malaysian women of other faiths;
- iv. A Sexual Harassment Act; and
- v. A Freedom of Information Act.

## 2. Reform:

- i. Article 15 of the Federal Constitution to give women the same citizenship rights as men with regards to their non-Malaysian spouse;
- ii. Schedule II of the Federal Constitution to allow women to confer citizenship status on their children even when the child is born outside of Malaysia;
- iii. The Law Reform (Marriage and Divorce) Act 1976;
- iv. The Parliamentary Standing Orders to prohibit sexist remarks;
- v. The Penal Code to criminalise marital rape, stalking, and domestic violence which is psychological in nature;
- vi. The Local Government Act 1976 to enable elections at the local government level;
- vii. The Employment Act to recognise informal work such as domestic work and home-based work.

3. **Establish** a national steering committee on gender equality that aims to eliminate discrimination against women and takes proactive measures to fulfil women's right to equality.

4. **Set-up** a permanent Select Committee on Gender Equality and Non-Discrimination to review, recommend and advocate for the mainstreaming of gender equality into national policies and budgets.

5. **Form** a permanent Standing Committee on Integrity and Governance to advocate for legal reforms to bring about greater transparency, accountability and participation.

6. **Ensure** that at least 30% of decision-making posts be reserved for women, especially in the private sector, in parliament, and statutory bodies like SUHAKAM as well as ad-hoc commissions.

7. **Put in place** a targeted, bench-marked plan and structure (that includes civil society) to implement Malaysia's international human rights obligations via recommendations of the relevant treaty bodies, and the Universal Periodic Review.

8. **Improve** the collection of data on women in the country and **make this available publicly**. This includes ensuring that the data is disaggregated by sex, ethnicity and other relevant variables.

9. **Institutionalise** a national mechanism comprising enforcement agencies and relevant NGOs that will meet 4 times a year to streamline Standard Operating Procedures on domestic violence, rape, sexual harassment, child abuse and other forms of violence against women and children.

10. **Institutionalise** regular dialogues between MPs and civil society organisations to bring about substantive democratic and gender responsive policies. Women's groups in particular should be consulted on all issues relating to women's rights and welfare before any policy decision or laws are formulated in this regard.

We remind the Prime Minister and his government that women make up just under half the population of the country. With the 13th general election around the corner, we will also not hesitate to take our growing list of grievances to the ballot box when the time comes.

*Released by the **Joint Action Group for Gender Equality**, which comprises:*

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Sisters in Islam (SIS)  
Women's Aid Organisation (WAO)  
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Persatuan Sahabat Wanita Selangor (PSWS)  
Sabah Women's Action Resource Group (SAWO)

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### **Kedah's New Fatwa Ruling Equates Man's Word to God**

*19 April 2012*

The Joint Action Group for Gender Equality (JAG) is shocked and deeply concerned by media reports on Kedah's new Fatwa ruling. The amendments to the Mufti and Fatwa (Kedah Darul Aman) Enactment 2008 now bar a fatwa from being "challenged, appealed, reviewed, denied or questioned in any civil court or syariah court."

First and foremost, fatwas are theological and legal reasonings, opinions given by the Mufti to enlighten and educate the public about Islam and to assist them in arranging their affairs in accordance with the syariah. They are regarded as advisory and are not binding and enforceable on the *ummah*. Over the centuries fatwas have developed into a question-and-answer framework where the Mufti responds to questions posed by individuals. If a person was dissatisfied with the fatwa of one Mufti, he or she was free to consult a different Mufti *oralim* for an alternative opinion.

Throughout Muslim history, fatwas never had and still do not have the automatic force of law. In fact, when the Caliph Abū Ja'far Mansūr wanted to make Imam Malik's fatwas unchallengeable in 148 AH, Imam Malik himself stopped him, saying that differences of opinion are God's mercy to the *ummah*.

Within Mazhab Shafi'i or any other mazhab for that matter, the imams have had differences of opinions. Each imam would stand by his opinion, without discrediting or delegitimising other imams' opinions, for their positions were grounded in humility and in the knowledge that there is no such thing as an instance which could decide an issue in question once and for all.

It must be remembered that a Fatwa Council comprises humans who are not infallible and certainly not beyond committing errors. It is at best, a projection of extreme hubris, and at worst, *shirik*, the biggest sin of all, when muftis become demi-gods and their fatwas equal to divine word.

Such a move is an attempt to subvert the courts power over religious authorities and force onto Muslims a particular version of Islam in Malaysia, one that they subscribe to and others may not contest. It is an unconstitutional and authoritarian attempt to consolidate power in the hands of a few, without the safeguard of any checks and balances.

