**Submission on poverty** by Justice for Sisters

This submission covers the poverty and economic marginalization experienced by LGBTIQ persons due to criminalization, social stigma and discrimination. The submission also provides some statistics and recommendations. It is important to note that there is a lack of data and research in general and in this area with LGBTIQ persons. There is slightly more research on experiences of trans persons as opposed to lesbian, gay, bisexual, intersex and queer persons.

**Overview**

The poverty income line (PLI) is used to measure poverty in Malaysia. Since a revision of the PLI in 2004/2005, the PLI was updated using the consumer price index (CPI). The PLI is calculated for each household, adjusting for household composition, age distribution, gender, and regional differences. The 11th Malaysia plan introduced the Multidimensional Poverty Index (MPI) to complement the PLI.

The number of households living in absolute poverty is low. The incidence of poverty fell from 37.4% of all households in 1979 to 8.5% in 1999, and 0.4% in 2016. The Mid-Term Review of the 11th Malaysia Plan notes about 24,700 households fall under the absolute poverty category, with median earnings of RM 980.

However, the poverty line is still low according to the Khazanah Research Institute and Deputy Minister of International Trade and Investment Dr Ong Kian Ming. He noted that poverty rate reports should also take into account at-risk groups, and some are more vulnerable of falling into poverty.[[1]](#footnote-1) Many LGBTQ persons are in precarious economies without social protection and savings, and are vulnerable of falling into poverty.

The B40 was introduced in the 8th and 9th Malaysia Plan. The B40 consist of households with median earnings of RM 2,614. The B40 category includes both absolute and relative poverty, which can be problematic, as these two categories of poverty require different strategies and responses.[[2]](#footnote-2)



**SOGIESC & Poverty:** Context of human rights of LGBTIQ persons

LGBTQ persons in Malaysia are criminalized under multiple Federal and state laws, including

* Section 377 A, B, D of the Penal Code 574 (Federal)
* Syariah criminal offences act at the state level
	+ Male person posing as a woman in 14 states
	+ Female person posing as a woman in 3 states
	+ Musahaqah (sexual relations between women) in 12 states
	+ Liwat (sexual relations between men) in 12 states

In addition, there are state funded activities overseen by the Prime Minister's Department (Religion Affairs) that focus on rehabilitation of LGBTQ people. In July 2018, Dato’ Mujahid Rawa, the Minister of Religious Affairs in Prime Minister’s Department, noted that the current administration would be continuing JAKIM-initiated programmes, among others

* Treatment and rehabilitation *‘Ilaj Wa Syifa,*
* Various seminars and programs targeting civil society including students, public and private universities, school counsellors, parents, volunteers, health staff and representatives of Muslim NGOs.
* **Pelan Tindakan Menangani Gejala Sosial Perlakuan LGBT 2017 - 2021[[3]](#footnote-3)** *(Action Plan to address Social Ills LGBT behavior 2017-2021*), a 5 year action plan to proactively and efficiently address the growing LGBT issues in partnership with 22 strategic partners including the Ministry of Health, Ministry of Sport and Youth, Ministry of Women, Development and Community, state Islamic departments and other state agencies.

The human rights situation of LGBTQ persons continue to regress due to the increasing homophobia and transphobia by non state actors and state actors.

**SOGIESC & Poverty:** Issues

**Criminalization, social stigma and non-evidence and rights based policies impact access to employment and education, resulting in poverty and economic marginalization**

Criminalization of LGBTQ persons reinforces the stereotypes of LGBTQ persons as criminals, deviants, among other things. Amongst other things, these stereotypes have adverse impact on employability of LGBTQ persons. In addition, the patriarchal religious narratives and sentiments towards LGBTQ persons also result in denial or limited opportunities, as supporting LGBTQ persons is perceived as an act of complicity.

Anecdotal evidence shows many trans women who are arrested and detained face issues of job insecurity. I am Scared to be a woman (2014), a report on the situation of human rights of trans people by Human Rights Watch includes a case of a trans woman who was fired after her arrest was publicized in the media.

Beka told Human Rights Watch that she was fired from her job as a waitress in a restaurant after she was arrested the first time:

Because of that I lost my job. [My arrest] was published in the newspaper, with a blur on my face, but my statement was there. ... My colleagues at work spread around the story. My manager got the newspaper, and he said, ‘I don’t agree with that.’ My manager knew I was a mak nyah, but he was upset that I was in the paper, so he fired me.[[4]](#footnote-4)

The ‘Study on discrimination against transgender persons based in Kuala Lumpur and Selangor (Right to education, employment, healthcare, housing and dignity)’ by the Human Rights Commission of Malaysia (SUHAKAM) (2019) shows the average monthly income of the 100 trans and intersex respondents living in Kuala Lumpur and Selangor. 9 respondents (9%) out of the 100 respondents made below RM 900 per month, considered as absolute poverty. 10 respondents indicated that they have no income. Of which, 3 are trans persons with disabilities.

Meanwhile, 25 respondents (25%) made between RM901-RM 1,500, 28 respondents (28%) earned between RM 1,501-RM 3,000. Approximately 53% of he respondents fall under the relative poverty category.

