




HUMAN
RIGHTS
WATCH

“I’m Scared to Be a Woman”

Human Rights Abuses Against Transgender People in Malaysia

SUMMARY AND RECOMMENDATIONS





“I’m Scared to Be a Woman”

Human Rights Abuses Against Transgender People in Malaysia

This transwoman said she was detained and sexually assaulted by Religious Department officials in early 2012, apparently because they were curious about her body: “They put me in the back seat of the car, between them. While [two of them] were touching my breasts and holding them, they asked, ‘How did you get this done?’ They drove around for about half an hour before they let me go.”

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CAMBODIA

VIETNAM

Gulf of Thailand

THAILAND

Kangar

PERLIS

Alor Setar

KEDAH

Kota Bahru

George Town
PENANG

PERAK

KELANTAN

Kuala Terengganu

TERENGGANU

Ipoh

PAHANG

Kuantan

Strait of Malacca

SELANGOR

Kuala Lumpur

NEGERI
SEMBILAN

Seremban

MELAKA

Malacca

JOHOR

Johor Bahru

SINGAPORE

INDONESIA



South China Sea

Kota Kinabalu

LABUAN

BRUNEI

SABAH

SARAWAK

Kuching

INDONESIA

“I’m scared to be a woman.”

—AISAH, 33-YEAR-OLD TRANSWOMAN HIV OUTREACH WORKER, KUALA LUMPUR, JANUARY 2013

“This is the life I have to live, or it’s not life at all.”

—KIKI, 33-YEAR-OLD TRANSWOMAN MEDICAL DOCTOR, KUALA LUMPUR, JANUARY 2013

Shortly after midnight on June 9, 2014, officials from the Islamic Religious Department in the Malaysian state of Negeri Sembilan raided a wedding party being held in the yard of a private home. They rounded up and arrested 17 invited guests, including the wedding planners and a child. The Religious Department officials beat at least one person during the arrests, choking her and kicking her to the ground. They tore another guest’s clothing. Later that day, a state Sharia (Islamic law) court convicted the 16 adults arrested and sentenced them to seven days in prison and a fine.

Their “crime”?

Dressing in women’s clothing.

These guests were transgender women, arrested under a state Sharia law that criminalizes “a man posing as a woman.” They were taken to prison and placed in a segregated cell in the male prison block, where they had their heads shaved. The judge at the Sharia court humiliated them, telling them they looked more “handsome” with shaved heads. After serving their sentence, they were

released, having become the latest casualty of state-sponsored discrimination on the basis of gender identity.

Although transgender people historically enjoyed a high degree of acceptance in Malaysia, a series of legislative initiatives, beginning in the 1980s, have criminalized them and forced them further underground. Under these discriminatory laws, transgender people—individuals whose gender





identity differs from the sex assigned to them at birth—can be arrested simply for wearing clothing deemed not to pertain to their assigned sex. Between 1985 and 2012, every Malaysian state and federal territory introduced Sharia criminal enactments that included provisions criminalizing “a man posing as a woman,” and three states criminalized “a woman posing as a man.” Malaysia thereby became one

“Serafina,” like many transgender women in Malaysia, has been arrested and sexually assaulted by state Religious Department officials for wearing women’s clothing.

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Regina, an artist in her 50's, depicts life as a transwoman through art.

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of the few countries in the world that explicitly criminalize transgender people.

State Sharia laws are enforced by state Islamic Religious Departments and are only applicable to Muslims, who make up approximately 60 percent of Malaysia's population. As far as Human Rights Watch has been able to ascertain, despite the existence of some laws targeting transgender men, all arrests to date under these laws have targeted transgender women. The federal, civil police have also at times arrested transwomen under an overly vague provision of the secular federal criminal code that prohibits "public indecency" and applies to people of all religious backgrounds.

Both Religious Department Officials and civil police often subject the transwomen whom they arrest to various abuses. In some cases, Religious Department officials physically and sexually assault them during arrest or while in custody, or parade them before the media, humiliating them. Human Rights Watch is unaware of any Religious Department officials having been held accountable for these violations. Transwomen also report that civil police sometimes extort money or sex from them. In cases in which transwomen are sentenced to prison, they are usually placed in male blocks, where they face sexual assault at the hands of both wardens and male prisoners.

