

**STAKEHOLDER REPORT
ON THE STATUS OF HUMAN RIGHTS OF LGBTI PERSONS IN MALAYSIA**

FOR THE 31ST SESSION IN THE 3RD CYCLE
OF THE HRC'S
UNIVERSAL PERIODIC REVIEW IN 2018

Prepared by:

The Coalition for SOGIESC Human Rights in Malaysia

The coalition consists of individuals and groups working on gender, sexuality and human rights of LGBTIQ persons. This submission is endorsed by Justice for Sisters, Knowledge and Rights with Young people through Safer Spaces (KRYSS), Transmen of Malaysia, Seksualiti Merdeka, Pelangi Campaign, and Center for Independent Journalism (CIJ)

Overview

1. Human rights of LGBTIQ persons and allies are regressing severely. In addition to the restrictive legal environment, state sponsored anti-LGBT activities and speech have intensified since 2012, leading to a rise in anti-LGBT groups, vigilante and campaigns by non-state actors.
2. In the second UPR cycle, Malaysia received 3 recommendations on enacting anti-discrimination law to protect LGBTI person, 4 recommendations on decriminalising consenting same sex relations between adults, and 1 recommendation on enacting a law prohibiting violence based on sexual orientation; Malaysia rejected all the recommendations. Recommendations 146.98 to 146.104 are related to sexual orientation and gender identity.
3. However, other accepted recommendations on education by Timor Leste (146.192), Bulgaria (146.193), Palestine (146.194), Kyrgyzstan (146.195), and Vietnam (146.196) on implementation of gender perspective including teacher training as well as to establish policy and appropriate measures for including children of all backgrounds in the national education system equally apply to LGBTI persons and should be implemented to inclusive as such.
4. Similarly, recommendations on healthcare also equally relevant to LGBTI persons, especially 146.177, 144.178, 146.1887 on taking measures to develop a comprehensive health system and ensuring universal and equal access to healthcare and education for all persons, 146.184 on strengthening the National Strategic Plan (NSP), and 146.188 allocate funds to training of health care staff.
5. Since the last UPR cycle, three special rapporteurs (SR) have visited Malaysia. The SR on right to health during his visit in 2014 expressed his concerns over programme and practices supported and led by the State to change sexual orientation of adolescents, identify, “expose”, and punish LGBT children given the lack of scientific evidence to support these therapies and the negative impact on the health and well-being of adolescents.ⁱ Meanwhile, the SR on cultural rights during her visit in 2017 noted that LGBTI defenders are ‘erroneously labelled extremists, undercutting the critical efforts of these human right defenders.’ⁱⁱ
6. In the 69th CEDAW session, in response to questions regarding LGBTI persons the government responded LGBT persons are treated equally, demonstrating a profound lack of understanding of equality, the discrimination and issues faced by LGBTI persons in Malaysia, and its impact.
7. The CEDAW committee made 4 LGBTI-related concluding observations, specifically on discontinuing all polices and activities that aim to ‘correct’ or rehabilitate LGBTI women, amend discriminatory laws, adopt a zero-tolerance policy with regard to discrimination and violence against LGBTI women, adopt anti-bullying policies and undertake awareness raising measures to foster equal rights for LGBTI students. The committee also expressed concerns over barriers in terms of access to health care services faced by trans women.ⁱⁱⁱ

Stifled progress

8. Malaysia has witnessed some short-lived progress in relation to the protection of the human rights of LGBTI persons. These include progressive court decisions, inclusion of ‘sexual orientation and identity’ as grounds of discrimination in the National Harmony and Reconciliation Bill in 2015 developed by the National Unity Consultative Council (NUCC),^{iv} the formation of the Penang transgender committee comprising of state assembly persons.^v However, these developments have been deliberately stifled by interventions by state agencies, pressure by conservatives and Islamist groups or political parties^{vivii}, amongst others.^{viii}
9. Progressive and rights based court decisions, including the Court of Appeal’s decision on the constitutional review of the Section 66 of the Negeri Sembilan state syariah enactment^{ix} and the Kuala Lumpur High Court’s decision on an application by trans person to change gendered details in legal documents^x were overturned by the Federal Court and Court of Appeal respectively based on technical and unscientific grounds. In these cases, the appeals were filed by the state government and the National Registration Department, respectively^{xi}

