

Intersex Justice in Malaysia

Inspiring Action through Research

Country report on the situation of
Intersex Rights in Malaysia

2024

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Table of Contents

■ Preface	5
■ Acknowledgment	6
■ Executive Summary	7
■ 1. Introduction	12
1.1. Background Information	13
1.2. Main Problems, their scope and impact	14
1.3. Goals and Objectives	15
■ 2. Methodology	16
2.1. Desk review	17
2.2. In-depth interview	17
■ 3. Current civil society and government efforts	20
3.1. Work done by Intersex-led organizations and civil society organizations so far	21
3.2. Government efforts so far	21
3.3. Malaysia's International obligations on intersex people	24
■ 4. Results and Discussion	28
4.1. Findings from the desk review	29
4.1.1 Protecting intersex people's bodily integrity	29
4.1.2 Protecting intersex people from discrimination in all areas	34
4.1.3 Health	36
4.1.4 Education	38
4.1.5 Hate crime and hate speech	39
4.1.6 Gender marker registration at birth	39
4.1.7 Legal gender recognition	40
4.1.8 Access to justice and redress	43
4.1.9 Data collection: Addressing research gaps	43
4.1.10 Inclusion in emergency policy response	44
4.2. Findings from the field and the impact on the theoretical focus on the project	44
4.2.1 Protecting intersex people's bodily integrity	45
4.2.2 Protecting intersex people from discrimination in all areas	45
4.2.3 Health	46
4.2.4 Education	50
4.2.5 Hate crime and hate speech	51
4.2.6 Gender marker registration at birth	51
4.2.7 Legal gender recognition	52

4.2.8 Access to justice and redress	53
4.2.9 Data collection: Addressing research gaps	54
4.2.10 Inclusion in emergency policy response	54
■ 5. Recommendations, scope and strategy for implementation	56
5.1. Awareness and Education	57
5.2. Access to Healthcare	57
5.3. Legal or policy framework against discrimination on basic of sex characteristics	58
5.4. Capacity and Building	59
■ 6. Way Forward	60
■ 7. References	62
■ 8. Appendix	74

Preface

Intersex people in Asia are subjected to multiple forms of human rights violations. Even though few significant legal developments have taken place globally over the last decade, gaps remain in many countries, particularly in this region, laws fail to recognise them and address their unique needs; they are repeatedly invisibilized and confused with other identities within the broad LGBTIQ context.

This report aims to produce a comprehensive country-level report for Malaysia. This includes an overview of the lived experiences of intersex people based on a desk review and interviews and action-oriented recommendations for policymakers, civil servants, health practitioners, civil society organisations, and human rights activists to inform the next steps needed to accelerate greater protection and promotion of human rights of intersex people in Malaysia.

Acknowledgement

We would like to thank the intersex individuals who agreed to be interviewed as part of the study. Thank you for being vulnerable in sharing your stories and experiences growing up as an intersex individual. We believe your stories will help shed light on the human rights violations and discrimination that intersex individuals face here in Malaysia.

We would also like to thank the healthcare professionals and researchers who took the time out of their busy schedules to give their valuable input and experience in intersex health care.

Thank you to Justice for Sisters for the research support provided throughout the research process, as well as, the community leaders and members in the LGBTIQ+ movement who helped share the call for participants for the study.

Executive Summary

This research was commissioned by Intersex Asia to produce a study aimed at improving the understanding of intersex persons' lived experiences and to describe the policy and legal barriers intersex people face in Malaysia. The study was based on a desk review of academic and non-academic sources on intersex persons and in-depth, semi-structured interviews with intersex individuals and key stakeholders.

Key Findings:

- **Terminology:** In Malaysia, the term “intersex” is not widely used. Instead, the government and healthcare practitioners refer to intersex people as having “disorders of sex development (DSD)”. Islamic law recognizes intersex individuals as “khunsa”.
- **Current Civil Society and Government Efforts:** There are currently no intersex-led organizations in Malaysia, and advocacy efforts for intersex people are limited. The Malaysian government lacks support for intersex and LGBT rights, with a history of hostile policies, programs, and statements aimed at “rehabilitating” LGBTI+ individuals.
- **Protecting Intersex People's Bodily Integrity:** There is a lack of legal protection for the bodily integrity of intersex children in Malaysia, as they are unable to provide consent for medical treatment. The country's laws give discretionary power to protectors to authorize medical treatment for children under specific circumstances, but this does not protect intersex children from unnecessary non-consensual surgeries. Additionally, the medical management of intersex persons in Malaysia normalizes surgeries to conform to binary gender norms and relies on outdated definitions of gender and sex in Islamic law, without considering the child's right to bodily autonomy and integrity.
- **Protecting Intersex People from Discrimination in All Areas:** Intersex persons in Malaysia face discrimination and lack legal protections, with no specific legislation recognizing their rights. Interviews with intersex individuals found that they face discrimination in the workplace with some experiencing discomfort, mistreatment, and mockery from colleagues. They also often struggle with family acceptance and have limited opportunities to connect with other intersex individuals. They also face religious stigma and pressure that makes them feel excluded and increases their vulnerability to conversion practices.

- **Health:** Intersex children in Malaysia have a lower quality of life compared to their peers, potentially due to limited access to specialized medical care and psychological services. Interviews with intersex individuals reveal low awareness and understanding of intersex conditions, with some respondents not even being familiar with the term “intersex.” The healthcare providers interviewed for the project emphasized the need for increased awareness, education, and training in intersex healthcare to address the stigma and improve support for intersex individuals.
- **Education:** Intersex children and teenagers in schools face discrimination, bullying, harassment, and violence from their peers, with no protection or avenues to report such incidents. The lack of support and reporting options results in unaddressed trauma, negatively impacting their long-term mental health. Examples of physical and sexual violence, bullying, and stalking experienced by intersex students are provided, highlighting the urgent need for action and support in educational institutions.
- **Hate Crime and Hate Speech:** There is a lack of research on hate crimes and hate speech specifically targeting intersex individuals in Malaysia. However, cases of transphobic hate speech and hate crimes against Nur Sajad, a transgender woman, highlight the persecution and discrimination faced by gender-diverse individuals. Media reporting often sensationalizes and misrepresents intersex individuals, contributing to hate speech and misgendering.
- **Gender Marker Registration:** Research on gender marker registration for intersex individuals in Malaysia is lacking, but birth registration forms provide a “doubt” category for sex in cases of ambiguous genitalia. Intersex individuals interviewed faced challenges in their daily lives due to discrepancies between their assigned sex at birth on their identification cards and their gender expression and identity, including difficulties in banking, transportation, and interactions with government agencies.
- **Legal Gender Recognition:** Intersex persons face a higher burden of proof and invasive medical examinations to change their gender identity legally, with limited knowledge and understanding from the state. While there have been successful cases, the process remains inaccessible, and some individuals are considering migration to countries with more inclusive policies.

- **Access to justice and redress:** There is no record of legal cases or documentation regarding access to justice and the right to redress for intersex individuals in Malaysia. The interviews conducted revealed a pattern of bullying, harassment, and sexual assault experienced by intersex individuals in schools, with victims often choosing not to seek help or report the incidents due to a lack of confidence in the response they would receive.
- **Data collection:** addressing research gaps: The research on intersex individuals in Malaysia is predominantly focused on medical and religious aspects, with a lack of legal analysis and research on lived experiences. This knowledge gap hinders our understanding of intersex issues in the Malaysian context, and the government lacks data or statistics on intersex people.
- **Inclusion in Emergency Response:** There is a lack of NGO reports and academic research on the inclusion of intersex individuals in emergency policy responses in Malaysia. Previous health and climate emergencies did not involve meaningful participation of intersex individuals and the broader LGBTQ+ community, in consultations and assessments of needs.

Recommendations:

1. Integrate a human rights approach to sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) issues into the education system, particularly medical education, by reviewing and amending government guidelines, incorporating intersex healthcare training into medical curricula, and updating guidelines to reflect international medical standards.
2. Improve access to healthcare for intersex individuals by running awareness campaigns, providing accessible information on diagnosis and treatment options, prohibiting medically unnecessary surgeries in government guidelines, reviewing the legal gender recognition process, and increasing the number of mental health professionals trained in SOGIESC rights.

3. Establish a comprehensive legislation and/or policy to prohibit discrimination based on sex characteristics and provide legal protection for all sexual and gender minorities. This includes conducting in-depth research, reviewing existing legislation, and introducing an interim policy against discrimination while awaiting legislation.
4. Enhance capacity building and training by providing information on SOGIESC+ rights, discrimination faced by intersex individuals, and human rights violations, implementing training programs for civil society, private sector, educational institutions, medical sector, and the general public, building SUHAKAM's knowledge on intersex rights, and empowering civil society organizations to engage with and document human rights violations against intersex individuals.

Way Forward: In conclusion, the report emphasizes the need for comprehensive legal protections, improved medical care, inclusive education, and measures to address discrimination against intersex individuals in Malaysia. Urgent steps should be taken to rectify the current gaps in legislation and policy. The future of intersex rights depends on the commitment of policymakers and civil society to promote inclusivity and equality.

Intersex Asia

WE DEFEND **Intersex**
HUMAN RIGHTS IN ASIA



Intersex Asia Timeline

Intersex movement in Asia started in the 1990s from Japan, develops internationally since 2008 from Taiwan.

1. Introduction

- 1.1 Background Information**
- 1.2 Main Problems, their scope and impact**
- 1.3 Goals and Objectives**

1.1 Background Information

Intersex is not a widely used term in Malaysia by intersex people, the public, and the government. The understanding of Malaysian government and healthcare practitioners regarding intersex persons is largely medical and religious which then greatly influences the terminology used to describe intersex persons. According to the Ministry of Health, intersex is known as a ‘disorder of sex development (DSD)’ which is when there are ‘congenital problems involving abnormalities either in sex chromosomes, reproductive system (gonad, external, and internal sex organ) or secondary sexual development’¹ There are two main government documents that describe medical management for intersex infants and children, mainly the Ministry of Health’s 2017 Guideline on Dealing with Gender Health Problems in Public Clinics and the Malaysia Paediatric Association’s 4th Edition of the Paediatric Protocols. The desk review of this study found that intersex people are referred to DSD in medical research on intersex people in Malaysia.

Under Islamic law, intersex persons are referred to as khunsa. It is recognised as one of the four genders under classical Islamic law: male, female, intersex (khunsa), and effeminate male (mukhhanath). Intersex individuals, as defined by Islamic scholar, Ibn Qudamah, are, “a person with both male and female organs or with an opening in place of a sexual organ from which he urinates.”²

Classical Islamic jurists divide khunsa into two sub-categories: khunsa ghayr musykil/wadhihb(non-problematic/discernible) and khunsa musykil (problematic/intractable). Khunsa ghayr musykil/wadhih is a person with both male and female genitals who can be assigned a specific sex and gender based on which genital organ is the more dominant of the two. Khunsa musykil is a person who cannot easily be categorised as either male or female.

Intersex medical experts recognise that these Islamic definitions “predate the present understanding of embryology and modern imaging techniques” and that they are working with Islamic scholars and other medical experts to update these definitions to be more aligned with modern medical standards on anatomy. Medical experts also recognise that with the advancement of modern medicine, doctors are more capable of determining an intersex individual’s “appropriate sex by investigating the person’s karyotype, gonadal tissue histology, and internal reproductive organs, and do not just depend on the appearance of the external genitalia”³.

Besides the medical and religious-based definitions for intersex people, there are other colloquial terms used by the general public to refer to intersex people. These terms are language-dependent and reflect the limited accessibility to information on intersex people and the intersex rights movement. These are only some of the terms used in English, Bahasa Malaysia, Tamil, and Mandarin to refer to intersex people: ‘hermaphrodite’, ‘khunsa (hermaphrodite)’, ‘antara jantina’ (between two genders), ‘双性人(dual sex person)’ “இடையிலிங்கம்” (intersex person), and “இரூ பாலின உடலி (the one with two organs). These terms should not

be regarded as official translations as they were created in collaboration with the translators who translated the study's call for participants and participant information sheet into other languages.

