



Malaysian Alliance of Civil Society
Organisations in the UPR Process



MACSA

**MID-TERM REPORT ON
MALAYSIA 3RD CYCLE
IN UPR PROCESS**

January 2022

INTRODUCTION

The Malaysian Alliance of Civil Society Organisations in the UPR Process (MACSA) was established upon the conclusion of a series of consultations between the Foreign Ministry and a variety of CSOs, having determined that it is in our common interest to unite and form a coalition with the goal of studying, and advocating, human rights issues in Malaysia for the UPR Process. Malaysia has ratified three of the nine core international human rights instruments: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention of the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD). The latter two have been given effect within domestic law, through the Child Act 2001 (Act 611) and Persons with Disabilities Act 2008 (Act 685) respectively.

As a coalition which has grown from 52 civil society organizations (CSO) at the time of submission of our report to the 3rd Malaysian UPR process, to now 60 CSOs across the nation, MACSA works on advocating and highlighting human rights issues. MACSA has so far undergone 2 series of human rights training in Geneva, 15 consultancy workshops with its coalition members, 8 technical workshops on writing reports, 5 bilateral meetings with Human Rights and Humanitarian Division of Malaysian Ministry of Foreign Affairs and various engagements with our stakeholders namely the Institute of Islamic Understanding Malaysia (IKIM) Human Rights Expert Consultative Meetings (Muzakarah), Department of Islamic Development Malaysia (JAKIM), Human Rights Commission of Malaysia (SUHAKAM), Ministry of Women, higher learning institutes and the general public.

MACSA aims not only to specifically study and advocate human rights issues in Malaysia, but also to set the record straight on cultural relativism of human rights based on our local context, taking into account diverse cultural and religious sensitivities — principles that sometimes fail to be observed by other human rights groups, local or otherwise.

CONTENT

A Rights of Refugees

B Rights of Muslim Workers

C Emergence of Islamophobia

D Religious rights of LGBT

E Rights of Gig Workers

F Rights of Stateless Persons

G Rights of Women, Youth
and Children

RIGHTS OF REFUGEES

Introduction

1. Pertubuhan Penggerak Masyarakat Malaysia or commonly known as Penggerak Malaysia is a national human rights civil society organisation registered under The Malaysia Registrar Of Society with registration number PPM-004-14-27052013 and to work under the Society Acts 1966 and its own constitution. Penggerak Malaysia's vision is to defend the human rights by developing a united, prosperous and advance society based on the philosophy of Rukun Negara and Malaysian cultures.
2. Often refugees suffer from the absence of civil, social, and economic rights including freedom of movement and residence, freedom of speech and assembly, fair trial, property rights, the right to engage in wage labor, self-employment, and the conclusion of valid contracts, access to school education, access to credit, protection against physical and sexual abuse, harassment, unlawful detention, and deportation. Since Malaysia does not have any specific law relating to refugees, the Government of Malaysia is managing the issues of refugee's livelihood in Malaysia according to the National Security Council's¹ Directive Number.
3. Refugee's livelihood in Malaysia is at stake because they are considered an Illegal Immigrant. They are allowed for a temporary stay on a humanitarian basis with very limited rights. This temporary stay has become a long-term stay because of the difficulties of the resettlement process.

1. NSC refers to National Security Council or Majlis Keselamatan Negara (MKN).

Inadequate data on Refugees Information

4. Even though there are databases established under relevant governmental agencies, however these databases are not integrated into a single system and are not available for public access. The lack of access to adequate data on Refugees has hampered the works of humanitarian activists in formulating a proper strategic action plans to defend the rights of the Refugees in each locality.



RECOMMENDATION

To establish and maintain an integrated Digital Management System for the registration of refugees.

Supporting Proper Houses for The Refugees

5. Unlike any immigrants who live in Malaysia, most refugees are unique in the sense that they lack proper self-identification documents (eg identity cards issued by respective states' registration departments or passports issued by the relevant state authorities).
6. Even though refugees in Malaysia normally have arranged for their accommodation and housing for themselves and their families, however, often times the refugees face difficulties in securing a safe and proper tenancy. In instances where they managed to secure a tenancy, they will have to pay a higher rent and enter into a contract verbally without a written tenancy agreement. In turn, the home-owners have absolute control over the tenancy and may end the tenancy without proper notice and evict the refugees from their rented houses without just cause.



RECOMMENDATION

Amend National Security Council's Directive Number 23² to allow refugees temporary allowance to enter into legal contracts.

3. Malaysian National Security Council

Access to Lawful Employment

7. At present most refugees do not have access to lawful employment because without proper self-identification documents, they are considered as illegal immigrants. As such, often times, refugees work in dangerous, dirty and difficult odd jobs.
8. There are instances where refugees also face discrimination, abuses and harassment by their employers especially where the safety of the refugees are in question.

