While exports of raw material remain an important economic driver in Malaysia, the country has transformed itself into an emerging multi-sector economy since the 1970s. Malaysia’s capital, Kuala Lumpur, has become an international business hub and is one of the fastest-growing urban areas in South East Asia. Home to 30.5 million people, a total of 34 Stonewall Global Diversity Champions operate in Malaysia.

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, while 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.

<table>
<thead>
<tr>
<th>FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY</th>
<th>FAMILY AND SAME-SEX RELATIONSHIPS</th>
<th>EQUALITY AND EMPLOYMENT</th>
<th>GENDER IDENTITY</th>
<th>IMMIGRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 10 of the Federal Constitution guarantees every citizen the right to freedom of speech, expression and peaceful assembly. These rights can be restricted through parliamentary legislation. The rights of LGBT people are not specifically addressed.</td>
<td>Section 377A of the Malaysian Penal Code criminalises ‘carnal intercourse’, with a penalty of up to 20 years of imprisonment and possible whipping.</td>
<td>There are no laws on the prohibition of discrimination based on sexual orientation and/or gender identity.</td>
<td>The legal gender of a person cannot be changed unless errors were made pursuant to Section 27 of the Births and Deaths Registration Act (1957) or Section 6(2)(a) of the National Registration Act (1959). However, it was decided in a recent High Court case that a person who had undergone gender re-assignment surgery be declared a man and that the National Registration Department amend the person’s identity card to reflect this change.</td>
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<tr>
<td>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.</td>
<td>State Sharia laws criminalise same-sex sexual acts with a penalty of fine, imprisonment and whipping.</td>
<td>Article 8 of the Constitution provides for 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.</td>
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<tr>
<td>The law on age of consent is silent on sexual acts between people of the same sex.</td>
<td>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).</td>
<td></td>
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<tr>
<td>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).</td>
<td>There is no legal recognition of same-sex relationships in Malaysia.</td>
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<td>Laws do not currently exist for same-sex couples to adopt children.</td>
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</tbody>
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This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts.
How do Malaysian laws influence the everyday lives of LGBT people?

There are Malaysian laws that govern both the behaviour and appearance of LGBT people. Islamic laws that ban 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 amount of raids 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 currently serving a second prison term under different sodomy charges. Besides this, prosecutions are rarely made under the law. However all these laws make LGBT people vulnerable to blackmail, physical and verbal abuse 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. Young LGBT people also form a particularly vulnerable group. They are often rejected by their families and are on their own. There are also few spaces that young LGBT people can claim for themselves, not least because there are no LGBT groups they can join.

Having said this, some private universities are supportive of LGBT students and encourage discussion on related topics. But this only reaches a few young LGBT people. 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 is difficult for organisations and individuals to work towards positive change. The concern is mostly one of security. People fear that 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.

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 do not only exist on paper but are also applied and followed through. This should be the case throughout all levels of the organisation. 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 informs initiatives. These initiatives need to go beyond the workplace however. Organisations should support LGBT people through working on multi-layered corporate social responsibility actions. Encouraging unions to come in can also help advancing workplace equality for LGBT people in the entire country.

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, film screenings and letter writings. Seksualiti Merdeka aims to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.

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BP ran a series of employee-led diversity and inclusion sessions in the Kuala Lumpur office. This included a session on the importance of LGBT allies in the workplace to create awareness of BP’s commitment to LGBT equality. The sessions were run using an ‘Allies Toolkit’ produced by BP’s global LGBT employee network. The following topics were covered:

1. What does ‘LGBT’ mean and what are BP’s global policies in regard to LGBT employees?
2. Why are LGBT allies important in the workplace and what can they do to help?
3. How can allies be supportive while being mindful of the local context?

The sessions were run by local teams and allowed employees to have a structured conversation on LGBT equality in the workplace while specifically considering the Malaysian context.

THE FOUNDATIONS

There are several steps that employers should be taking to create a workplace environment that is respectful and supports equality for their LGBT employees in Malaysia:

- Consult local LGBT organisations to understand the local context for LGBT people
- Introduce an explicitly LGBT-inclusive anti-discrimination / bullying and harassment policy
- Train HR staff and promote inclusive policies
- Carry out LGBT-inclusive diversity training
- Encourage senior managers to promote LGBT inclusion and equality commitment

NEXT STEPS

The best employers should be looking at how they can build on their inclusive policies and practices to initiate a culture shift with tangible benefits for LGBT staff. Stonewall suggests organisations take steps to:

- Establish allies programmes to engage non-LGBT staff in creating awareness around LGBT issues
- Work with suppliers and partners to advance LGBT workplace equality
- Carry out LGBT awareness-raising events
- Partner with local LGBT groups to advance LGBT equality beyond the workplace
USEFUL RESOURCES - LGBT ORGANISATIONS AND INITIATIVES IN MALAYSIA

Justice for Sisters is a grassroots organisation that aims to end violence and discrimination against trans women. The group provides resources, legal advice and aims to raise funds to support trans women who face prosecution in Islamic law courts. justiceforsisters.wordpress.com

LPG (Leadership Program for Gays) is based in Kuala Lumpur and aims to build a network for LGBT business people. Activities organised by the group include gatherings and sports events. groups.yahoo.com/neo/groups/LPG-community/info

PLUPenang is an LGBT organisation based in Penang State. The group is designed to support, empower and foster friendship between its members. To this end, the group arranges recreational events and provides a safe space for LGBT people to express themselves. plupenang.crystaldzi.com

Pink Triangle Foundation Malaysia works with gay men and other men who have sex with men in Malaysia to provide support and care services related to HIV and sexuality. The organisation offers group seminars, operates a telephone counselling line and offers outreach programmes at third-party venues. ptfmalaysia.org

Seksualiti Merdeka works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues. facebook.com/Seksualiti-Merdeka-229317507083197/

Queer Malaysians is a blog hosted by LiveJournal. While it does not represent an organisation in its own right, the blog addresses LGBT concerns in Malaysia and signposts events, groups and legal developments related to the country’s LGBT community. queermalaysians.livejournal.com

STONEWALL’S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 34 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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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of October 2016. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts.

Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)