There are no intersex-led organisations and advocacy efforts on intersex rights amongst LGBTQ+ civil society organisations are still very limited in their scope. There are very few information resources and stories on intersex persons localised to the Malaysian context. Within the broad LGBTIQ movement, intersex persons are invisibilised due to the low awareness of intersex issues and the lack of perspectives on the lived experiences of intersex persons in Malaysia.

1.2 Main Problems, their scope and impact

Intersex people in Malaysia experience significant violations of their rights concerning bodily autonomy, discrimination, and their ability to access education, healthcare, and employment. Intersex people in Malaysia lack any legal protection because there is no specific legislation in Malaysia that recognises the status, rights, and welfare of intersex persons in Malaysia. These have a wide-ranging impact on intersex people's right to bodily autonomy or integrity, freedom of religion, and protection from discrimination.

One of the main problems this report found was the normalisation of medical interventions on intersex persons from a medical and Islamic law perspective. This report documented cases of intersex children and adults who were subjected to non-consensual or pressured into medical interventions such as surgeries and hormone treatments. Additionally, there is a lack of legislation or policies in Malaysia that prohibit or oversee medical interventions on intersex individuals, with a primary focus on safeguarding their rights.

Another main problem is the pervasive, unchecked discrimination that intersex people face in employment, healthcare, and education. Intersex people in Malaysia lack access to specialised medical care and primary medical care because of the lack of awareness and knowledge within the community of medical professionals on intersex healthcare. There is a limited number of specialists and even they are not easily accessible to intersex people.

Intersex people in Malaysia are subjected to bullying, harassment, and sexual violence both at the workplace and educational institutions but have no avenues for redress. They are the recipients of hate crimes and hate speech both in in-person and online spaces. The media coverage of intersex people in Malaysia sensationalises intersex people by focusing heavily on the medical aspects of their conditions.

Similar to transgender persons, intersex people in Malaysia struggle to change their gender markers and names in their identification documents. This is despite documented cases of Muslim and non-Muslim intersex persons who had successfully changed their names and gender markers. Unfortunately, this is a closed-door process lacking transparent guidelines and an SOP on how an intersex person can change their gender markers.

1.3 Goals and Objectives

The primary goal of the study is to produce a report aimed at improving the understanding of intersex persons' lived experiences in Malaysia and identifying mechanisms and protections for intersex persons in Malaysia.

The report aims to do so by conducting analysis and reviewing existing research reports, media coverage, and documentation on intersex persons in Malaysia. The report aims to document the experiences and challenges such as the legal and social barriers and discrimination faced by intersex people in Malaysia.

The report will also map the current legislation and policies relevant to intersex people in Malaysia and analyse their suitability. The report will place legal developments on intersex issues in Malaysia within a global context and include a comparative overview of other countries that have intersex-related legislation. The report aims to provide the Malaysian government and civil society organisations with a conceptual framework, methodology, and recommendations to address the challenges faced by intersex people in their access to health, education, public services, and employment.

2. Methodology

2.1 Desk Review

2.2 In-depth Interviews

This research is based on both primary and secondary sources of data and is split into two methods:

1. A desk review of media publications, government data and responses, academic journals, international NGO reports, as well as other relevant documents on international human rights and legal provisions.
2. In-depth, semi-structured interviews with intersex persons and key stakeholders.

2.1 Desk Review

The desk review involved a diverse range of knowledge resources, including government data, academic journals, think tank and policy reports, media articles, social media, and other relevant national and foreign materials/ research surrounding endosex and intersex persons and discrimination against intersex people in particular. The desk review identified gaps in relation to compliance with international human rights standards.

The following keywords were used for the desk review in English, Bahasa Malaysia, Mandarin, and Tamil: “intersex Malaysia”, “disorder of sex development Malaysia”, “khunsa or khuntha Malaysia” (hermaphrodite), “hermaphrodite Malaysia”, “interseks Malaysia” (intersex Malaysia), “antara jantina Malaysia” (between two genders Malaysia), “双性人 马来西亚” (dual sex person Malaysia), and “இடையிலிங்கம்” (intersex person Malaysia), and “இரூ பாலின உடலி மலச்சியா” (the one with two organs Malaysia).

We found a total of 58 source materials on intersex persons in Malaysia, with the breakdown listed in Table X.

Type of materials	Number
Academic	20
Civil Society	12
Government	6
Legal	1
Media	19

2.2 In-depth Interviews

We conducted a total of eight interviews with intersex persons as well as with key informants on intersex issues in Malaysia, as shown in Table X. Our target was to interview five intersex persons and three key informants such as human rights activists, lawyers, medical practitioners, or community leaders. As for the

sampling, where possible, we attempted to recruit a diverse group of intersex persons to ensure representation of intersex persons from various socio-economic backgrounds and locations across both Peninsular and East Malaysia.

Table X: List of key informant interviews conducted for the Intersex Asia Malaysia Country Report – 2023

Date	Name	Designation	Institution	Topic of Discussion
30th March 2023	AA	Intersex person	N/A	Lived experiences
2nd April 2023	BB	Intersex person	N/A	Lived experiences
5th April 2023	CC	Intersex person	N/A	Lived experiences
6th April 2023	Dr.S	Primary Care Reproductive health specialist	Private clinic	Access to healthcare
6th April 2023	Dr.F	Primary Care Doctor	Private clinic	Access to healthcare
11th April 2023	Dr. J	Paediatric endocrinologist	Public hospital	Access to healthcare
3rd April 2023	Dr. R	Primary Care Doctor	Private clinic	Access to healthcare
11th April 2023	Dr. A	Endocrinologist	Private hospital	Access to healthcare

Study Procedures

The call for participants was disseminated through posters and text blurbs in English, Bahasa Malaysia, and Mandarin, using Justice for Sisters as well as the researcher's network of activists, community leaders, and civil society organisations. Interested participants were provided the information sheet and informed consent form, available in English, Bahasa Malaysia, and Mandarin. Once they agreed, the researcher arranged a time and date to conduct the interview in person or virtually. The interview was recorded with the participant's consent or if not, notes will be taken down. Participants were also given the option to provide feedback for the final report through a group or individual feedback process. The call for participants, information sheet and consent form, and interview questions can be found in the appendix.

Limitations

The sample size of participants was small largely because of the difficulty in finding intersex individuals to interview in Malaysia. Intersex persons are extremely hidden and invisibilised in Malaysia, and LGBTQ+ community-led organisations are not well connected to intersex persons. There are also no known intersex patient groups in Malaysia so they are not organized. Since there are no known intersex advocacy groups, it was also challenging to find key informants, which is why they mostly consist of healthcare professionals who see intersex individuals. Although the call for participants was disseminated to community leaders across Peninsular and East Malaysia, all three intersex respondents were interviewed in Kuala Lumpur or Selangor. The study is limited to intersex individuals who live in urban areas. It is also limited to intersex adults and does not include any intersex children or teenagers, or parents of intersex children or teenagers.

3. Current Civil Society and Government Efforts

- 3.1 Work done by Intersex-led organisations and Civil Society Organisations so far**
- 3.2 Government Efforts so far**
- 3.3 Malaysia's International Obligations on Intersex People**

3.1 Work done by Intersex-led organisations and Civil Society Organisations so far

We were unable to find any intersex-led organisations during the research and as such, we believe there are no intersex-led organisations in Malaysia at the time of writing. Advocacy efforts on intersex people by LGBTQ+ groups are also fairly limited to developing infographics and articles on intersex issues.

There are two articles on intersex persons on Queer Lapis, a website featuring affirming and diverse narratives, contributions, and lived realities of LGBTQ+ persons in Malaysia. The first article features infographics, in English, raising awareness of the issues intersex people face in Malaysia.⁴ The second article is an affirming piece in Malay describing the experiences of intersex people and why they should not be ridiculed in Malaysian media and society.⁵

In terms of research, there is no intersex-focused research but they are sometimes included in research surrounding LGBTQ+ issues. Intersex-related issues and recommendations were highlighted in ARROW's 'Monitoring Report: LGBTQ+ Rights in Malaysia'; Galen Centre's 'What It Means to Suffer in Silence: Challenges to Mental Health Access among LGBT People'; Human Rights Watch 'I Don't Want to Change Myself: Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia'; and EMPOWER and Justice for Sisters 'Freedom of Expression and Transgender Women in Malaysia'.

Within the broad LGBTQ movement, intersex persons are invisibilised due to the low awareness of intersex issues and the lack of perspectives on the lived experiences of intersex persons in Malaysia.

3.2 Government Efforts so far

There are no government-led initiatives or schemes that are in support of intersex people. The state adopts a hostile position towards LGBT+ persons instead, which can be seen through the policies and programmes to 'rehabilitate' LGBT persons.

State's hostile stance on LGBT rights

The Malaysian government has continuously shown a lack of support for the rights and inclusion of LGBT+ persons. Various administrations have promoted anti-LGBT+ sentiment through their policies, programmes, and statements⁶.

During Mahathir Mohamad's administration (1981-2003), "The People's Voluntary Anti-Homosexual Movement" or Pasrah, was formed⁷. Under Najib Razak's administration (2009-2018), Najib pledged in 2012 that "LGBT activities will have no place in Malaysia...the government would protect the sanctity of

Islam”⁸. The then-deputy prime minister, Zahid Hamidi, said in 2017, “We cannot import Western culture, especially LGBT, into our country.”

When Mahathir returned as Prime Minister in 2018, he released a statement affirming that “Malaysia will not recognise LGBT culture or same-sex marriage in the country as it does not subscribe to ‘Western values’”⁹, and in 2019 repeatedly affirmed that the LGBT lifestyle is a Western influence that we should reject¹⁰. After the public caning of two women in Terengganu for same-sex relations in 2018, the state’s anti-LGBT stance intensified as Mahathir, Anwar Ibrahim, and Deputy Home Minister Mohd Azis Jamman released statements opposing LGBT people. The religious affairs minister, Mujahid Yusof Rawa, promoted the idea that LGBT+ people “change” their sexual orientation or gender identity and return to the “right path”¹¹. Mujahid also called for the arrest of the women’s march organisers for supporting LGBT rights during the March 2019.¹²

Under Muhyiddin’s administration (2020-2021), the religious affairs minister, Zulkifi Mohamad, called for the arrest and rehabilitation of transgender people in 2020. In 2021, the religious affairs deputy minister, Ahmad Marzuk Shaary, announced the government had established an anti-LGBT task force to amend article 355 of the Syariah Courts Act to introduce heavier penalties for LGBT persons¹³.

This scapegoating of LGBT persons continued in Ismail Sabri’s government (2021-2022) where JAKIM boasted that 1733 LGBT Malaysians had attended JAKIM “rehabilitation” camps as part of the Mukhayyam programme to restore their “lifestyle” and “sexual orientation”¹⁴. Ismail also supported a bill in 2021 that would strengthen Shariah courts that could introduce heavier penalties for the LGBT+ community¹⁵.

In the latest government led by Anwar Ibrahim, he guaranteed that the LGBT+ community would not be recognised under his unity government in January 2023¹⁶. In response to a ‘Thai Hot Guy’ event in March 2023, the Local Government Development Minister, Nga Kor Ming, emphasised that the government does not support any LGBT events in Malaysia and that stern action would be taken against events that go against government policies¹⁷.

State’s anti-LGBT policies and programmes

The state runs programmes that mostly focus on the rehabilitation and conversion of LGBT people at the Federal and state levels. At the Federal level, the government efforts can be seen through 1) the Ministry of Religious Affairs, the Department for Islamic Development (JAKIM), and the state Islamic Departments, as well as 2) other ministries.

- Implementation of support and guidance programmes: This includes the Mukhayyam programmes by JAKIM in collaboration with state Islamic departments and councils, and the Ministry of Health¹⁸. The programme, listed in the National Strategic Plan to End AIDS 2016-2030, aims to guide and provide spiritual awareness to LGBT persons through religious knowledge, as well as increasing knowledge and awareness of HIV. Through these programmes, the state claims that they have reached 1,769 people since their introduction in 2011¹⁹.