Xenophobia Against Refugees

9. There is a strong distrust and dislike against the refugees by the local communities due to lack of integration. The xenophobia felt by local communities is caused by the refugees' style of living that is perceived as unhygienic, undisciplined and disruptive. This has caused conflict whereby the local communities either ostracize or outright harass the refugees.



RECOMMENDATION

- i. Establish a designated area for refugee communities to live temporarily in Malaysia whilst waiting for host countries .
- ii. Training programmes targeting refugees to integrate within local communities. '

RIGHTS OF MUSLIM WORKERS

Introduction

1. The International Women's Alliance for Family Institution and Quality Education (WAFIQ) is a women's civil society organisation, registered with the Malaysian Registrar of Society with registration number PPM-015-10-23032018. It upholds the rights of women to be respected and valued, ensures the sanctity of families to be preserved for better functioning of the society and strives for better education for all. It is a source for women to voice their concern on matters pertaining to their rights in various spheres of life. WAFIQ engages with relevant governmental agencies and non-governmental bodies to bring women's issues to light and for proper actions to take place.

Discrimination Towards Obligatory Headscarves

2. Freedom of religion is protected by Article 11 of the Federal Constitution of Malaysia. No person shall be discriminated against based on gender, race or religion and that any policy which contradicts this goes against the spirit of the Federal Constitution.

3. Malaysia has long been a supporter of women's rights insofar as the same are not contrary to local legis and the Federal Constitution. Malaysia had acceded to the United Nation's Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) back in 1995, but until presently has never incorporated it into domestic law, posing problems illustrated by cases such as *Noorfadilla bt Ahmad Saikin v Chayed Bin Basirun & Ors* [2012] 1 MLJ 832 where the court held that CEDAW is applicable in Malaysia domestically, and *Airasia Berhad v Rafizah Shima bt Mohamed Aris* [2014] MLJU 606 which holds that it does not apply in Malaysia unless incorporated by an Act of Parliament.

Discrimination Towards Obligatory Headscarves

4. Muslim women in particular suffer from discrimination in employment due to their choice in wearing headscarves in accordance with their religious teachings. The cases were reported as follow :

- a. Muslim stewardesses are compelled to oblige to the companies' rulings where their rights to cover their aurat and their religious obligation not to serve liquor are not respected. The National Union of Flight Attendants Malaysia (Nufam) has reiterated its call for Malaysian Airlines (MAS) female crew to be given the option to observe the Muslim dress code since 2014, but to no avail³. The issue was brought to national attention again in 2016⁴, when a stewardess had to use social media to express her grievances⁵.
- b. In November 2017, the nation was shocked to learn that hotel industries have been discriminated women based on their religious belief. The Malaysian Association of Hotels (MAH) stated its members' policy of prohibiting their front-line staffs from wearing hijab, or headscarf, saying it is based on the international practice and not meant to be discriminatory. Cheah Swee Wee, the President of MAH said the hotels, especially the international hotels, in Malaysia, followed a standard operating procedure (SOP) and policy on the matter⁶.

3. Union wants hijab option for Muslim MAS crew. Retrieved from: <https://www.malaysiakini.com/news/269821> (Accessed: 10th January 2022)

4. Allow MAS stewardesses to cover up and not serve alcohol, Perlis mufti tells Putrajaya. Retrieved from <https://www.malaymail.com/news/malaysia/2016/01/02/allow-mas-stewardesses-to-cover-up-and-not-serve-alcohol-perlis-mufti-tells> (Accessed: 10th January 2022)

5. MAS stewardesses should be given choice to wear hijab, says Khairy. Retrieved from <https://www.thestar.com.my/news/nation/2014/08/26/mas-hijab-khairy> (Accessed: 10th January 2022)

6. Hijab ban is international practice. Available at: <https://www.themalaysianinsight.com/s/22351> (Accessed: 8th January 2022)

Discrimination Towards Obligatory Headscarves

c. The Malaysian Labour Centre of the Union Network International (Uni-MLC) has highlighted that hotel employees complained about discrimination against Muslim workers who were told to remove their headscarves. The centre said this was also happening to hospitality and tourism students applying for internship⁷.

5. WAFIQ has conducted a research on Discriminatory Practices And Sexual Harassment Among Working Women in Malaysia⁸ in collaboration with a local university involving 402 working female respondents aged 18-60 years old and found that 1 in 5 women experienced religious discrimination, which include inability to perform obligatory prayer, prohibited from wearing headscarf and denied promotion. 60.9% of these cases were from private sector.



RECOMMENDATION

- i. Fortify the existing Industrial Relation Act 1967 [Act 177], and Part VI of the Occupational Safety And Health Act 1994 [Act 514].
- ii. Embody anti-discrimination provisions for private sector employees and job seekers in the Employment Act 1955 [Act 265] with strict compliance to domestic laws and taking into account of the cultural sensitivities in the Malaysian society.

