

**Stonewall**

# ABOUT THIS RESOURCE

**This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.**

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

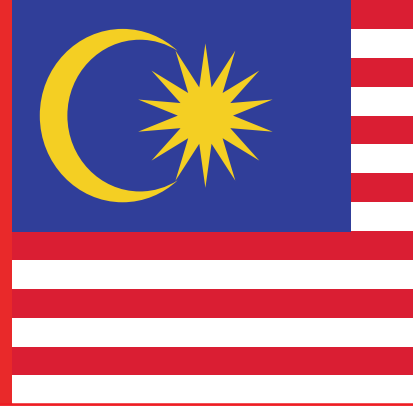
Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at [www.stonewall.org.uk](http://www.stonewall.org.uk)

**Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)**

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

# MALAYSIA



Population: 31+ million



Stonewall Global Diversity Champions: 44



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Malaysia is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 10 of the Federal Constitution **protects the rights to freedom of speech, expression and peaceful assembly** of citizens.

These rights **can be restricted** but there are **no LGBT-specific restrictions**.

Section 37(e) of the Communications and Multimedia Act (1998) **prohibits publishing content** that is **not deemed to be in-line with public policy**. This has **included** depictions of **LGBT** people and issues.

### FAMILY AND RELATIONSHIPS

Section 377A of the Malaysian Penal Code **criminalises 'carnal intercourse'**, with a penalty of **up to 20 years of imprisonment** and possible **whipping**.

**State Sharia laws criminalise same-sex sexual acts** with a penalty of fine, imprisonment and whipping.

A **marriage is void** if the parties are **not** respectively **male and female**, as provided by Section 69(d) of the Law Reform (Marriage and Divorce) Act (1976).

There is **no legal recognition of same-sex relationships**.

**Laws do not** currently **exist for same-sex couples to adopt children**.

### EQUALITY AND EMPLOYMENT

There are **no laws prohibiting discrimination based on sexual orientation and/or gender identity**.

Article 8 of the Constitution protects the **right to equality before the law** for all citizens regardless of religion, race, descent, place of birth, or gender. **Sexual orientation and gender identity are not included in this list**.

### GENDER IDENTITY

The **legal gender and name** of a person **cannot be changed** unless errors were made under Section 27 of the Births and Deaths Registration Act (1957) or Section 6(2)(o) of the National Registration Act (1959).

However, it was **decided in a recent High Court case** that a **person** who had **undergone gender reassignment surgery** be **declared a man** and that the National Registration Department amend the person's **identity card to reflect this change**.

### IMMIGRATION

There is **no mention of same-sex partners in immigration laws**.

## A VIEW FROM MALAYSIA

**Pang Khee Taik** is co-founder of Seksualiti Merdeka, a coalition of Malaysian non-governmental organisations and individuals, which ran an annual sexuality rights festival from 2008 until it was banned in 2011. The group now organises workshops, talks, retreats and a website called QUEER LAPIS. Seksualiti Merdeka aims to build capacity for LGBT activists while empowering LGBT people and allies to speak up for LGBT rights and participate in civil society.



### How do Malaysian laws influence the everyday lives of LGBT people?

There are Malaysian laws governing the consensual sexual acts and behaviour and LGBT people. Islamic laws banning cross-dressing are used against Muslim trans people. Under these laws, trans people are often arrested and trans women have their hair shaved off, which can be very traumatic. There has also been an unprecedented number of raids conducted by the religious authorities at trans events since some groups challenged the cross-dressing laws in court.

Non-Muslim trans people are targeted under public decency acts, often for attending group events. A remaining British colonial law prohibits same-sex sexual activity, with a penalty of up to 20 years imprisonment and whipping. This has been used against the former deputy prime minister, who was accused of engaging in same-sex sexual activity. He served six years in prison before the conviction was overturned but is serving a second prison term under different sodomy charges, supposedly until June 2018. All of these laws make LGBT people vulnerable to blackmail and to physical and verbal abuse from family, strangers and authorities. They also make LGBT people vulnerable to losing their jobs and security and prevent them from being able to be themselves.