Transgender people in Malaysia face discrimination and abuse from a range of state officials and agents— including police officers, state Religious Department officials, public sector health workers, prison guards, and public school teachers and administrators. Official discrimination against transgender people is compounded by other forms of discrimination for which the government provides little or no protection: transgender people are fired from their jobs, evicted from their homes, physically and sexually assaulted, and denied access to health care because of their gender identities. When public officials or private individuals commit violence against transgender people, the victims face serious obstacles—and at times further sexual abuse—from the police who are supposed to be helping them.

Government officials, politicians, and religious leaders fuel the flames of violence and discrimination against transgender people with transphobic and homophobic rhetoric. Although the government of Prime Minister Najib Razak presents Malaysia to the international community as a "moderate Muslim" country, it has taken a series of public positions that draw on a narrow interpretation of Islam to endorse restrictions on religious freedom, LGBT rights, and gender equality that cater to extremist views.

Transgender people have been affected by the Islamization of public policy in multiple ways. Not only are Muslim transgender women criminalized under Sharia enactments, but a *fatwa*, or Islamic decree, issued in 1982 by the National Fatwa Council prohibits Muslims from

undergoing sex reassignment surgery (SRS). The National Registration Department refuses all transgender people— female and male, Muslim and non-Muslim—the right to change the sex marker ("female" or "male") on their identity cards to match their gender identity.

At times, Malaysian government institutions have recognized some of the needs of transgender people. Government recognition of transgender women as a "most at-risk population" (MARF) in the fight against HIV has led to some government outreach aimed at engaging transgender people in HIV prevention and treatment. The Ministry of Health has reported that prosecutions of transgender people obstruct the fight against HIV by driving them underground, although the Ministry has not undertaken efforts to reform those laws. The federal Department of Islamic Development (*Jabatan Kemajuan Islam Malaysia*, JAKIM), a body established with the purpose of "mobilis[ing] the development and progress of Muslims in Malaysia" and ensuring the widespread teaching of Islam, has taken on a role in HIV prevention and care; among its activities, it has reached out to transwomen, although its messaging may at times reinforce stigma rather than alleviate it.

Despite the challenges they face, transgender people in Malaysia are not passive victims of their circumstances. A vibrant transgender movement has developed, with trans people increasingly speaking out and demanding that their rights be respected. The Kuala Lumpur-based organization Justice for Sisters seeks to raise public awareness about violence and persecution against transgender women, and to support legal challenges to the state Sharia "cross-dressing" laws. The "I AM YOU: Be A Trans Ally" multimedia campaign aims to promote positive images of transgender people and allows transgender people an avenue to share their stories. Civil society organizations ranging from the Malaysian Bar Council to the Muslim feminist group Sisters in Islam have taken public stances in support of transgender rights.

In 2010, four transgender women filed a constitutional challenge against the "cross-dressing" laws in the state of Negeri Sembilan. The applicants had been arrested repeatedly under the law, in some cases simply for wearing women's hair accessories. Three of them were subjected to physical or sexual abuse by the State Religious Department officials who carried out the arrests. Through their lawyer, the women argued that the law prohibiting "a man posing as a woman" violated their rights to freedom of expression, freedom of movement, and equal protection, all of which are guaranteed by Malaysia's constitution. A judge in the first instance decided against the applicants, and in 2014, their appeal was heard at the Court of Appeal in the federal administrative center, Putrajaya. A ruling is expected on November 7, 2014. The ruling, while only binding in Negeri

Sembilan, has the potential to fundamentally alter the legal status of transgender people throughout Malaysia.

Several transgender people born in the 1950s and 1960s told Human Rights Watch they remembered a more progressive, less discriminatory Malaysia. Malaysian scholar Joseph Goh found that acceptance of trans people dates further back:

Trans persons have long been important figures in the landscape of the Malay archipelago. In the 19th century, the manang bali or Iban shamans who dressed as women were respectable curers and local leaders. Right up to the 20th century in the archipelago, many transwomen were royal courtiers. Transwomen village performers were also favourably treated by the Sultan of the state of Kelantan in the 1960s.*

Today's transgender activists aim to remind Malaysians of their more tolerant past, and to ensure that transgender Malaysians are not stripped of their fundamental rights, protected under Malaysia's constitution and international human rights law, because of their gender identity or expression.

