



The Malaysia Muslim Lawyers Association (PPMM) was established on 18th March 1988. PPMM is registered with the Malaysian Registrar of Society, registration number PPM-003-14-18031988. Its members comprise of Muslim lawyers living in Malaysia. PPMM upholds the legal rights of both civil and *syariah* laws. PPMM also engages with public, relevant governmental bodies and non-governmental organisations in Malaysia and outside of Malaysia regarding any legal issues. PPMM serves legal services and mediation where necessary.

In this Report, PPMM continues to highlight persisting issues, while providing recommendations towards issues mentioned in Cycle 4 of the Review on Malaysia.

A DEFINITION OF ISLAMOPHOBIA

Islamophobia can be defined as an action of hatred against anything that represents Islam. This hatred or prejudice can manifest itself in many forms, be it physical, political, cultural, linguistic and others.

The Council on American-Islamic Relations' (CAIR), a non-profit American Muslim civil rights and advocacy organization, succinctly defines Islamophobia as 'a fear, hatred, or prejudice toward Islam and Muslims that results in a pattern of discrimination. Therefore, an Islamophobic incident is one that 'dehumanizes Muslims and their heterogeneous cultures, beliefs, customs and practices and deny the dynamic nature of Islam'.¹



The United Nation adopted the Universal Declaration of Human Rights (UDHR) 1948 which provides that all persons are equal and any form of discrimination tantamount to violation of the declaration.²

Under the ASEAN Human Rights Declaration (AHRD), Article 22 expressly states that freedom of religion cannot be infringed upon by other person.³

i. ISLAMOPHOBIA IN THE MEDIA AND PUBLIC DOMAIN

Media coverage on Islam has changed dramatically after the 9/11 incident in New York, United States of America. This stereotype usually represents violence as an inseparable part of being Muslim, as well as religion as justification for violent actions. Islam are portrayed as backward, violent, terrorist, illiterate, or extremists.⁴ This sentiment has been documented in many studies for example, one conducted by Otago University lecturer on religion, Dr John Shaver, who identified a link between high media consumption and anti-Muslim prejudice. It concluded that negative attitudes towards Muslims are, in part, the result of frequent exposure to bias and inaccurate representations of Muslims in the media.⁵ Up to-date, there are still Islamophobic perpetuated in the media especially the ill-representation of Islam and the Muslim community.



ii. ISLAMOPHOBIA IN THE EDUCATION SECTOR

i. Prejudice against Religious Teachers in Sarawakian Schools

Despite the genuine need of the Sarawak State Education Department to fill up the shortage of teachers in Sarawak,⁶ in 2017 the state DAP chairman, Chong Chieng Jen demanded that the Government stop sending Islamic religious teachers from the Peninsula to Sarawak claiming that such move is importing Peninsular Muslims' philosophies and ways of life to the State.⁷ Sarawak continues to have shortage in Islamic religious school teachers where it

Heavy hand of religion disrupting studies at govt schools, say helpless parents

Nur Hasliza Mohd Salleh - January 21, 2020 8:36 AM

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An over-emphasis on religious rituals has some Muslim parents in residential government schools worrying about their focus on studies. (Bernama file pic)

KUALA LUMPUR: Parents and family members of children enrolled in reputable government residential schools are questioning what they view as an over-emphasis on religious practices that disrupt the pupils' studies.

was admitted by the Sarawak State Minister of Welfare, Community Well Being, Women, Family and Childhood Development who stated that there are more than 500 vacancies for Islamic religious teachers in primary national schools and 200 in secondary national schools in 2018.⁸

ii. Religious Syllabus and School Environment

There are prejudices towards Islamic syllabus which are taught to students especially in

public schools.

A case in point which is detailed out in more elaborate fashion in this report is the introduction of Jawi and *khat* in Malaysian schools. Jawi is merely alphabets similar to the Arabic script. *Khat* calligraphy is the way Jawi is written, which is no different from various fonts for the Roman alphabet. Like the Roman alphabet, Jawi is a group of written symbols which used for many purposes. It is part of the National emblems since National freedom in



year 1957. Yet when it was sought to be reintroduced in schools, extreme fear-mongering of Islam was used by various quarters to reject Jawi. This was illustrated further after two businesses had challenged the usage of the Jawi in public area and in advertisement to the Malaysian Court. However, the Malaysian Court of Appeal had dismissed their challenge and decide it was constitutional.⁹

iii. ISLAMOPHOBIA AT THE WORKPLACE

i. *Hijab* (Headscarf) Banning

In 2017, there was an incident involving the banning of *hijab* at work place. UNI Malaysia Labour Centre reported that 85% of the 150 employees interviewed admitted that they have been prohibited from wearing *hijab* at work.