In a modern democratic nation state, the Government, if it wishes to enforce the fatwa of a Mufti, must first put that fatwa through the legislative process for open debate before it can become law. Those not democratically elected, sitting in a closed body, and who do not believe that others have a right to discuss, debate and question matters of religion, cannot be allowed to legislate laws as that affect our fundamental liberties via a decree. Neither should the Mufti of the state fatwa committee have the sole power to revoke or amend a fatwa as provided for by the legislation.

When Islam in Malaysia is used as a source of law and public policy with widespread impact on the lives of the citizens of a democratic country, any attempt to criminalise contestation of religious opinions is tantamount to theocratic dictatorship.



One reason why the doctrine of binding precedent did not evolve in Islam is due to the belief that the opinion of one *mujtahid* can never be regarded as the final wisdom in understanding the infinite message of the Qur'an. Another *alim* can give an equally valid opinion based on his learned understanding of the text. In the context of law-making in a democracy, these differences of opinion should be debated and the legislative body then decides which opinion it wants to turn into law.

The implications of such absolute power are frightening. The criminalisation of individuals or groups that even question a fatwa and the inability to challenge these opinions in court indicates the ease with which it can easily be used as a tool to persecute minority groups deemed as a threat by those in power. This view is reinforced by recent events that further reflect the increasing rigidity and intolerance of many in religious authority, such as the arrest of 200 Shiites in 2011.

We find these developments not only disturbing, but also dangerous as they violate fundamental principles of democracy. We are also concerned how a united Malaysian nation that is democratic, liberal, tolerant and progressive under the banner of 1Malaysia and Vision 2020, can ever be achieved if an important segment of society, the religious establishment, in their words and deeds are fundamentally opposed to that vision, and are bent on governing the lives of Muslims in their obscurantist mould.

There must be a public sphere for engagement and debate for Malaysians who disagree with those Islamic scholars and preachers who already dominate the public space in perpetuating an intolerant, exclusive and elitist Islam.

Therefore, JAG calls on the Prime Minister and the Cabinet to take a strong stand and stop this headlong descent into a theocratic dictatorship engineered by those in religious authority both in Government and in the Opposition circle.

Released by the Joint Action Group for Gender Equality, which comprises:

Sisters in Islam (SIS)

Persatuan Sahabat Wanita Selangor (PSWS)

Women's Aid Organisation (WAO)

All Women's Action Society (AWAM)

Perak Women for Women Society (PWW)

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## **Malaysia's Questionable Process of Law Reform**

*14 May 2012*

The hasty withdrawal of the bill to amend the Election Offences Act highlights flaws in the system of law making in Malaysia. It shows the lack of genuine public consultation and meaningful parliamentary debate.

The bill to amend the Election Offences Act was pushed through the Dewan Rakyat on 19 April 2012, the final day of its sitting. Insufficient time was allocated to enable full debate of these amendments.

On 9 May, the Minister in the Prime Minister's Department, Datuk Seri Nazri Aziz, reportedly said that among the reasons for the subsequent withdrawal of the bill from the Dewan Negara was that he had read blogs on the internet which opposed the bill.

While it is admirable that an attempt at gauging public sentiment was made, the perusal of blogs cannot be deemed genuine public consultation.

For the record, JAG and many civil society organisations had severe misgivings about the bill as it would have reduced scrutiny at polling stations.

In 2006, women's human rights groups were represented in a committee set up to amend the Islamic Family Law Act. After this committee of experts agreed to the amendments, the draft bill was shelved. Six years have passed and still there has been no move to introduce the bill to Parliament. From a positive start, this particular example of law reform fizzled out.

These two instances are prime examples of Malaysia's questionable process of law reform.

Genuine public consultation must occur at an early stage to ensure that the views of citizens and experts are taken into account. The bill drafted must then be reviewed by the consultative committee and enough time must be allocated for debate in Parliament. Only when this takes place will Malaysians have confidence that our parliamentary democracy could have the potential to reflect the will of the rakyat. Such good governance practices will result in a law that enjoys public support as it genuinely addresses public concerns.

Only when this takes place will Malaysians have confidence that our parliamentary democracy could have the potential to reflect the will of the rakyat.

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**Gender stereotyping of women: Stop controlling women's appearance and behaviour**

*29 June 2012*

The Joint Action Group for Gender Equality (JAG) is alarmed at the discriminatory treatment of women, the most recent involving news anchor Ras Adiba Mohd Radzi and Ampang MP, YB Zuraida Kamaruddin.