Human Rights Watch calls on the federal and state governments of Malaysia to repeal discriminatory laws and *fatwas* that deny transgender people their basic rights—and prohibit them from being who they are. State Religious Departments and the federal police should end all forms of abuse against transgender people, including arbitrary arrests and detention; sexual assault, torture and ill-treatment; and extortion of money and sex. The authorities should investigate and appropriately discipline or prosecute those responsible for such abuses. Parliament should ensure that non-discrimination legislation protects transgender people from discrimination in access to employment, housing, health care, and all public services, and the government should establish a procedure by which transgender people can change the sex marker on their national identity cards. Malaysian government officials, politicians and religious leaders should cease making inflammatory or denigrating statements about transgender people that incite violence or discrimination. What is needed instead are statements to the public demonstrating respect and tolerance toward transgender Malaysians.

Despite having experienced the risks of arrest and threats of violence of wearing “female attire” in public, transwomen continue to assert their identity and live their lives as who they are.

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WEB-ONLY EXCLUSIVE

'Homosexuality is a Crime Worse Than Murder'

Interview with Malaysia's morality police

By MAGESWARY RAMAKRISHNAN

September 26, 2000

Web posted at 12:40 p.m. Hong Kong time, 12:40 a.m. EDT

Abdul Kadir Che Kob describes homosexuals as "shameless people" and homosexuality as a "sin worse than murder." Abdul Kadir is head of education and research at Malaysia's Islamic Affairs Department, which operates as the morality police with the power to arrest and punish. In 1998, 111 men were arrested for "sodomy acts." Abdul Kadir says, "Homosexuality is a crime worse than murder." Abdul Kadir s... Ramakrishnan. Exo...

TIME: How does Islam view homosexuality?

Abdul Kadir: Homosexuality is a crime worse than murder.

TIME: What do you think about the morality police?

TIME: Can it be wrong to love?

Abdul Kadir: Love is a sin. God did not create men. Western influence - to be open-minded.

TIME: Your department received 166 complaints in 1998 and 166 in 1999. Is the number of gay men increasing?

Abdul Kadir: No, I don't know. They have become smarter. The department received complaints based on complaints. How would we know? We don't know what is happen...

TELUS & TULUS

Sinar

Utama Nasional Politik Edisi Semasa Bisnes Global Hiburan Sukan Ultras Karya Kelantan Terengganu Pahang Selangor & KL Melaka & NS Perak Utara Johor Sabah & Sarawak

SRS sahut cabaran mak nyah

WARTAWAN SINAR HARIAN
30 Mei 2012

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Antara golongan mak nyah yang berjaya ditahan anggota SRS Tanjung Bendahara.


< 1 / 1 >

ALOR SETAR - Cabaran sekumpulan mak nyah kepada anggota Skim Rondaan Sukarela (SRS) Tanjung Bendahara untuk menahan mereka akhirnya membawa padah apabila tujuh daripada mereka berjaya ditahan di sebuah rumah berhampiran kawasan stesen kereta api, di sini.

In a 2000 interview with TIME Asia, Abdul Kadir Che Kob, then head of Malaysia's Islamic Affairs Department, described homosexuality as a "sin worse than murder."

A 2012 newspaper story describes how 7 transwomen were arrested for cross-dressing by Religious Department officials in Alor Setar, the capital of the state of Kedah.

A 2011 article describes the murder of a transgender woman in George Town, the capital of the state of Penang. Witnesses reported viewing a motorcyclist stop on the side of the road and beat the woman repeatedly with a hammer until she collapsed.



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Tuesday February 15, 2011

Transvestite killed in hammer attack

GEORGE TOWN: An afternoon stroll ended in a grisly death for a 53-year-old transvestite, when a motorcyclist savagely attacked him with a hammer.