Besides Mukhayyam, follow-up and support programmes are run by JAKIM or the ex-LGBT NGOs such as usrah or monthly religious and spiritual programmes, Quran recitation classes, and start-up support for businesses. For example, 525 people who have participated in the Mukhayyam programme received financial aid through JAKIM's COVID-19 relief Musa'adah fund²⁰.

- Establishment of the task force and action plan to address LGBT issues: A task force on addressing LGBT issues was established to support the implementation of Pelan Tindakan Sosial Islam, Jabatan Kemajuan Islam Malaysia (PTSI JAKIM) 2019-2025 (JAKIM's Islamic Social Action Plan (PTSI JAKIM) 2019—2025), to address social ills among Muslim persons in Malaysia, including LGBT persons. This task force consists of members from several government ministries and agencies to work together to deal with 'LGBT issues'.²¹

A five-year action plan, Pelan Tindakan Menangani Gejala Sosial Perlakuan LGBT 2017—2021 (Action Plan to Address Social Ills of LGBT Behaviour 2017—2021), was created to proactively and effectively curb "LGBT behaviour"²².

- Establishment of support services: JAKIM's Family, Social and Community Service centre²³, or KSKCareCenter at Tuanku Mizan Zainal Abidin Mosque in Putrajaya offers Syarie counselling, Islamic psychospiritual therapy and Illaj Syarie (Islamic treatment) for free²⁴. The increased availability and accessibility of religious counselling could increase the LGBT person's exposure to conversion therapy practices.
- Development of resources: JAKIM consistently produces resources aimed at suppression of SOGIESC and that promotes its goals of rehabilitating LGBTQ persons such as:
 - ◊ Islam and Mak Nyah Manual published in 2013²⁵.
 - ◊ E-book 'Panduan Hijrah Diri' ²⁶ (Self-Transformation Towards the Right Path), which was previously available on Google Play Store), a compilation of hadith on 'LGBT' acts (2015) ²⁷
 - ◊ A brochure 'Memahami LGBT dari Perspektif Seorang Muslim' (Understanding LGBT from a Muslim's perspective), which promotes conversion practices²⁸
 - ◊ Menelurusi Fitrah Insani (2021), Chapter 5 of the book focuses on factors

and implications of LGBT behaviour; features theories and factors that contribute to a person being LGBT, adverse harms of being LGBT to self and society, and treatment for LGBT persons²⁹.

◊ Manual Komuniti Hijrah Lesbian dan Gay (manual for ex-lesbian and gay persons) (2022). The manual features understanding your own fitrah as a human being, and Islamic perspective on lesbian and gay, how to reach lesbian and gay persons, Islamic psychotherapy, including prayer and zikir therapy to help Muslim lesbian and gay person to lead a better life aligned with Islamic principles³⁰.

- At the state level, for example, in Selangor, the Selangor Islamic Religious Council (MAIS) runs LGBT-related activities under its Al-Riqab Rehabilitation Division, established in 2012. MAIS defines Al-Riqab as “a person who is shackled under a power or situation that is an obstacle to him/her to live a better life. Shackled with perverted lifestyles such as prostitutes, lesbians, homosexuals, trans women or transsexuals, bisexuals, pengkid, tomboys, gigolos and Muslim persons cohabiting with non-Muslims”³¹. The Division runs three rehabilitation and treatment shelters for LGBT persons who are disowned, have no shelter or income, or need care for HIV³². The shelter provides weekly religious guidance classes and rehabilitation programmes. LGBT persons under these programmes are given financial support to relocate, medical support, or start-up funds for business. According to MAIS, as of 2019, 497 LGBT people have returned to the ‘right path’ through the support of the funds³³.

3.3 Malaysia’s International Obligations on Intersex People

As a United Nations member state, Malaysia has accepted the Universal Declaration of Human Rights, the provisions that are broadly accepted as reflecting customary international law.

Malaysia is not a party to many of the core international human rights conventions that are widely ratified, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights. Malaysia has only ratified the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD).

The human rights of intersex persons can be said to be protected in the Federal Constitution of Malaysia under Article 5-13, which guarantees fundamental

human rights and liberties³⁴. This includes Article 5 – Right to life and personal liberties; Article 6 – Prohibition of slavery and forced labour; Article 7 – Protection against retrospective criminal laws and repeated trials; Article 8 – Equality and non-discrimination; Article 9 – Freedom of movement; Article 10 – Freedom of speech, assembly, and association; Article 11 – Freedom of religion; Article 12 – Right to education and, Article 13 – Right to property. The Federal Constitution is the supreme law of the land so all State law is subordinate to the constitution. This means that any law that contravenes these principles is unconstitutional and must be struck down.

International human rights standards for the rights of intersex persons have evolved rapidly in recent years, there are more than 500 treaty bodies' concluding observations taking notice of human rights abuses against intersex persons³⁵. The Committees typically focused on issues such as irreversible medical interventions; laws and protocols prohibiting non-consensual medical interventions, and regulating the provision of health services to intersex persons; consultations and support for families with intersex children; training courses for medical personnel; the investigation of cases of non-consensual medical interventions; and redress and compensation for intersex survivors and their access to justice.

In 2014, the World Health Organisation (WHO) publicly opposed early genital surgeries on intersex children stating, "Intersex persons, in particular, have been subjected to cosmetic and other nonmedically necessary surgery in infancy, leading to sterility, without informed consent of either the person in question or their parents or guardians."³⁶ In 2015, 12 United Nations agencies released a joint statement condemning "unnecessary surgery and treatment on intersex children without their consent."³⁷

In 2015, Malta became the first country to legally ban non-consensual medically unnecessary surgeries on intersex children. Malta's "Gender Identity, Gender Expression and Sex Characteristics Act" specifies that it is illegal to perform a "medical intervention which is driven by social factors without the consent of the minor"³⁸. The law also highlights these non-consensual surgeries as being a violation of rights to bodily integrity and health as they deprive children of the right to form their own identity.

Since then, other countries such as Portugal, Germany, and Iceland have followed suit and passed legislation to prohibit medical procedures for children. However, the wording in the legislation for Portugal and Germany does not explicitly include intersex children so have been deemed not "protective" enough to protect intersex children³⁹.

On Intersex Awareness Day 2016, a joint statement was released by 11 UN and regional human rights experts that called for an urgent end to violence and

harmful medical practices on intersex children and adults. They urged that, “States must, as a matter of urgency, prohibit medically unnecessary surgery and procedures on intersex children. They must uphold the autonomy of intersex adults and children and their rights to health, physical and mental integrity, to live free from violence and harmful practices, and to be free from torture and ill-treatment. Intersex children and their parents should be provided with support and counselling, including from peers.”⁴⁰

At the 45th Human Rights Council in 2020, a joint statement was released by Austria on behalf of 35 countries, urgently calling for the Human Rights Council to address the human rights and abuses violations against intersex people⁴¹. They urge governments to “protect the autonomy of intersex adults and children and their rights to health, and to physical and mental integrity so that they live free from violence and harmful practices.” They also call for governments to investigate human rights violations against intersex people and to provide victims with access to remedy. At the 48th Human Rights Council in 2021, another joint statement was released by Austria on behalf of 52 countries, calling for concrete measures to combat harmful practices, violence, and discrimination based on sex characteristics⁴².



4. Results and Discussions

- 4.1 Findings from the Desk review
- 4.2 Findings from the fields and impact on the theoretical focus of the project

The results section of this report presents detailed findings according to each theme, as outlined in the Intersex Asia research framework. The specific findings for each theme are first described from the systematic desk review, highlighting what exists in the current knowledge base and what doesn't. Then, we identify gaps in the current literature for each theme and attempt to fill those gaps through the key informant interviews that we have conducted.

4.1 Findings from the Desk review

4.1.1 Protecting Intersex People's Bodily Integrity

Lack of Legal Protection for Bodily Integrity of Intersex Children

In Malaysia, the laws discussing the age of consent of children for medical treatment are the Child Act 2001 and the Age of Majority Act 1971⁴³. Based on Section 4 of the Age of Majority Act 1971, children below the age of 18 years are deemed incapable of giving consent to medical treatment and the power to give consent can only be provided for by a parent or legal guardian.

In the case of children who need care and protection, Section 21 and Section 24 of the Child Act 2001 state that, "if, in the opinion of a medical officer, the child requires medical treatment for a minor illness, injury or condition, a Protector or police officer may authorize such treatment."⁴⁴ However, this can only be done under specific circumstances such as in the case where the parent or legal guardian has abstained from giving consent, or they cannot be found within a reasonable time, or they have ill-treated or abandoned the child. This section therefore gives a wide discretionary power to the protector under these circumstances to give consent to any medical treatment, surgery, or psychiatric treatment proposed by the medical officer for the child.

Under these provisions, intersex infants and children are not protected against any medical unnecessary non-consensual surgeries, because they are legally unable to provide consent for any medical treatment. This puts the onus on parents or legal guardians of intersex children to be the sole decision makers on any medical treatment or surgery until they turn 18 years of age.

The Committee on the Rights of the Child (CRC) has condemned surgery on intersex children on several occasions, including in reviews of New Zealand, South Africa, Switzerland, Chile, France, Ireland, the UK, and Nepal.⁴⁵ Malaysia is a party to the CRC but maintains eight reservations to the CRC. The CRC has not made an observation or recommendation about intersex children in its review of Malaysia but has made reference that "insufficient efforts (were) made to address (children's) discrimination based on sexual orientation"⁴⁶.

The United Nations Committee Against Torture, the monitoring body for the

Convention Against Torture (UNCAT) has condemned medically unnecessary non-consensual surgeries on intersex.⁴⁷ Malaysia has not ratified the CAT despite continued calls by civil society for the government to accede to this treaty by civil society. The #ACT4CAT Coalition, formed in 2015, has campaigned for the government to accede to the UNCAT through public petitions, awareness-raising events, and dialogues with key stakeholders.⁴⁸ In 2018, the Pakatan Harapan manifesto included the ratification of the six remaining UN core human rights treaties, including the UNCAT.⁴⁹ This ultimately fell through with the fall of the Pakatan Harapan government. In 2022, the then Foreign Minister disclosed an initiative to translate the nine core UN Treaties into Malay in an effort to provide stakeholders an “accurate understanding of obligations and state responsibilities as well as the implications of those agreements if Malaysia joins and ratifies all the treaties”⁵⁰.

The Committee on the Rights of Persons with Disabilities (CRPD) has issued several statements on medically unnecessary surgeries on intersex persons as a violation of the bodily integrity of the person (CRPD Art. 17) and as exploitation, violence, and abuse (CRPD Art. 16). Malaysia is a party to the CRPD but maintains two reservations, Article 15 (freedom of torture or cruel, inhuman or degrading treatment or punishment) and Article 18 (liberty of movement and nationality)⁵¹. Malaysia has not submitted a country report to the CRPD Committee despite having ratified the CRPD more than 12 years ago⁵². Both the Malaysian government and the CRPD Committee have not commented on the rights of intersex persons in Malaysia.

Normalisation of Unnecessary Medical Surgeries in Healthcare

There are two main government documents that outline the medical management of intersex persons, the Ministry of Health’s (MOH) ‘Garis Panduan Pengendalian Masalah Kesihatan Gender di Klinik Kesihatan’ (Guideline on Dealing with Gender Health Problems in Public Clinics), published in 2017, and the Malaysian Paediatric Association’s (MPA) 4th Edition of the Paediatric Protocols, published in 2019. Unlike the 2017 MOH Guideline, the MPA Paediatric Protocol touches upon the use of unnecessary, irreversible medical interventions performed on intersex infants or children.