On 26 June 2012, it was reported that Ras Adiba was suspended by television station NTV7 for cropping her hair in support of Makna's (National Cancer Council of Malaysia) *Jom Botak* cancer awareness campaign. A source within NTV7 was reported to have said that it felt the need "to upkeep a certain look and feel" of the station, and that a bald woman would not be presentable as news anchor.

NTV7's stand perpetuates the gender stereotyping of women. Instead of recognising the presenter's skills, experience and active role for a worthy cause, the station focused on the superficial issue of length of hair.

JAG is also disturbed about the anonymous calls allegedly made from a religious department to Ras Adiba, all of which referred to a fatwa prohibiting women from shaving their heads. Instead of encouraging empathy with those in need, a virtue integral to all religions including Islam, the persons who had called were fixated on how a woman should appear.

This brand of harassment is reminiscent of the National Fatwa Council's fatwa against "tomboys", a word defined so vaguely as to describe almost any number of Malaysian women.

The disturbing message is that women who do not look or behave according to a narrow prescribed definition of 'femininity' will face sanction.

In a similar vein, on 24 June 2012 YB Zuraida Kamaruddin was described by the Prime Minister as "tak sayang mulut" and was accused of behaviour unbecoming of a woman. This occurred when she was posing a question to him on the

neglect of numerous initiatives for women, such as gender mainstreaming, gender sensitisation and the 30% quota for women in top management.

Such comments by the Prime Minister, who is also the Women's Minister, are unbecoming to his office.

JAG calls for an immediate halt to all similar degrading comments and policies. Instead of promoting archaic views on how women should dress and behave, the media and policymakers should highlight and address the pressing issues that affect women's lives.

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*Sisters in Islam (SIS)*

*Women's Aid Organisation (WAO)*

*Women's Centre for Change, Penang (WCC)*

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### **Joint Action Group for Gender Equality**

*29 June 2012*

The Joint Action Group for Gender Equality (JAG) is alarmed at the escalating level of attacks towards senior lawyer and human rights activist Dato' Ambiga Sreenivasan who has been subjected to all manner of abuse lately. The latest attack is by Sri Gading MP Datuk Mohamad Aziz who on June 26 had asked in Parliament whether Dato' Ambiga should be "considered a traitor to the nation and should be sentenced to be hanged"

Such a remark, by a legislator no less, is shockingly offensive and violent to the extreme. It violates basic standards of decency expected of parliamentarians and shows a deep lack of understanding of the democratic process. A call for free and fair elections is a democratic right in a democratic country. That attacks on Dato' Ambiga are selective in its approach has not gone unnoticed either.

Although the said MP has since retracted his remark and apologised to his BN colleagues in MIC and PPP, he did not apologise to Dato' Ambiga. This lack of courtesy is unacceptable and should be condemned by all decent Malaysians.

Noticeably silent throughout the sustained attack against Dato' Ambiga is the Prime Minister, forcing us to wonder if he condones such downright uncivilised behaviour.

JAG is of the opinion that government leaders should focus their efforts on upholding justice, equality, civil liberty and democracy in Malaysia and not behave in a manner which betrays these principles.

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## **Joint Action Group for Gender Equality (JAG) urges Judiciary to Clarify Judgement**

*29 August 2012*

Yesterday, the Court of Appeal unanimously decided to overturn a High Court decision sentencing national bowler, Noor Afizal Azizan to five years in jail for statutory rape. Instead, he is bound over for five years for good behaviour, for a sum of RM25, 000. In his judgment, Court of Appeal President Tan Sri Raus Md Shariff noted that “public interest would not be served if Noor Afizal was sent to jail as he had a bright future.”

While Joint Action Group for Gender Equality (JAG) acknowledge the lack of information on factors influencing the Appellate Court’s decision in sentencing, we are troubled that the perpetrator’s potential for “a bright future”, presumably derived from his status as a national athlete, was used as one of the grounds for sentencing. If this was the sole influencing factor in sentencing, then JAG expresses regret over the decision by the Court of Appeal that the perpetrator was released on probation of good conduct for the offence of statutory rape.

On the surface, the judgement appears to hint at the application of a double standard by implying that anyone with the right ‘credentials’ can commit a crime, and get away with a rap on the knuckles. Does it mean that an individual who is perceived to have no future would get a heavier sentence?

JAG respects and upholds the discretionary powers of the court in sentencing; we believe that the court has a duty to exercise its powers equitably so as to ensure that justice is applied equally to all strata of society.