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PERTANDINGAN RATU CANTIK PONDAN (MAK NYAH) DISERBU PIHAK BERKUASA

on September 11, 2012



Lebih 30 pondan bertempiran lari selepas dewan hotel yang menjadi lokasi pertandingan ratu cantik mak nyah diserbu pihak berkuasa di Sungai Petani, malam kelmarin.

Kumpulan pondan yang masing-masing melaram dengan pelbagai fesyen itu bertempiran lari menuju padang golf serta tasik berhampiran hotel di Taman Ria Jaya, di sini, ketika premis terbabit diserbu jam 8.30 malam.

A 2012 newspaper story describes how more than 30 “pondan”—a derogatory Malay term for an effeminate gay man or a transgender woman—fled a transgender beauty pageant in Sungai Petani, Kedah state, when Religious Department officials raided the event.



Transgender people face discrimination and abuse from state officials and agents, including from public sector health workers, teachers, and local government administrators

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CASE STUDIES: HUMAN RIGHTS VIOLATIONS AGAINST TRANSGENDER PEOPLE

Arbitrary and Abusive Arrests by Religious Department Officials

Trans people in Malaysia are exposed to a constant threat of arrest under cross-dressing laws. As lawyer Aston Paiva points out,

The moment a transgender person or a transsexual person walks out of a house, or is sitting in a restaurant, having something to eat, she can be arrested. So there's this chilling effect on the ability to move around public places. The law applies in all public places, and as you can see [transgender people] would be directly and continuously affected by such a law.

In 2011, Religious Department officials in Negeri Sembilan arrested Victoria at a roadside food stall at about 11 p.m. They took her to the Religious Department office, where they stripped and sexually assaulted her:

They were rough. One of them squeezed my breasts. I was completely humiliated. ...They stripped me completely naked. One of them took a police baton and poked at my genitals. Everyone was looking—the men [Religious Department officials] as well as the women. They took photos of my naked body.

They treated me like an animal. I said 'Why do you treat me as an animal? I am also a human being. I'm a child of God.'

Serafina was arrested in 2010 by Negeri Sembilan Religious Department officials carrying out a nighttime raid. They caught her in the street wearing pajamas, which they apparently judged to be too feminine:

They chased me into a hotel and grabbed me. They hit me, punched me in the face, choked me, and told me I was guilty. I felt dizzy and collapsed. One of them tried to stomp on my chest, but I was saved by someone who pulled me away.

Beka, a transgender HIV outreach worker, was arrested in Kedah in 2012 for distributing condoms to transgender people:

I was doing outreach to deliver condoms to transgender people, as a volunteer with [a public health organization] in Kedah. I had walked halfway to where the TGs [transgenders] were that I needed to do outreach to, at a road by the railway track, when I saw the religious authorities. I saw the white van with the high beam, and knew it was the religious authorities. I did not really feel afraid [of getting charged] that time because I was just wearing jeans and a T-shirt—but they still accused me, even though I was not dressed as a woman that day.

Aisah was arrested in 2009 in Johor solely because she has breasts, a result of the hormone replacement therapy (HRT) she has undergone since age 14:

One thing I don't understand—I was wearing a T-shirt, shorts and flip flops, and they charged me as [impersonating] a woman. ...I asked them why I was accused of wearing women's clothing. They said, "Because you have breasts."

Manis's Story

I was at a beauty pageant in Kedah state, September 2012. I was invited as a trainer on HIV among the participants. There were 40 to 50 altogether. It wasn't just a pageant—we had sessions on how to use a condom, how to ask a partner or client to use a condom—I was there to educate my community. My session was held the night before. The whole thing was very educational. I find that organizing such a thing is a good thing.

The next day we heard a rumor that there might be a raid—that someone had reported the event to the religious authorities. We said the event should go on because everyone had turned up. Everyone was dressed in ball gowns, tuxedos. We [decided to] proceed with the dinner, but would not have loud music or dancing. ...It was at a private location at a golf course resort. Not just anyone can enter.