7. Improper to ban headscarf at workplace, says MEF. Retrieved from <https://www.freemalaysiatoday.com/category/nation/2017/11/07/improper-to-ban-headscarf-says-mef/> (Accessed: 8th January 2022)

8. Amalan Diskriminasi & Gangguan Seksual di Kalangan Wanita Bekerja di Malaysia - WAFIQ. Retrieved from <https://wafiq.my/2018/04/15/research-amalan-diskriminasi-gangguan-seksual-di-kalangan-wanita-bekerja-di-malaysia/> (Accessed: 10th January 2022)

Prohibition of Friday Prayers

6. Abandoning the Friday prayers without valid justifications is not only a sin for Muslim males but is also an offence under Syariah Criminal Offences Act (Federal Territories) 1997 and under various states enactments⁹.

7. 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.”

8. As such it is wrong for Muslim employees to be prohibited from performing their obligation to perform the Friday prayers, what more when the prayer period coincides with lunch break. 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 Sembilan¹⁰.
- 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. Deputy President of PERKREMA said that this was not a new issue as it involves more than 200 crane operators in Klang Valley. He added that every Friday he would receive at least 10 reports from PERKREMA’s members that they were prohibited from performing the Friday prayer. Most of the employees submitted to the order for fear of being expelled from job¹¹.

9. MACSA Inaugural Islamophobia Report 2017-2020

10. Astro Awani. Pekerja Dakwa Gaji ditolak jika Solat Jumaat.(16 October 2018), Retrieved from <http://www.astroawani.com/berita-malaysia/pekerja-dakwa-gaji-ditolak-jika-solat-jumaat-188353> (Accessed 30th December 2021)

11. Malaysia Gazette. PERKREMA Dedah Operator Kren dilarang Solat (16 February 2020), Retrieved from <https://malaysiagazette.com/2020/02/16/perkrema-dedah-operator-kren-dilarang-solat/> (Accessed 30th December 2021)

Prohibition of Friday Prayers



RECOMMENDATION

- i. Amend our Employment Act 1955 [Act 265] to ensure that all employees is neither discriminated against by reason of their religious belief nor for their ethnicity.

EMERGENCE OF ISLAMOPHOBIA

Introduction

1. The growing Islamophobic sentiment and incidences globally not only discriminate Muslims but also allows the rapid spread of hatred and intolerance against all of humanity. Following each terror attack in any part of the world attributed to Muslims, the Muslim community reports an increase in hate incidents and crimes; of particular concern are reports of Muslim women wearing head coverings being assaulted in public.

2. There is a widespread failure to recognise Islamophobic tendencies and this has created an indelible unfair negative stereotyping of Muslims and consequently a deep false excessive fear of Muslims and Islam.

3. The Organisation of Islamic Cooperation (OIC)¹³ defines Islamophobia as “A fear, or more precisely, an excessive fear, against Islam, against Muslims, as well as against anything associated with the religion, such as Mosques, Islamic Centers, Holy Qur’an, Hijab, etc. It also constitutes racism and discriminations in daily life, on media, at the workplace, in the political sphere, etc. It rests in the mind and it reflects in attitudes, and could be manifested through violent actions, such as burning mosques, vandalizing properties, abusing women wearing headscarves, or insulting the Prophet or sacred symbols of Islam.”

4. In Malaysia, albeit a Muslim-majority state, ironically there are many instances amounting to Islamophobia that create disturbance to the majority Muslims.

13. Organisation of Islamic Cooperation. Thirteenth OIC Report on Islamophobia (28 November 2020), https://www.oic-oci.org/upload/islamophobia/2021/The_13th_Islamophobia_Annual_Report_English.pdf (Accessed 30th December 2021)

EMERGENCE OF ISLAMOPHOBIA

Introduction

5. Although there are many legislations and policy papers that attempt to promote and preserve harmony and religious diversity, whilst indirectly addressing the issue of Islamophobia, currently there is no specific legislation to counter Islamophobia in Malaysia.

6. For example, section 298 of Penal Code [Act 574] makes utterance of words with deliberate intent to wound the religious feelings of any person an offence punishable with imprisonment for a term which may extend to one year, or with a fine, or with both. Whereas, Section 298A provides, “Whoever by any manner causes disharmony, disunity, or feelings of enmity, hatred or ill will, or prejudices the maintenance of harmony or unity, on grounds of religion, shall be punished with imprisonment for a term of not less than two years and not more than five years.”

7. Moreover, Section 3(1)(e) of Sedition Act 1949 [Act 15] criminalizes any seditious tendency to promote feelings of ill will and hostility between different races or classes of the population of Malaysia. The provision may include barring any hate-speech based on racial or religious sentiments.

8. In addressing the above concern, MACSA had undertaken research on Islamophobia and recently launched a comprehensive Inaugural Islamophobia Report (the said Report)¹⁴ which aims to document incidences of Islamophobia that occur in our country from aspects, such as education, employment and media.

14. MACSA Inaugural Islamophobia Report 2017-2020

Islamophobia in The Media

9. Despite Malaysia being a Muslim-majority country, the media trend to demonize Islam and Muslims is unfortunately still endemic. Numerous Malaysian media outlets, especially those operating via online portals, have adopted the Western trend of highlighting Islam and Muslims negatively to create prejudice, fearmongering and misconception of the faith.