State engagements with LGBT persons

10. Several state engagements with LGBT persons, specifically trans women happened in 2017 and early 2018, including the TN50 engagement to inform the development of the government’s transformation policy between 2030-2050, dialogues with mufti of Federal Territory^{xixiii}, and Terengganu state government-led engagements with trans women.^{xiv}
11. These engagements intersect with the issues of HIV/AIDS, and use a *dakwah* or missionary approach. Unemployment and job discrimination were reoccurring themes in these engagements.^{xv} To this end, allocations of zakat (welfare funds) for trans people were proposed by state actors to address these systemic issues. Evidently, a welfare model cannot adequately address the systemic inequalities and gaps faced by trans people. Serious measures are needed to address these systemic gaps in employment, education, housing and other areas.
12. In all engagements, the state actors maintained a sex and gender essentialist and binary position and that trans people should return to the right path^{xvi} (euphemism for religious based efforts to change one’s sexual orientation and gender identity); failed to grasp the root causes and structural discrimination that result in the marginalization of trans people.^{xvii}
13. The TN50 engagement, for example engaged with LGBT groups that promote rehabilitation of LGBT persons. The Malaysian AIDS Council and other groups criticized the engagement for being ‘selective’ in nature.^{xviii}

Government’s responses to discrimination by non-state actors on in relation to gender identity and sexual orientation

14. LGBT people and related activities are vulnerable to complaints, police reports, monitoring and surveillance, being viral-ed on social media as a form policing and disapproval, and face other forms of restrictions, which often lead to state prosecution and investigation.

15. The government lacks a human rights-based response in these situations. The responses of the state actors towards discrimination, violence and reprisals faced by LGBTIQ persons is bias, revictimize and perpetuate discrimination and violations towards LGBTI persons, and show a lack of respect for rule of law, resulting in an increase of impunity and exacerbation of discrimination and violence towards LGBTI persons.
16. Case in point, in 2017 the police launched an investigation with the assistance of the Malaysian Communications and Multimedia Commission (MCMC) into two gay men following a police report lodged by an online user after seeing a facebook status regarding an alleged gay wedding ceremony.^{xix}
17. In January 2018, in response to public scrutiny and calls for investigation of the sex of a woman public figure instigated by a state linked individual JAKIM held a meeting with the woman and later proposed test to determine her sex, resulting in further victimization of the woman.^{xx} While the plans fell through, the bullying against the woman, who revealed that she is intersex is on-going and escalating.^{xxi} The complainant continues to posts threatening and harmful messages targeting the woman, trans women, and LGBTI persons in general. No action has been taken against the complainant.
18. In June 2017, articles published on menara.my, a right wing website, regarding ‘Gay Iftar’, a breaking of fast event based on a few tweets by the organizers resulted in threats towards the organizers and attendees of the event. The event was reportedly investigated by the Federal Territory Islamic Department (JAWI). JAWI also revealed in the media “all LGBT groups and movements are monitored by various groups, including religious agencies.”^{xxii} One of the organizers was specifically targeted due to his links with an opposition political party, ethnicity, religion and sexual orientation. In a Parliament session in September 2017, which included a discussion on the Gay Iftar event, Jamil Khir Baharom, the Minister in the Prime Ministers Office responded that “break fast should not be mixed with banned practices in Islam such as homosexuality”, and called for cooperation between authorities to prevent another big gay iftar.^{xxiii}
19. The state narrative that Islam and all religions reject LGBT persons is grounded in a narrow interpretation of religion, disconnected and isolated from the growing inclusivity of LGBTIQ persons in diverse religions, and not representative of all interfaith groups in Malaysia. In 2011, amidst the banning of Seksualiti Merdeka (SM), a community led sexuality festival, The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST), a national interfaith group, issued a statement criticizing the blanket ban on Seksualiti Merdeka as well as the hate speech, harassment, discrimination against LGBT persons, including restriction of freedom of assembly and speech, which effectively hinders dialogues.^{xxiv}
20. The state sponsored anti-LGBT narrative largely centers on rehabilitation of sexual orientation, gender identity and gender expression; fear mongering^{xxv} using HIV/AIDS^{xxvi}, morality, culture^{xxvii}; and LGBT being inconsistent with cultural values.