[Then] we saw someone signaling to us to disperse. My God, I got goose bumps. About 20 religious authorities came in. They came in their white vans with the name of the Religious Department. I was in shock—I did not expect the event to be raided by them. People started running helter-skelter through the golf course to escape and jump over the fence. The religious authorities took the authority to use the golf carts to chase after them. It was like we were criminals! I was asking myself, "What have we done? Did we kill someone?" About eight people were caught and accused of being cross-dressers.

We've had dialogue before with JAKIM [the Department of Islamic Development]. I asked them "Would you mind if I put on lipstick only?" The authority asked, "Are you crazy?" I said, "We are not crazy people, just like you. Just because I was born with a male genitalia does not make me male." I told them, "Science will help you understand this." But they reject that we have the knowledge, and refused to sincerely engage with us on this. I suggested a four-hour session to share my experience. They said they don't have the time. They don't really want to understand the issues. They come up with laws without understanding the issues. How can you accuse me of cross-dressing when you don't even know what cross-dressing is? It's not what you have between your legs. It's how you carry yourself. ...I'm not "cross-dressing." I'm 24/7 in this attire and this identity.

Arbitrary and Abusive Arrests by the Royal Malaysia Police

Federal criminal law in Malaysia (which applies to both Muslims and non-Muslims) does not explicitly criminalize transgender people, but they may be arrested under statutes related to indecent behavior and prostitution. Civil police in Kuantan, the capital of Pahang, arrested Rokiah in 2004, sexually groped her, and placed her in a male police cell, accusing her of prostitution and of “wearing girl clothes.” She was released on bail and went to Kuala Lumpur to file a complaint against the police who had groped her. She does not know if there was any follow-up to the complaint, but the police dropped the charges against her.

Although they are only mandated to enforce secular criminal law, police often collude with Religious Department officials in the arrests of Muslim transgender women. Leela, a 38-year-old transgender HIV outreach worker in Kuala Lumpur, believes their aim is to extort money. Police arrested Leela arbitrarily in 2013, while she was on her way home from work:

*Last year I was arrested in Chow Kit. I had just finished work, and was going to buy **nasi lemak** [a rice dish]. I was not doing sex work, but was in a sex work place. There are lots of police there who always catch transgenders who do sex work—they want money. Three of them surrounded me. I said ‘What did I do?’ They wanted to charge me under Sharia law for cross-dressing, even though they were civil police.*

They took me to Chow Kit police station and put me in lockup. A police officer tried to scare me by saying they would take me to the Sharia law court. I said, ‘Send me—I didn’t do anything wrong.’ I think he was trying to scare me in order to get money, but I knew my rights. Most transgenders, if you don’t give money, they send you to the Sharia law court. After half an hour he released me.

Police sexually assaulted Chunhua, a 27-year-old transwoman in Kuantan, when stopping her in the course of a “routine” drug check in October 2013. In Kuantan, as in several other Malaysian cities, police stop passersby and require them to take on-the-spot urine tests. They used this opportunity to abuse and humiliate Chunhua:

I was arrested by the police once to do a urine test. They were stopping people randomly. The police were a bit rough. They asked me to show my sexual parts—in a parking lot, in front of other people. I was dressed in women’s clothing. For other men, they asked them to pee behind trees, but for me, they wanted to see the penis. They said ‘Oh, quite big!’

*It was humiliating. The others were laughing at me. The police were saying ‘You want to be a **pondan**, but you have a penis.’ They touched my breasts and my butt. They just looked at the penis. Then they let me go because my urine was okay.*



Jellene, a transgender activist, plays the drums in a local band.

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Sexual Assault in Male Prison Wards

Transgender women who are detained in a male lockup (at either the religious office or the police station), or sentenced to prison in male cells, typically face grave dangers to their security. Some are raped by male prison wardens or their fellow prisoners. Trans activist Nisha Ayub faced this experience when she was arrested in 2000 and sentenced to three months in prison for “cross-dressing”:

I was molested by six or seven inmates. They actually forced me to do oral sex with them, and it was done openly. ... And when you are in prison, you can cry, you can beg, or whatever, people don't care. They just do what they want to do. ... If they want sex, they want sex.

And from there, I took the advice from the elderly trans woman to get someone to protect me. I met a warden who basically protected me and in return, I had to give him sexual favors. It's not something that I'm proud to talk about. But, it's something that I had to do, just to protect myself.

