

---

# 5 Centring women's work and care at core of recovery

Lee Min Hui & Sofea Azahar

## 1.0 Malaysia's she-cession in the pandemic

Talk of the pandemic ebbed considerably when Malaysia entered endemicity in 2022. The national conversation shifted towards recovery and rebuilding, encapsulated by the oft-heard phrase of “building back better”. But even in endemicity, the pandemic’s impacts remained painfully tangible – and within that nexus, women have been hit hardest, with chances of recovery simultaneously slow and slim.

But to what extent has “building back better” been inclusive for the recovery of women’s economic and labour outcomes? With women of different races and socioeconomic backgrounds bearing the intersection of multiple disadvantages, policies aimed at long-term recovery need to be both nuanced, comprehensive and gender-sensitive.

These are pertinent questions given that the pandemic has been uniquely disadvantageous for women. It has not only exacerbated existing inequalities but also stalled critical progress towards closing gender gaps.<sup>1</sup> Experts have since dubbed the pandemic a “she-cession” for its disproportionately negative impacts on women in the workforce.<sup>2</sup>

Since Q3 2021, countries have gradually lifted pandemic restrictions and embarked on a journey towards economic recovery. But there remains cause for concern: governments tend to rely on gender-blind

frameworks to develop policies and programmes, with little to no recognition of the prevailing power dynamics that underpin women's economic marginalisation.<sup>3</sup> In the throes of a crisis, gender-blind policy responses risk entrenching gender inequalities.<sup>4</sup> As Malaysia looks towards revitalising the economy, it has never been timelier to begin employing a gender-responsive policy approach.

This chapter will look at the impacts of the pandemic on women's labour outcomes, drawing out the ways in which they have been hit harder and continue to lag men in the endemic phase. It then provides an overview of care-centred, gender-sensitive policies to improve the circumstances for women juggling the double burden of care and paid employment. It further analyses where Malaysia stands compared with its regional peers in terms of employment-related policies to ease care work and takes a critical look at the recently amended Employment Act 1995. Finally, policy recommendations delve into creating an ecosystem of family-friendly and gender-sensitive policies through a comprehensive care policy package.

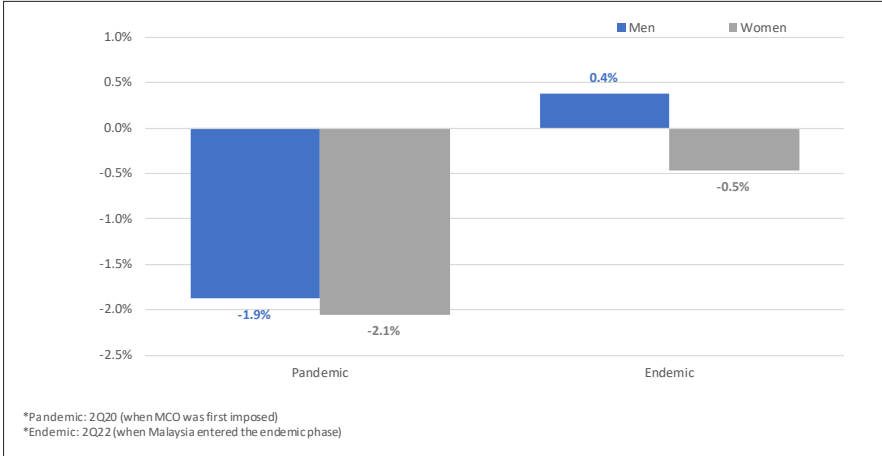
To grasp the extent to which the recovery process has been inclusive, we first consider the impacts on men and women at the height of the pandemic after lockdowns were first imposed (2Q2020) and in the endemic phase of recovery (effective 1 April 2022) in comparison to pre-pandemic levels in 2019.

In figure 5.1 and 5.2, we see that women's employment and labour force participation rate (LFPR) declines were larger relative to men, especially in 2Q2020.<sup>5</sup> This evidence indicates that women experienced more negative labour impacts because of lockdowns and the subsequent economic crisis. The data also suggest that recovery for women's labour outcomes since Malaysia entered the endemic phase has been significantly slower and yet to match men's levels.

These patterns are no different from what has been experienced by women in the rest of the world. It is a result of wider inequality patterns where women are more highly concentrated in the sectors most affected by the pandemic, with far less capacity to withstand major economic shocks because of lower incomes as well as less savings, job security and social protection access compared to men.<sup>6</sup>

**Figure 5.1: Employment-to-population ratio (percentage point change from average 2019)**

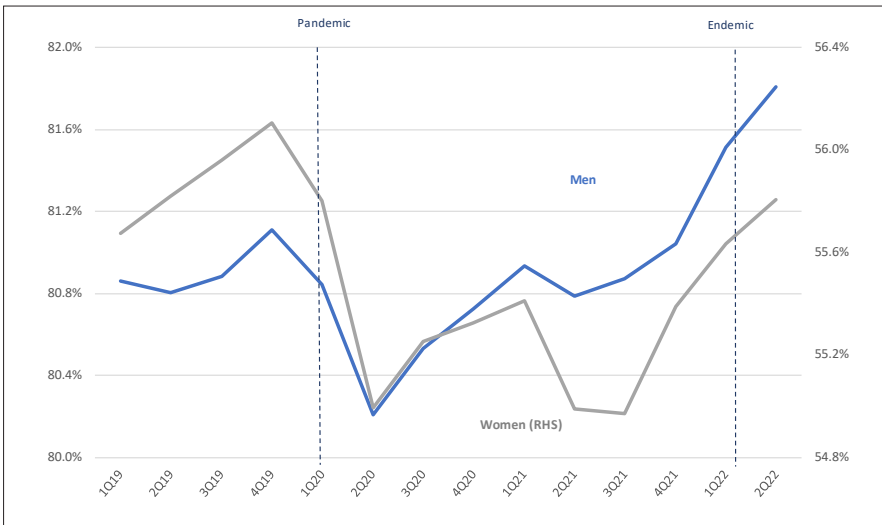
Women faced higher employment losses during the pandemic and have yet to recover as quickly as men in the endemic phase



Source: DOSM

**Figure 5.2: Labour force participation rate (%)**

Women's labour force participation rate declined more than men's during the pandemic and remains lower