We recognize the potential complexities involved in statutory rape cases. While statutory rape laws are put into place to protect children from abuse by older, predatory partners, teenagers in a sexual relationship can sometimes get caught in the crossfire.

We urge the judiciary to clarify in their judgement all of the factors that were taken into account for the sentencing. JAG hopes that although the victim may have 'consented' to sex, the effect of the crime on the victim (i.e. a child of 13 years) was also considered.

*Press statement released by the Joint Action Group for Gender Equality (JAG), which comprises:*

Sisters In Islam (SIS)

Women’s Aid Organisation (WAO)

All Women's Action Society (AWAM) WCC

Perak Women for Women Society (PWW)

Persatuan Kesedaran Komuniti Selangor (EMPOWER)

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## **Consider the Needs and Perspectives of Our Young**

*30 August 2012*

The Joint Action Group for Gender Equality (JAG) is concerned that “consensual sex” between a young adult and a child can result in a binding over sentence for the perpetrator.

While the courts should indeed have discretionary powers in sentencing for statutory rape cases, appeals to the “bright future” of those who commit statutory rape simply do not suffice. Mitigating factors on the side of the perpetrator must be balanced with the impact of the sexual exploitation of young victims which may not have been acknowledged or taken into account during the sentencing.

That the act was 'consensual' often merely points to the fact that no physical violence took place. It is imperative that we ask ourselves whether a child aged 12 or 13 is able to effectively 'consent' to a sexual relationship. We also need to be aware of the consequences to a child's emotional and physical well-being when she enters into a sexual relationship, consensual or otherwise. Furthermore the manipulation and manner of exploitation of the young girl must also be considered.

JAG believes it is important that the dispensation of justice in every case of statutory rape reflects various considerations including the impact on the victim. The Convention on the Rights of the Child, to which Malaysia is a state party, requires that in all cases where children are concerned, our courts give primary consideration to their best interests.

The social reality today is that teenagers can be in sexual relationships where one or both are below the age of 16 years. And there are adults or older teenagers who prey on naïve and vulnerable underage girls. Although the sex may be allegedly 'consensual', the element of exploitation is very real.

These two cases once again highlight the urgent need for us as a society to better relate and understand the needs and perspectives of young people as well as the complexities of teenage sexuality. There is a gap between most adults and teenagers on the subject of sexuality. Any policy response must be based on the facts and evidence from existing research on reproductive health and rights in Malaysia.

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Persatuan Sahabat Wanita Selangor (PSWS)

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### **Not a Routine Investigation**

*24 September 2012*

The Joint Action Group for Gender Equality (JAG) strongly condemns the government's selective harassment of human rights group Suara Rakyat Malaysia (SUARAM).

In the past three months, SUARAM has come under attack by the Companies Commission of Malaysia (CCM) and no less than five other government bodies. SUARAM directors, staff and former staff have been summoned and interrogated by the CCM and has been publically vilified, including by the Domestic Trade, Cooperatives and Consumerism Minister. Furthermore the timing of this investigation amidst SUARAM's revelations in the Scorpene case has even been questioned by Amnesty International.

This is not a routine investigation.

SUARAM has stated its commitment to legitimate scrutiny in accordance with the law, a commitment that is shared by JAG, and has fully complied with the on-going investigations. The government must acknowledge this pledge of cooperation and conduct a professional, impartial, orderly, and respectful investigation instead of using its powers to bully the organisation and its officers and seek to intimidate other organisations. This includes allowing SUARAM access to its lawyers throughout the investigation, providing notice of visits and required documentation, and ceasing its public vilification of SUARAM in the media.

Active participation of NGOs strengthens the government and the country. SUARAM, one of the most prominent human rights groups in the country, plays a critical role in ensuring that strong democratic channels remain open in Malaysia.

JAG will continue to work with SUARAM, and stand up for SUARAM throughout these on-going investigations. JAG urges the government to end its continuing harassment of SUARAM.

*The Joint Action Group for Gender Equality (JAG) comprises:*

Women's Aid Organisation (WAO)

Sisters In Islam (SIS)

Women's Centre for Change, Penang

All Women's Action Society (AWAM)

Perak Women for Women Society (PWW)

Sabah Women Action Resource Group

Persatuan Kesedaran Komuniti Selangor (EMPOWER)

Persatuan Sahabat Wanita Selangor (PSWS)

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### **Joint Action Group for Gender Equality (JAG) urges Prime Minister to take his role as the Minister of Women, Family and Community Development seriously**

*2 October 2012*

The Joint Action Group for Gender Equality (JAG) is appalled and extremely disappointed by Prime Minister Datuk Seri Najib Razak's callous dismissal of the need for women's rights groups in Malaysia on the premise that equality was given "from the start".