Discrimination in Access to Health Care

Many transgender people interviewed by Human Rights Watch had experienced discrimination in the health care sector. They said health workers ogled and commented on their bodies, refused to touch them, or touched their sexual organs unnecessarily, and that they were placed in male or female wards without regard for their gender identity.

Sharan went to Sungai Buloh government hospital just outside Kuala Lumpur in 2011 for fever, sore throat, and a migraine:

I went to a nurse at the general hospital. The nurse didn't want to touch me. She asked me to put in the thermometer myself [in my mouth], then to put it back in the tray, and then she immediately put it in a separate container with lots of Dettol. She taught me how to use the [blood] pressure machine, to squeeze it, tighten it, so that she wouldn't have to touch me. I felt as if I have a disease—if you touch me are you going to become transgender as well?

Naz, a transgender woman in Seremban, felt humiliated by health workers when seeking treatment for low blood pressure at Port Dickson General Hospital, a government hospital, in 2008:

One time I overdosed on hormones. I had low blood pressure. I was raced to the emergency room. My family was there. I was on the bed half awake, aware of what was happening. There were all these trainees, new doctors. They opened my clothes, were pointing at my breasts, asking 'Is this a man or a woman?' I felt humiliated and also embarrassed because my family was there. What mother would want to hear that? I felt very small at the time.

Employment Discrimination

Beka was fired from her job as a result of being arrested for cross-dressing, after her picture and story appeared in the newspaper:

*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** [transgender woman], but he was upset that I was in the paper, so he fired me.*

Suvati went for a job interview at an international call center in Kuala Lumpur. Her interviewer, upon realizing she was transgender, began to insult her, calling her pondan and telling her transgender people are a curse:

He said, 'You are a she-male, I cannot accept you. The company will get a bad name.'

Nazz, 31, Penang: *"I think this law on cross-dressing is quite ridiculous. I could just be arrested in a shopping complex—what am I doing that's immoral? I hope for it, just pray for it, to be changed."*

Natasha, 33, Penang, *"All I ask for is to live my life like a normal woman."*

Tanusha, reacting to a new law against cross-dressing in Pahang state: *"I feel unprotected. We're not criminals—we're just wearing what we want. I'm afraid now that if I'm just walking, they'll catch me, without me doing anything criminal. It affects me a lot. It's not reasonable to be arrested just for appearance."*

Maimoun, 22, Pahang: *"My elder brothers used to beat me, saying 'Don't be a **mak nyah**, be a man.' But beating me couldn't make me change."*

Sulastri, 24, Kuala Lumpur: *"The government needs to accept us for what we are. If they want us to contribute to the society of the country, they need to recognize us legally. Then all the stigma will reduce."*

Aston Paiva, lawyer: *"Where is the logic in taking an entire community of people, who could serve the society, who could serve community, who could be contributing members to society, who could probably have hidden talents and potentials, taking them and putting them in prison just because you don't agree with how they dress? ... It's a civil rights issue. It's about harming a person's dignity, devaluing a person, degrading a person because of who they are."*



Sulastri, a 52-year-old transgender activist, says she enjoys her freedom and does not allow gender stereotypes to dictate her life.

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RECOMMENDATIONS

TO THE PRIME MINISTER OF MALAYSIA

- Retract 2012 statement that Malaysia should “fight” against LGBT people, and call on the Malaysian public to practice tolerance and non-discrimination on the basis of gender identity and sexual orientation.

TO THE DEPARTMENT OF ISLAMIC DEVELOPMENT (JAKIM)

- Call on all state Religious Departments to repeal provisions within state Sharia enactments that criminalize transgender people.
- Call on all state Religious Departments to end the practice of conducting raids targeting transgender people.
- Cease efforts, through outdoor boot camps or other initiatives, to “convert” transgender people to cisgender.

TO THE STATE LEGISLATIVE ASSEMBLIES

- Repeal provisions within the various state sharia enactments that criminalize “a man posing as a woman” or “a woman posing as a man.”