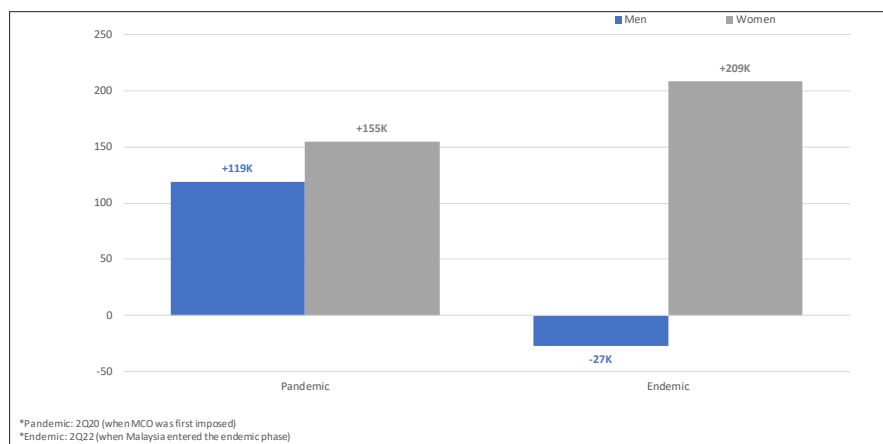
Source: DOSM

Underpinning these disadvantages lie the crux of the problem: women are usually the ones saddled with childcare responsibilities and the pandemic has only made this more burdensome as schools and childcare centres were shuttered during the lockdowns. In Malaysia, research indicates that each additional hour of unpaid care work in the home for women results in less time for participation in the labour force as well as diminished income.<sup>7</sup> These factors combined made women more vulnerable to cuts and lay-offs than men during the pandemic.<sup>8</sup>

The circumstances women were subjected to prior to the pandemic likely played a major role in shaping pandemic outcomes. Malaysian women were already dropping out of the labour force long before the pandemic – citing household duties as one of the key reasons for doing so,<sup>9</sup> with numbers recording sharp spikes during the pandemic.<sup>10</sup> Now in the endemic phase, these numbers have only climbed higher, relative to pre-pandemic levels (figure 5.3). In 2021, housework and family obligations remained one of the key reasons for women choosing not to seek work alongside schooling-related reasons or lack of interest, with these numbers increasing significantly in comparison to pre-pandemic levels (figure 5.4).

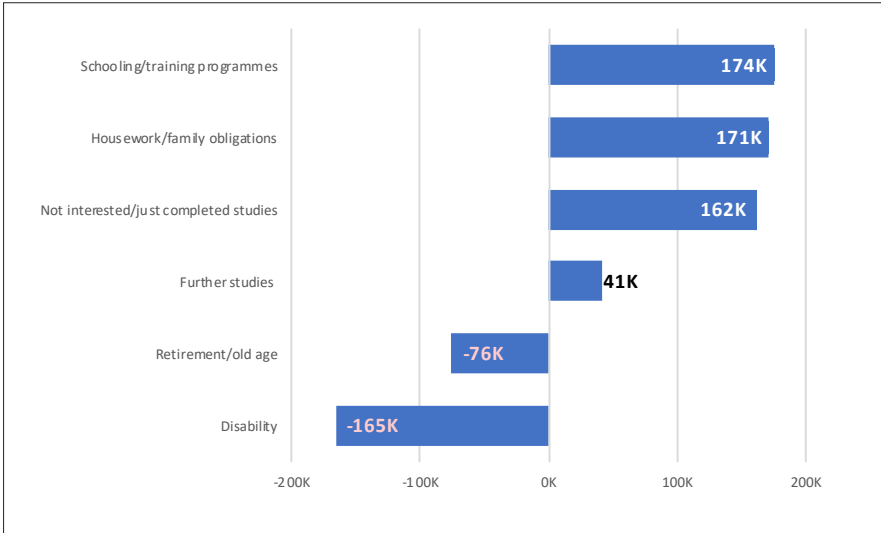
**Figure 5.3: Change in number of persons in endemic period (2Q22) vs beginning of pandemic (2Q20)**

More women dropped out of the labour force



Source: DOSM

**Figure 5.4: Difference in number of persons, 2021 vs 2019**  
Women's reasons for not seeking work or participating in the labour force



Source: DOSM

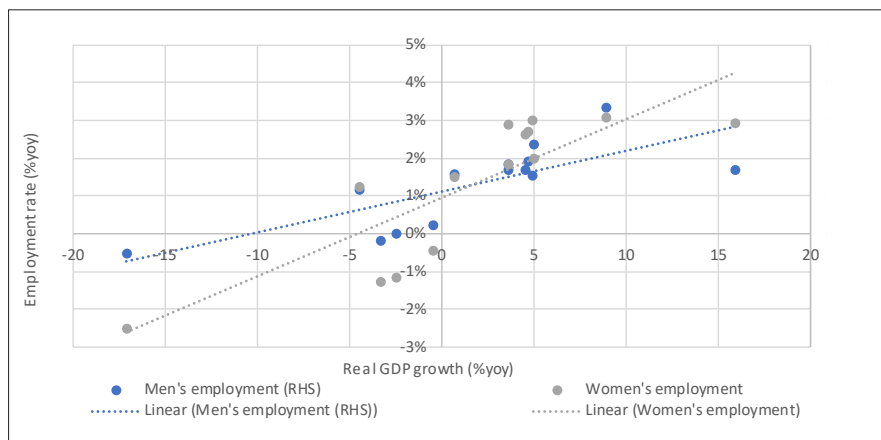
The constraints of care work and the pandemic's economic pressures could likely spell further disadvantages for women in the long run. Global research indicates that career disruptions during recessions or crises tend to be more severe<sup>11</sup> and might pose long-term dampening effects on earnings and employment.<sup>12</sup>

There is also a growing camp of experts who believe that the pandemic played an “equalising” role in the division of labour in the home, as fathers have had to spend more time on childcare during lockdowns.<sup>13</sup> But even with both parents working from home during the pandemic, mothers still took up the bulk of care work.<sup>14</sup> Additionally, telecommuting remains a luxury for many workers and it is difficult to extend these conclusions to Malaysia – a country that has been ranked relatively poorly in the gender gap index consecutively, and whose society remains persistently shaped by gender norms.<sup>15</sup>

Despite that, there are some small promising signs that GDP recovery has benefited women to some extent (figure 5.5). There is a positive correlation between GDP growth and men's and women's employment,

indicating that the latter's employment rate is increasing along with the recovery in GDP growth.

**Figure 5.5: Correlation between GDP growth and employment**



Source: DOSM

However, it is important to note that this correlation could likely be a symptom of the volatility of women's employment and sensitivity to economic growth, due in part to their concentration in the service sector.<sup>16</sup> While Malaysia's GDP recovered in the endemic period, its correlation with women's employment does not paint a full picture of labour recovery for women, especially since the indicators discussed earlier show that women have yet to recover to men's levels.