The protocol by MPA suggests that gender assignment “should be based upon the most probable adult gender identity and potential for adult function” and includes factors such as “diagnosis; fertility potential; adequacy of external genitalia for normal sexual function; adequate phallic size when considering male sex of rearing; endocrine function of gonads; parents’ socio-cultural background, expectations, and acceptance; psychosocial development in older children; and decision about sex of rearing should only be made by an informed family after careful evaluation, documentation and consultation.” None of these factors include the child’s right to bodily autonomy and integrity to choose what gender they identify as, and instead, prioritises the functionality of the person’s genitalia

to their assigned sex as well as gives family members more of the power to decide what gender their child should identify as and thus be raised as.

The MPA protocol normalises medical surgeries and hormone interventions to alter the bodies of intersex persons to make them conform to gender binary physical norms (pg. 323-324). Surgery is recommended to ensure “genital appearance (is) compatible with gender” and as part of “gender reinforcement”. There is strong pressure and emphasis for parents of intersex children and intersex children themselves to undergo surgery so that they can conform to the physical sex characteristics of a male or female.

The protocol does not distinguish between which medical interventions are necessary or unnecessary. Nor does it provide any information about the negative effects of unnecessary, irreversible medical surgeries and interventions on intersex persons. A 2017 paediatrics study in Malaysia, found that medical interventions had a negative effect on intersex children’s quality of life, especially with regards to schooling⁵³. In particular, intersex children who were assigned female at birth faced a lower quality of life as compared to intersex children who were assigned male at birth. The research theorises that this could be due to the patriarchal societal pressures and expectations on women around marriage and fertility. The same study also noted that familial and societal pressures, lack of access to specialised medical care, and lack of psychological services, as a contributor to lower quality of life.

Medical Intervention and Gender Determination for Intersex Children According to Islamic Law

In Islamic law, gender and sex are also not differentiated and are seen to be the same thing. Assigned sex at birth is automatically assumed to be the default gender. Therefore, gender and sex are used interchangeably throughout medical and religious analysis on assigning a gender to an intersex individual.

Gender and sex determination in Islam for intersex persons rely on looking for signs of ‘maleness’ or ‘femaleness’ by looking at their external genitalia or the person’s somatic characteristics during childhood.⁵⁴ These definitions and views are outdated and predate the modern understanding of anatomy and are not aligned with modern medicine’s definitions and standards on gender and sex determination for intersex persons. Take for example, a 2017 Mufti of the Federal Territory Ruling on Intersex, which shows the factors that are used to assign the gender of an intersex individual with ambiguous genitalia, besides physical appearance and genitalia, such as the chromosomes and the presence of gonads. They list the following as factors that show “female or male characteristics” of an intersex individual, as demonstrated in Table X, in Appendix B. This list of factors is outdated and problematic as it does not rely on the latest medical standards and practices used to determine an intersex individual’s sex and gender identity. It is heavily reliant on physical appearance and the function of genitals such

as facial hair growth, presence of menstruation and childbirth, and method of urination. It also includes questionable factors such as “feelings of attraction” and “emergence of certain characteristics”, which are based on the cisgender, heteronormative and patriarchal notions that uphold the gender binary.

As for gender affirmation surgeries for intersex persons, there are several fatwas issued by the National Fatwa Council and State Fatwa Council in Malaysia. These fatwas can be found in Table X in Appendix B.

Based on the 1982 fatwa on ‘Gender Change From Male to Female’, made by the National Fatwa Council, intersex persons that meet the definition of *khunsa musykil* are permitted to change their gender status to either male or female only after having undergone a gender affirmation surgery. Within this fatwa, *khunsa musykil* is defined as “a person born with both male and female genitalia, who should undergo surgery to retain the most functional private part according to the suitability”.⁵⁵ According to an academic analysis of this fatwa, this fatwa permits surgery for cases of *khunsa musykil*, if advised by medical experts “to help ascertain the *khunsa*’s true sex, so that the person can be designated a certain gender in order for him or her to be able to have a good life and be able to perform his or her duties as a Muslim.”⁵⁶ This same fatwa, however, prohibits transgender persons from undergoing gender affirmation surgery and changing their gender on their identification cards.

It is not clear in both this fatwa and the government medical guidelines, the type of surgery, whether it is exploratory, medically necessary, or medically unnecessary cosmetic procedures. Nor does it touch upon the issue of consent and who gets to make these decisions. This ambiguity makes it a grey area and does not help protect intersex infants or children from unnecessary, irreversible medical surgeries. Without any clarity or specificity, this fatwa can be read as permitting any type of surgery on intersex infants or children in order to assign them an “appropriate” sex and gender.

The most recent fatwa on this in 2007, issued and gazetted by the Selangor Fatwa Council, on “Disorder of Sex Development for Congenital Adrenal Hyperplasia and Testicular Feminization Syndrome”⁵⁷. It states that:

- a.*For cases of Congenital Adrenal Hyperplasia (CAH), gender reassignment surgery should be done to get back to the original gender which is female and is permitted in Islam because it can be treated through hormone treatment and surgery.
- b.*For cases with Testicular Feminization Syndrome, to get back to the original gender which is male, through surgery or hormone treatment is quite difficult. If the patient intends to undergo surgery, it is permitted provided the surgery does not harm the patient psychologically or biologically.

c. For cases of Testicular Feminization Syndrome, but diagnosed only after the person is an adult, the person can continue living a normal life according to their gender based on their physical appearance and the appearance of their genitalia. Surgery to remove the testes (if any) is permissible to prevent the risk of cancer. The marriage of a man with a female spouse with Testicular Feminization Syndrome does not need to be dissolved.

The 2007 fatwa is clearer compared to previous fatwas, in declaring that gender affirmation surgery is permitted for specific cases of DSD cases, particularly in CAH, for Muslim intersex patients. Although it provides clearer details on which intersex variations are more compatible with certain medical interventions, it falls short on the issue of prohibiting non-consensual, medically unnecessary procedures for all types of intersex variations.

This fatwa is the closest position statement issued by the state on banning medically unnecessary surgeries for intersex patients, where it outlines that surgery is only permissible “provided the surgery does not harm the patient psychologically or biologically.” However, this statement is limited because this provision is only attached to cases of intersex individuals with testicular feminization syndrome and does not encompass all intersex variations.

The fatwa does not also specify who gets to make decisions on gender assignment surgery and the assignment of gender identity. However, in a personal communication to a researcher in 2008, an Officer in the Selangor Mufti Department revealed, that the parents of the intersex individual have the right to decide on behalf of their child to undergo ‘sex assignment surgery’, based on the “condition that comprehensive and detailed inspection has been done to ensure the actual sex of the infant and the functionality of the organ is in accordance with the internal physiological and reproductive structure”.⁵⁸

After the 2007 fatwa, there is no detailed process outlined for gender affirmation surgery for intersex individuals in any publicly accessible government guideline, protocol, or document. A 2017 religious-medical study highlights the need for Muslim intersex persons and their families to have access to counselling to understand “both the societal and religious implications of gender assignment”. And that the timing and extent of (gender affirmation) surgery should be decided by the individual, parents, and the medical experts involved in the consultation.⁵⁹

On the other hand, 2015 Islamic jurisprudence research by the International Islamic University Malaysia argues against the use of early surgical intervention on intersex infants and children. They question the lack of clarity and position of Islamic law and ethical positions on surgical management and gender determination for intersex children. This is because of the rise of Western ethical objections surrounding the surgical management of intersex patients from the 1990s.⁶⁰

4.1.2 Protecting Intersex People from Discrimination in All Areas

No Legal Protections on Discrimination Based on Intersex Status

A 2019 Suhakam study found that intersex persons in Malaysia experience discrimination and rights violations in education, employment, housing, and healthcare⁶¹. The same study found that intersex persons face similar issues to transgender persons including being unable to change their gender markers without having to go through lengthy and costly procedures.

There is no specific legislation in Malaysia that recognises the status, rights, and welfare of intersex persons in Malaysia. Instead, there are laws at the Federal and State level that criminalise persons based on consensual sexual acts, sexual orientation, gender identity, and gender expression in Malaysia, as shown in Table X in Appendix B⁶². These laws widely impact the rights of LGBTIQ persons as they violate the right to dignity, privacy, freedom of expression, self-determination, public participation, and access to healthcare. Although these laws make no direct reference to intersex persons, intersex persons with diverse sexual orientations and gender identities would be subjected to these laws. In particular, Muslim intersex persons are more vulnerable to arrest by the state religious departments under the state Syariah laws.

Malaysia has not passed any legislation prohibiting discrimination based on sex characteristics or intersex status nor does it have a legal definition on intersex persons in its national legislation. There is a clear gap in national legalisation in terms of the protection of the rights of intersex persons in Malaysia.

Article 8(1) of the Constitution provides that “all persons are equal before the law and entitled to the equal protection of the law” while Article 8(2) of the Constitution prohibits discrimination on the grounds of gender. However, within the Constitution, sex and gender are conflated and considered the same by the state in that gender is understood as something that is binary, and not on a spectrum. Therefore, any reference to gender and sex refers to a person’s physical characteristics only – for example, sex chromosomes gonads, sex hormones, internal reproductive systems, and external genitalia⁶³.

In Malaysia’s Sixth Periodic CEDAW Report 2022, the government maintains that the principle of gender equality and non-discrimination against women is articulated in the Federal Constitution under “lesbian, bisexual and transgender women and intersex person”. Although this is the first-time intersex persons are referred to in Malaysia’s CEDAW report submissions, no specific or substantive information was shared regarding intersex persons.

Other countries such as Australia, Bosnia and Herzegovina, Finland, Greece, Iceland, Malta, the Netherlands, and South Africa, have expressly outlawed discrimination based on sex characteristics⁶⁴. In the case of Australia, the Sex

Discrimination Act 1984 (SDA) defines intersex status as “having physical, hormonal or genetic features that are: (a) neither wholly female nor wholly male; or (b) a combination of female and male; or (c) neither female nor male”. The SDA prohibits discrimination based on a person’s intersex status, as well as on the basis of sexual orientation and gender identity, among others⁶⁵.

Limited Media Representation of Intersex Persons

We found seventeen news articles on intersex individuals, with 82% of the articles written in Malay while the rest are written in English. Intersex individuals are portrayed through the medical perspective of their intersex conditions or the difficulties they face in their gender identity. The media delves extensively into details of their anatomy, reproductive organs, or related medical procedures.

A 2015 news article described a few cases of intersex individuals discovering that they were intersex in adulthood.⁶⁶ One individual in their 30s only discovered they had both male and female reproductive organs when they sought medical assistance for abdominal pain. Another individual in their 20s also only found out she had both male and female genetics after conducting genetic testing. This article also highlights the issue of “gender confusion” faced by intersex individuals, a term used in Malaysia to describe any gender non-conforming individual.

Another news article in 2015 with the headline- “Male intersex individual can give birth”, featured local gynaecologists explaining the medical science behind this process.⁶⁷ This showcases the public and media’s obsession with the medical aspect of how intersex bodies work and their anatomy. These articles then typically generate more similar articles by other media scrutinizing the medical aspect of intersex individuals.⁶⁸

There is a 2021 news article written on intersex individuals diagnosed with Swyer Syndrome, that interviews a gynaecologist who explains the medical aspects of this condition. This article highlights Islamic views on gender determination for individuals with Swyer Syndrome, known as khunsa wadih, who do not need to change their gender because they are recognised as a woman according to Islam. A 2022 article on the medical aspect of having intersex children, features a local paediatric specialist, who warns against genital removal surgery for babies as they may want to have a different gender from what they were assigned when they grow up⁶⁹. This viewpoint is the only one that supports intersex children’s right to autonomy and self-determination on their gender identity. However, at the same time, the doctor also advises that parents and doctors work together to choose the appropriate gender for the child, which completely removes the child’s right to self-determination on their gender identity in this process.