10. According to the said Report, negative media coverage includes giving Islam bad press, portrayal of morality issue as religious extremism, smear of public Muslim figures, selective publication and media bias against defence of discriminated Muslims and hate speech in social media. While instances for inflammatory juxtaposition comprise of:

a) In 2017, The Star was publicly condemned for its May 27th front page, when it published an image of Muslims praying with the headline “Malaysian terrorist leader”¹⁵.

15. <https://www.nst.com.my/news/nation/2017/05/243499/star-issues-apology-its-widely-criticised-may-27-front-page>

Islamophobia in Media

- b) In December 2018, The Star once again used juxtaposition of a Muslim girl donning prayer garb (telekung) to accompany its report on underage marriages¹⁶. Even though such move was chastised heavily by the public¹⁷ yet in November 2020, The Star repeated the same offence in its report¹⁸.
- c) Also in November 2020, The Star shared its article entitled “Local man, foreign woman arrested for allegedly dumping dead baby near mosque” to its Facebook account with a caption that reads: “The man is an imam at the mosque.”¹⁹ Such caption misrepresented the role of the imam in the news report and wrongly portrayed as if the imam was the local man who dumped the baby. In fact, it was the imam who found the baby.

16. The Star. NGO calls for more awareness campaigns against child in Sabah (24 November 2020), Retrieved from <https://www.thestar.com.my/news/nation/2020/11/24/ngo-calls-for-more-awareness-campaigns-against-child-marriages-in-sabah> (Accessed: 30th December 2021)
17. Malaysiakini. Cease Muslim stereotyping in child marriage issue (10 December 2018), Retrieved from <https://m.malaysiakini.com/letters/455603?fbclid=IwAR00RvL7FBXFNQID2Uni377qPpyB0p1nR-KZyYciEhi9lLfthuQ51eWt2XQ> (Accessed: 30th December 2021).
18. Facebook Post. Prof. Madya Dr Rafidah Hanim Mokhtar (25 November 2020), Retrieved from <https://www.facebook.com/drrafidahhanim/posts/1771758246312960> (Accessed: 30th December 2021)
19. The Star. Local man, foreign woman arrested for allegedly dumping dead baby near mosque (23 November 2020), Retrieved from <https://www.thestar.com.my/news/nation/2020/11/23/local-man-foreign-woman-arrested-for-allegedly-dumping-dead-baby-near-mosque> (Accessed 30th December 2021)



Islamophobia in Education

11. Incidents of Islamophobia in the education sector arise not only out of the syllabus and timetables, but also from the directives by the Ministry of Education (MOE), school regulations, policies and selected activities within the school compounds.

12. For example, there exists prejudice against religious teachers in Sarawakian schools, objection to congregational prayers in MARA schools, religious syllabus and school environment and allegation of propagation and conversion in the education sector.

13. This case in point is evident, among others, by the fiasco over the introduction of Jawi writing syllabus in vernacular schools which sparks nationwide opposition. There are concerns among non-Muslim parents that teaching Jawi writing may bring about the idea of Islamising their children²⁰.

20. The Malaysian Insight. Opposition to Jawi based on Islamisation fears, says Dong Jiao Zong (27 December 2019), Retrieved from <https://www.themalaysianinsight.com/s/208454> (Accessed 1st January 2022)

Islamophobia At The Workplace

14. MACSA received several complaints from the public on the prohibition against performing prayers during working hours. The complaints were as per such:

- a. Jabatan Tenaga Kerja or Department of Labour had issued a guideline on performing prayers during working hours. According to the guideline, employees should be given 20 minutes for each prayer time and 1 hour and 30 minutes to perform the Friday prayer. Unfortunately, the guideline operates only as a recommendation and does not have any legal implication for non-compliance²¹.
- b. New Straits Time published an article with regards to common workplace discrimination which includes the prohibition from prayers during working hours²². In the article, it was reported that a logistic supervisor at a Japanese car dealership, was always questioned for having intermittent breaks for prayers throughout the day and disturbed by his superior officer on each occasion.
- c. Malaysian Trade Union Congress (MTUC) reported there was a complaint from an employee of Hond Tat Industries Sdn. Bhd. where the company had issued a memo prohibiting employees from performing prayers during working hours. Any employee who ignored the rule would be fined. Even though the company denied the allegation, but the employees confirmed that the memo was genuine but was retracted when it became viral on social media²³.

