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Malaysia

Country Conditions Report

Created by the Sexual Orientation and Gender Identity Working Group

International Human Rights Program

University of Toronto

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| Introduction |

The Malaysia Country Report on human rights violations against the Lesbian, Gay, Bisexual, Trans, and Queer+ community (LGBTQ+) is intended to provide a comprehensive and current survey of relevant legislation, case law, scholarship, and documentation from governmental agencies, nongovernmental organizations, and the media. This report is recent as of March 2019.

Sexual identity is not an enumerated ground of protection in Malaysia’s Constitution of 1957, most recently amended in 2010. The LGBTQ+ community in Malaysia faces persecution, criminalization, as well as social and governmental disapprobation. For instance, the current Prime Minister expresses public disapproval of same-sex marriage, while other prominent public figures continue to support conversion therapy programs.[[1]](#footnote-1) Malaysia’s Muslim population is subject to Syariah law, which punishes cross-dressing and sexual acts between same-sex partners. Transgendered Malaysians face the most violence, which has led to murder and life-threatening beatings as recently as 2018.[[2]](#footnote-2) Our report provides documentation of persecution the LGBTQ+ community faces.

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| Domestic Legislation |

Malaysian law is a mix of common law and Syariah, or Islamic, law. Common law is applicable to all citizens. Syariah law only governs Muslim citizens, is used to prosecute family and religious matters, and is the source of most charges against transgender Malaysians.[[3]](#footnote-3) Syariah law courts can give punishments of up to three years, fines of up to RM5,000, and/or up to six cane lashes.[[4]](#footnote-4) In 2017, the Penal Code was amended to make lashes a mandatory part of the punishment.[[5]](#footnote-5)

***Malaysia’s Constitution of 1957***

\*Official government translation, current to November 1, 2010[[6]](#footnote-6)

The Malaysian Constitution does not have any SOGI-specific provisions.

***Penal Code***

\*Official government translation, current to February 1, 2018[[7]](#footnote-7)

The Malaysian government has used provisions from its Federal Penal Code to prosecute the LGBTQ+ community.[[8]](#footnote-8)

1. Penal Code (Act 574), s. 377A.

Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of the other person is said to commit carnal intercourse against the order of nature.

1. Penal Code (Act 574), s. 377B.

Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be punished with whipping.

1. Penal Code (Act 574), s. 377D.

Any person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be punished with imprisonment for a term which may extend to two years.

***Malaysia Syariah Criminal Offences (Federal Territories) Act***

\*Official government translation, current to 2002[[9]](#footnote-9)

Syariah laws against homosexuality differ amongst the thirteen states and one Federal Territory, although all have laws against cross-dressing, meaning “prohibiting a man posing as a woman.”[[10]](#footnote-10) Under Syariah law, sodomy, or male same-sex conduct, is known as *liwat*, which ten states and the Federal Territory criminalize.[[11]](#footnote-11) Sexual relations between two females is known as Musahaqah and is criminalized by all but the state of Pahang.[[12]](#footnote-12) Below are provisions from the Federal Territory’s Syariah Law, which are used to prosecute the LGBTQ+ community.

1. Syariah Criminal Offences (Federal Territories) Act 1997 (Malaysia Act 559.12), ss. 2, 25.

"liwat" means sexual relations between male persons;

Any male person who commits liwat shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to whipping not exceeding six strokes or to any combination thereof.

1. Syariah Criminal Offences (Federal Territories) Act 1997 (Malaysia Act 559.12), ss. 2, 26.

"musahaqah" means sexual relations between female persons;

Any female person who commits musahaqah shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a

term not exceeding three years or to whipping not exceeding six strokes or to any combination thereof.

1. Syariah Criminal Offences (Federal Territories) Act 1997 (Malaysia Act 559.29), ss. 229.

Any person who, contrary to Islamic Law, acts or behaves in an indecent manner in any

public place shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

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| Canadian Jurisprudence |

There are no cases more recent than 2012 concerning Malaysian nationals applying from within Canada for residence on the basis of their status as an LGBTQ+ person.