21. One relatively satisfactory practice that the government could improve and build on in the future is the response by Ministry of Health (MOH) to the National Creative Video Competition on Adolescent Sexual and Reproductive Health competition debacle. Following public criticism towards a competition for using ‘gender confusion’ as a category for submission,^{xxviii} the MOH called for a meeting with some civil society organizations and later changed the theme based on the outcome of the meeting.^{xxix}
22. However, the MOH has also produced discriminatory health guidelines and statements, including publicly promoting rehabilitation or ‘returning to the right path’^{xxx xxxi}, and sensationalized use of HIV/AIDS statistics and findings, increasing stigma, misconception and fear towards LGBT persons.

Recommendations:

- Engage LGBTI human rights groups to address discrimination and violence against LGBTI persons
- Adopt a human rights-based approach in responding to discrimination against LGBTI persons
- Maintain progressive decision in relation LGBTI persons
- End all forms of monitoring and surveillance of LGBTI groups
- Accept UPR recommendations from Recommending States that uphold and affirm human rights based on SOGIESC

State sponsored homophobia and transphobia

23. State-sponsored anti-LGBT measures spearheaded by the Department of Islamic Development Malaysia (JAKIM) have intensified since 2012. This includes the introduction of publications; videos^{xxxii}; seminars^{xxxiiixxxiv}; an app^{xxxv} that provides resources and support to return to the right path or to rehabilitate oneself; *Mukhayyam*, a 3 days rehabilitation camp for LGBT persons.
24. In July 2016, Jakim introduced the *Pelan Tindakan Menangani Gejala Sosial (Perlakuan LGBT) 2017-2021* (Action Plan to Curb Social ills [LGBT behaviour] 2017-2021), a 5-year action plan in collaboration with 22 strategic partners^{xxxvi}, including government agencies such as the Ministry of Education, Ministry of Women, Children and Community Development, Ministry of Youth and Sports and Ministry of Health.^{xxxvii}
25. These measures increase harm towards LGBTIQ persons and increase divisions along religious, gender and sexual orientation lines.

Legal barriers and criminalization

26. Malaysia criminalizes consensual sexual relations between persons of the same sex, posing as a woman, posing as a man, and consensual sexual acts between adults. Section 377A and B of the Penal Code criminalizes consensual sexual relations against the order of nature, while Section 377D criminalizes outrages decency. In an amendment in April 2017 to increase protections and penalties for

sexual assault, the Penal Code 377B was also amended to carry mandatory whipping.^{xxxviiixxxix}

27. *Liwat* (sexual relations between men), *musahaqah* (sexual relations between women), and ‘male person posing as a woman’ and ‘female person posing as a man’ are criminalized in the state administered *Shariah* laws. 6 states in Malaysia impose maximum penalty of maximum fine of RM 5,000 fine, 3 years of imprisonment and 6 strokes for *musahaqah*.
28. All states in Malaysia have a ‘male person posing as a woman’ provision that penalizes trans women based on gender identity and gender expression. There are two main versions of the law. In 9 states in Malaysia, the law criminalizes any male person who poses as a woman or wears women’s attire in a public place for immoral purpose. Meanwhile, the laws in the 5 other states do not include ‘immoral purpose’ in its provisions.
29. According to the JAKIM’s Strategic Plan 2015-2019 and the Islam and Mak Nyah manual a total of 746 cases of arrests were made under the ‘male person posing as a woman’ laws between 2008 and 2012, averaging at 3 cases per week. In 2014, 17 transgender women, including a minor were arrested at a wedding party in Negeri Sembilan. The 16 trans women were fined RM 950 each, 7 days prison sentence, and their heads were shaven due to the prison sentence.^{xl} Multiple documentations show that the application of these laws has been arbitrary.
30. Between January and May 2016, 63 cases of arrest of transgender women, including foreigners by police and state Islamic departments were gathered via media monitoring and community data gathering.
31. Trans people increasingly face challenges in changing personal details in legal documents. In January 2017, in an appeal by the National Registration Department (NRD), the Court of Appeal overturned a High Court decision that allowed a trans man to change his details in his legal documents. The court conflates sex and gender, and uses the Corbett vs Corbett criteria.
32. Other legal barriers include the fatwa, which in Malaysia carry legal effect when published in the state gazette. Fatwa on prohibition of gender affirmation surgeries for trans people^{xli} and tomboy or pengkid,^{xlii} a trans masculine identity, are among some fatwas that have been issued. At least 6 states in Malaysia declare pengkid as haram in its state gazette.^{xliii} A fatwa released in 1982, which declares trans people as haram or illegal and prohibits gender affirmation surgeries, is used as a basis to disallow trans people from changing details in legal documents.