We also found forms of moral policing towards Muslim intersex individuals on how they choose to seek medical treatment and their self-determination of gender, through the media analysis. A 2015 news article wrote a piece to raise

awareness of the “proper channels and appropriate treatments” for Muslim intersex individuals to get help and to “obtain their rights”. This was to ensure they do not “take the wrong path by joining certain Western-oriented organisations that are against Islam.”⁷⁰

Intersex versus Transgender Dichotomy

Intersex persons are distinguished from transgender individuals in Islamic law. Intersex individuals are *asl al-khilwah* (the original creation of God where they are born as an intersex person) while transgender individuals are *taghyir al-khilqah* (changing of God’s creation)⁷¹. This is to highlight that transgender persons are not accepted and not permitted to change their gender or undergo gender affirmation surgery, while intersex persons are permitted to do so.

A 2017 study on stakeholders’ perception of trans women and HIV in Malaysia found that intersex persons are more accepted within society as compared to transgender persons because intersex persons are recognised as having a medical condition and accepted in Islamic jurisprudence. A religious leader participant shared- “We recognise Khunsa but we do not recognise transgender.”⁷² Participants in the same study deemed that very few people in Malaysia could be recognised as Khunsa, and instead are transgender.

A 2020 op-ed article written in Malay by the Mufti of Perak illustrates how Muslim intersex individuals are accepted and recognised in Islam, as compared to Muslim LGBT+ persons who “suffer from gender identity disorder and mental health problems.” The Mufti emphasises how gender affirmation surgery is allowed for intersex persons in Islam so they “can live a good life and better carry out their responsibility as a Muslim”. The discrimination against LGBT+ persons in the name of Islam shows a warped understanding that intersex individuals are distinct from and are not part of the LGBT umbrella⁷³.

4.1.3 Health

A 2017 paediatrics study found that intersex children had a poorer quality of life compared to their peers.⁷⁴ The research found that lack of accessibility to specialised medical care and lack of psychological services could be one of the factors causing the impaired quality of life.

Pathologisation of Intersex People

The Malaysian Ministry of Health (MOH) has a section on intersex conditions for infants and children in its ‘Garis panduan Pengenalalan Masalah Kesihatan Gender di Klinik Kesihatan’ (Guideline on Dealing with Gender Health Problems in Public Clinics), published in 2017. However, they do not use the term intersex and instead use a more medicalised term, ‘disorders of sex development (DSD)’ to refer to intersex conditions throughout the guideline. The guideline outlines terms and definitions for DSD; classifications of DSD; commonly found DSD conditions; general principles on how to handle DSD; SOP for infants and children

with DSD; treatments for DSD; and the issues and steps to prevent DSD. The Malaysian Paediatric Association (MPA)'s 4th Edition of the Paediatric Protocols similarly pathologises intersex variations as a disorder of sex development (DSD) in 'Chapter 62: Disorders of Sexual Development'. The chapter outlines the definitions of DSD; conditions of DSD; medical evaluation of DSD; approaches to DSD; management for DSD; and details about congenital adrenal hyperplasia (CAH).

The definition of DSD according to the MOH guideline is "congenital problems involving abnormalities either in sex chromosomes, reproductive system (gonad, external, and internal sex organ) or secondary sexual development." (pg. 8) Through this definition, the state problematises intersex bodies by referring to intersex variation or traits as an 'abnormality'. The state also pathologises intersex persons through the diagnosis of 'DSD'. There are negative connotations associated with the term perceived by some patient support and intersex advocacy groups because it "turns intersex variations into diseases requiring medical intervention" and how "being a 'disorder' inherently puts the medical profession in the leading position over intersex people."⁷⁵

The MOH guideline imposes a narrow, limited view of gender determination as they claim that a person's gender is determined based on their genitalia through the presence of either a penis or vagina (pg. 8). However, sex or gender is determined by more aspects besides genitalia and includes the combination of chromosomes, genitalia, secondary sex characteristics, hormones, and reproductive organs.

In the introduction of this section on intersex variation (pg. 8), the guideline also claims that statistics show that the incidence of DSD is between 1:4,500 and 1:5,000 amongst live births. They also cite the prevalence of Congenital Adrenal Hyperplasia (CAH) to be as many as 1:15,000 amongst live births globally. These estimates are inaccurate and underreported because there are no firm population figures for people with intersex variations. This is generally because of the lack of accurate data globally on people with intersex diagnoses. There have been suggested estimates ranging from 1:1,500 or 2,000 to 4%. Intersex Human Rights Australia recommends an upper bound of 1.7%.⁷⁶

The MOH guideline also reinforces endosex standards by equating an endosex person, someone whose sex characteristics fit normative medical or social ideas for female and male bodies, as 'normal'. They consistently pathologise intersex persons throughout the guidelines. For example, referring to variations in genitals as something that is 'not normal' (pg. 9), referring to the development of gonads (testes) that is 'not normal' (pg. 11), and framing the guideline as a way to provide information to parents about the formation of a 'normal' reproductive system (pg. 13). They could have used other terms that carry less stigma such as 'variation' or 'differences'.

In the ‘issues and steps to prevent DSD’ sub-section of the guideline (pg. 15-16), there are some problematic suggestions that should be reviewed and removed from the guideline that reinforce the gender binary, as well as, problematise transgender persons. One of the steps to prevent the issue of lack of exposure and knowledge on DSD amongst the public is to “provide education for children according to their true gender. E.g. toys, clothes, character, and appearance”. Another step to address the issue of medical surgeries for intersex conditions is to ensure an “open discussion to be carried out between medical experts from various disciplines and their parents, in order to choose the correct gender based on medical investigations and discussions with parents.” Another problematic suggestion on the issue of social media influences is for “parents to be more vigilant in ensuring their children are not influenced by transgender characters on social media” and “the media should not portray transgender characters as something that is normal in society”.

4.1.4 Education

A 2017 paediatrics study found that intersex children in Malaysia, who had gone through surgical procedures had a lower quality of life, especially in the schooling dimension⁷⁷. This is in line with other international studies that found a reduction in the quality of life for intersex children⁷⁸.

A 2020 report on LGBTIQ rights in Malaysia by ARROW and Justice for Sisters found that students face multiple forms of barriers, discrimination, and violence based on gender expression, sexual orientation, and gender identity in educational institutions. Several school rules, regulations, and circulars by the State Education Department and Ministry of Education penalise and impose corporal punishment against non-gender conforming and non-heterosexual students’ expressions and identities. Respondents from the 2019 Suhakam study on transgender and intersex persons shared that they experienced rampant hate speech and name-calling from peers, teachers, and school administrators.

The CEDAW Committee, in its review of Malaysia in 2018, noted with concern the “bullying of students, including lesbian, bisexual, transgender and intersex students”, and called for the adoption of “anti-bullying policies ... to foster equal rights for lesbian, bisexual, transgender and intersex students.” The committee also noted its concern at “reports of harassment of, and discrimination and attacks against lesbian, bisexual and transgender women and intersex persons by State authorities, including the police, members of religious institutions and private citizens.” They recommended the Malaysian government to “undertake awareness-raising measures to eliminate discrimination and negative stereotypes” against this group, in particular: to amend all laws at the Federal and State level that discriminate against this group; apply a policy of zero tolerance for discrimination and violence against this group; and to expedite measures to discontinue all policies and activities aimed at “correcting” or “rehabilitating” this group.

4.1.5 Hate crime and hate speech

There are no known research or reports on hate crimes or hate speech against intersex persons in Malaysia. However, there is documentation of transphobic hate speech and hate crimes against Nur Sajat, a transgender woman cosmetics entrepreneur who was persecuted and discriminated against by the Malaysian authorities for her gender identity and gender expression. This hate speech is fuelled by unethical reporting by the media that sensationalizes and scrutinizes intersex individuals' intersex conditions, gender identity, and gender expression. These individuals are frequently dead-named and misgendered in these articles. The state persecution against Sajat demonstrates the criminalisation and non-recognition of transgender, intersex, and non-binary persons in Malaysia. The criminalisation against Sajat highlights the narrow definition a Muslim LGBT persons can exist in Malaysia in the state's eyes – only if they 'change', 'suppress', or 'rehabilitate' themselves. In September 2021, Nur Sajat was arrested by the Thai immigration department following a request by the Malaysian authorities. She was freed on bail and was eventually resettled by the UNHCR to Australia. In February 2021, Nur Sajat, a transgender woman cosmetics entrepreneur, was hunted down by the Selangor Islamic Religious Department (JAIS) in an attempt to arrest her for allegedly "insulting Islam" and wearing female attire. JAIS had deployed 122 officers to search and arrest Nur Sajat. In 2020, Sajat's trip to Mecca to perform umrah (a minor pilgrimage) was scrutinised and calls for investigations were made. Her personal documents such as her passport and travel documents with Sajat's deadname were publicly shared on social media and media without consent. Many media outlets had amplified the doxing and breach of privacy, as well as, using Sajat's deadname in their reporting.⁷⁹ In 2018, the Department of Islamic Development Malaysia (JAKIM) visited Sajat and then announced its plan to conduct a test to determine Sajat's gender identity. Many were speculating whether she was an intersex individual or a transgender woman.⁸⁰ As a result of the speculation and scrutiny of her gender identity by the government and online users, she has experienced gender-based online bullying and harassment. Since, 2016, Sajat has been doxed where personal information such as her identification card and alleged childhood photos were disclosed. She has also been pressured by online users to 'change' or 'return to the right path', and received hateful comments and calls for investigations⁸¹.

Another media article from the 1970s is about a transgender woman who was allowed to undergo gender affirmation surgery and marry a man by the Johor deputy Mufti. The article reported the public speculation that this trans woman was allowed to get married because she was an intersex individual⁸². Another local celebrity, Warren Fernandez, who came out as an intersex person to the media in 2020, was also scrutinized by the public for changing her appearance by dressing more feminine⁸³.

4.1.6 Gender marker registration at birth

There is no known research on gender marker registration at birth for intersex

individuals in Malaysia. One of the principles in the 2017 Ministry of Health Guideline on Gender Health Problems is that all babies need to be assigned male or female at birth. However, the birth registration forms have three categories for sex: boy, girl, and doubt. According to the MOH Guideline, 'Doubt' is described as a 'born with ambiguous genitalia either at birth, childhood, or adulthood due to an abnormality in the biological status which includes sex chromosomes, gonads, sex hormones, internal reproductive organs, and external genitalia'.

4.1.7 Legal gender recognition

Legal Gender Recognition for Trans Persons

In the past, between the 1980s and early 2000s, there is documentation of post-operation trans people changing their name and gender marker on their IC⁸⁴. In the past, trans people could change the details in their IC to reflect their gender identity, provided they have undergone gender affirmation surgeries. In SUHAKAM's report on transgender and intersex persons, 6 out of the 20 respondents were successful in their applications to change their name and/or gender marker on their identification cards. There have been no recorded or known successful cases of changing the name and/or details on birth certificates. It has become increasingly difficult for trans persons to change their legal names and gender markers in their national identification cards (IC) and birth certificates based on the case law developments surrounding legal gender recognition. There are also no provisions within the relevant legislation, the Births and Deaths Registration Act 1957 and the National Registration Act 1959 that specifically authorises changing gender markers in identification cards or birth certificates. The only way to apply for a change of name and/or gender marker in identification cards is through a court declaration, based on Paragraph 5.7 of the National Registry Department's Directive 9/2007. It also states that the application for name change and gender marker should be supported by: a) a court order that contains the details of the declaration of the applicant's new gender; b) an endorsement letter by a government doctor (if any); c) an endorsement letter for the gender reassignment surgery by the hospital in concern; and (d) birth certificate (original and copy).

The courts usually take a conservative and outdated approach, relying on the *Corbett v Corbett* case which stipulates that 'sex' is determined by four criteria: chromosomes, gonads, genitals, and psychological factors. And that these criteria need to be satisfied to make the changes. It also conflates sex and gender as the same thing and sees both as something binary. These problematic criteria exclude other identities that make up the sex and gender spectrum such as intersex persons and non-binary persons.