The Prime Minister is remiss to use women's suffrage as a sole indicator for equality. Despite women having fought equally for independence and gaining the vote, Malaysia's first female Minister, Tun Tan Sri Fatimah Hashim, was only appointed in 1969, a full 12 years after independence. Today, as in 1969, Malaysia only has one female minister in Cabinet, far short of the 30% indication required by CEDAW.

While the right to vote is an important indicator of the state's recognition of women's rights, equality is also measured in other substantive ways.

If Malaysian women were on equal footing as their male counterparts, one telling sign would be a high ranking on the Global Gender Gap Index, which captures the magnitude and scope of gender-based disparities in four key areas of basic rights – economic, political, education and health. As it stands, Malaysia's ranking has dropped from its overall ranking of 72 in 2006 to 97 among 134 countries in 2011. Our country joins the bottom quarter, made up largely of developing countries in the Middle East and Africa.

Laws and policies in this country too do not reflect women's equal access to justice. If women were truly beneficiaries of equality since 1957, how is it that women's rights groups had to fight for the Domestic Violence Act in 1994, and gender as a category for non-discrimination was only included in the Federal Constitution in 2001. To this day, a Malaysian mother has no legal right to confer citizenship to her child in the event that the child is born overseas. A Sexual Harassment Bill has yet to be tabled, and Muslim women continue to be sidelined in the continuous regressive amendments made to the Islamic Family Law (Federal Territories) Act 1984 and the corresponding Islamic Family Law Enactment of the States in Malaysia.

Such a **statement** by the Prime Minister, who is also the Minister of Women, Family and Community Development, belies and belittles the reality women face on a daily basis – the violence, harassment and discrimination – which Government policies have not adequately addressed. The recently released CEDAW alternative report

comprehensively documents all forms of discrimination that women in Malaysia continue to face today. For those of us who have to deal with the problems women face on the ground, the Prime Minister's claim does not inspire any confidence in his leadership of the country and the Ministry of Women, Family and Community Development.

We urge the Prime Minister to take his role as the Minister of Women, Family and Community Development seriously and propose substantive measures with corresponding budgetary considerations in accordance with CEDAW principles to ensure that Malaysia is on the march towards equality.

*Press statement released by the **Joint Action Group for Gender Equality (JAG)**, which comprises:*

Sisters in Islam (SIS)

Women's Aid Organisation (WAO)

Perak Women for Women Society (PWW)

Sabah Women's Action Resource Group (SAWO)

All Women's Action Society (AWAM)

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### **More Consultation in Rape Laws**

*18 October 2012*

The Joint Action Group for Gender Equality (JAG) views with concern the government's move to introduce a bill which no longer allows judges to impose a bond of good behaviour in statutory rape sentencing. This hurried move, without proper consultation, is not the way forward.

The government's intended action appears a hasty response to the public uproar over the cases of former national bowler and the electrician who were released on such bonds after they had been found guilty of statutory rape of underaged girls.

JAG maintains that it is not the court's power to sentence that was the cause of the uproar but rather the exercise of the court's discretion on how the decision was made which was seen as lacking in "reason, justice and equity". Hence, what is needed is not a blanket removal of this important discretionary power of the courts.

Statutory rape is a complex offence which needs consideration of different aspects and different factors. Instead, the issue is how judges can be better equipped with all relevant facts in each statutory rape case and the impact on the victim, the accused and society. This will enable judges to better utilise their judicial powers and make informed decisions as to why statutory rape is made an offence.

To this end, the court has full power to call for expert evidence and reports in order to understand the impact on the child victim's development and psychology. In order to make the best decision, the retention of this discretionary power would enable the consideration of not just an appropriate rehabilitative sentencing of the offender, but also take into account the impact on the victim and society needs for justice.

The sudden announcement by the Minister in the Prime Minister's Department, Datuk Seri Nazri Aziz, to amend the rape laws is a knee-jerk reaction and requires in-depth consultation. Therefore, JAG strongly calls on the government to reconsider tabling any related Bill until full consultation is undertaken with the relevant authorities, the Bar Council, and civil society organisations to seek out wide-ranging input for comprehensive understanding and recommendations on sexual crime offences.

The latest amendments to the rape laws came about only after a Parliamentary Select Committee which was set up in 2004 had made recommendations after extensive consultation with the public. This holistic approach is more conducive to attaining justice and fairness in legislation and application of laws in our country.

***Joint Action Group for Gender Equality (JAG), which comprises:***

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