It is important to analyse critically whether *all* women have benefited from Malaysia's recovery since it entered endemicity. The reality is that sub-groups of women will likely remain locked out of the recovery process, especially the low-income and those with lower levels of education, whose chances diminish if they live with disabilities.<sup>17</sup> For Malaysia's building back better to be more inclusive, a gender-responsive approach that centres care and family-friendly policies must be at the core of consolidated policy efforts and implementation.

## 2.0 Centring care in world of work

With the pandemic laying bare the ways in which care work both upholds the economy and determines how people fare in a crisis, recovery cannot be fully inclusive without significant investments in care by governments and employers. By centring the vital role of care in people's lives, family-friendly policies provide a crucial path towards making the world of work more inclusive. It recognises that people with caregiving responsibilities, especially women, need support to balance the demands of and reap the benefits of family and work life.<sup>18</sup> Support for workers and their roles as parents and family members with care obligations could be transformational – it could enhance gender equality in the home, which sets the basis for gender equality in the world of work.<sup>19</sup>

But it is not just employees and their families who benefit from family-friendly policies. Latest research from the United States indicates that employers who put in place such policies stand to gain from higher employee satisfaction, retention, engagement, productivity, diverse teams and leadership and to some extent, increased profitability.<sup>20</sup>

Much of the impact depends on the contexts in which these policies are implemented, and results may differ from workplace to workplace, and society to society. But the changes in attitudes of younger generations may herald stronger preference for more flexible workplaces. As such, employers will have to adapt to meet workers' demands. In the age of endemicity, it is likely that demands for care investments will grow in urgency as workers gradually transition into being physically present at work.

Family-friendly care policies have their own unique benefits. This chapter explores four key examples of these policies and their core elements. Combined, they make up the basis for a care policy package that could be transformative for Malaysian parents, especially women. This could very well catalyse a family-friendly future through the recognition, reduction and redistribution of unpaid care work.<sup>21</sup>

- First, **maternity and paternity** leave is fundamental to any family-friendly policy. Adequate maternity leave lowers infant mortality

rates, facilitates better maternal health outcomes and labour force participation. Paternity leave is equally critical. It facilitates health and economic gains for mothers, a more equal distribution in household duties and enhanced paternal bonding with children.<sup>22</sup>

- **Shared parental leave** refers to “employment-protected leave of absence for employed parents, which is often supplementary to specific maternity and paternity leave periods”.<sup>23</sup> Shared parental leave is a key way in which governments can facilitate the reconciliation of parents’ care obligations with work.<sup>24</sup> Usually, long parental leaves are taken up by women but research has shown that a break beyond a year could undermine their attachment to the labour market and exacerbate gender inequalities.<sup>25</sup> With shared parental leave, fathers are also recognised as caregivers and offered a certain allocation.
- **Childcare assistance** is an integral component, which goes a long way facilitating women’s labour force participation and incomes. In many countries, parents regularly face issues related to gaps in both services and quality, and a lack of affordability or accessibility. As such, it is essential that leave policies are complemented by access to or the provision of childcare services. This chapter will focus solely on childcare assistance with emphases on reducing the costs. For low-income families, the cost of childcare can be prohibitive or even undo the economic benefits of employment.<sup>26</sup> Subsidies or financial support for childcare allows parents to opt for centre-based care rather than home-based or informal arrangements, which run the risk of failing due to caregiver illness and other related issues, while improving a parent’s retention in the labour force.<sup>27</sup>

### **3.0 Overview of care policy packages in Asia: where Malaysia stands on care investments**

When it comes to crafting a comprehensive care policy package in Malaysia, the experiences from other countries grappling with issues related to women’s economic empowerment provide not only strong cases for reference but also guidelines for adaptation. The path towards a more



family-friendly future in Malaysia could be paved from the policy and implementation takeaways of other countries, so a comparative overview of where Malaysia stands among other countries is employed here.

Nordic countries are often cited as successful examples of how policies can facilitate gender equality and family-friendly initiatives. However, this chapter will compare Malaysia with Japan, South Korea and Singapore. These are Asian countries that arguably provide more nuanced insights into how policies can be wielded to counterbalance gendered norms for workplaces to be more equal. The three countries have comprehensive family-friendly policies and care regimes which are largely responses to their declining fertility rates, emerging demographic challenges because of an aging society and moves towards improving gender equality.

Malaysia is experiencing some of these same demographic shifts, transitioning into an aging nation by 2030 amid a decline in the total fertility rate.<sup>28</sup> As such, enhancing women's labour-force participation is crucial to offset the effects of an aging population while also improving gender equality. This is where a comprehensive care policy package is key to future-proofing the labour force and aiding families and women to balance care obligations and work.

While each country has its own unique socioeconomic and cultural contexts and demographic configurations, comparisons among the countries in table 5.1 indicate that there remains much leeway for Malaysia to progress towards creating comprehensive care policy packages. In the following section, we identify gaps in Malaysia's care policies, where they stand vis-à-vis regional peers, implementation concerns and ways forward.

On **maternity leave**, Malaysia is on a par with the minimum international labour standard of 14 weeks or 98 days, even surpassing South Korea (recommended length is 18 weeks). However, progress on this front has been relatively recent. In a long-awaited move to meet international labour standards, Malaysia in 2022 increased maternity leave from 68 to 98 days via amendments to the Employment Act 1995, effective 1 January 2022. The amendments include restrictions on the termination of pregnant women – a decisive step towards eradicating gender