Inadequate legal framework that protect rights of LGBTI persons

33. While Article 8(2) of the Federal Constitution includes ‘gender’ as a ground of discrimination, state actors have repeatedly defined gender in an inaccurate, narrow and binary manner.^{xliv}
34. Aside from laws that criminalize LGBT persons based on sexual orientation, gender identity, gender expression and sexual acts, the existing legal framework

and policies are inadequate to protect the human rights of LGBTI persons, and create barriers to access redress and justice. The lack of rights based and gender sensitization trainings for various state actors also exacerbate human rights violations.

35. Despite a high level of sexual and gender-based violence towards LGBTI and persons based on gender expression in multiple spaces, including home, in detention, schools, and other spaces, there are no meaningful and serious efforts to deal with sexual and gender based violence against LGBTI and persons based on gender expression.
36. The domestic violence act does not protect co-habiting partners. *On the record: Violence against LBT persons in Malaysia* documents at least 3 cases of intimate partner violence, and multiple cases violence by family members, including physical violence, sexual violence, locked-up or confined, and more. Fear of media sensationalism and dismissal by law enforcement agencies were barriers in terms of reporting cases of intimate partner violence.^{xlv} The response to domestic violence faced by LGBTI persons, however requires a nuanced approach given the complexity of relationship of with ‘perpetrators’ and causal relationship with lack of access to information, discrimination by surrounding communities and other factors.
37. The rape laws are not gender neutral and sensitive to the sexual violence experienced by LGBTIQ persons.
38. There is no SOP or guidelines for lock up and prison for detainees and prisoners who are trans people. Currently, trans women are separated based on the discretion of police officers.
39. The National Human Rights Action Plan, introduced in March 2018, provides a 10-year action plan on human rights for Malaysia. The plan, an outcome of UPR recommendations has many structural flaws, including overemphasis on cultural relativism and particularities, and uses frameworks that are in conflict with human rights principles. A sentence in the plan acknowledges the need to focus on discrimination faced by LGBT persons. However, no specific action plans were included to address the discrimination.

Recommendations:

- End all harmful and anti-LGBT speech, rhetoric, activities
- Discontinue the implementation of the *Pelan Tindakan Menangani Gejala Sosial (Perlakuan LGBT) 2017-2021* (Action Plan to Curb Social ills [LGBT behaviour] 2017-2021)
- Repeal laws that criminalize consensual sexual relations between adults, including Penal Code 377B, liwat and musahaqah
- Repeal laws that criminalise transgender person on the basis of gender expression and gender identity, namely ‘male person posing as a woman’, ‘female person posing as a man’
- Ensure quick, transparent, and accessible legal gender recognition for trans and gender non-conforming people without medical intervention
- Enact a comprehensive anti-discrimination law

- Introduce an SOP or guideline for lock-up and prison in relation to the rights of transgender detainees