Berita Harian also reported, 33 of 88 hotels in Peninsular Malaysia imposed a standard grooming policy which prohibits employees from wearing *hijab* especially for the front desk positions and F&B department.¹⁰

ii. Prohibition on Friday prayers

Abandoning Friday prayers without justifications is not only a sin for a Muslim but also an offence under Syariah Criminal Offences Act (Federal Territories) 1997 or under various states enactment(s).

Section 14 of the above Act stated as follows; “Any male person, being *baligh*, who fails to perform the Friday prayers in a mosque within his *kariah* for three consecutive weeks without *uzur syarie* or without any reasonable cause shall be guilty of an offence.”

The following are reported instances of prohibition from Friday prayers:



- a. Salaries of several Bangladesh employees were deducted for attending Friday prayers. This incident was reported in 2018 in Negeri Sembilan.¹¹
- b. In February 2020, Malaysia Gazette reported Persatuan Pekerja Mahir Kren Menara Malaysia (PERKREMA) reported that several crane operators were prohibited from performing Friday prayers.¹²

iv. POLITICISED ISLAMOPHOBIA

Muslims have been unfairly labelled as extremists and radicals in government-funded comic **I. Fear-Mongering and Mis-characterization of Malay Muslims as Radicals, Extremists and Pendatang** for merely lending their support to Muslim Uyghurs in China who are being subjected to detention camps.¹³ The Foreword of this comic book was written by DAP's Secretary General, Lim Guan Eng, who was the Finance Minister at the time,¹⁴ and printed by state government funded organisation, Asia Comic Cultural Museum. The comic was then presented by the Malaysian delegation in a meeting between the then Prime Minister with China's Premier in an official ceremony.¹⁵ Further, this comic was disseminated widely in vernacular schools.¹⁶

v. ISLAMOPHOBIA AMONG MUALLAFS

i. Rejection by families and communities

Muallafs, face various discrimination solely because of their decisions to be Muslim. There are reports that *muallafs* had resorted to secret conversion due to fear of being rejected by their community,¹⁷ or facing physical abuses from their friends.¹⁸

Rejection from loved ones affected *muallafs'* mental health and overall well-being.¹⁹



ii. Burial rites of Muallafs

Some *Muallafs* secretly converted and do not register their religious conversions²⁰ and became precarious when their family members contested over burial rites of these Muslim reverts upon their deaths. In the case of Surinder Kaur Bedi, Sikh Naujawan Sabha Malaysia (Penang), a youth group for the Sikhs, contested for her body even after her family repeatedly attested of her Islamic faith.²¹

C RECOMMENDATIONS ON COMBATING ISLAMOPHOBIA

1. Acknowledge, categorising and set guidelines on Islamophobia.
2. The government could emulate steps taken by United Kingdom in appointing an independent advisory especially among non-governmental Islamic organizations who are considered experts and activist as they are the point of referral for complaints against hatred towards Muslims.²²
3. PPMU urge the government to combat intolerance, negative stereotyping and stigmatisation against Islam in local news, in line with the Human Rights Council Resolution 16/18.
4. The government shall enact law such as Anti-Islamophobia Act adjudicating hate speech against Islam and recommend that stiffer punishments should be meted out as hate speeches concerning religion threaten social harmony and may lead to hate crimes, physical and emotional torments.²³ The government should pursue the proposal advanced by the OIC for the introduction of an international law to criminalize all acts of Islamophobia.²⁴ Ethnic cleansing and displacement of minority Muslims in Philippines, China and India based on a rhetoric of curbing extremism tantamount to human rights violations must invite global condemnation and intervention.



D WHAT IS GIG ECONOMY?

Gig economy involves the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment-by-task basis.²⁵

Nowadays, revolutionary of fields involving gig workers are including freelancers, independent contractors, project-based workers and part-time hires. Gig applications often used to connect customers and gig workers.²⁶

E WHAT GOVERNS GIG ECONOMY?

In Malaysia, common employees entitled to protections and benefits provided under the Employment Act 1955 which includes minimum wage, annual and sick leave, social contributions and protection against unfair dismissal. Additionally, the Employment (Termination and Layoff Benefits) Regulations 1980 may provide certain termination and layoff benefits for eligible employees. There is no specific legislation that govern the gig economy as a whole.