***Federal Court Decisions***

1. *Kam Fah Ng v The Minister of Citizenship and Immigration*, 2012 FC 583

**Holding**: The application for the decision of the Immigration and Refugee Board of Canada (IRB) to be set aside and re-determined by a different officer is granted due to errors in denying the applicant’s humanitarian and compassionate application.

* The applicant, a citizen of Malaysia, applied for permanent residence under humanitarian and compassionate grounds, submitting that as a homosexual and an HIV positive man, he risked persecution in Malaysia.
* The IRB officer found there were insufficient grounds to grant the approve the application.
* The applicant appealed to the Federal Court for the officer’s decision to be set aside and re-determined by a different officer.
* The Federal Court granted this application on the basis that the IRB officer “failed to adequately consider the personal circumstances” of the applicant and “came to conclusions that were not supported by the evidence a whole.”

In 2010, the applicant, who had been living in Canada without legal status, filed a claim for permanent residency on humanitarian and compassionate grounds. The applicant cited the risk of persecution if he returned home to Malaysia due to his status as an HIV positive gay man. The Board rejected his application on the grounds that free medical treatment was available in Malaysia and because discrimination against LGBT individuals was a worldwide problem, the applicant would be subjected to no greater risk of persecution by returning to Malaysia than remaining in Canada. The applicant appealed to the Federal Court to set aside the officer’s decision and to allow a different panel to re-determine the case.

The Federal Court first reiterated that the appropriate standard of review for humanitarian and compassionate applications for permanent residence is reasonableness. The Federal Court then held that while the decisions of IRB officers are highly discretionary, the officer had erred in not considering the personal circumstances of the applicant. The officer also wrongly came to conclusions that were not supported by the evidence before the board. Therefore, the Federal Court allowed the appeal.

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| Domestic Jurisprudence |

Malaysian jurisprudence, of both common law and Syariah law, is difficult to access. The Syariah system is different in each state and only applies to Muslims. However, there is no readily-available centralized database with Syariah law cases in English. The common law system is accessible through a few databases – such as WorldLII, the Malaysian Bar, and the Malaysian Judiciary’s official judgement repository – but finding recent decisions related to SOGI poses a challenge.[[13]](#footnote-13) Media and NGO sources, however, make it clear that cases do exist. Secondary sources suggest LGBTQ+ persons are at risk of prosecution for offences such as carnal intercourse or cross-dressing.[[14]](#footnote-14) Due to the language barrier and lack of complete sources, this report is unable to provide an exhaustive overview of relevant SOGI Malaysian jurisprudence.

***Federal Court Decisions***

1. *Dato’ Seri Anwar Bin Ibrahim v Public Prosecutor*, Criminal Application NO. 05-47-03/2014 (2016)

**Holding:** Appeal of conviction and sentence of five years imprisonment for carnal intercourse (anal intercourse) is dismissed.

* **Accused is charged and found guilty of intentionally committing carnal intercourse against the order of nature by inserting his penis into the male complainant’s anus (377B of Penal Code).**

In the initial High Court case, the judge found the prosecution failed to prove its case beyond a reasonable doubt because it relied only on uncorroborated evidence from the complainant. The Court of Appeal overturned the High Court ruling, saying the judge had erred in doubting the integrity of other evidence and expert witness testimonies, and sentenced the accused to five years imprisonment. This case was about “Carnal Intercourse”, not rape. The appeal of the conviction was dismissed.

***Court of Appeal Decisions***

1. *Muhamad Juzaili Bin Mohn Khamis v Negeri Sembilan*, Civil Appeal NO. N-01-498-11/2012(2015)

**Holding:** Section 66 of the Syariah Criminal Enactment 1992 (Negeri Sembilan state) is void by reason of being inconsistent with Articles 5(1), 8(1), 8(2), 9(2), and 10(1)(a) of the Federal Constitution.