Health

40. LGBT persons face multiple forms of barriers in terms of accessibility, availability and affordability of friendly and specific healthcare services in the national healthcare system.
41. The MOH's provision of health services to the LGBT population is limited to HIV/AIDS. The National Strategic Plan on Ending HIV/AIDS 2016-2030 (NSP) outlines a few strategies specific for MSM and trans women. While not all activities in plan have been allotted funds, some of the strategies and activities include programmes that "provide guidance and motivation through religious approach (*tauhid*) to face the challenges of life and abandon the practice of unnatural sex",^{xlvi} essentially efforts to change sexual orientation and gender identity, which are very clearly inconsistent with evidence and science, harmful and counter productive in achieving the goals to end AIDS by 2030.
42. The Mukhayyam programme^{xlvii} was introduced by JAKIM in 2010 as a strategy to reduce prevalence of HIV among key affected population, namely the trans women population who are Muslims.^{xlviii} The Global AIDS Response Progress Report 2016 noted that "Many who attended this program have reported change in behaviour to less risky or risk free but there has been no data to support this claim."^{xlix} Additionally, JAKIM has stated in the media that it has managed to rehabilitate 1,000 transgender women through the programme.¹
43. On the Record: Violence against LBT persons in Malaysia documents experiences of three lesbians and a trans man of being forced or persuaded by their parents to meet mental health professionals or religious leaders (specifically known ex-gay pastor) to be "corrected."^{li}
44. In terms of transmission of HIV, the NSP also reports that Malaysia is experiencing an increase of sexual transmission all around since 2010,^{lii} especially among young people. Compounding this is the lack of a rights-based comprehensive and inclusive sex education in schools and the increasing stigmatization through anti-LGBT activities and rhetoric.
45. The HIV/AIDS statistics, specifically on prevalence rates among homosexuals have been used by various states actors in sensationalistic ways in the media, including 'LGBT are the biggest contributors of HIV', creating fear and panic. Even the Malaysian AIDS Council have expressed concerns over 'fear-mongering' and the sensationalistic way the HIV/AIDS statistics are being used, disregarding the rise in heterosexual sexual relations transmission.
46. In 2016, the MOH released a health guideline, "Health guideline on dealing with gender health issues in health clinics".^{liii} The guideline that aims to reduce discrimination in the healthcare settings has many problematic areas and includes references to the legal framework in Malaysia in relation to LGBTI persons and Islamic text that condemn LGBT persons. The guideline also provides tips for parents to correct and hinder their children from becoming LGBTI.

47. The “Research on MSM and TG Experiences of Stigma and Discrimination in Indonesia, Malaysia, Philippines and Timor Leste (SADS)” by the ISEAN-Hivos Programme surveyed 409 persons in total, 176 transgender women, and 233 cisgender men who identified as men who have sex with men^{liv} in Malaysia regarding their experiences in the healthcare settings for a baseline study in 2015. The survey found that 86 out of the 409 respondents had experienced verbal maltreatment. More specifically, 76 out 176 trans women respondents (43%) had experienced verbal maltreatment in healthcare settings.
48. LGBTIQ friendly, inclusive and specific sexual reproductive health is absent in the national healthcare system. *On the record: Violence against LBT persons* notes that LBT persons avoid going to hospital, find healthcare providers lack information, and ask unrelated questions. *I am scared to be a woman* by Human Rights Watch report documents a case of a trans man who avoided seeking medical assistance following a sexual assault due to concerns of explaining his parts to healthcare providers.^{lv}
49. Trans specific healthcare are not available in Malaysia due to a fatwa that prohibits gender affirmation surgeries for trans people in 1983.