**Table 5.1: Comparison of care policy packages**

|                              | <b>Japan</b>  | <b>Singapore</b>  | <b>South Korea</b>  | <b>Malaysia</b>   |
|------------------------------|---|---|---|---|
| <b>Maternity leave</b>       | <ul style="list-style-type: none"> <li>• 14 weeks (paid)</li> </ul>   | <ul style="list-style-type: none"> <li>• Either 16 weeks of government-paid maternity leave (GPML) or 12 weeks of maternity leave, depending on whether the child is a Singaporean citizen and other criteria (paid).</li> <li>• <b>Government-paid maternity benefits</b> for mothers ineligible for GPML (eight weeks for first and second child and 16 weeks for the subsequent child).</li> </ul>   | <ul style="list-style-type: none"> <li>• 12.9 weeks (paid)</li> <li>• Eligible for all permanent and temporary workers but they must be insured for 180 days prior to the start of leave.</li> </ul>  | <ul style="list-style-type: none"> <li>• 14 weeks for private sector and 12.9 weeks for public sector.</li> </ul> |
| <b>Paternity leave</b>       | <ul style="list-style-type: none"> <li>• Four weeks in one or two instalments within eight weeks after birth (effective 1 October 2022).</li> </ul>                         | <ul style="list-style-type: none"> <li>• Two weeks</li> <li>• <b>Government-paid paternity benefits</b> for those who do not qualify for paternity leave or adoption.</li> <li>• Paternity benefits for two weeks.</li> </ul>   | <ul style="list-style-type: none"> <li>• 10 days</li> </ul>   | <ul style="list-style-type: none"> <li>• Seven days but limited to only five births.</li> </ul>                   |
| <b>Financing options</b>     | <ul style="list-style-type: none"> <li>• Maternity, paternity leave and shared parental leave <b>covered by social insurance up to 67% or government funded.</b></li> </ul> | <ul style="list-style-type: none"> <li>• Maternity and paternity leave <b>fully government funded.</b></li> </ul>   | <ul style="list-style-type: none"> <li>• Financed by <b>Employment Insurance Fund.</b></li> </ul>   | <ul style="list-style-type: none"> <li>• Primarily <b>employer funded.</b></li> </ul>                             |
| <b>Shared parental leave</b> | <ul style="list-style-type: none"> <li>• Paid individual entitlement of up to 12 months. Both parents can take leave concurrently.</li> </ul>                               | <ul style="list-style-type: none"> <li>• Leave can be shared between both parents if the mother opts in. Fathers can use up four weeks of the 16 weeks of GPML (only applicable if the wife is eligible for GPML scheme).</li> <li>• Paid six-day <b>childcare leave</b> annually for Singaporean children while the self-employed are covered subject to certain criteria. Parents of non-citizens are entitled to two days.</li> <li>• <b>Extended childcare leave</b> (two days).</li> </ul> | <ul style="list-style-type: none"> <li>• For private sector employees, there is an individual entitlement of 12 months until the child is eight.</li> <li>• Civil servants entitled to take up to three years per child (one year is paid).</li> <li>• Leave non-transferable.</li> <li>• One year reduced working hours' arrangement, i.e. any untaken leave can be transferred to reduced working hours.</li> </ul> | <ul style="list-style-type: none"> <li>• No equivalent policy in Malaysia.</li> </ul>                             |

|   |  |   |  |   |
|---|--|---|--|---|
| <p><b>Public childcare support and benefits</b></p> | <ul style="list-style-type: none"> <li>• <b>Free preschool</b> for 3-5-year-olds.</li> <li>• <b>Free daycare</b> (0-3).</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Subsidised preschool with additional benefits</b> for lower-income families.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Universal childcare policy</b> with the first three years of preschool free.</li> <li>• <b>Flexible working hours</b> for women within the first 12 weeks or beyond week 36 of their pregnancies. They are allowed to reduce their working hours by two hours per day without a reduction in pay.</li> <li>• <b>Monthly allowance</b> for each child under seven.</li> <li>• <b>Monthly allowance</b> for infants below 12 months in 2022, with the cash allowance likely to be expanded by 2025.</li> <li>• <b>Cash bonus</b> to cover prenatal expenses.</li> <li>• <b>Congratulatory allowance</b> for pregnant women.</li> </ul> | <ul style="list-style-type: none"> <li>• Reduction in <b>weekly working hours</b> from 48 to 45.</li> <li>• <b>Childcare subsidies</b> for the B40.</li> <li>• All public service workplaces are required to provide facilities.</li> </ul> |
|---|--|---|--|---|

discrimination in the workplace. Malaysia's increasing of maternity leave to 14 weeks, in line with ILO conventions, is critical as it forms the basis for ensuring equality at work by preventing women from dropping out of the labour force altogether.<sup>29</sup>

On **paternity leave**, Malaysia trails other countries in Asia, despite recently increasing its length from three to seven days in the same Employment Act 1995 amendments. While Malaysia has made a significant step towards recognising the role of fathers in caregiving by increasing and standardising the length of paternity leave, it is far too short to reduce parental barriers and redistribute care responsibilities in the home. ILO has yet to set standards dictating the length of paternity leave, which explains the different provisions worldwide. For the countries considered here, the length of paternity leave ranges from 10 days to two weeks. Malaysia would do well to consider increases in paternity

leave and introduce flexibility by allowing fathers to use paternity leave intermittently over a set time.

In addition, Japan, South Korea and Singapore have various flexible and adaptable mechanisms for **shared parental leave** while Malaysia has no similar policy. Shared parental leave policies have yet to receive attention in employment legislation. The latest amendments to the Employment Act 1995 allow employees to apply for flexible working arrangements, subject to the review of employers. However, these new legislations are not specific to parents nor designed to meet their care needs. Japan has a generous shared parental leave policy of up to 12 months, which are structured to maximise flexibility by allowing leave to be taken in four instalments.<sup>30</sup> This facilitates a “continuum of care over the life force”,<sup>31</sup> supplementing the role of paternity and maternity leave, which can only be taken during childbirth. These are important as children require care well into adolescence, so shared parental leave policies facilitate this – particularly when childcare services are not affordable, widely accessible, or lacking in quality.<sup>32</sup> As such, this is a potential gap in care leave that Malaysia should address if it aims to support families as the economic backbone of the country.

The **financing of care leave** determines the sustainability of policies. Cross-country comparisons indicate that all countries considered in this chapter have in place some form of government or social insurance funding to ensure that employers do not bear the full costs – except in Malaysia where it is fully employer funded. ILO has emphasised the need for benefits to be covered by mandatory social insurance or public funding to mitigate or prevent labour market discrimination.<sup>33</sup> When employers assume the full cost of maternity protection, for example, it could disincentivise employers to hire women, resulting in discrimination that undermines the intention of these policies to equalise the playing field. The financing of care leave policies thus needs to be considered critically for Malaysia to ensure that it does not exacerbate existing gender gaps and to sustain these policies.

With **childcare support**, the approach in Malaysia has been to pursue policies that are more focused on poverty relief with social assistance for children of low-income families while facilitating the growth of the

market for private childcare centres and services.<sup>34</sup> Subsidies or childcare support in Malaysia are reserved for the bottom 40% of household income earners or B40 – but even so, these subsidies have been criticised for being insufficient relative to wages and the cost of living.<sup>35</sup> Despite the “low” subsidies, the government has in recent years started to pay attention to childcare. In previous annual budgets, resources have been allocated towards establishing new early childhood care and education (ECCE) centres, especially in government buildings with matching grants for private companies. These actions, however, pale in comparison to the other countries considered here.

### **3.1 Implementation hurdles**

A more inclusive recovery could be achieved by moving away from the “ideal worker norm” or “male model of work” that dictates that workers should prioritise jobs over and above caregiving responsibilities.<sup>36</sup> There needs to be a major change to how the workplace is structured, particularly with regard to demands on time and workload.<sup>37</sup> Given this, the design of policies should account for imperfect implementations as a result of organisational and societal cultures that privilege gendered norms.