One of the prerequisites based on these problematic criteria is the need to have undergone gender affirmation surgeries as proof of showing medical evidence. However, even in the cases of *Wong Chiou Yong v. Pendaftar Besar/Ketua Pengarah Jabatan* [2004], *Kristie Chan v Ketua Pengarah Jabatan Pendaftaran*

Negara [2013], and *Fau En Ji v Ketua Pengarah Jabatan Pendaftaran Negara* [2014], having undergone gender affirmation surgeries does not qualify a person to change their name or gender marker in their identification cards. In the case of *Wong Chiou Yong v. Pendaftar Besar/Ketua Pengarah Jabatan* [2004], the High Court decided that the reassignment surgery did not affect the “true gender status” of the applicant at the time of birth and that there was no dispute that the applicant’s gender differed from their assigned sex at birth at the time of birth. And in another similar case in *Kristie Chan v Ketua Pengarah Jabatan Pendaftaran Negara* [2013], the Court of Appeal upheld the High Court’s decision to dismiss her case to change her identification details from ‘male’ to ‘female’, because the court found “no evidence, medical and psychiatric, from Malaysian experts as what constituted sex and gender and whether a sex reassignment surgery would warrant a change of the sex description in the applicant’s identity card.” In the case of *Fau En Ji v Ketua Pengarah Jabatan Pendaftaran Negara* [2014], the High Court dismissed this judicial review by citing that “psychological factor alone or gonadal factors were not sufficient to assess the applicant sexual condition” and that the medical evidence provided was “insufficient” and did not clarify on the chromosomal issue.

However, there have been two cases where the judges set aside the *Corbett v Corbett* criteria in favour of a more progressive approach. In the case of *JG v. Pengarah Jabatan Pendaftaran Negara* [2005], the High Court of Malaya, Kuala Lumpur allowed the applicant to change their identification card to reflect her gender as female. The applicant is a trans woman who filed an originating summons to declare her as female. The High Court judge, Justice James Foong, took a more progressive view that takes into consideration medical opinion. Therefore, the judge decided that since there was medical evidence to show that JG had transitioned medically, she was entitled to change her gender on her identification card. In the latest case of *Tan v Ketua Pengarah Jabatan Pendaftaran Negara* [2016], the High Court allowed the applicant to be declared as a male and to change his name and gender on his identification card from ‘female’ to ‘male’. The application was allowed because the presiding judge, S Nantha Balan J, was satisfied with the strong medical evidence provided that the applicant had undergone gender affirmation surgery. The judge also affirmed the applicant’s right to life that is guaranteed under Article 5(1) of the Federal Constitution and the concept of “life” under Article 5(1) must include the applicant’s right to live with dignity as a male and be legally recognised as a male. However, the decision was overturned in 2017 following an appeal by the National Registration Department.

Legal Gender Recognition for Intersex Persons

Beyond the Federal Court, there have been two documented cases surrounding an intersex person’s case for legal gender recognition: one unsuccessful case at the state Syariah Court and one successful case done through closed-door meetings with the National Syariah Council of Malaysia.

In the case of The Melaka Islamic Religious Department and the Marriage, Divorce and Registrar Division of the Central Melaka Islamic Religious District v Mohd Sofian bin Mohd & Zaiton binti Aziz, the Department had applied to the Melaka Syariah Lower Court for a declaration that the marriage between this couple was invalid and dissolved because it is not in accordance with Islamic law. The contention around the legality of the marriage revolves around the gender of one of the respondents, who is an intersex man who was assigned female at birth. The respondent in question shared that when he was growing up, he experienced physical changes to his body that changed his personality to be more like a man. Following this change, he contacted the Melaka Department of Islamic Religion to get advice and views about his personal development. He met with a Ustaz who issued a letter recommending that his name be changed from the name of a woman to the name of a man which was subsequently approved by the National Registration Department (NRD). The Syariah Lower Court decided that the marriage was invalid, ordered the couple to be separated, and asked the NRD to change the gender status of the respondent back to their original gender status.

The respondent made an appeal to the Syariah High Court following the Lower Court's decision to nullify the marriage but eventually withdrew the appeal. The High Court then decided they would still review the decisions made at the Lower Court and whether it is in accordance with the Syariah laws. The High Court upheld the Lower Court's decision and in addition, ordered the NRD to change the name and gender status of the respondent to the original name and gender status in their birth certificate, as well as, for this order to be effective immediately.

In its review, the Syariah High Court raised two key points for discussion with regard to the respondent's alleged marriage: whether the marriage was a marriage between a woman and a woman or between a man and woman, as well as whether this fulfilled the principles and legal conditions stipulated in Syariah laws; and whether there was evidence that the groom was a man or khunsa (intersex). The Syariah High Court judge scrutinised how a person born as a woman suddenly became a man and whether the respondent was intersex as they claimed to be.

The Melaka Department of Islamic Religious Affairs as the applicant successfully proved their case with the support of six individuals' testimony. Out of the six, two are medical experts, two are representatives from NRD, one is the respondent's biological sister and the imam who married the couple. The respondent was subjected to extensive medical tests and examinations to determine the gender of the respondent and whether they were intersex as they claimed to be. The respondent was subjected to physical examinations that examined their body and genitals. The respondent was subjected to questionable, invasive, unethical medical examinations by both doctors who

inserted a finger into the respondent's organs to ascertain the gender of the respondent. Based on the respondent's physical characteristics based on their body and external genitalia, the doctors concluded the respondent was female. The doctors also conducted a blood test and genetic test that affirmed the respondent was a woman.

This case demonstrates the unreasonably high burden of proof a Muslim intersex person must show to prove their intersex condition to the state in order to qualify for a name and gender status on their identification card and subsequently marriage at the Syariah Court. It also shows the state's limited knowledge and understanding surrounding intersex persons, in that the State Syariah Court follows the definition of a 'khunsa muskhil', which are persons who have male and female genitals. This case also highlights the degrading, unethical medical practices that doctors in Malaysia subject intersex persons to determine a person's gender.

There have been documented cases of intersex Muslim persons who managed to change their gender identity legally on their birth certificates and identification documents based on 2017 research on the Islamic perspectives of managing patients with DSD⁸⁵. In the case of AA, an 18-year-old Muslim patient diagnosed with CAH at 1 month of age and assigned female, they managed to successfully get approval from the religious authorities in Malaysia for their gender to be reassigned to male. AA had undergone feminizing surgery (clitoroplasty) at 5 years of age and did not adhere to their medication. So, when they grew older, their body developed to become more masculine due to virilization. They wanted to be recognised as a boy but continued to be raised as a girl. Once they became a legal adult, they formally requested to change their gender to male. This process involved a meeting between the patient, their family, and the doctors involved which was then presented to the National Syariah Council of Malaysia. The Council successfully approved the AA's application to be reassigned male and will no longer be known as khunsa musykil. They will need to abide by the laws of Islam as a Muslim male and will be entitled to the rights of a Muslim man.

4.1.8 Access to justice and redress

There are no known legal cases or documentation of intersex individuals' access to justice and right to redress in Malaysia. The Malaysian government has not acknowledged any human rights violations caused to intersex people in the past.

4.1.9 Data collection: addressing research gaps

Most of the existing research on intersex persons in Malaysia is medical and religious-based in nature. This desk review found seventeen studies on intersex people from a religious-medical perspective and one study purely from a medical perspective. The legal analysis and research centring the lived experiences of intersex individuals are areas where research is lacking, resulting in a significant gap in our understanding of intersex issues in the Malaysian context.

Furthermore, the Malaysian government does not have any data or statistics on intersex people⁸⁶.

4.1.10 Inclusion in Emergency Policy Response

There are no known NGO reports or academic research on the inclusion of intersex individuals in emergency policy responses. The most recent health emergencies and climate-related emergencies in Malaysia saw no meaningful participation or inclusion by civil society. Take, for example, SUHAKAM's dialogue with vulnerable communities as part of their assessment of needs during the Covid-19 pandemic, intersex individuals and the wider LGBTQ community were not included in these consultations.⁸⁷

4.2 Findings from the fields and impact on the theoretical focus of the project

4.2.1 Protecting Intersex People's Bodily Integrity

We found many violations of bodily autonomy and bodily integrity in our interviews with intersex individuals in Malaysia. Perspectives of medical practitioners on intersex persons' access to healthcare are outlined in detail in Section 4.2.3.

CC, an intersex man, was assigned female at birth and was born prematurely at six months and kept in an incubator for three months. During that time, he suspects that something was done to him as an infant but has no information about this because his late mother withheld information about his intersex variation from him and the hospital had lost written records about his birth, "I kind of suspect that when I was born that something was cut off or modified but I don't have any proof of that medically anymore." When he was in secondary school, he started growing a beard and moustache first before experiencing menstruation and becoming muscular. From a young age, he identified as a boy and knew he wasn't like his other sisters and felt more like his brothers. When he turned 18, his mother asked him to take some pills:

"My mum kind of asked me to take some pills, which I believe to be contraceptive pills. But it's not because of that (for birth control purposes). It's because she wanted me to look more feminine. ... And so, I took them for a while but it made me quite sick actually."

His mother wanted him to get married and be a "good Muslim" so he got married to a man which lasted for 10 years. During the marriage, CC continued to take collagen and oestrogen. In his late 30s, he fell very ill as a result of hormone imbalances. Later on, after visiting an endocrinologist, he found out he needed testosterone.

Now that CC is on testosterone, CC is no longer sick and experiencing palpitations.

4.2.2 Protecting Intersex People from Discrimination in All Areas

Right to Employment

Intersex individuals generally face discrimination in their workplace for their intersex condition. This is because there are no laws to protect employees from discriminating based on gender identity or sex characteristics. BB had left companies where his colleagues treated him poorly and made him feel uncomfortable for being intersex:

“At another company, they say they accept LGBT people, but actually they feel uncomfortable (with me). Some of them felt uncomfortable with me so they told the boss that ‘I couldn’t count properly’ or that ‘I’m not doing a proper job’ and all that. But I was doing my job.”

BB was able to find workplaces that do not discriminate based on gender identity and intersex variation, who will use the name, pronouns, and titles that they prefer to be used. In CC’s case, he found that international multinational companies treat their LGBTIQ+ employees with respect and dignity, as compared to Malaysian companies:

“When I went back to my previous company, because previously when I was working there, I was portrayed as female. But when I came back last year during Hari Raya to show that this is who I am now and what I look like now, some of the employees were laughing and making fun of me, calling me ‘pondan.’”

Right to Family Life, Sense of Community, and Building Relationships

Intersex individuals tend to have a challenging relationship with their family members because of the stigma against intersex persons and low awareness about intersex persons. BB’s parents wanted to raise him as a girl and were not supportive of BB’s desire to be a boy during his teenage years. This was a source of tension for BB growing up as he had to navigate the lack of acceptance from his parents on his gender identity.

All three intersex respondents shared that they rarely discuss their intersex identity with their friends, colleagues, and family members. The only people with whom they discuss intersex-related issues openly are the persons they are in romantic relationships, who they feel very comfortable sharing with. Other than that, this is not usually a topic that is widely and openly discussed amongst other people.

Two out of three respondents reported they met only one other intersex person

while the other had never met another intersex person before. This shows how little interaction or engagement intersex persons have with one another and the lack of groups or spaces available for intersex individuals to meet and connect.

Right to Freedom of Religion

CC, is no longer a practising Muslim as a result of the bullying and violence he endured as a teenager in his conservative religious school, “Why should I go to Mecca when I’m not following Islam at all? You guys already condemned me to hell as a transgender or intersex.” CC faced a lot of pressure growing up to be a “good Muslim” from his mother who pressured him to take oestrogen hormones to become more feminine and to marry a man. Within Islamic norms, there are still a lot of stigmas that intersex people face that they need to change themselves so they end up not being and feeling accepted by their own religion.

Intersex persons whose gender identity does not match their assigned sex at birth, are also vulnerable to conversion practices by religious actors. BB shared about his experience going to a church that tried to “heal” and “change” him, “They will say, ‘we pray for you to be your as your assigned sex at birth’ and that they will tell you, ‘Maybe you are not in the right place’”

4.2.3 Health

Lack of Access to Specialised Medical Care for Intersex Persons

The interviews conducted with intersex individuals and doctors support the findings in the desk reviews that intersex persons lack access to specialised medical care and lack access to psychological services.