Recommendations:

- Review health guideline, policies and practices that are discriminatory against LGBTIQ persons in consultation with human rights LGBT groups
- Remove all elements of correcting and changing LGBT persons in health policies, practices and guidelines
- End all activities and efforts that aim to correct or rehabilitate LGBTIQ persons
- Conduct gender sensitization trainings with healthcare providers and staff of Ministry of Health to effectively reduce discrimination towards LGBTIQ persons

Education

50. LGBT students face multiple barriers and discrimination in educational institutions, including penalties for homosexuality and ‘gender confusion’ as listed in the student handbooks;^{lvi} binary dress code; assignment and access to facilities are based on sex assigned at birth; restrictions to participate in extra curricular activities; increased bullying, name calling, among others.
51. Documentation and anecdotal evidence shows that multiple cases of sexual violence by peers, teachers and others in the educational settings. This includes molestation, rape, threats of rape, sexual invitation, being disturbed and harassed in the toilet, and sexual name-calling.^{lvii}
52. *On the Record: Violence against LBT persons in Malaysia* documents an experience of a trans girl who was forced by her schoolmates to perform oral sex on them in the school toilet. *I am Scared to be a Woman* by Human Rights Watch includes experiences of sexual violence and abuse of four trans women in schools by peers.^{lviii}

53. Multiple human rights reports have documented experiences of trans women dropping out at various level of education due to lack of trans inclusive policies,^{lix} violence by others, stress^{lx} as well as lack of interest in education due to sense of hopelessness and depression as result of lack of ability to express true self,^{lxi} expelled from school based on sexual orientation.^{lxii}
54. Anti-LGBT or activities that promote rehabilitation have also increased in educational institutions. This includes boot camps for gender non-conforming students^{lxiii}; rallies^{lxv}; guidelines to spot gay and lesbian persons^{lxvi}, campaigns^{lxvii} and seminars^{lxviii} in educational institutions.
55. In January 2018, the Ministry of Higher Education reportedly co-funded the establishment of an academy in a national university that aims to study LGBT persons and to bring LGBT persons to the “right path”.^{lxx}

Recommendations:

- Implement anti-bullying campaign in school that addresses bullying based on actual or perceived sexual orientation, gender identity and gender expression
- Establish safer spaces and mechanisms, including the identification of teachers as LGBTIQ allies, for redress in educational institutions to encourage reporting of bullying and violence based on SOGIESC.
- Train staff in educational institutions, including counselors, teachers and administrators to deal with cases of bullying and violence based on SOGIESC
- Establish a task force in collaboration with the NHRI and LGBTIQ human rights groups to address issues of bullying, discrimination and violence based on actual or perceived sexual orientation and gender identity in educational institutions

Violence against LGBTIQ persons

Hate and discriminatory speech

56. Between 2015 and 2018, state actors across the political spectrum have used homophobic slurs and pejorative terms in Parliament^{lxxi}, in media interviews^{lxxii} and political speeches^{lxxiii} or against other politicians.^{lxxiv} Kasturi Patto, a member of parliament (MP) has been called ‘pondan’, a gay and trans pejorative term, at least twice between 2015 and 2017. While the Standing Order 36(4) prohibits offensive language or sexist remark,^{lxxv} no actions were taken against the MPs who utter homophobic remarks in Parliament.^{lxxvi} Some MP, incidentally members of the opposition parties have issued apologies and retracted their statements, largely due to public pressure.^{lxxvii}
57. In many speeches state actors, including the current Prime Minister, members of the cabinet and legislative members have claimed that LGBT persons will not be protected by the Federal Constitution^{lxxviii}, LGBT persons, especially trans women should return to the right path,^{lxxix} labeled LGBT persons enemies of Islam^{lxxx}; likened to terrorist groups, such as Daesh^{lxxxi}; LGBT persons will not have equal rights in Malaysia and ^{lxxxii} are not suitable to work in the police force or armed forces as LGBT persons are not suited for the Malaysian culture,^{lxxxiii} amongst others.