***Note***: according to media sources, the Federal Court reversed this ruling on October 8, 2015 on procedural grounds.[[15]](#footnote-15)

* **Section 66 makes it an offence, punishable by a fine and up to six months imprisonment, for any Muslim male in a public place to wear a woman’s attire or to pose as a woman.**
* **The Court found that the appellants suffer from “Gender Identity Disorder” (GID), which is part of their nature and incurable.**
* **The Court found section 66 is inconsistent with multiple articles of the Federal Constitution, and ultimately voids section 66.**

The Court considered section 66 in relation to many articles of the Federal Constitution. The Court held section 66 is inconsistent with Art. 5(1) of the Federal Constitution – no person shall be deprived of his life and personal liberty save in accordance with law – in that the section deprives the appellants of their right to live with dignity and to have a livelihood. The Court held that section 66 is inconsistent with Art. 8(1) of the Federal Constitution – all persons are equal before the law and entitled to the equal protection of the law – as it is discriminatory and oppressive, and denies the appellants the equal protection of the law. The Court held section 66 is inconsistent with Art. 8(2) of the Federal Constitution – in any law there shall be no discrimination against citizens on the ground of gender – because it only affects males, and not females. The Court held section 66 is inconsistent with Art. 9(2) of the Federal Constitution – every citizen has the right to move freely throughout the Federation – as it denies sufferers of GID the right to go anywhere in public. Finally, the Court held section 66 is inconsistent with Art. 10(1)(a) of the Federal Constitution – freedom of expression – as it prohibits GID sufferers from wearing the attire and articles of clothing of their choice, which are a form of expression.

The Court also found, in addressing the unsound mind defence available in the Syariah Criminal Enactment 1992 (Negeri Sembilan state), that “in the absence of medical evidence it is absurd and insulting to suggest that the appellants and other transgenders are persons of unsound mind.”

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| International Law |

***UN Treaties*[[16]](#footnote-16)**

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| **Treaty** | **Date of Signature** | **Date of Ratification** |
| ICCPR | N/A | N/A |
| ICCPR - First OP | N/A | N/A |
| ICCPR - Second OP | N/A | N/A |
| ICESCR | N/A | N/A |
| ICESCR - OP | N/A | N/A |
| CAT | N/A | N/A |
| CAT – First OP | N/A | N/A |

Malaysia has ratified the least number of treaties compared to other countries in Association of Southeast Asian Nations (ASEAN) and the Organisation of Islamic Cooperation (OIC).[[17]](#footnote-17) According to the Human Rights Commission of Malaysia, “the government had a policy of not ratifying any international treaties unless it conformed to national laws”, which led to the rejection of many human rights treaties.[[18]](#footnote-18)

***Universal Periodic Review***

Working Group Sessions: SOGIESC Recommendations, November 2018[[19]](#footnote-19)

* The Special Rapporteur reported that attitudes towards LGBTI people were discriminatory and have been “exacerbated” by the words and actions of politicians, public officials and religious leaders.
* “The criminalization of same-sex conduct and of different forms of gender identity and expression had reinforced negative societal attitudes and led to serious human rights violations of the rights of that group [LGBT] of the population.”[[20]](#footnote-20)
* A coalition of Malaysian non-profit and civil society groups monitoring the situation in Malaysia reported that LGBTI individuals have suffered “some of the most severe reprisals, surveillance and violence online in the past few years.”[[21]](#footnote-21)
* The government takes the position that sex and gender are binary.
* Different state Islamic departments have launched a mobile app to report sharia offences, as well as another mobile app for those who identify as LGBTI to enter into contact with authorities for the purposes of “changing back” to their assigned gender and sexuality.
* LGBTI people have been “acutely impacted” by shifts in political and religious movements towards “national unity” and “identity politics”.
* LGBTI rights defenders face “widespread discrimination and harassment”.
* Malaysia received 11 SOGIESC recommendations during this third cycle of UPR Working Sessions.
* **Canada’s official remark**: “We remain concerned about the lack of legal status for refugees and asylum seekers; the continued practice of child marriage; and lack of protections for the LGBTI community against discrimination, violence and corporal punishment.”[[22]](#footnote-22)
* **Canada’s official recommendation on the subject of LGBTI rights in Malaysia**: “Review and repeal laws that directly or indirectly criminalize consensual same-sex sexual activity and take action to prevent violence, discrimination or corporal punishment on the basis of sexual orientation or gender identity.”[[23]](#footnote-23)