Considering implementation hurdles, the question remains if amendments to the Employment Act 1955 will equalise the playing field for women at work, especially since they were among the hardest hit during the pandemic. Implementation is thus a critical component of effectiveness and if poorly carried out, could deepen gender inequalities. The experiences of the countries considered in this chapter serve as a sobering guide. Women in Japan who take maternity leave experience “maternity harassment” from employers or what has been termed *matahara*. Alongside psychological and physical harassment, Japanese women face the prospects of demotions or losing their jobs.<sup>38</sup> This is in stark contrast to Japan’s womenomics programme, a 2013 initiative of former prime minister, the late Abe Shinzo, which aimed to improve women’s labour force participation. As such, despite the strategic aim of empowering women economically, implementation on the ground ran into deeply rooted gender biases, including prejudicial perceptions

of pregnant women as being less productive.<sup>39</sup> While maternity leave is generally beneficial for women and can facilitate their attachment to the labour market, it often places them on what is termed the subordinate “mommy track”.<sup>40</sup>

In Malaysia, evidence indicates that women suffer similar penalties in the workplace. A survey conducted by the Women's Aid Organisation in 2020 indicated that at least 31% of women workers reported being overlooked for projects or opportunities after maternity leave.<sup>41</sup> Another 21% reported having received negative comments or questions about “leaving work on time to get home to their child” and another 27% received comments or questions about their “ability to perform certain tasks while pregnant”.<sup>42</sup> At its worst, employers may engage in gender or pregnancy discrimination by refraining from hiring women at all. Although the latest amendments to the Employment Act 1955 now include long-awaited restrictions on the termination of pregnant women, current legislation fails to account for unintended discriminatory consequences that occur during hiring.

On the other hand, enforcement of paternity leave has suffered a similar fate. Japan is home to one of the most generous paternity leaves in the world, but uptake has been dismal.<sup>43</sup> These patterns are echoed in countries such as Singapore<sup>44</sup> and even those that have historically exhibited far higher levels of gender equality, such as the United Kingdom<sup>45</sup> and countries in the European Union.<sup>46</sup> Across the board, the reasons for doing so tend to feature the same argument: lack of organisational and cultural support. Within that, fathers fear that their career progression may be jeopardised if they take paternity leave. These trends are concerning given that paternity leave is crucial towards redistributing care work in the home, facilitates co-parenting and at its core, challenges the norm that women are inherently caregivers and men breadwinners.<sup>47</sup>

There is reason to fear that these experiences could be mirrored across workplaces in Malaysia. The Malaysian Employers' Federation (MEF) pushed back on the imposition of paternity leave in 2019<sup>48</sup> and more recently, urged the government to delay enforcement of the amendments

to the Employment Act.<sup>49</sup> The key reason for this resistance has been cost as financing these policies is borne by employers.

Hence, without organisational support, implementation of family-friendly policies could fall prey to gender bias and cost concerns. If legislation and policies are to be meaningful or impactful, they will need to account for these pervasive gender norms in the design and need to be enforced properly. The implementation hurdles that other Asian countries have experienced indicate that the design and diversification of family-friendly policies are crucial alongside proper enforcement and organisational uptake to offset gendered norms.

#### **4.0 Policy recommendations: supplementing existing maternity and paternity leave with comprehensive care policies**

Malaysia lacks a comprehensive care policy package that will facilitate women's employment and attachment to the labour force. With only maternity and paternity leave being the only forms of care leave enshrined in employment legislations, policies currently fail to ensure a continuum of care over the course of a child's development.

The gaps in Malaysia's family-friendly policy indicate that the foundational basis for a care policy package should, at the minimum level, include the following:

- 1. Shared parental leave with specific allocations for fathers.** To account for poor uptake by fathers, the design of parental leave policies needs to be cognisant of gendered norms. Some countries, such as Canada, Norway and Iceland, have compensated for poor paternal uptake by establishing a "daddy quota" which mandates a set number of leave days for fathers that are non-transferable to the other parent. It has produced some encouraging results – though this needs to be analysed in the context of specific countries – such as increases in the hours spent on childcare by fathers, improvements in children's exam scores and more equal distribution of work in the home.<sup>50</sup> However, for fathers to make use of paternal leave and benefit from it, leave needs to be well compensated and

complemented by other family-friendly policies, including flexible work.

2. **Wider access to and increased financial support for childcare alongside significant investments in the care economy.** At present, rates for childcare assistance are around RM180 per child for a family with an income per capita of RM800, which ECCE experts consider irrelevant now that the minimum wage has been revised to RM1,500.<sup>51</sup> This also means coverage of financial support remains limited, potentially locking out middle-income families alongside the usual exclusion errors. Middle-income families are often not eligible for social assistance but lack sufficient income to take advantage of tax reliefs.<sup>52</sup> The government should consider increasing the coverage and amount of financial support for childcare, instead of focusing only on narrowly defined forms of assistance for the “deserving poor”. Such action will have wider implications for the care economy and the economy as a whole. A simulation conducted by the Khazanah Research Institute indicated that a conditional care allowance of RM100 could increase women's LFPR, encourage real GDP growth and boost the care economy through increased employment in childcare centres just within a year.<sup>53</sup> Financial support for childcare should not come at the cost of supply-side initiatives, such as improving the coverage of the public childcare system and enhancing its overall quality through investments in the workforce.

In essence, policy design needs to be nuanced and move away from gendered biases. Care policy packages must avoid promoting or reinforcing the notion that women are the sole caregivers and focus on being more transformative by redistributing that burden across men and women in families.

3. **Making the Employment Act 1995 more gender responsive.** Malaysia's family-friendly policies are prone to implementation hurdles. To prevent the entrenchment of further gender bias and discrimination against women, the Employment Act 1955, as the main act governing the relationship between employers and employees, requires certain improvements. These should include:



- **Defining and prohibiting pre-employment discrimination:** jobseekers, especially women, risk being discriminated during the hiring process as they are often perceived to “assume” caregiving responsibilities later in their career. This is concerning for women who exist at the intersection of racial, ethnic and class differences, which will only reduce their agency and bargaining power. Where the director-general of labour decides on employment discrimination as outlined in Section 69F, the government should also undertake due consideration to expand this remit to hear disputes on recruitment discrimination.
- **Defining discrimination:** the amendments to the Employment Act 1995 empower the director-general to decide on discrimination disputes, making it imperative to define what counts as discrimination. When it comes to women, discrimination can be more subtle – such as being passed up for opportunities and projects, redundancy, lower pay or a combination of all three.<sup>54</sup> It needs to account for workers who are likely to hesitate reporting discrimination or may even fail to identify it as such. Definitions need to be outlined clearly, considering the realities faced by women workers.
- **Raising the costs of non-compliance and workplace discrimination:** current legislations in the Employment Act 1955 lack the “teeth” to compel organisations to observe and implement latest changes, especially where maternity and paternity leave is concerned. Beyond mandating family-friendly practices in legislation and existing dispute mechanisms, companies could also be held accountable through regular publishing of a list of non-compliant firms. This not only raises the costs of non-compliance but also facilitates monitoring and evaluation, providing potential jobseekers transparency into an organisation's performance on family-friendly policies. To facilitate commitment by company leadership, the government must provide a well-researched road map that outlines how employers can establish tools, such as targets and metrics to

guide both recruitment and treatment of employees where family-friendly policies are concerned. Other “penalties” could include companies missing out on targeted incentives. This can look like subsidies or grants to reduce any potential or real cost associated with women’s employment or investment, tax incentives or public procurement incentives.<sup>55</sup>

**4. Sustainable options for financing parental leaves and childcare.**

Across the world, the most regularly used sources of financing for maternity cash benefits include employment-linked social insurance or contributory schemes, fully employer-borne schemes, or a mixed system which is an amalgamation of the two.<sup>56</sup> ILO research finds that employer liability schemes – such as is implemented in Malaysia – may result in discriminatory action against women in the labour market. Such an arrangement also has the capacity of undermining key principles of “solidarity of funding... and pooling of risks which are essential to allow the combination of resources to ensure a fairer and collective distribution of the costs and responsibilities of bearing children”.<sup>57</sup> Malaysia might benefit from establishing tripartite funding of care leave and childcare assistance. A tripartite funding arrangement means that care leave or childcare is paid for by contributions from employers, employees and the government.<sup>58</sup> Such an arrangement may be useful as an alternative to public-funded care leave, given Malaysia’s limited fiscal space.<sup>59</sup> For example, Finland subsidises at least 60% of childcare places while parents contribute a certain amount based on their income. Employers and parents finance the remaining 40% of childcare places.<sup>60</sup>

- 5. Cash maternity benefits for low-income women.** The Employment Act 1995 and its latest amendments tend to benefit women in formal employment or those in white-collar jobs. This leaves out a significant proportion of vulnerable low-income women in the informal economy – at least 43.7% in 2019<sup>61</sup> – who survive on daily wages and have little to no access to employment-related social protection. For pregnant women in informal work and their families, the effects of having no maternity protection could be severe. ILO reports that any loss of income during pregnancy, childbirth and

nursing, combined with the costs of maternity can push families further into poverty.<sup>62</sup> As a result, women in the informal economy, who cannot afford the loss of income, tend to continue working far into pregnancy and/or return to work too early after childbirth, which poses significant health risks to both mother and child.<sup>63</sup> Cash maternity benefits thus replace women's lost income during the maternity period. While also ensuring that women workers in atypical work arrangements are not in financial distress during pregnancy, the provision of cash benefits should meet international labour standards of not being less than two-thirds of a woman's prior income or the full amount.<sup>64</sup>

## **5.0 Conclusion**

This chapter provides a brief overview into the ways that Malaysia can achieve family-friendly policies: by introducing more care leave, improving and enhancing access to childcare and ultimately, enforcing implementation. Across the region, Malaysia's commitment to care remains lacking, reflected in a scant framework of employment policies that leave many vulnerable women and families unsupported while inching towards progress. Current legislations and policies only serve the bare minimum to support women and their families. What is needed to uplift them and ensure recovery from the pandemic is a comprehensive care policy package that allows parents to access and provide care throughout a child's development and does not entrench gender gaps between men and women.

A family-friendly and gender equal world of work is one that removes barriers to access and participation in an inclusive way while removing the opportunity cost between work and care. To achieve that vision, policy approaches need to be care-centred, recognising the invisible yet integral ways that care work supports economies and societies. It must also be gender-sensitive because men and women experience the world of work differently and we fail to account for the needs of women who make up half the population, relegating them further into the periphery. If families are the backbone of Malaysia's economy, then it is time that the government addresses holistically the care work that keeps it running.

## Notes

<sup>1</sup> World Economic Forum. (2021, March 31). Pandemic pushes back gender parity by a generation, report finds [Press release]. <https://www.weforum.org/press/2021/03/pandemic-pushes-back-gender-parity-by-a-generation-report-finds/>

<sup>2</sup> Elting, L. (2022, February 12). The she-cession by the numbers. *Forbes*. <https://www.forbes.com/sites/lizelting/2022/02/12/the-she-cession-by-the-numbers/?sh=5e774ce31053>

<sup>3</sup> Perri, M., Metheny, N., Matheson, F. I., Potvin, K., & O'Campo, P. (2022). Finding opportunity in the Covid-19 crisis: Prioritising gender in the design of social protection policies. *Health Promotion International*, 37(1). <https://doi.org/10.1093/heapro/daab045>

<sup>4</sup> Hidrobo, M., Kumar, N., Palermo, T., Peterman, A., & Roy, S. (2020). *Gender-sensitive social protection: A critical component of the Covid-19 response in low- and middle-income countries* (IPFRI Issue Brief April). International Food Policy Research Institute. <https://www.ifpri.org/publication/gender-sensitive-social-protection-critical-component-covid-19-response-low-and-middle>

<sup>5</sup> Cheng, C. (2022). Crisis of inequality: Covid-19's long-lasting economic impacts. In *Pandemic papers: Lessons from Covid-19*. Institute of Strategic & International Studies (ISIS) Malaysia. <https://www.isis.org.my/2022/04/20/crisis-of-inequality-covid-19s-long-lasting-economic-impacts/>

<sup>6</sup> United Nations. (2020). *Policy brief: The impact of Covid-19 on women*. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/report/policy-brief-the-impact-of-covid-19-on-women/policy-brief-the-impact-of-covid-19-on-women-en-1.pdf>

<sup>7</sup> Choong, C., Firouz, A. M. M., Jasmin, A. F., Noor, N. M., & Gong, R. (2019). *Time to care: Gender inequality, unpaid work and time use survey*. Khazanah Research Institute. [https://www.krinstitute.org/assets/contentMS/img/template/editor/Publications\\_Time%20to%20Care\\_Full%20report.pdf](https://www.krinstitute.org/assets/contentMS/img/template/editor/Publications_Time%20to%20Care_Full%20report.pdf)

<sup>8</sup> United Nations, *Policy brief: The impact of Covid-19 on women*.