Online

58. The government's position on LGBTQ persons has also manifested in an increase of non-state anti-LGBT groups and rhetoric. Many online anti-LGBT groups 'out' or disclose the sexual orientation and gender identity of LGBTI persons;^{lxxxiv} disclose personal details, legal documents and photos (doxxing); use pejorative terms; posts varying degrees of hateful, violent and harmful messages in online spaces. Several women have been subjected to public speculation over their sex and gender identity and disclosure of legal documents online.^{lxxxv}
59. The emergence of menara.my, one of the many right wing websites monitoring, leaking and viraling LGBT events and news have had multiple adverse impact on right to life, liberty and security, freedom of association, assembly, movement, privacy and expression of LGBTIQ persons, groups and human rights defenders, allies, and people related to them.
60. Menara.my, established in 2017, promotes anti-plural, anti-liberal and anti-LGBT themes and messages via its content, aligned with the government's position. The website also targets human rights defenders and groups.
61. Between 1 January and July 2017, menara.my published at least 100 articles related to LGBT persons and/or issues, including exposes of LGBT events. Its impact is far-reaching, insidious and escalating.
62. Three LGBT-related events were cancelled in 2017 due to exposes led by menara.my, and the ensuing online and offline protests by anti-LGBT groups. The cancellation of a gay party was followed by a no-entry measure^{lxxxvi} by the Immigration Department for the foreign organizers and participants of the party.
lxxxvii
63. Additionally, the Federal Territory Islamic department (JAWI) reportedly investigated Gay Iftar, a break fast event, after the event was reported in menara.my
 - i. In May 2017, a student-led LGBT event in conjunction with the Pride Month in a private university was cancelled due to protests. The private university issued a statement distancing itself from the event.^{lxxxviii} The event was also deemed as a form of provocation by some individuals and groups online as it was held in the same month as Ramadhan
 - ii. In June 2017, a post event article of an event titled 'Big Gay Iftar' based on a few tweets by the organizers, resulted in threats towards the organizers and attendees of the event. JAWI also reportedly investigated the event.^{lxxxix}
 - iii. In July 2017, a film screening of a gay themed film in Penang was cancelled upon advice from the Ministry of Home Affairs^{xc} due to protests online. Despite the cancellation, a protest by the *Jaringan Muslimin Pulau Pinang* (Pulau Pinang Muslimin Network) and *Gabungan Perwakilan Melayu Pulau Pinang* (Coalition of Malay Representatives of Pulau Pinang) took place at the venue on the night the screening was planned.^{xci}
 - iv. In August 2017, calls for participants for empowerment and leadership camps for young trans women and gay men were exposed in menara.my, raising

security concerns given the trend of quick escalation of negative responses and reactions. The article was also accompanied by a follow up article focusing on one of the board members and audit reports of the organizers.

- v. In September 2017, "White Party BKK Warm Up Party", a gay party, was cancelled after being featured in menara.my and other conservative websites. This was followed by a no entry measure and a joint protests over a beer festival and the gay party. The Immigration Department with the police and Malaysia Islamic Development Department (Jakim) were tasked to obtain information about individuals who could be entering the country for the beer festival and gay party. The individuals would be red-flagged in the system and served with the Not To Land (NTL) notice upon reaching the country.^{xcii}

64. As a result of these reprisals, LGBT HRD faced death threats; doxxing or disclosure of personal information and people linked to the HRD. At least 4 LGBT HRD faced issues with job security, including termination.

Vigilante groups and anti-LGBT groups

65. The rise in vigilante groups is also worrying. In 2018, the Skwad Badar Sungai Petani launched a petition campaign and submitted a memorandum against trans women in the community. At least one case of arrest, assault and public humiliation of a trans woman by the group has been reported.^{xciii}
66. Facebook groups and pages also exposed location of trans women sex workers, increasing threats over personal security and safety. In 2012 and 2013, at least 13 trans women were subjected to physical assaults in a spate of attacks.^{xciv}
67. In March 2018, 4 men attacked a group of participants of the women's march Malaysia after spotting them walking outside a police station for allegedly being LGBT supporters.^{xcv} There has been a silence by state actors on this incident despite the public outcry.