***Regional Treaties***

Malaysia is a member of the ASEAN Intergovernmental Commission on Human Rights (AIHCR).[[24]](#footnote-24) In 2012, the member states adopted the ASEAN Human Rights Declaration (AHRD).[[25]](#footnote-25) Malaysia successfully argued against the inclusion of Sexual Orientation and Gender Identity amongst the list of prohibited grounds of discrimination in the AHRD.[[26]](#footnote-26)

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| Government Reports |

Please refer to National Documentation Packages: Malaysia, for additional reports, not listed below.[[27]](#footnote-27)

***United States of America***

1. **United States Department of State (Bureau of Democracy, Human Rights and Labor), “Country Reports on Human Rights Practices for 2018, Malaysia”**[[28]](#footnote-28)

* The minister of religious affairs stated government authorities would monitor LGBTQ+ issues, as a mean to restrict internet freedom to combat dissenting political views online.
* State religious authorities forced LGBTQ+ person to participate in “treatment” or “rehabilitation” programs to “cure” them for their sexuality.
* In August police raided a club in Kuala Lumpur associated with the LGBTQ+ community as part of an anti-drug operation, but a government minister said that he hoped the operation would “mitigate LGBTQ+ culture from spreading into the society.”
* In August, a federal government minister ordered a removal of two LGBTQ+ activists’ portraits from a photography exhibition because the government does “not support the promotion of LGBTQ+ culture.”
* LGBTQ+ persons reported discrimination in employment, housing and access to some government services because of their sexuality.

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| Reports from International Agencies and Non-Governmental Organizations |

Please refer to National Documentation Packages: Malaysia, for additional reports, not listed below.[[29]](#footnote-29)

1. ***Human Rights Watch***

*Human Rights Watch 2019 World Report: Malaysia*[[30]](#footnote-30)

* “Pervasive” discrimination against LGBT people still exists in Malaysia, with federal law criminalizing the “carnal knowledge against the order of nature” with up to 20 years in prison.
* Same-sex relations and non-normative gender expression are prohibited in many states under Sharia law.
* The Minister for Religious Affairs, Mujahid Yusof Rawa, spoke against workplace discrimination of LGBT people while maintaining the stance that existing laws punishing the expression of “alternative” sexuality or gender expression should be enforced.
* Rawa also endorsed programs designed to change a person’s sexual orientation.
* In August, Rawa ordered the removal of the portraits of two LGBT activists from an exhibit celebrating influential Malaysians.
* On August 18, 2018, transgender woman Negeri Sembilan was severely beaten by a group of men resulting in extensive injuries.
* In September, two women were punished for alleged same-sex relations in a Sharia court with six caning strokes.
* On September 21, 2018, the prime minister said that Malaysia “cannot accept LGBT culture.”

“Malaysia Should Find ‘Right Path’ on LGBT Rights”[[31]](#footnote-31)

* The communication from Malaysia’s new government concerning where is stands on LGBT rights has been inconsistent.
* Religion Minister Mujahid Yusof Rawa has indicated that Islamic authorities should scale back their prosecution of trans people’s attire and has also stated that workplace discrimination against LGBT people should end.
* However, on July 23, 2018, Rawa stated in Parliament that the government finds the “spread of the LGBT lifestyle” “worrying” and that the government does not endorse the LGBT community. On July 23, 2018 he stated that the government would set up camps and seminars to change LGBT people.
* Islamic state institutions and the federal Islamic development department have been organizing public health retreats since 2010 which include education on HIV prevention. These retreats have been found to encourage the “changing” of LGBT people through the use of religion. Such an approach is consistent with the Health Ministry’s National Strategic Plan for Endings AIDS. The Federal Islamic Development Department and the Federal Territory Islamic Affairs Department have claimed that 3,000 LGBT returned to the “right path due to their efforts”. The Federal Islamic Development Department has also advocated for anti-LGBT education in public schools.