21. Jabatan Tenaga Kerja Semenanjung Malaysia, Kementerian Sumber Manusia. Panduan Menunaikan Waktu Solat Dalam Waktu Kerja (17 January 2019), Retrieved from http://jtksm.mohr.gov.my/images/sumber/penerbitan/garis/panduan/GP_SOLAT_FRONT.pdf (Accessed: 3rd January 2022)
22. The New Strait Times. Workplace woes: Workplace Discrimination is common in Malaysia' (28 January 2018), Retrieved from <https://www.nst.com.my/node/329441/amp> (Accessed: 3rd January 2022)
23. Malaysiakini. MTUC sahkan terima aduan isu larangan solat waktu bekerja (2 August 2019), Retrieved from <https://www.malaysiakini.com/news/486459> (Accessed: 3rd January 2022)

Politicised Islamophobia

15. MACSA has observed constant targeting of Muslims by political leaders using their positions and influences in government to manipulate sentiments of non-Muslims and spread Islamophobia and their statements, which are seditious and inciting hatred as well as discrimination towards Muslims, have been given leeway without appropriate action.

16. Fearmongering and mischaracterization of Malay Muslims as radicals, extremists and 'pendatang' can be seen when Malay Muslims have been unfairly labelled as extremists and radicals in governmentfunded comic for merely lending their support to Muslim Uyghurs in China who are being subjected to detention camps²⁴.

17. RUU355 or the proposed amendment to Syariah Courts (Criminal Jurisdiction) Act 1965 [Act 355] was also misunderstood and misrepresented as hudud bill by some politicians. It was stated that the hudud bill was a convenient tool for Malay-Muslim political parties to garner political support, apart from warning that secularism under Federal Constitution would be threatened by the bill.²⁵.

24. Malaysia's Mahathir joins criticism of comic book linking Malay Muslim youths to extremism over China's Uyghur (22 October 2019), Retrieved from <https://www.scmp.com/week-asia/politics/article/3033937/malaysias-mahathir-joins-criticism-comic-book-linking-malay> (Accessed 3rd January 2022)

25. DAP Malaysia. RUU355 will always be a threat to our Secular Constitution so long as UMNO remains in Power (31 March 2017), Retrieved from <https://dapmalaysia.org/statements/2017/03/31/24770/> (Accessed 3rd January 2022)

Islamophobia Among Muslim Reverts

18. There are strong prejudices held by some members of the Malaysian society against Muslim reverts (Muallaf) and a number of discrimination incidences are reported as below:

- a) There are reports that Muallafs had resorted to convert in secrecy for fear of being rejected by their community²⁶, or facing physical abuses from their friends.
- b) As some Muallafs converted in secrecy and did not register their conversions into the religion of Islam²⁷, it 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), ayouth group for the Sikhs, contested for her body even after her family repeatedly attested of her Islamic faith²⁸.

26. Harian Metro. Angkara tak puas hati kawan tukar agama (29 Mac 2019), Retrieved from <https://www.hmetro.com.my/mutakhir/2019/03/438670/angkara-tak-puas-hati-kawan-tukar-agama> (Accessed 3rd January 2022)

27. Akibat tukar agama tanpa pengetahuan waris (5 July 2019), Retrieved from <https://www.sinarharian.com.my/article/36031/LIFESTYLE/Sinar-Islam/Akibattukar-agama-tanpa-pengetahuan-waris> (Accessed 4th January 2022)

28. Malay Mail Online. Leave my daughter's body alone, says Surinder's mother (3 April 2019), Retrieved from <https://www.malaymail.com/news/malaysia/2019/04/03/leave-my-daughters-body-alone-says-surinders-mother/1739404> (Accessed 4th January 2022)

EMERGENCE OF ISLAMOPHOBIA



RECOMMENDATION

- i. Acknowledge, define and set guidelines on Islamophobia in regards to the significance of Islam as the religion of the Federation under Article 3(1).
- ii. Appoint independent advisors among Islamic NGOs to address matter.
- iii. Amend legal reforms and sanctions locally and internationally.
- iv. Pursue the proposal advanced by the OIC for the introduction of an international law to criminalize all acts of Islamophobia.

CURTAILMENT AND SUPPRESSION OF FREEDOM OF SPEECH IN ADVOCATING HUMAN RIGHTS ISSUES

19. MACSA received numerous complaints from the public of arbitrary censorship or curtailment of free speech by the media providers such as Facebook, TikTok, Instagram in advocating human rights abuses of the Palestinian people. Their postings were arbitrarily deleted and their accounts suspended or terminated without a right of reply being afforded to them and proper reasons being explained. This is a serious transgression by Facebook TikTok and the like on those exposing human rights abuses. Failure to act against the media platform will suppress grave human rights abuses and injustices of the Palestinian people.



RECOMMENDATION

Though MACSA recognizes a right of media provider to curtail hate speech, any curtailment of free speech must be exercised with due process. A clear explanation of why it is censored and what constitute a hate posting must be clearly communicated. A right of reply must then be given. The media provider must then be accountable for the censorship by publishing the reasons and parameters of censorship publicly for the public to evaluate and understand. Their current censorship of the Palestinian issues are arbitrary, oppressive and suppress legitimate human rights advocacy.