The data shows a significant portion of the respondents, more than 60% fall within the B40 category.

**Table 1.2: Average of total income**

|  |  |  |  |
| --- | --- | --- | --- |
| Item  | Trans women | Trans men  | Intersex  |
| Below RM 900 | 7 | 2 | 0 |
| RM 901 – RM 1,500 | 23 | 2 | 0 |
| RM 1,501 – RM 3,000 | 20 | 8 | 0 |
| RM 3,001 – RM 4,000 | 9 | 6 | 2 |
| RM 4,001 – RM 5,000 | 2 | 3 | 0 |
| Above RM 5,000 | 1 | 4 | 0 |
| Above RM 10,000 | 0 | 1 | 0 |
| No income  | 7 | 3 | 0 |

Source: Study on discrimination against transgender persons based in Kuala Lumpur and Selangor (Right to education, employment, healthcare, housing and dignity)’, Human Rights Commission of Malaysia (SUHAKAM) (2019)

*\*trans women (69 persons), trans men (29 persons), intersex (2 persons)*

*\*\* no income – 2 students, 3 persons with disabilities*

However, the current interventions and strategies on addressing the B40, among other things, lack a gender and intersectional perspective as well as inclusion of poverty and economic marginalization experienced by LGBTIQ persons.

The current data on household income by the Department of Statistics Malaysiais only dissaggregated based on ethnicity, state and geographical location (urban and rural).[[5]](#footnote-5) **The lack data disaggregated by gender, age, disabilities and other categories** provides limited analyses and overview of the situation of poverty in Malaysia. Poverty and economic marginalization experienced by trans, non-binary, intersex, lesbian, gay, bisexual and queer persons are not included in the data collection and analyses of the data. As a result, the strategies and responses on poverty are limited and not intersectional.

**Employment discrimination**

The broader and multiple forms of discrimination, criminalization and rejection/exclusion by family members and communities have a correlation with the poverty experienced by LGBTIQ persons.

Trans women especially are sexually objectified and stereotyped as sexual objects or sex workers. This stereotype decreases their employability, and increases vulnerability to discrimination during job interviews by prospective employers.

Experiences of discrimination faced by trans people have been documented in several reports. 58 respondents (58%) shared that they were denied employment, or have had their applications rejected in the ‘Study on discrimination against transgender persons based in Kuala Lumpur and Selangor (Right to education, employment, healthcare, housing and dignity)’ by the Human Rights Commission of Malaysia (SUHAKAM) (2019).

[Denied Work: An audit of employment discrimination on the basis of gender identity in South-East Asia](http://www.weareaptn.org/2018/11/02/deniedwork/%22%20%5Ct%20%22_blank) shows the severity of the discrimination in the employment sectors faced by trans people. The report shows cisgender applicants’ were  50% more likely than transgender applicants to get a positive response (64% more likely for cis women and 37.5% cis men), and 66.1% more likely to be invited to an interview (72.4% for cis women and 60.6% for cis men). The report notes that ‘the discrimination experienced by trans women was particularly severe’ due to the disproportionate rejection that trans women face compared to cisgender women.

I am scared o be a woman, a report on human rights of trans people by Human Rights Watch also includes some cases of employment discrimination against trans women

Beka, from the northern state of Kedah, told Human Rights Watch she had been rejected on the basis of her gender identity more than 10 times by prospective employers, including an international corporation

Natasha, a 33-year-old transgender woman in Penang, told Human Rights Watch that despite her efforts to neutralize her appearance and blend in, she still faced job discrimination: When I go for an interview, whether a factory, shopping complex, hotel, or anywhere, I dress in a simple way—no make-up; if I have long hair at the time I bun it up. [But] they would tell me, ‘No, we don’t want transgender women.’[[6]](#footnote-6)

In May 2019, the Minister of Rural Development announced that the Ministry will prohibit hiring of transgender persons as educators at the Taman Asuhan Kanak-Kanak Jabatan Kebajikan Masyarakat (Kemas) or the welfare department’s Children day care centers (KEMAS) to ‘avoid confusing the children’.[[7]](#footnote-7)

Many LGBTQ persons are in precarious economies without social protection and savings, and are vulnerable of falling into poverty. In the last two years, Justice for Sisters increasingly receives cases of discrimination in employment against trans women from being instructed to adhere to binary dress code and use facilities based on sex assigned at birth, discriminatory hiring policies, amongst others.

Between 2017[[8]](#footnote-8) and 2019, online users launched campaigns to boycott products sold and produced by trans women. The campaign, supported by conservative groups targeting Malay Muslim persons, called for the boycott in order not to be complicit in supporting trans women or inadvertently financing their lifestyle.

In July 2018, Numan Afifi, an openly gay human rights defender was forced to resign as the Youth and Sports Minister Syed Saddiq Abdul Rahman's press officer, following criticisms of his lesbian, gay, bisexual and transgender (LGBT) activism.[[9]](#footnote-9) Previously, in 2017, Numan had to quit his position as the publicity secretary of a political party following reprisals in connection to a break fast event with the LGBTQ community organized by Pelangi, an LGBT group.[[10]](#footnote-10) Aside from Numan, human rights defenders who defend the rights of LGBTQ persons, often face job insecurity due to their activism or the forms reprisals that impact their income or financial well-being, thus placing them in precarious financial situations.