1. ***Suara Rakyat Malaysia (SUARAM)***

*Malaysia Human Rights Report 2018*[[32]](#footnote-32)

* “Discussion relating to gender and sexuality remains taboo in Malaysia. The victimization of LGBTIQ persons remains a persistent facet of contemporary political discourse in Malaysia.”[[33]](#footnote-33)
* The Malaysian government takes the stance that LGBTQ+ individuals shall not be discriminated against but are not permitted to “promote or glamourize” their lifestyles.[[34]](#footnote-34)
* In September 2018, two women were sentenced to fines and caning after admitting to preparing to commit a same-sex act. The women were not represented by any legal counsel.
* There is pressure from conservatives and the right wing for the government to be tougher on LGBT individuals. This is reflected in social and print media, and by politicians.

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| Media Reports and Local Expertise |

* + - 1. “Man faces deportation after UK officials refuse to believe he is gay,” The Guardian, February 22, 2019[[35]](#footnote-35)
* Yew Fook Sam faces deportation from the UK to Malaysia, where homosexuality is illegal.
* The Home Office said it did not believe he was gay. They suggested it was suspicious that he did not have a boyfriend.
* Sam claims he will be persecuted and imprisoned for his sexuality if he is deported to Malaysia, where homosexual acts are punishable under federal and sharia law.
* He fears he will be forced to undergo gay conversion therapy should he be returned to Malaysia.

1. “'Muslim groups’ no love for George Town play forces cancellation,” Malaymail, February 15, 2019[[36]](#footnote-36)

* Penangpac and Big Nose Productions, a local Malaysian media production company, cancelled a play about relationships and social issues on police advice after Muslim groups protested against it.
* Muslim groups lodged a police report against the performance claiming that it was a screening of pornographic films that promoted free sex and the lesbian, gay, bisexual and transgender (LGBT) lifestyle.
* The police said the play is a comedy and did not contain any pornography or obscene scenes, but they advised the production company to cancel the show.
* The play will be replaced with *Norm & Ahmed*, a play featuring a midnight conversation between Pakistani student and an Australian workman.

1. “Zahid warns LGBT activities risk incurring God’s wrath,” The Star, October 23, 2018[[37]](#footnote-37)

* The opposition leader Datuk Seri Dr Ahmad Zahid said it is possible that Malaysia will face God’s wrath due to the actions of the LGBTQ+ community.
* Zahid said as part of Malaysian Islamic Development Department’s (Jakim) task to implement the Mukhayyam outreach programme to help the LGBTQ+ community to avoid punishment from God, like the incident of earthquake and tsunami in Indonesia.
* The Minister in the Prime Minister's Department, Datuk Seri Dr Mujahid Yusof Rawa, replied that although the LGBTQ+ issue was a social problem in the country, the situation was under control.
* He stated government’s stand on LGBTQ+ culture was clear: it was not accepted, but the government would take different approaches to address it.

1. “Malaysia cannot accept same-sex marriage, says Mahathir,” Reuters, September 21, 2018[[38]](#footnote-38)

* Malaysia Prime Minister Mahathir Mohamad urged Asia not to embrace LGBTQ+ rights as Taiwan prepares for a historic vote on marriage equality.
* Mahathir delivered a speech at Chulalongkorn University in Bangkok where the 93-year-old leader said “In Malaysia there are some things we cannot accept, even though it is seen as human rights in Western countries, we cannot accept LGBT, marriage between men and men, women and women.”
* His comments are likely to spark further debate in the country where activists have voiced concern over the hostility towards LGBTQ+ groups both from within society and from the administration.

1. “LGBT rights: Malaysia women caned for attempting to have lesbian sex,” BBC News, September 3, 2018[[39]](#footnote-39)

* Two Malaysian women convicted for attempting to have lesbian sex in a car were caned in a religious court.
* The Muslim women, aged 22 and 32, were each caned six times in the public in the Sharia High Court in the state of Terengganu.
* This is the state’s first conviction for same-sex relations and its first public caning.
* The caning was witnessed by more than 100 people and members of the media who were there for the barbaric spectacle.
* While the women were initially set to be canned on August 28, the punishment was postponed to September 3 and they were fined approximately $800 dollars each.
* This punishment shows the religious right "flexing their muscles and making clear that the laws against LGBT activity will be enforced in their state," said Linda Lakhdhir, a legal adviser in the Asia Division of Human Rights Watch.