RELIGIOUS RIGHTS OF LGBT

1. MACSA believes that those among the lesbian, gay, bisexual, transgender and queer (LGBTQ) communities who wish to be made aware, educated and even allowed to change have the right to do so in accordance with Islamic beliefs. They too have the rights to seek any form of help and assistance in this respect. Correspondingly, the Muslim community, its institutions and agencies have the duty and obligation in the name of Islam to offer such helps and assistance including education that are deemed necessary towards a change, if the person so desires.
2. However, it is regrettable that this endeavour have been met with suspicions and aspersions which alleged such religious and spiritual education purportedly would likely to bring harmful impact, including depression, suicidal ideation and attempts as well as self-harm. It has therefore been suggested such practices are forms of torture given the magnitude of alleged harm it has on the individual and their loved ones.
3. MACSA refers to the report²⁸ where the Islamic Development Department (JAKIM) had lodged a police report against a Twitter account owner (Nicole Fong) who made false and baseless allegations about the Mukhayyam programme tailored for the Muslim LGBTQ community.

28. Malaysiakini. Jakim lodges report against Twitter account owner over Mukhayyam programme. Retrieved from <https://m.malaysiakini.com/news/537178> (Accessed: 1st January 2022)

RELIGIOUS RIGHTS OF LGBT

4. The author had deliberately juxtaposed Mukhayyam programmes with western's Conversion Therapy practices namely the electric shock therapy, forced marriage, and even corrective rape which, in our opinion has triumphantly painted a sinister picture of the religious programmes organized by JAKIM and other state religious authorities. The picture implies that JAKIM's goals and their programmes with the LGBTQ community are in line with "conversion therapy" as widely understood, even when in truth JAKIM's methods are different.
5. In the case of JAKIM's Mukhayyam programmes, these are education programmes aimed at promoting and educating Muslim LGBTQ people on the basic tenets of Islam. Participation is completely voluntary with no elements of coercion involved and is far from the conversion therapy practised by other countries, which involves an element of forced participation. In fact, Mukhayyam is a common name for any extended spiritual camps normally held by schools and higher institutional centres for the students as well as by government and private agencies for their Muslim staffs as part of team-building and motivational input. The Mukhayyam emphasizes non-discriminatory nature of the religious authorities in providing education and awareness building as part of Islam's rich religious traditions.

RELIGIOUS RIGHTS OF LGBT

6. Thus, the allegations are wholly false, unsubstantiated and tantamount to misleading the public. What's also shocking is that the author has started a movement to ban Mukhayyam based on these false premises. The author has not produced any shred of evidence or show substantive proof to back her allegations that the Mukhayyam programmes are purportedly "conversion therapy". The depictions are mere juxtaposition, subjective assessments and personal estimations by the author as well as other LGBTQ activists that the Mukhayyam are "conversion therapy". The author has never attended nor participated in any such programmes to say if they are really so..
7. This is far from the conversion therapy practised by other countries, which involves an element of forced participation. As such, some LGBTQ-based groups, namely Usrah Iqrah, Muhajirah WAFIQ, Pelangi Hijra, Hijrah Republique Network and Islah Movements, have also lodged their respective police reports to condemn the tweet published by the author²⁹.

29. Ryn Rasidi. Facebook. Retrieved from <https://www.facebook.com/adeq.manes/posts/4139075779501170> (Accessed: 3rd January 2022)

RELIGIOUS RIGHTS OF LGBT



RECOMMENDATION

- i. Carry out an independent human rights impact assessment consisting of experts from within the various religious groups and religious communities who have enormous insights and are highly respected for their views in this field of study to look into JAKIM's programmes and approaches in relation to LGBTQ issues.
- ii. Engagement between government and LGBTQ-affirming groups that should not only uphold and defend human rights but to respect the diverse views and rights of all by way of a "practical concordance" so that all may participate in making Malaysia safe and equal for all.

RIGHTS OF GIG WORKERS

Introduction

1. The P-Hailing Delivery Association of Malaysia (PENGHANTAR)'s mission and vision is to defend and also preserve the welfare of parcel conveyor riders in Malaysia. This is because the welfare of majority of P-Hailing dispatchers who work is not fully taken care of by the hiring company.
2. Due to the fact that the service supervisor companies state that the P-Hailing Dispatcher is not an 'rightful' employee, but is merely a delivery partner to the companies only. Recent statistics show accidents involving P-Hailing riders are quite high and alarming.
3. Although the government continues to promote the growth of gig-economy, there is still very little social support for gig workers and thus they are being exploited. Legally, gig-economy workers are not classified as 'employee' within the existing statutory framework and this has allowed many abuses and exploitation on the rights of gig workers.
4. PENGHANTAR, a group of 10,000 gig workers has reported issues where its members were arbitrarily exploited by the application providers including by withholding payments without justifiable cause and penalizing gig workers for taking a rest time.



RECOMMENDATION

- i. Amend existing legal framework to recognize gig workers and to allow gig workers with the rights to unionize.
- ii. Enact a specific statute to govern the rights of gig workers in order to eliminate exploitation against them by the application providers.