<sup>9</sup> World Bank. (2021). *Malaysia country gender note 2021*. <https://openknowledge.worldbank.org/handle/10986/36658>

<sup>10</sup> Lee, M. H. (2022). Women's woes: Gendered impact of Covid-19. In *Pandemic papers: Lessons from Covid-19*. Institute of Strategic & International Studies (ISIS) Malaysia. [https://www.isis.org.my/wp-content/uploads/2022/04/5-Womens-woes\\_Gendered-impact-of-Covid-19.pdf](https://www.isis.org.my/wp-content/uploads/2022/04/5-Womens-woes_Gendered-impact-of-Covid-19.pdf)

<sup>11</sup> Davis, S. J., & von Wachter, T. (2011, Fall). *Recessions and the costs of job loss* (Brookings Papers on Economic Activity). [https://www.brookings.edu/wp-content/uploads/2011/09/2011b\\_bpea\\_davis.pdf](https://www.brookings.edu/wp-content/uploads/2011/09/2011b_bpea_davis.pdf)

<sup>12</sup> Jarosch, G. (2021). *Searching for job security and the consequences of job loss* (NBER Working Paper 28481). National Bureau of Economic Research. [https://www.nber.org/system/files/working\\_papers/w28481/w28481.pdf](https://www.nber.org/system/files/working_papers/w28481/w28481.pdf)

<sup>13</sup> Alon, T., Doepke, M., Olmstead-Rumsey, J., & Tertilt, M. (2020). *This time it's different: The role of women's employment in a pandemic recession* (NBER Working Paper 27660). National Bureau of Economic Research. [https://www.nber.org/system/files/working\\_papers/w27660/w27660.pdf](https://www.nber.org/system/files/working_papers/w27660/w27660.pdf)

<sup>14</sup> Cummings, M. (2020, July 17). Study reveals gender inequality in telecommuting. *Yale News*. <https://news.yale.edu/2020/07/17/study-reveals-gender-inequality-telecommuting>

<sup>15</sup> Boo, H. S. (2021). Gender norms and gender inequality in unpaid domestic work among Malay couples in Malaysia. *Pertanika Journal of Social Sciences & Humanities*, 29(4), 2353–2369. [http://www.pertanika.upm.edu.my/resources/files/Pertanika%20PAPERS/JSSH%20Vol.%2029%20\(4\)%20Dec.%202021/14%20JSSH-8173-2021.pdf](http://www.pertanika.upm.edu.my/resources/files/Pertanika%20PAPERS/JSSH%20Vol.%2029%20(4)%20Dec.%202021/14%20JSSH-8173-2021.pdf)

<sup>16</sup> Sabbati, G., & Lecerf, M. (2021, March). The coronavirus crisis: An emerging gender divide? [Infographic]. European Parliamentary Research Service. [https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/679100/EPRS\\_ATA\(2021\)679100\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/679100/EPRS_ATA(2021)679100_EN.pdf)

<sup>17</sup> UNICEF. (2020, 30 October). *Partial, uneven, and uncertain: Families on the Edge report chart recovery among low income families post-MCO* [Press release]. <https://www.unicef.org/malaysia/press-releases/partial-uneven-and-uncertain-families-edge-report-chart-recovery-among-low-income>

- <sup>18</sup> UNICEF. (2019, July). *Family-friendly policies: Redesigning the workplace of the future*. <https://www.unicef.org/media/95051/file/Family-friendly-policies-EN.pdf>
- <sup>19</sup> Addati, L., Cassirer, N., & Gilchrist, K. (2014). *Maternity and paternity at work: Law and practice across the world*. International Labour Organisation. [https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS\\_242615/lang--en/index.htm](https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_242615/lang--en/index.htm)
- <sup>20</sup> Scribner, R., Vargas, M., & Madsen, S. R. (2020, December 2). *Flexible and family-friendly policies at Utah's 'best places to work'* [Research & Policy Brief No. 27]. Utah Women & Leadership Project. <https://www.usu.edu/uwlp/files/briefs/27-flexible-family-friendly-policies-utah-best-places-to-work.pdf>
- <sup>21</sup> International Labour Organisation. (2018, June 27). *Women do 4 times more unpaid care work than men in Asia and the Pacific* [Press release]. [https://www.ilo.org/asia/media-centre/news/WCMS\\_633284/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_633284/lang--en/index.htm)
- <sup>22</sup> Schulz, K. (2020, February 19). Why parental leave matters for development. *World Bank Blogs*. <https://blogs.worldbank.org/developmenttalk/why-parental-leave-matters-development>
- <sup>23</sup> Organisation for Economic Co-operation and Development. (2022). *Parental leave systems*. OECD Family Database. [https://www.oecd.org/els/soc/PF2\\_1\\_Parental\\_leave\\_systems.pdf](https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf)
- <sup>24</sup> Atkinson, J. (2017, September). Shared parental leave in the UK: Can it advance gender equality by changing fathers into co-parents? *International Journal of Law in Context*, 13(3), 356–368. <https://doi.org/10.1017/S1744552317000209>
- <sup>25</sup> Addati, Cassirer & Gilchrist, *Maternity and paternity at work*.
- <sup>26</sup> Gennetian, L. A., Crosby, D. A., Huston, A. C., & Lowe, E. D. (2004). Can child care assistance in welfare and employment programs support the employment of low-income families? *Journal of Policy Analysis and Management*, 23(4), 723–743. <https://doi.org/10.1002/pam.20044>
- <sup>27</sup> *bid*.
- <sup>28</sup> Zulkifli, A. M. (2021, October 14). Birth rate drops to lowest in decades amid pandemic. *Malaysia Now*. <https://www.malaysianow.com/news/2021/10/14/birth-rate-drops-to-lowest-in-decades-amid-pandemic>
- <sup>29</sup> Addati, Cassirer & Gilchrist, *Maternity and paternity at work*.
- <sup>30</sup> Siripala, T. (2022, July 5). Can Japan's revamped childcare policy get workaholic fathers to take leave? *The Diplomat*. <https://thediplomat.com/2022/07/can-japans-revamped-childcare-policy-get-workaholic-fathers-to-take-leave/>
- <sup>31</sup> Addati, L., Cattaneo, U., & Pozzan, E. (2022, March 7). *Care at work: Investing in care leave and services for a more gender equal world of work*. [https://www.ilo.org/global/topics/care-economy/WCMS\\_838653/lang--en/index.htm](https://www.ilo.org/global/topics/care-economy/WCMS_838653/lang--en/index.htm)
- <sup>32</sup> Addati, Cattaneo & Pozzan, *Care at work*.
- <sup>33</sup> Addati, Cassirer & Gilchrist, *Maternity and paternity at work*.
- <sup>34</sup> Chung, W. Y., Yeung, W. J. J., & Drobnič, S. (2021). Family policies and care regimes in Asia. *International Journal of Social Welfare*, 30(4), 371–384. <https://doi.org/10.1111/ijsw.12512>
- <sup>35</sup> Shah, A. (2022, 9 June). Expect up to 40% hike in nursery and kindie fees, parents told. *The Star*. <https://www.thestar.com.my/news/nation/2022/06/09/expect-up-to-40-hike-in-nursery-and-kindie-fees-parents-told>
- <sup>36</sup> Haas, L., & Hwang, C. P. (2019). Policy is not enough – the influence of the gendered workplace on fathers' use of parental leave in Sweden. *Community, Work & Family*, 22(1), 58–76. <https://doi.org/10.1080/13668803.2018.1495616>
- <sup>37</sup> *Ibid*.
- <sup>38</sup> Nippon. (2020, February 13). *Study assesses 'maternity harassment' in Japanese workplaces*. <https://www.nippon.com/en/japan-data/h00610/study-assesses-maternity-harassment-in-japanese-workplaces.html>
- <sup>39</sup> Kawaguchi, A. (2019, March). Maternity harassment in Japan: Why do regular employees have higher risk than non-regular employees do? *Japan and the World Economy*, 49, 84–94. <https://doi.org/10.1016/j.japwor.2018.09.005>
- <sup>40</sup> Scribner, Vargas & Madsen, *Flexible and family-friendly policies*.