As to-date, the United Nations (UN) do not have any specific declarations nor conventions dedicated solely for gig economy. However, UN has recognized some challenges hurdled by gig economy workers and has made general references to them in broader frameworks. Stated therein few examples:



Sustainable Development Goals (SDGs): The SDGs are set of global goals adopted by UN members in 2015. While the gig economy is not explicitly mentioned, several goals address concerns. For instance:

Goal 8: Decent Work and Economic Growth encourages inclusive and sustainable economic growth, full and productive employment, and decent working conditions for all workers, including those in non-standard forms of employment.

Goal 10: Reduced Inequalities seeks to reduce income inequality and ensure equal opportunities for all, including vulnerable or marginalized groups, which can include gig economy workers.²⁷

Referring to a judgment made in the case of **Uber BV & others v Aslam & others [2021] UKSC 5**, the employment tribunal was entitled to find that the claimants, namely the drivers, were 'employees' who worked for Uber London under contract of employment within the statutory definition.²⁸

The Court adopt the application of the definition of employee as within the scope of the second paragraph of section 203(3) of the Workers' Rights Act 1996 which states that 'an individual who enters into or works under a contract whether express or implied, oral or written, in which a person promises to perform any work or service for another party'. According to this definition, the Court ruled that Uber SV drivers in London are part of the 'employee' under the law.

F WHAT ARE THE PROBLEMS FACED BY GIG ECONOMY WORKERS?

While the government continues to promote the growth of gig-economy, however there is very little social support for gig workers. Legally, gig-economy workers are not classified as 'employee' within the existing statutory framework and this has allowed many abuses on the rights of gig workers to persist. A group of 10,000 gig workers has reported issues where its members were unfairly discriminated against by the application providers including by withholding payments without justifiable cause and penalizing gig workers for taking a rest time.

Among challenges faced by the gig workers are:-

1. Income instability: Gig workers often experience unpredictable income as their earnings depend on the availability of gigs and the demand for their services which make financial planning difficult.



2. Lack of benefits: Most gig workers do not have access to common employment benefits such as insurance, retirement plans, or unemployment benefits.
3. Job insecurity: Gig workers face uncertainties with future gigs and find it challenging to maintain a steady stream of income.²⁹
4. Unfair treatment and exploitation: Concerns about gig workers facing unfair treatment, exploitation, and lack of recourse when disputes arise with platforms or clients.
5. Long Working Hours: Gig work often involves long hours, as well as the pressure to accept as many gigs to maximize earnings.
6. Classification of prohibited food : Some gig workers such as Muslims and Hindus have obligation towards their religion. For instance, Muslims are not allowed to bring non-halal food such as pork and alcoholic beverages while Hindus are not allowed to bring beef. Although some platform provider(s) did categorised halal and non-halal food, it is applicable only for shops that are certified by the authority whilst there are plethora of shops that are not halal certified creating confusion for the gig workers to accept the job.

G WHAT CAN BE DONE?

1. Establish regulatory framework: Parliament may enact law and regulation that protect rights and interests of gig workers such as minimum wage standards, mandating benefits and ensuring safe working conditions.
2. Creating standard "Agreement" between workers and employers: To outline level of flexibility and autonomy upon gig economy workers while entitling them basic rights protection. This may include access to healthcare facilities, paid leave and unemployment benefits.

For instance, gig company called Indonesia Gojek. Gojek partnered with GigaCover, an insurance company to offer income protection for its riders where riders will be covered up to 21 days sick leave and 84 days hospitalization. It shows that gig employers are starting to recognize gig workers as employees.³⁰
3. Worker Representation: Enabling gig workers to unionize empower them to negotiate fair wages and have stronger voices in moulding policies.



4. Taxation: Authorities may explore ways to ensure proper tax compliance upon parties involved.
5. Training and skill development: Gig economy workers lack access for training and skill development. Government along with companies can provide training to equip gig workers with necessary skills in the gig economy.³¹
6. Encourage platform transparency: Government can impose platform companies to provide transparency on their algorithms, enabling workers to comprehend their ability to increase earnings.³²
7. Research and Data Collection: Government, organisations and academic institutions shall conduct research to understand the gig economy, its impact on workers, and feasible recourse.
8. Regarding classification of food, not all shops are halal certified by relevant authority, gig companies may establish their own committee to supervise selection of shops.³³

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