RIGHTS OF STATELESS PERSONS

Introduction

1. Since its inception in 2006, CONCERN has been actively involved in human rights initiatives and other social activities, including engagements with various Muslim communities in Sabah. At present, CONCERN is made up of 20 members from various humanitarian and advocacy backgrounds.
2. Sabah is part of Malaysia and has adopted most of the pillars forming part and parcel of the Malaysian identity including adoption of Islam as state religion in 1973 under Article 5A of Constitution of the State of Sabah, in line with Article 3 of the Federal Constitution of Malaysia that enshrines Islam as the religion of the Federation. Islam is also the largest religion in Sabah; with 65% of its 3.5 million population are Muslims.

Rights to Build Places of Worship

3. In spite of the persistent attempts by Muslim groups to build and maintain mosques in Muslim-minority areas within Sabah, regrettably to-date the state and/or district authorities continue to refuse formal consent for such construction. In a report by CONCERN, its attempts since 2017 to formally obtain state consent were made unnecessarily difficult by state and district authorities.



RECOMMENDATION

- i. Call for the relevant authorities to action by immediately accord the necessary approvals to the Muslim community to build Mosques and Community Centres.
- ii. Call for the necessary authorities to take action, including by initiating disciplinary proceedings, against the officers of any Local Municipality Authority, who deliberately refused to abide by the state authority's decision.

Rights of Education of Stateless Children

4. In 2019, the government announced a reprieve in enrollment requirements for children to state-funded national schools. This includes accepting enrollment of undocumented children solely based on confirmation from village heads, and wavering the necessary submission of formal identification documents for the children and their parents. However, it has yet to cater to the needs of thousands of stateless children in remote Sabah due to the lack of infrastructure constructed in remote areas, where national schools only accept the enrollment stateless children when there are vacancies in the respective schools. Whereas in reality, national schools do not have sufficient vacancies even for pupils with formal identification documents.



RECOMMENDATION

- i. Accede to the Convention Relating to the Status of Stateless Persons 1954
- ii. Form Special Task Force under National Security Council to look into appropriate mechanism with the aim of granting citizenship to stateless person
- iii. Respect the principles of international humanitarian law in regards to having access to education and healthcare

RIGHTS OF WOMEN, YOUTH AND CHILDREN

Introduction

1. Natrah is an aspiring young Muslim women organisation that strives to inculcate Islamic values in society aligned with current social and economic developments. The three main foundations of Natrah's stance are Islam, empowerment of the law and identity of Muslims.
2. One of the prominent effects of globalism is individualism among women who favor staying single rather than being married and having children. According to statistics by the Department of Statistics Malaysia, the marriage rate in 2019 decreased by 1.2 percent compared to 2018. The choice for rejecting marriage varies from personal freedom, fear, and financial burden.
3. Most couples delay marriage until they are financially stable. The Malaysian Deputy Women, Family and Community Development Minister reported in media³⁰ that financial issues are the leading reason behind marriages that end with divorces. The choice of delaying child conceiving is also influenced by the financial burden that comes with bearing a child.

30. Department of Statistics. (2020, Nov 30). Marriage and divorce statistics, Malaysia, 2020 - DOSM. Marriage and Divorce Statistics, 2020. Retrieved from

<https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=QmZ1cE4xRFAvYWQ0R05hTk1rWm5KQT09>

Enhancing Family Institution

4. Gender equality in Malaysia has improved which has given more opportunities for women in careers. In 2019, the median age of brides increased to age 27.0 years while the median age of grooms remained consistent at age 28.0. The Malaysian Gap Gender Index 2020 in economic participation and opportunity has increased to 0.738 compared to 0.717 in 2019. This lead to more women who are pursuing their career to delay getting married³¹.

5. Women may also have the fear of choosing the wrong marriage partner. The increased domestic violence statistics in Malaysia are alarming for women and have become one of the main reasons behind the fear of marriage. Globally, 35% of women have experienced domestic violence from their partners and with the recent pandemic that forces everyone to stay at home, the domestic abuse reports in Malaysia have spiked³². In Malaysia, 50 percent of cases involving violence against women consist of Intimate Partner Violence (IPV)³³.

6. The consistent decrease rate of childbirth in Malaysia since 1950. According to the Department of Statistics Malaysia, the current birth rate in 2021 is 16.258 per 1000 people which is a 1.17% decline from 2020, and a 1.15% decline from 2019. The consistently decreasing birth rate could turn Malaysia into an aging nation a decade from now, with 15% of the population being at least 60 years old. The decreasing birth rate will shrink the working class.