All three intersex respondents did not know about their intersex conditions until they were in adulthood.

Two out of three intersex respondents we interviewed were not familiar with the term intersex and did not identify themselves as intersex. AA first identified themselves as pseudohermaphrodite, because that was the term used by the doctor who first diagnosed her with. For BB, he initially identified as a transgender man after seeking counselling for his gender identity. Later on, through research and speaking with another intersex family member, he came to find out about the term intersex. Both AA and BB’s experiences of not being familiar with the term intersex indicate low awareness and understanding of the term, intersex, even amongst intersex persons.

Only one respondent, CC, was familiar with the term intersex, but only much later in life. CC, has a similar story to BB. He initially identified as a transgender man and then only came to find out about the term intersex after having met another intersex man from the trans man community. However, because of low awareness of intersex issues, CC prefers to say he is a trans man as it is an easier concept for people to understand and to avoid being asked questions about his intersex variation:

“Right now, if people ask, I just say I’m a trans man. Because when you say you are intersex, people will say ‘oh you have two genitals!’ and I’ll be like, ‘I don’t know because when I was a baby it was probably cut off.’”

In AA’s case, who was assigned male at birth, she started feeling breast tenderness and experiencing menstruation when she was in late primary school. She never went for a medical check-up about this in Malaysia because her parents would tell her it was because she was “heaty” and that she should drink more water. Whilst she was studying overseas, she decided to go for a medical check-up after experiencing bleeding again. This is when she first found out about her intersex variation. She avoids seeing doctors (e.g. primary and secondary care doctors, mental health professionals) in Malaysia because of the discrimination that she had faced in government hospitals. AA ends up self-treating herself and relies on buying medication directly from pharmacies:

“Because sometimes when you go into government hospitals, when you register downstairs, and then you register upstairs, and then you go into the clinic, the doctor will look at you and say, ‘I am calling this person’ and I say, ‘I am this person.’ Then the doctor will look at you and say, ‘Are you this person?’ Are you a girl or a boy?’ So, I don’t really feel comfortable to see the doctor. Even in private (hospitals) also.”

In BB’s case, who was assigned female at birth, he started experiencing changes to his body in primary school that he was uncomfortable with. During puberty, his physical appearance started to look more masculine and he developed a lot of facial hair, “I don’t have a female look at my body, only internal yes, I do have female organs. But my behaviour, my walking, my voice, when you see me, you will see me as a guy.” He was raised as a girl by his parents and felt very uncomfortable being dressed up as a girl by his parents. He felt that his parents knew that something was wrong and that he was “not living in the right body”. His parents brought him to take “expensive vaccines” to remove his excessive facial hair. When he became an adult, he decided to take matters into his own hands and did research about his intersex variation. That’s when he went to seek counselling from an LGBTIQ+ affirming primary reproductive care specialist who has had experience in intersex health care. He was advised by the doctor that he has intersex traits and that he should also identify as a trans man since his assigned sex is different from the gender he identifies with. He is now taking testosterone under the doctor’s supervision and feeling better about his body and gender identity.

All of the respondents’ cases demonstrate intersex person’s lack of access to intersex and general healthcare in Malaysia. In AA’s case, she avoids seeking

healthcare because of the stigmatisation and discrimination she faces, which stems from insufficient awareness and understanding of intersex healthcare by parents and doctors. In all three cases, their parents, who lack information about intersex conditions and medical care, are not able to provide their intersex children with the care and support they require. In CC's case, he was pressured by his mother's desire for him to be a woman and he ended up taking incorrect hormones until he became very sick.

Intersex infants and children have to bear with the life-long consequences of their parents making decisions about their bodies and gender identities with limited to no understanding of intersex health care. In CC's case, he suspects he was subjected to a non-consensual, medically unnecessary surgery at birth but was not informed about this surgery by his family. According to Dr. S, this is a common situation where parents of intersex children keep the surgery done at birth a secret so most of the time, intersex individuals are not aware that they were subjected to this surgery in the first place.

Primary and Secondary Healthcare Provider's Perspectives towards Intersex Persons

We interviewed a primary care reproductive health specialist working in a private clinic, Dr. S, who has seen intersex patients. They highlighted how intersex persons are pathologized in Malaysia and often treated as objects of charity and pity, "When people think of intersex persons, they immediately think 'oh poor thing'". Another primary care doctor from a private clinic, Dr. F, shared how the general approach in healthcare towards treating intersex patients is problematic and that gender identity should not be "forced upon" an intersex person through medical surgeries or hormone treatments.

Dr. J, a paediatric endocrinologist at a public hospital, who has extensive experience in treating intersex or DSD patients in Malaysia, shared that major developments around medical care for intersex patients were being made. First, the international medical community working on intersex healthcare is shifting away from the highly pathologized term, "Disorders of Sexual Development" to "Differences in Sexual Development". This change has not been updated in any of the government medical protocols, guidelines, or handbooks. Second, the Ministry of Health has a Technical Group on DSD comprising of a multidisciplinary group of medical experts and religious authorities reviewing the 2017 MOH Guideline on Gender Health Problems for Public Clinics. Their goal is to review the guidelines on DSD to incorporate more religious and medical perspectives on DSD diagnosis and treatment.

Dr. F also spoke about the existing pervasive stigma around intersex persons amongst healthcare providers and how it is generally seen as a sensitive topic. She noted that most primary care doctors in Malaysia do not know how to treat intersex patients. This could be due to the fact that knowledge on intersex

conditions is not taught in-depth in medical school and that doctors only learn basic information about intersex persons in their training, Dr. F explained. This lack of medical training on intersex conditions for primary care doctors was mentioned by another primary care doctor, Dr. R, who is a trans-friendly healthcare provider from a private clinic. Dr. R mentioned the training available usually only encompasses transgender health care and does not cover intersex health care.

As for secondary health providers, Dr. J, a paediatric endocrinologist at a public hospital, who has extensive experience in treating intersex or DSD patients in Malaysia, shared that major developments around medical care for intersex patients were being made. First, the international medical community working on intersex healthcare is shifting away from the highly pathologized term, “Disorders of Sexual Development.” This change has not been updated in any of the government medical protocols, guidelines, or handbooks. Second, that the Ministry of Health has a Technical Group on DSD comprising of a multidisciplinary group of medical experts and religious authorities reviewing the 2017 MOH Guideline on Gender Health Problems for Public Clinics. Their goal is to review the guidelines on DSD to incorporate more religious and medical perspectives on DSD diagnosis and treatment. Third, there have been successful cases of Muslim and non-Muslim intersex children and adults changing their gender on their identification cards and birth certificates, as explained in Section 4.2 on legal gender recognition for intersex persons. Fourth, there is now medical training on DSD being implemented for medical students at a master’s level, as compared to twenty years ago, when medical knowledge and awareness on how to treat intersex variations was very low. Fifth, the medical team that treats intersex infants or children is now typically multidisciplinary, usually comprising a paediatrician, endocrinologist, urologist, or a gynaecologist.

Dr. J is confident that attitudes towards unnecessary medical surgeries on intersex infants and children have changed drastically with many more medical practitioners refusing to perform unnecessary, medical surgeries on intersex infants and children. They acknowledged that the practice of unnecessary cosmetic medical surgeries was very normalized and commonly practised 20 years ago for intersex babies and children. Based on their experience working on the ground with a small group of paediatricians, gynaecologists, endocrinologists, urologists and psychologists, who treat intersex patients, they are confident that the doctors would advise parents against medically unnecessary surgeries. Dr. J is also hopeful that the MOH will issue a position statement on the matter of medically, unnecessary surgeries on intersex infants or children, in its review of the MOH Guidelines on Gender Health Problems.

Even with these developments, Dr. J explained that they do still face pressure from parents of intersex children to keep or remove parts of their body (through surgeries) to make their child more “normal”, like other children. Gender bias for

parents of intersex children who want their intersex infant or child to undergo medical surgery to be a boy instead of a girl has been documented in medical research. Based on our interviews, we found that the effects of unnecessary medical surgeries still impact intersex adults to this day. Dr. S reported that intersex persons in Malaysia typically would not even know that they had undergone medical surgeries as infants or children. “They (intersex individuals) grow up feeling that they are different and that something has been done to them, but they don’t know what.” This is because the parents of intersex children usually do not disclose the medical intervention to the child, as a result of societal stigma and shame around having intersex children.

All the doctors that we interviewed agreed on the need for more awareness and education for intersex individuals, families, health care practitioners, and the general public on intersex or DSD conditions to combat the stigmatisation of intersex persons. This includes incorporating intersex or DSD into medical training and syllabus for all doctors, as well as, ensuring all doctors are kept up to date with developments on intersex-related medical care. One doctor suggested the introduction and implementation of a rights-based approach to SOGIESC minorities in medical training and practice for both public and private healthcare providers. There is a need to improve opportunities and access to healthcare service providers who are knowledgeable in intersex healthcare and are rights-based in their approach.

4.2.4 Education

Based on our interviews, intersex children and teenagers are subjected to discrimination, bullying, harassment, and violence by other students in schools. Intersex minors are not protected from bullying in educational institutions as there are no rules in the Ministry of Education guidelines or domestic laws that prohibit discrimination in schools. They have no avenues to report cases of bullying or discrimination so their cases usually go unreported and the victims do not have access to any support. They carry the trauma they experienced in school into adulthood which greatly affects their mental health in the long term. CC was subject to sexual and physical violence and bullying by students in a conservative, religious co-ed boarding school. He had to hide his intersex identity and feelings towards girls in that school because the school was very homophobic and repressed:

“I got beaten up, I got bullied in school when I was in Form 1 or 2 because the senior girls noticed that I was very manly. I even got molested by the Form 5 student girls because they were like, ‘you don’t look like the younger girls, you look like the boys.’ So, it was very bad. They even asked me to sleep with them in the bed.”

BB also faced relentless bullying in co-ed school by the boys in school because of his facial hair and beard. He got into fistfights as a result of the bullying. He reported these cases to the teacher but no action was taken to address the bullying. BB did not go to school much and changed schools a few times because he couldn't focus so much because of his epilepsy condition and his family who were constantly arguing. After moving to an all-girls school and being exposed to more visibly queer students, he felt more comfortable and eventually graduated from school.

AA was also bullied and harassed by other students during secondary school for her intersex identity. She was stalked by a student who kept following her back home from school on a motorcycle until she had to wait inside the police station as a safety precaution. She was bullied for a lack of Adam's apple and the sound of their voice. And one time they were playing and pulled my trousers and people were laughing at me." AA did not seek help as she felt that there was no point in reporting the bullying, so her approach was to just ignore them.

4.2.5 Hate crime and hate speech

None of our interviews with intersex individuals mentioned hate crime or hate speech directly but their experiences of being bullied, harassed, and sexually assaulted in educational institutions, in 4.2.4 can be considered as a form of hate crime or hate speech.

4.2.6 Gender marker registration at birth

Dr. J, a paediatrician, explained how he always advises parents of intersex infants to not be so hasty in assigning sex to their child and to wait to see how the child develops. Parents have the option to choose 'doubt' as the sex in the child's birth certificate in cases like this. In some of his past cases, it can take up to nine months for the gender of a baby to be determined. Parents want to assign sex to their intersex child as fast as they can because of family and societal pressure which pressurise them to determine the sex of the child. Another reason is the stigma around being intersex so parents want to assign their child a sex so their child can be 'normal' like other children.

Our interviews with intersex individuals found that they faced challenges in their everyday lives since their gender expression and identity did not match their assigned sex at birth on their identification cards.

AA, an intersex woman, faces challenges in banking and transport because AA's appearance and voice differ from their assigned sex in their identification card. Because of this, AA tries to "avoid going to government agencies and all the places that require my IC." AA explaining about the challenges with their IC:

“Because many times people will look at my IC and people will question me, ‘Is my IC real?’ Because it doesn’t look like me, and all these things, you know. I’m always facing this at the airport especially. And I cannot do any phone banking because they will always ask me to go in person to the bank and they need to check my biometrics of my IC.”