**Access to welfare & incentivizing rehabilitation of LGBT people**

Welfare via zakat (tithe) provided by some state governments not only reinforces negative perception towards, as LGBT persons are categorized as asnaf al Riqab (servants or slaves who want to liberate themselves), but also sets conditions and act as incentives for LGBTQ persons to ‘rehabilitate’ themselves.

In 2006, the Selangor[[11]](#footnote-11) state government had issued a fatwa that enlisted categories of people who are entitled to zakat (tithe). LGBT people together with sex workers and Muslim persons living with non-Muslim persons are enlisted under the category d - people who are shackled by deviant lifestyles. The fund aims to ‘assist in carrying out efforts to liberate, manage, protect, cure and rehabilitate asnaf al-riqab in order to lead a perfect life as Muslims.’

According to the Deputy Minister at the Prime Minister's Department (Religion) Fuziah Salleh, as of 2018, 10 people from the category D have received zakat.[[12]](#footnote-12) She said the zakat ‘is meant to help LGBT persons who wants to change.’[[13]](#footnote-13)

The approach by the state and Federal government lack evidence and rights based perspectives, and has adverse impact on the right to live with dignity, health and wellbeing. This limits choices and increases vulnerability of LGBTQ persons who are living in poverty or economically marginalized of being subjected to increased pressure to ‘change, suppress or correct’ their gender expression, gender identity and sexual orientation

**Recommendations**

1. Intersectional data collection and analyses by the Department of Statistics and other state agencies that takes into consideration gender, age, disability, vulnerable groups, among others
2. Allocate additional resources for Department of Statistics and other state agencies to carry out intersectional data collection and analyses
3. Address discrimination and poverty experienced by LGBTIQ persons in consultation with LGBTIQ human rights groups using an evidence and rights approach
4. To include measures to eliminate employment discrimination based on gender identity, gender expression, sexual orientation, activism in the national action plan on business and human rights
5. Review the zakat and welfare aid programmes at Federal and state level, and eliminate discriminatory provisions. Ensure all access to welfare aids protects privacy and upholds dignity of the recipients
1. Malaysia's poverty line too low, says Kian Ming https://www.thestar.com.my/news/nation/2018/10/19/malaysias-poverty-line-too-low-says-kian-ming [↑](#footnote-ref-1)
2. The Absolute vs Relative Poverty Conundrum http://www.krinstitute.org/assets/contentMS/img/template/editor/Views\_The%20Absolute%20VS%20Poverty%20Conundrum.pdf [↑](#footnote-ref-2)
3. https://islam.gov.my/berita-semasa/34-bahagian-keluarga-sosial-komuniti/48-pelan-tindakan-menangani-gejala-sosial-kecelaruan-gender [↑](#footnote-ref-3)
4. I am scared to be a woman, Human Rights Watch (2014), page 31 [↑](#footnote-ref-4)
5. Higher Household Income, Lower Poverty Rates https://www.dosm.gov.my/v1/index.php?r=column/cone&menu\_id=UlVlbUxzUWo0L3FEaWZmUVg4ZFQzZz09 [↑](#footnote-ref-5)
6. I am scared to be a woman, Human Rights Watch (2014), page 48-50 [↑](#footnote-ref-6)
7. Transgender dilarang mengajar di Kemas - Rina Harun

http://www.astroawani.com/berita-malaysia/transgender-dilarang-mengajar-di-kemas-rina-harun-206793 [↑](#footnote-ref-7)
8. Pensyarah Minta Netizan Boikot Produk Safiey Illias https://www.mynewshub.tv/utama-sensasi/pensyarah-minta-netizan-boikot-produk-safiey-illias/ [↑](#footnote-ref-8)
9. Suhakam: Numan's resignation may be a case of employment discrimination https://www.thestar.com.my/news/nation/2018/07/11/suhakam-numans-resignation-may-be-a-case-of-employment-discrimination [↑](#footnote-ref-9)
10. Subang DAP youth wing secretary quits after ‘gay iftar’ backlash

https://www.malaymail.com/news/malaysia/2017/07/12/subang-dap-youth-wing-secretary-quits-after-gay-iftar-backlash/1418617 [↑](#footnote-ref-10)
11. Fatwa Jenis Penerima Asnaf Al-Riqab Negeri Selangor Dan Apa-Apa Yang Berkaitan Dengannya http://www.muftiselangor.gov.my/images/pdf/koleksi\_fatwa/2012/P.U.55.pdf [↑](#footnote-ref-11)
12. Jangan terlalu cepat menghukum – Fuziah https://www.bharian.com.my/berita/nasional/2018/09/470618/jangan-terlalu-cepat-menghukum-fuziah [↑](#footnote-ref-12)
13. Zakat is only for LGBTs who wants to change https://www.nst.com.my/news/nation/2018/09/409009/zakat-only-lgbts-who-wants-change [↑](#footnote-ref-13)