- <sup>41</sup> Women's Aid Organisation. (2020, October 27). *Malaysian perspectives on discrimination in the workplace* [PowerPoint slides]. <https://wao.org.my/wp-content/uploads/2020/10/Employment-Act-Amendments-1.pdf>
- <sup>42</sup> Ibid.
- <sup>43</sup> Steger, I. (2017, September 22). Researchers have figured out why almost no men take paternity leave in a country that offers 12 months of it. *Quartz*. <https://qz.com/1084591/despite-japans-generous-paternity-leave-only-2-3-of-men-take-it-because-they-think-their-peers-would-disapprove/>
- <sup>44</sup> Baker, J. A. (2022, 15 January). IN FOCUS: Child's play? Why many fathers don't take paternity leave and why experts say they should. *Channel News Asia*. <https://www.channelnewsasia.com/singapore/paternity-leave-fathers-newborn-children-family-2433306>
- <sup>45</sup> Cox, J. (2021, 13 July). Paternity leave: The hidden barriers keeping men at work. *BBC*. <https://www.bbc.com/worklife/article/20210712-paternity-leave-the-hidden-barriers-keeping-men-at-work>
- <sup>46</sup> van Belle, J. (2016). *Paternity and parental leave policies across the European Union*. RAND Europe. [https://www.rand.org/pubs/research\\_reports/RR1666.html](https://www.rand.org/pubs/research_reports/RR1666.html)
- <sup>47</sup> Addati, Cattaneo & Pozzan, *Care at work*.
- <sup>48</sup> Boo, S. L. (2019, 16 June). Employer refuses to fund paternity leave, claims would cost RM157m. *Malay Mail*. <https://www.mef.org.my/MEFITN/MM190616a.pdf>
- <sup>49</sup> Lim, J. (2022, August 17). MEF urges govt to delay enforcing Employment Act amendments, estimated to cost RM111 bil per year. *The Edge*. <https://www.theedgemarkets.com/article/mef-urges-govt-delay-enforcing-employment-act-amendments-estimated-cost-rm111-bil-year>
- <sup>50</sup> Albrecht, C., Fichtl, A., & Redler, P. (2017, March). Fathers in charge? Parental leave policies for fathers in Europe. *ifo DICE Report*, 15(1), 49–51. <https://www.ifo.de/DocDL/dice-report-2017-1-albrecht-fichtl-redler-march.pdf>
- <sup>51</sup> Yussop, Y. (2022, 28 September). Budget 2023: Childcare providers hope for bigger grants, subsidies. *Borneo Post Online*. <https://www.theborneopost.com/2022/09/28/budget-2023-childcare-providers-hope-for-bigger-grants-subsidies/>
- <sup>52</sup> Hamid, A. H. (2022, March 4). Malaysia's need for universal child benefits. *East Asia Forum*. <https://www.eastasiaforum.org/2022/03/04/malysias-need-for-universal-child-benefits/>
- <sup>53</sup> Choong, Firouz, Jasmin, Noor & Gong, Time to care.
- <sup>54</sup> Mykhalchenko, O., & Recavarren, I. S. (2021, May 13). In 38 countries, women can still be fired for being pregnant. *World Bank Blogs*. <https://blogs.worldbank.org/developmenttalk/38-countries-women-can-still-be-fired-being-pregnant>
- <sup>55</sup> Kronfol, H., Nichols, A., & Tran, T. T. (2019, July). *Women at work: How can investment incentives be used to enhance economic opportunities for women?* (Policy Research Working Paper 8935). World Bank. <https://openknowledge.worldbank.org/bitstream/handle/10986/32055/WPS8935.pdf?sequence=6&isAllowed=y>
- <sup>56</sup> Addati, Cassirer & Gilchrist, *Maternity and paternity at work*.
- <sup>57</sup> Ibid.
- <sup>58</sup> Ibid.
- <sup>59</sup> World Bank. (2020, December 21). *Policies should prioritise the poor and the vulnerable as the economy is projected to recover in 2022* [Press release]. <https://www.worldbank.org/en/news/press-release/2022/01/10/policies-should-prioritize-the-poor-and-the-vulnerable-as-the-economy-is-projected-to-recover-in-2022>
- <sup>60</sup> Remery, C., van Doorne-Huiskes, A., & Schippers, J. (2003). Family-friendly policies in the Netherlands: The tripartite involvement. *Personnel Review*, 32(4), 456–473. <https://doi.org/10.1108/00483480310477533>
- <sup>61</sup> Department of Statistics Malaysia. (2020, July 23). *Informal sector work force survey report, Malaysia, 2019* [Press release]. <https://dosm.gov.my/v1/index.php?r=column/pdfPrev&id=U0tMZmJudTkHzNmhwdjZfb2FmVWxOUT09>
- <sup>62</sup> International Labour Office. (n.d.). *Extension of social protection*. [https://www.ilo.org/wcmsp5/groups/public/@ed\\_emp/@emp\\_policy/documents/publication/wcms\\_210468.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_policy/documents/publication/wcms_210468.pdf)

<sup>63</sup> International Labour Office. (2016, November). *Maternity cash benefits for workers in the informal economy* (Social Protection for All Issue Brief). <https://www.social-protection.org/gimi/RessourcePDF.action?id=54094>

<sup>64</sup> Ibid.