Hate crime and murder

68. Gender based violence and hate crime towards trans women and gender non-conforming is largely unreported, and elements of hate and gender based violence are often dismissed in reported cases. Between 2011 and 2017 three cases of hate crime towards trans women were reported in the media, including spate gang attacks, physical assault with metal rods, stabbing. Three cases of murder of trans women were reported in 2017, including a high profile case of a brutal murder of a trans woman, who was a witness in an on-going trial of an earlier assault towards her. Progress of investigation of this case is unknown.
69. In June 2017, a young person died as a result of physical assaults and torture by former schoolmates^{xcvi} with a history of bullying the victim based on gender expression and perceived SOGI in school.^{xcvii}
70. Between 2017 and 2018, at least 12 cases of break ins and property destruction by persons in residential areas, strangers or unknown perpetrators; physical attacks, humiliation and torture by vigilante groups disguised as community policing or residential groups have been documented via community documentation.^{xcviii}

Recommendations:

- End all hate and discriminatory speech against LGBTI persons
- Investigate reported cases of discrimination, violence and murder in a timely and serious manner
- Investigate vigilante and hate groups that threaten the safety, security and well being of LGBTI persons and groups.

Freedom of association, assembly and expression

71. Submission of registration to the ROS by Pelangi Campaign was rejected without any reason in 2017. An appeal was filed, and the appeal was forwarded to the Ministry of Home Affairs. The appeal was also rejected in 2018, almost a year after the submission of appeal citing section 7 of the ROS Act, which empowers the ROS to reject applications and without the need to provide any reasons.
72. In February 2018, Denise Ho, an artist and activist from Hong Kong was denied entry into Malaysia for a performance because of her ‘views on LGBT issues’.^{xcix}

Recommendations:

- Allow LGBTIQ human rights groups to register as a society
- Discontinue practice of restricting entry of persons into Malaysia based on actual or perceived sexual orientation, gender identity, sex characteristics, or association with LGBTIQ persons

Media sensationalism

73. Sensationalist, inaccurate and harmful LGBT news and content have increased, especially in the Malay language media; intensifying concerns over personal and collective safety and security and right to live with dignity.
74. In December 2017, a joint ‘investigative reporting’ by Bernama, the national news agency and other Malay language dailies exposed a housing area predominately occupied by trans women, as allegedly a ‘trans women’s den for sex work’ with photos of the trans women residents taken without consent.^c In February 2018, a Malay language daily’s front page in a sensationalist fashion news featured a call by a motivational speaker for the government to emulate North Korea’s Internet regulation to curb LGBT movement^{ci} along with a checklist of LGBT characteristics.^{cii}
75. Limited access to factual information on gender and sexuality in the Malay language, coupled with the negative representation and promotion of rehabilitation of LGBT in the media shape a skewed perception of LGBT persons. Bernama, consistently uses inaccurate and discriminatory terms to describe trans persons, which are then reproduced and amplified in other media.^{ciii}

Recommendations:

- Media training on gender and sexuality with national news agencies and Ministry of Communication and Multimedia

Human rights defenders

76. LGBT human rights defenders and persons or groups that defend the human rights of LGBT persons face multiple forms of reprisals, discrimination and violence from various actors including loss of job promotions or termination; lost program funding or donations; verbally attacked due to their visible support.
77. In 2017, several human rights defenders, including lawyers and scholars who visibly show their support for LGBTQ persons faced multiple forms of reprisals for liking pro-LGBT social media posts^{civ}, providing legal support during a raid^{cv}, providing progressive interpretation of homosexuality and Islam, amongst others. The reprisals include death threats, stalking, loss of employment, and legal prosecution.
78. In 2013, for the 2nd UPR cycle, members of the Coalition of Malaysian NGOs in the UPR Process (COMANGO) was attacked for endorsing the COMANGO UPR report and defending the human rights of the LGBTQ.

Recommendations:

- Drop all charges against human rights defenders
- End the persecution and prosecution of HRDs, including those who engage in promoting the UN human rights standards and who engage in all UN-related processes and mechanisms
- Take proactive steps to promote human rights based on UN standards

Endnotes

- ⁱ Preliminary observations and recommendations by the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mr. Dainius Pūras Country Visit to Malaysia, 19 November to 2 December 2014
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15370&LangID=E>
- ⁱⁱ Preliminary Observations by the United Nations Special Rapporteur in the field of cultural rights Karima Bennouna at the end of her visit to Malaysia
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22121&LangID=E>
- ⁱⁱⁱ Concluding observations on the combined third to fifth periodic reports of Malaysia
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