1. “A brutal assault and rising fear in Malaysia's LGBT community,” Reuters, August 23, 2018:[[40]](#footnote-40)

* Suki, a transgender woman, was beaten up by a group of assailants with sticks and plastic pipes in Seremban, a town south of the Malaysian capital Kuala Lumpur.
* This brutal attack has highlighted what campaigners say is growing hostility towards the LGBTQ+ people in the country.
* Suki suffered broken ribs, a ruptured spleen and head injuries that required seven stitches. Police had arrested eight men suspected of carrying out the attack.
* Activist Dorian Wilde said anti-LGBT statements from officials “cause stigma and discrimination towards the community, and transgender people in particular have to bear the brunt of the hatred due to their visibility.”

1. “Malaysia accused of 'state-sponsored homophobia' after LGBT crackdown,” The Guardian, August 22, 2018[[41]](#footnote-41)

* The police and government officials raided a small nightclub called Blue Boy in Kuala Lumpur.
* The venue was known to be popular with the LGBTQ+ community but for many years had been mostly left alone by the authorities.
* Twenty men were detained and ordered into counselling for “illicit behaviour” by the Federal Territory Islamic Religious Department of Malaysia (JAKIM).
* Government minister Khalid Samad released a statement on the motivation behind the raid that “hopefully this initiative can mitigate the LGBT culture from spreading into our society.”
* Thilaga Sulathireh, co-founder of trans rights group Justice for Sisters thought it sent a clear signal to the LGBT community.
* Thilaga believed the “state-sponsored homophobia and transphobia” had heightened the climate of fear and resulted in increased discrimination over the past three months.

1. “What's it Like To Be LGBTQ in Malaysia?” The Culture Trip, August 21, 2018[[42]](#footnote-42)

* One anonymous 20-year-old lesbian said being LGBT is definitely difficult in Malaysia as she was caught by the police for “hugging and kissing” her girlfriend.
* Another interviewee, Jay, has been on the receiving end of unsolicited judgmental comments including “God won’t forgive you”, “You will definitely end up in hell” and “You have committed a great sin.”
* Because the threats of judgment, some have preferred to live their LGBT lives almost invisible.
* An LGBT person in Malaysia has to face a lot of challenges and some choose to move to a nearby country like Singapore or a western country like the United States.

1. “Malaysian minister orders removal of LGBT portraits from exhibition,” BBC News, August 9, 2018[[43]](#footnote-43)

* Festival organizers have removed two portraits of LGBT activist from a public photo exhibition after complaints from the minister of Islamic affairs, Mujahid Yusof Rawa.
* Rawa said the promotion of LGBT culture was not supported in Malaysia.
* The photos were taken last year to commemorate 60 years of Malaysian independence and features a series of portraits with different Malaysians posing with the country’s flag.
* The photos that were removed were of Nisha Ayub, a transgender activist who has won several awards and Pang Khee Teik who is the co-founder of Seksualiti Merdeka, an annual sexuality rights festival, and the editor of online forum Queer Lapis.

1. “Weaponizing Science: Malaysia’s LGBTQ ‘Research’,” New Naratif, July 23, 2018[[44]](#footnote-44)

* In 2016, a federal office, JAKIM, collaborated with the Ministry of Health to produce an action plan to address LGBTQ+ individuals, building on the work of existing committees who focus on treatment and rehabilitation plans for LGBTQ+ people.
* In March 2018, Universiti Sains Malaysia’s (USM) alumni club organized a forum entitled “Back to the Fitrah: Menyantuni LGBT Kembali ke Jalan Allah”, which loosely translates into “Back to human nature: Returning LGBT [people] to God’s path”.
* Universiti Sains Islam Malaysia (USIM) announced the establishment of an “LGBTQ research academy” to study the LGBTQ community through the lens of medical and scientific research. However, the leader, Dr. Rafidah Hanim Mokhtar, does not have concrete experience in sexuality or gender research, which is worrisome.
* The emergence of research like Dr. Rafidah’s showed Muslim anti-LGBTQ+ conservative groups in Malaysia have shifted their tactics by using higher education institutes to legitimize their efforts.
* Even after the 9th May Malaysian general election, there is unlikely to be significant movement in the realm of LGBTQ+ rights.