TO STATE AND FEDERAL TERRITORY ISLAMIC RELIGIOUS DEPARTMENTS

- Cease carrying out raids that target transgender women.
- Investigate allegations of physical and sexual abuse and extortion of transgender women by state Religious Department officials, and hold accountable all personnel found to have committed such abuses.

TO THE STATE FATWA COMMITTEES

- Repeal fatwas that have been gazetted in several states (Johor, Kedah, Melaka, and Perak) that prohibit “pengkid” (“tomboys” or tomboy-like behavior).

TO THE ROYAL MALAYSIA POLICE

- Investigate allegations of physical and sexual abuse and extortion of transgender women by state Religious Department officials and by police officers, and bring criminal charges against any officers found to have played a role in such abuses.
- In collaboration with transgender human rights defenders, conduct appropriate training and sensitization of police officers on gender identity, and non-discrimination toward transgender people, and international law on sexual orientation and gender identity.

TO THE FEDERAL PARLIAMENT

- Amend article 8(2) of the Constitution, which prohibits discrimination on gender and other grounds, to include sexual orientation, gender identity, and gender expression. In the absence of a constitutional amendment, pass legislation prohibiting discrimination on these grounds.
- Repeal provisions within the federal territory sharia enactments that criminalize “a man posing as a woman” or “a woman posing as a man.”

TO THE NATIONAL REGISTRATION DEPARTMENT

- Amend the National Registration Guidelines to allow for transgender people to change their name and the sex marker on their identity card based on their expressed gender identity.

TO THE ATTORNEY GENERAL’S CHAMBERS

- Call for the revision or repeal of all laws, both Sharia and civil, that discriminate on prohibited grounds under international law.

TO THE HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)

- Conduct a national inquiry into human rights abuses against transgender people, publish a comprehensive report detailing the results, and urge government action to address these abuses.

TO THE MINISTRY OF HEALTH

- Conduct appropriate training and sensitization of health personnel, including non-medical staff in public health facilities, on gender identity and non-discrimination toward transgender patients.

TO THE PRISON DEPARTMENT

- When transgender people are imprisoned, determine on a case-by-case basis whether the inmate will be safer housed with men or with women, giving full consideration to the inmate’s own views regarding his or her safety.



Malaysia is one of the few countries in the world that explicitly criminalizes transgender people—individuals whose gender identity differs from the sex assigned to them at birth. Muslims, who according to government statistics make up about 60 percent of Malaysia’s population, are subject to state-level Sharia (Islamic law) ordinances, in addition to the federal criminal law, which institutionalize discrimination against transgender people. All 13 Malaysian states have discriminatory laws that prohibit Muslim men from “dressing as women,” while three states also criminalize “women posing as men,” subjecting transgender people to sentences of imprisonment, whipping, and fines.

“I’m Scared to Be a Woman” is based on interviews with transgender women and men in four states in Malaysia and the Federal Territory of Kuala Lumpur. The report documents abuses against transgender people, particularly assault, extortion, and violations of their privacy rights. It shows that criminalization of transgender people is compounded by other forms of discrimination and abuse from a range of state officials and agents, including police officers, Religious Department officials, public sector health workers, prison guards, and public school teachers and administrators. Many have been physically and sexually assaulted and denied access to health care and employment because of their gender identities.

A constitutional challenge to laws in the state of Negeri Sembilan that prohibit “a man posing as a woman” is currently underway. The ruling has the potential to fundamentally alter the legal status of transgender people in Malaysia. But regardless of the outcome, Malaysia should take concrete steps to put an end to discrimination against transgender people. Human Rights Watch calls on Malaysian federal and state officials to repeal laws and fatwas that deny transgender people their basic rights—in effect prohibiting them from being who they are—and to pass legislation protecting them from discrimination.

(above) “Aina,” a 40-year-old homeless transgender woman, was arrested by police twice in one week in December 2013. They turned her over to the Islamic Religious Department, which charged her with wearing women’s clothing, as indicated in this charge sheet.

© 2013 Private

(front cover) “Jina,” a 22-year-old transgender woman, sports a tattoo of a butterfly—a transgender symbol signifying transformation: “There’s a lot of politicization of the LGBT community at the moment, to distract the public from more important issues.”

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