### Are there groups within the LGBT community that are specifically vulnerable?

The trans community is targeted heavily. As the state continues to appeal to Islamic populist sentiments, there is an increased targeting of Muslim LGBT people, with media linked to the government outing LGBT activists and revealing events. Young LGBT people are also particularly vulnerable, especially if they live in smaller towns. They are often rejected by their families and are on their own.

A few new LGBT groups have emerged in the past two years, but there are still too few places that young LGBT people can claim for themselves. However, some private universities are supportive of LGBT students and encourage discussion on related topics. Other extremely marginalised groups are poor LGBT people as well as asylum seekers and undocumented migrants.

### How do LGBT organisations work towards change in Malaysia?

It's difficult for organisations and individuals to work towards positive change. The concern is mostly one of security. People fear they will be arrested or fired from their jobs and often have to cancel awareness-raising events. However, the different parts of the social movement in Malaysia are very collaborative.

Often LGBT rights advocates are able to exercise influence through other human rights groups focusing on multi-layered issues, such as health and education. LGBT artists have also used art as a tool of expression to work towards change for LGBT people.

### What can employers do to support their LGBT employees and help affect positive change?

Inside the workplace, organisations need to make sure that anti-discrimination policies don't only exist on paper but are also applied and followed through. Organisations should also make clear that employees' involvement in LGBT rights activism outside the workplace won't negatively affect them at work. Collaborating with LGBT and human rights groups can help organisations understand the local context and inform initiatives. However, these initiatives must go beyond the workplace.

Organisations should support LGBT people through working on multi-layered corporate social responsibility actions. They can collaborate with LGBT people and civil society at large and support them with events, arts or other activities. Encouraging unions to come in can also help to advance workplace equality for LGBT people in the entire country.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Malaysia:

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| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
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### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

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| <ul style="list-style-type: none"> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
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Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### BP

Aligned with the Group's Diversity & Inclusion goals, BP in Malaysia developed and implemented a series of initiatives focused on challenging unconscious biases and being inclusive of all diversity strands, including sexual orientation and gender identity. The sessions educated employees on the value of inclusion and the importance of having conversations rather than making assumptions. The content of these initiatives matches BP's values and behaviours, and demonstrates BP's commitment towards diversity and inclusion in the workplace. The ask of employees is simple – 'It starts with you – and you can make a difference'.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

In 2017, a Pride event that was to take place in Kuala Lumpur was cancelled.



### FIND LGBT GROUPS AND COMMUNITIES

**Justice for Sisters** – an organisation aiming to end violence and discrimination against trans women through providing resources, legal advice and raising funds to support trans women who face prosecution in Islamic law courts. [www.justiceforsisters.wordpress.com](http://www.justiceforsisters.wordpress.com)

**Leadership Program for Gays** – a Kuala Lumpur-based network group for LGBT business people. [www.groups.yahoo.com/neo/groups/LPG-community/info](http://www.groups.yahoo.com/neo/groups/LPG-community/info)

**Pink Triangle Foundation Malaysia** – an organisation working on HIV/AIDS and sexuality issues by offering support, group seminars, care services related to HIV and sexuality, as well as operating a telephone counselling line. [www.ptfmalaysia.org](http://www.ptfmalaysia.org)

**PLUPenang** – a support and community group for LGBT people in Penang State, providing a safe space and organising recreational events. [www.plupenang.crystaldzi.com](http://www.plupenang.crystaldzi.com)

**Seksualiti Merdeka** – a group providing a platform for LGBT human rights issues, working to empower Malaysians who have been marginalised for their sexual orientation and gender identity. [www.facebook.com/Seksualiti-Merdeka-229317507083197/](http://www.facebook.com/Seksualiti-Merdeka-229317507083197/)

**Queer Lapis** – an online community group for queer people and their allies. [www.queerlapis.com](http://www.queerlapis.com)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 44 ORGANISATIONS OPERATING IN MALAYSIA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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