1. “Malaysian Islamic Affairs Officer Says LGBT Persons Cannot Be Discriminated Against At Work,” Inquisitr, July 17, 2018[[45]](#footnote-45)

* Datuk Mujahid Yusof Rawa, Islamic Affairs Minister of Malaysia, spoke out on behalf of the nation’s LGBTQ+ population regarding discrimination in the workplace.
* The stance of Islamic Affairs has been mostly characterized as similar to the “Don’t Ask, Don’t Tell” (DADT) policy that the U.S. armed forces once adopted: so long as people don’t discuss being homosexual and don’t do anything to challenge the system, they should be okay.
* Rawa stated: “Any citizen cannot be discriminated in terms of their workplace. Justice cannot be deprived. If there was any pressure, he has to prove that he was being pressured. As far as sexual orientation is concerned, if the individual keeps quiet about it without challenging the system then it’s not an issue. But if he declares it openly and feels proud about it then that is an issue with our values in our society.”
* Rawa presented a stance that mirrors DADT, in that sexual orientation in and of itself is not reason enough to relieve a person of their job duties. However, if one chooses to live openly, there are consequences to that.

1. “Malaysian university holds contest to convert gay students,” NBC News, April 3, 2018[[46]](#footnote-46)

* Universiti Sains Malaysia held a contest that asked students to submit ideas on how to convert their LGBTQ+ peers.
* The contest sought to help LGBTQ+ students who have “disorders in sexual orientation return to their natural instincts.”
* The event’s goal is “menyantuni LGBT,” which translates to “reach out to LGBT.” Although the founder tried to educate people and to correct, not to prosecute or condemn the LGBTQ+ community, this “menyantuni” mentality is driving other anti-LGBTQ+ movements in Malaysia.
* Because religion and culture go hand in hand in Malaysia, LGBTQ discrimination at the state level trickles down to the public. The underlying message from menyantuni is that LGBTQ+ is unnatural, and like any sickness, it should be cured.

1. “Pop star Denise Ho denied Malaysia permit ‘over LGBT views’,” BBC News, February 15, 2018[[47]](#footnote-47)

* Hong Kong pop star Denise Ho had been denied a performance permit in Malaysia over her views on gay rights. Ho is openly gay and is outspoken on LGBTQ+ issues
* The Malaysian government minister told journalists that performances had to comply with “local values” but did not confirm why Ho’s permit was declined.
* An unnamed employee at the Ministry of Communications and Multimedia confirmed to BBC Chinese that Ho’s permit had been denied because of her role as an LGBTQ+ activist.

1. “Malaysian newspaper's ‘how to spot gay person’ list sparks anger,” BBC News, February 13, 2018[[48]](#footnote-48)

* The Malay-language Sinar Harian newspaper published a list on how to spot gay people. This article sparked protest and ridicule. Activists are worried that it could put lives at risk in the conservative country.
* According to the article, gay men can be identified by their beards, and lesbians by their fondness for holding hands.
* The article first sparked criticism on social media and was then picked up for a YouTube video, in which the YouTube host, Mr. Arwind Kumar, went through the list of alleged claims, dismantling them and showing how illogical they are.
* The influence of religious hardliners has grown in Malaysia. Religious fundamentalists were pitting against those campaigning for greater rights for the LGBTQ+ community.

1. “Malaysia drops gay ‘prevention’ category from video competition,” BBC News, June 8, 2017[[49]](#footnote-49)

* The health minister launched a video competition on sex education for young people. Initially there was a category on how to “prevent” homosexuality, but this category was later removed by the Malaysian government.
* The health ministry in Malaysia has replaced the “gender identity disorder” category with one on gender and sexuality
* The government's action was a response following an outcry among activists as these government actions could increase hatred and violence against LGBT people.

1. “Beauty and the Beast: Disney rules out censoring gay scene for Malaysia,” BBC News, March 15, 2017[[50]](#footnote-50)

* Gay characters can be shown in films in Malaysia, but only if they’re portrayed negatively or repent. This is because homosexual activity is illegal in Malaysia under both secular and religious laws and is punishable by a prison sentence or corporal punishment.
* Beauty and Beast has offended social conservatives for making the first openly gay character in Disney film.
* The Beauty and the Beast’s release was delayed in Malaysia, but Disney said the film “has not been and will not be cut” for Malaysia to remove a gay scene.
* The Malaysia's Film Censorship Board eventually conceded and it was shown uncut.