31. <http://sihatmalaysia.my/malaysian-fertility-in-jeopardy/>

32. World Health Organization. (2020, April 8). Responding to intimate partner violence and sexual violence against women. World Health Organization. Retrieved from <https://www.who.int/reproductivehealth/publications/violence/9789241548595/en/> (Accessed: 31st December 2021)

33. Kadir Shahar, H., Jafri, F., Mohd Zulkefli, N.A. et al. Prevalence of intimate partner violence in Malaysia and its associated factors: a systematic review. BMC Public Health 20, 1550 (2020). <https://doi.org/10.1186/s12889-020-09587-4>

Enhancing Family Institution



RECOMMENDATION

- i. The Ministry of Women in collaboration with religious and health ministries to introduce comprehensive marriage modules that include parenting skills, counseling facilities and financial management for all newlyweds for a duration of one year.
- ii. Fortify the existing laws addressing domestic violence and sexual harassment and government to expedite the Sexual Harassment Bill as soon as possible,
- iii. Tax exemption from the government on fertility treatments for married couples.

Combating Hypersexualisation

7. Sexual harassment is a concern in Malaysia. Malaysia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which specifically address the elimination and discrimination involving sexual harassment within the community,

8. Malaysia has a number of laws that deal with sexual harassment. They are under the Penal Code, Tort law, or the Industrial Relations Act 1967 as an employment dismissal action. These laws are beneficial, but only to a certain extent. Many instances of sexual harassment, while unethical, may not constitute a crime, and online sexual harassment is inadequately addressed. Plus, in a work setting, the ministry cannot compel companies to accept it because it is a voluntary code³⁴. Criminal investigations also need proof beyond a reasonable doubt, which some sexual harassment allegations may lack, and therefore not result in compensation for survivors.

9. Furthermore, sexual education is divisive due to differing viewpoints from numerous parties, including parents, teachers, students, the public, and the government³⁵. To make it worse, many reported sexual cases are the results of hyper sexualisation. The society is poorly educated and the government is not taking appropriate measures to fight this social illness.



RECOMMENDATION

- i. Government to expedite the enactment of Sexual Harassment Bill.
- ii. Insert an action plan to curb the issue of sexualisation in the National Women's Policy

34. Kaur, S. (2009). The necessity for a sexual harassment act in Malaysia. IIUM Law Journal, 17(2).

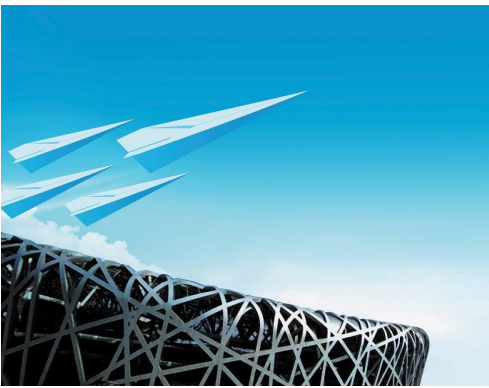
35. Mutalip, S. S. (2012). Sexual education in Malaysia: Accepted or rejected? Iranian journal of public health, 41(7), 34.



MEMBERS OF MACSA

1. Centre for Human Rights Research and Advocacy (CENTHRA)
2. Allied Coordinating Committee of Islamic NGOs (ACCIN)
3. Persatuan Peguam-Peguam Muslim Malaysia (PPMM)
4. Islamic and Strategic Studies Institute Berhad (ISSI)
5. Ikatan Pengamal Perubatan dan Kesihatan Muslim Malaysia (I-MEDIK)
6. Darul Insyirah
7. Pertubuhan Muafakat Sejahtera Masyarakat Malaysia (MUAFAKAT)
8. Persatuan Orang-Orang Cacat Penglihatan Islam Malaysia (PERTIS)
9. Persatuan Belia Islam Nasional (PEMBINA)
10. Concerned Lawyers for Justice (CLJ)
11. Pertubuhan Ikatan Kekeluargaan Rumpun Nusantara (HARUM)
12. Ikatan Peguam-Peguam Muslim Malaysia (iPeguam)
13. Ikatan Muslimin Malaysia (ISMA)
14. Majlis Ittihad Ummah (Ittihad)
15. Pusat Kecemerlangan Pendidikan Ummah (PACU)
16. Persatuan Peguam Syarie Malaysia (PGSM)
17. CONCERN (Coalition of Sabah Islamic NGOs)
18. Harakah Islamiah (HIKMAH)
19. Lembaga Amanah Kebajikan Al-Hidayah
20. Malaysian Chinese Muslim Association (MACMA) Sarawak
21. Halaqah Kemajuan Muslim Sarawak (HIKAM)
22. Pertubuhan IKRAM Malaysia Negeri Sarawak
23. Pertubuhan Kebajikan Islam Malaysia (PERKIM) Cawangan Sarawak
24. Angkatan Belia Islam Malaysia (ABIM) Negeri Sarawak
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38. Malaysian Lawyers Circle (MLC)
39. The International Women's Alliance for Family Institution and Quality Education (WAFIQ)
40. Centre for Alternative Policies in Economics (CAPE)
41. Muslim Youth Movement of Malaysia (ABIM)
42. International Relations and Diplomacy Committee, Malaysian Youth Parliament (PBM)
43. Majlis Tindakan Ekonomi Melayu Berhad (MTEM)
44. WADI Malaysia
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THANK YOU

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