1. “Transgender Woman Murdered in Malaysia,” Human Rights Watch, February 24, 2017[[51]](#footnote-51)

* On February 23, 2017, Sameera Krishnan, a 27-year-old transgender woman, was shot and stabbed to death by a group of men in Kuantan City.
* Crimes and discrimination against transgender people in Malaysia are underreported due to a lack of trust in the police.
* Certain laws criminalize transgender people, such as those forbidding the wearing of clothing deemed not to belong to the individual’s assigned sex.
* At the time of the reporting, police authorities stated that they had started an investigation into the killing.

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| Scholarship |

* + - 1. “The Experience of Intimate Relationships Among Homosexual Men in Malaysia” (2017)[[52]](#footnote-52)
* Phenomenological study of Malaysian gay men (twelve participants)
* Homosexual men often try to hide their sexual identity to fit hetero-normative cultural expectations of men
* Those participants publicly identified as gay faced social rejection
* Some men found it challenging to be with gay men who were deeply concealing of their sexual identity (i.e. refusing public intimacy)
* Researchers state gay men in Malaysia have less knowledge-sharing and support than in Western countries and therefore fewer opportunities of socialization in the LGBTQ+ community
  + - 1. “The Coming-Out Process of Gay and Lesbian Individuals from Islamic Malaysia: Communication Strategies and Motivations” (2017)[[53]](#footnote-53)
* LGBTQ+ Malaysians are demonized by the government, and criminalized to “protect public morality”
* Islam in Malaysia gives “hegemonic status to heterosexuality”
* Historically, there has been scant research on the LGBTQ+ community in Malaysia
* The influence of intersecting factors such as sexual orientation, religion, ethnicity, and culture affects the experience and freedom of disclosure of LGBTQ+ Malaysians
* Coming out is often a “complicated, and yet strategic identity management phenomenon”
  + - 1. “Shame, Internalized Homonegativity, and Religiosity: A Comparison of the Stigmatization Associated with Minority Stress with Gay Men in Australia and Malaysia” (2016)[[54]](#footnote-54)
* Minority stress is manifested through three stressors: internalized homonegativity, stigmatization resulting in feelings of rejection and discrimination
* The LGBTQ+ community in Malaysia faces much higher levels of societal disdain than in Australia resulting in internalization of stigmatization
* The variance in religiosity between the countries also affected the minority stress scores with a more negative impact in Malaysia
* Single LGBTQ+ individuals were more likely to feel internal shame than those in relationships
* The study results are biased in that participants from both countries “are probably more empowered than the average gay man in Malaysia.”
  + - 1. “Comparing Malaysia and Britain” (2017)[[55]](#footnote-55)
* Much of the codification of Islamic law in Malaysia was started by British colonialists
* Malaysia adopted a near-identical version of the Indian Penal Code in 1871 along with its anti-sodomy laws
* Homosexuality was publicly vilified after the Deputy Prime Minister was fired in 1998 on abuse of power and sodomy charges
* Gay Muslims in Malaysia are liable to think Islam condemns homosexuality based on its treatment in the country
* While Britain has liberalized its laws, Malaysia’s government describes homosexuality as a “Western ill”
  + - 1. “‘You’re Not Left Thinking That You’re The Only Gay in the Village’: The Role of the Facebook Group: Seksualiti Merdeka in the Malaysian LGBT Community” (2017)[[56]](#footnote-56)
* The Seksualiti Merdeka Facebook Group provides a source of information and news on the LGBT community to LGBT Malaysians and provides a safe space for them to share experiences
* In recent years, issues concerning the LGBT community in Malaysia have received international attention
* For instance, in 2012 the Malaysian Education Ministry published guidelines for parents to “identify gay and lesbian ‘symptoms’ in their children”
* Forms of entertainment such as movies and musicals are used as ways to warn people of the dangers of homosexuality

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