Because of this, AA, identifies as a male or female, depending on the situation, for her convenience, “If I’m in a formal area, then my IC says male, so I identify as male. But if in an informal area then I identify as female.”

Similarly, CC, an intersex man, shared how the officers at the National Registration Department openly laugh at his face and call him pondan (a derogatory term to describe an effeminate male or trans women) to his face. He has also had experiences at government clinics of being embarrassed in front of everyone when the staff called out his ‘female’ legal name in the clinic. At the beginning of his transition back to appearing more masculine, he was stopped by the police twice and advised to not wear women’s clothes.

4.2.7 Legal gender recognition

The desk review found only one legal law on legal gender recognition for intersex persons and one documented case from a study of an intersex Muslim person who managed to change their gender identity legally on their birth certificate and identification documents. This is in comparison to a much larger pool of case law on transgender persons’ legal gender recognition.

According to our interview with a paediatric endocrinologist who is experienced in intersex healthcare, Dr. J, they mentioned that there were other successful cases of both Muslim and non-Muslim intersex persons who managed to get their name and gender marker changed in their birth certificates and identification cards. One issue, however, is that the National Registration Department does not permit changing the number that indicates our gender marker on our identification cards. So those who successfully can change their name and gender marker will be able to change everything except the number that indicates our gender marker in our identification card number.

The process differs for Muslim and non-Muslim intersex adults but both require (typically public hospital) doctors to facilitate this by sending a formal letter of request to the state religious affairs department or the National Registry Department. Muslim intersex individuals need to go through an additional process of going through state religious authorities who will be the final approvers. As for non-Muslim adults, the doctors need to write a formal letter of request to the National Registry Department to kickstart the process. For non-Muslim minors, they need their parents’ consent to kickstart the request to change their gender marker to the National Registration Department. This process is done on a case-

by-case basis, through closed-door, internal discussions facilitated by doctors, and there is no information available in any government medical guideline or handbook. The process is highly inaccessible as one would need to have access to doctors who have experience treating intersex patients which is also very inaccessible for many intersex adults.

As for the interviews conducted with the three intersex individuals, they all shared a common desire to change their name and gender markers on their identification cards to the names and gender they identify with, to either 'female' or 'male'. None of them wanted their gender markers to indicate their intersex identity. In the case of CC:

"I want to change but I know it's not allowed in Malaysia. So that's why I'm trying to migrate to Australia, to a country that will allow me to change my gender marker to male. I don't want it to be 'intersex' because it would be difficult for me to go back to Malaysia, and then they will be like 'ah, what is this?'"

Because of the inaccessible and almost impossible process to change your name and gender marker in Malaysia, some of the respondents are exploring options to migrate out of Malaysia to get this done. For example, AA shared:

"I actually tried to do it but I don't think so there is any chance in Malaysia. I just thought of leaving the country. So that's why I'm doing a PhD. I just thought of moving to other countries like Canada which is a more friendly place. Malaysia is the last choice, which means if I don't get to go anywhere else, then I'll stay in Malaysia... I've been reading the news and then I saw so many people failing, you know, people fail to change."

This shows intersex individuals' perception of legal gender recognition is affected and influenced by trans persons' unsuccessful legal cases to legal gender recognition. This is despite the fact that there is a process for intersex persons to change their name and gender marker, which is, unfortunately very inaccessible and not known about.

4.2.8 Access to justice and redress

The desk review could not find any legal case or documentation of intersex individuals' access to justice and right to redress in Malaysia. The interviews conducted support this finding, especially when it comes to their experiences of getting bullied, harassed, and sexually assaulted in school.

When AA was bullied in school for her gender identity, she did not seek help

for this and preferred to deal with it by herself. She explained that she does not see the point in reporting the issues she faces and would rather maintain a low profile. In BB's case, he faced bullying and harassment for his gender identity and physical characteristics, he would get into fights with his perpetrators. He would report these incidents to the school but in the end, they would get punished and nothing happened. CC, who was beaten up, molested, and bullied in school by his peers for his masculinity, did not report it to his parents or the school because of fears that they would not believe him and deny his whole experience.

4.2.9 Data collection: addressing research gaps

Based on the desk review, most of the existing research on intersex persons is medical or religious. There is a gap in terms of research that centers on the lived experiences of intersex persons and their rights. One of our interviewees, Dr. S, highlighted the need for more research on intersex persons and their access to healthcare since they are a vulnerable, minority population.

4.2.10 Inclusion in Emergency Policy Response

The desk review found that intersex persons are excluded from consultations and emergency policy responses in Malaysia. None of the interviews conducted revealed further information on this theme.

5. Recommendations, Scope, and Strategy for Implementation

5.1.1 Awareness and Education

- **Issue:** There is a lack of education, awareness, and understanding of issues surrounding sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) specifically about the discrimination and human rights violations intersex persons face in Malaysia.
- **Recommendation:** Integrate a human rights approach on SOGIESC issues within the entire education system and in particular, the medical education and training for all doctors.
- **Scope:** Ministry of Education, Ministry of Higher Education, Ministry of Health, National Human Rights Commission of Malaysia (NHRI), Malaysian Medical Association, Malaysian Paediatric Association, Public and Private Universities
- **Implementation:** Review and amend all government guidelines and handbooks to incorporate a rights-based approach that is SOGIESC-informed. This includes:
 - a. Remove the parts within the MOH Guideline on Gender Health Problems for Public Clinics that pathologise intersex persons.
 - b. Update the guidelines to more up-to-date information from the medical community including banning non-consensual, medically unnecessary surgeries for intersex infants or children and allowing for the intersex individual to have more autonomy over choosing a gender identity and the types of medical interventions they wish to proceed with.
 - c. Incorporate training on intersex healthcare into the medical curriculum for medical students; and run capacity-building training for existing doctors on intersex healthcare.
 - d. Review and amend all fatwas related to legal gender recognition, gender affirmation surgeries, and medical interventions for intersex persons, to ensure it is aligned with up-to-date international medical standards.

5.1.2 Access to Healthcare

- **Issue:** Intersex persons have challenges accessing SOGIESC-affirming, dignified medical care in Malaysia and getting access to specialised intersex medical care.
- **Recommendation:**
- **Scope:** Ministry of Health, National Human Rights Commission of Malaysia (NHRI), Malaysian Medical Association, Malaysian Paediatric Association

•**Implementation:**

- a.Run campaigns for the general public, particularly, families to raise awareness on what it means to be intersex and support services intersex persons can contact.
- b.Provide clearer and accessible information on where intersex individuals can go for a diagnosis as well as treatment. This can be done by compiling a list or database of key medical experts and their contact information together in one place, to disseminate within a government guideline or website.
- c.Release position statements in government guidelines that prohibit medically unnecessary surgeries on intersex babies and children.
- d.Review the existing process for intersex persons and legal gender recognition to reduce the barriers and make it more accessible and simpler for intersex persons to apply to. And to provide detailed information about the process for intersex persons to access legal gender recognition so the process can be accessible to all.
- e.Increase the number of mental health professionals who are trained in SOGIESC rights so that more intersex persons and their families can access mental health care.

5.1.3 Legal or policy framework against discrimination on the basis of sex characteristics

- Issue:** Discrimination against intersex persons in education, employment, and health is prevalent and poorly documented.
- Recommendation:** To introduce comprehensive legislation and/or policy on equality and non-discrimination to provide legal protection for all SOGIESC+ minorities against discrimination. This includes provisions to prohibit discrimination based on sex characteristics.
- Scope:** Minister of Law and Institutional Reform; National Human Rights Commission of Malaysia (SUHAKAM); Ministry of Women, Community, and Family Development; Ministry of Health; Ministry of Education; Media; Civil Society Organisations
- Implementation:**
 - a.Conduct more in-depth comprehensive research on the discrimination and human rights violations intersex individuals face in Malaysia.
 - b.Review all existing domestic legislation to identify gaps that permits discrimination based on SOGIESC.
 - c.While waiting for legislation, the government can introduce an interim policy to prohibit discrimination based on SOGIESC in employment, education & healthcare.

5.1.4 Capacity building and training

- **Issue:** Lack of awareness about the discrimination and stigma against intersex persons which has become very normalised.
- **Recommendation:** To provide more information on SOGIESC+ rights and to illustrate the causes and effects of discrimination faced by intersex persons.
- **Scope:** Ministry of Health; Ministry of Education; Ministry of Higher Education; SUHAKAM; Civil Society Organisations
- **Implementation:**
 - a. Develop and run training on SOGIESC+ rights and the causes and effects of discrimination faced by intersex persons to be implemented in all civil society, private sector, educational institutions, medical sector, and the general public.
 - b. Build capacity and train SUHAKAM to be more knowledgeable about the rights of intersex persons so they can receive more complaints from intersex individuals about human rights violations
 - c. Build capacity and train civil society organisations, particularly LGBTQ+ organisations, to engage with intersex persons more and to collect more documentation and evidence about human rights violations intersex persons face.

6. Way Forward

In conclusion, this report highlights the significant violations of rights faced by intersex individuals in Malaysia, particularly about bodily autonomy, discrimination, and access to education, healthcare, and employment. These challenges are further compounded by the lack of specific legislation that acknowledges the status, rights, and well-being of intersex individuals, thus leaving them vulnerable to discrimination. Overall, the report underscores the urgent need for comprehensive legal protections, enhanced medical awareness and care, inclusive educational environments, and proactive measures to address discrimination against intersex individuals in Malaysia. Immediate steps must be taken to rectify the current gaps in legislation and policy the report highlighted.

The future of intersex rights in Malaysia is dependent on the role policymakers and civil society choose to play in promoting the rights and well-being of intersex individuals. By embracing the principles of inclusivity, fostering awareness, and enacting comprehensive legal protections, Malaysia can pave the way for a more equitable and just society, where all individuals, regardless of their intersex status, can enjoy their rights.

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8. Appendix

Appendix

Table X: List of key informant interviews conducted for the Intersex Asia Malaysia Country Report – 2023

Date	Name	Designation	Institution	Topic of Discussion
30th March 2023	AA	Intersex person	N/A	Lived experiences
2nd April 2023	BB	Intersex person	N/A	Lived experiences
5th April 2023	CC	Intersex person	N/A	Lived experiences
6th April 2023	Dr.S	Primary Care Reproductive health specialist	Private clinic	Access to healthcare
6th April 2023	Dr.F	Primary Care Doctor	Private clinic	Access to healthcare
11th April 2023	Dr. J	Paediatric endocrinologist	Public hospital	Access to healthcare
3rd April 2023	Dr. R	Primary Care Doctor	Private clinic	Access to healthcare
11th April 2023	Dr. A	Endocrinologist	Private hospital	Access to healthcare

Factors	Male Characteristic	Female Characteristic	Exceptions
Urination	Urinate through penis	Urinate through vagina	If individual urinates through both, then we should consider the genitalia the individual first used to urinate with
Ejaculation and menstruation	Semen ejaculated through penis or absence of menstruation upon reaching the age of puberty	Semen flows through vagina or experience menstruation	-
Childbirth	-	Childbirth is concrete evidence that individual is female	-
Feelings of attraction	Attracted to a female	Attracted to a male	Only to be used if there are no other signs that can be used to assign the individual's identity, e.g. for intersex persons who have no penis or vagina
Emergence of certain characteristics	Bravery and patience in fighting enemies, and strength	Absence of these characteristics	-
Facial hair growth	Moustache and beard	Development of breasts and breast milk	

Table X: Summary of laws that criminalise persons based on consensual sexual acts, sexual orientation, gender identity, and gender expression⁸⁸.

Federal Laws	Provisions that affect LGBTIQ persons
Section 377A, B, and D of the Penal Code	Criminalizes consensual oral and anal intercourse between consenting adults of any gender and sexual orientation.
Dangerous Drugs Acts	Often used to raid gay friendly clubs, saunas, and other establishments.
Section 372B of the Penal Code	Criminalises individuals who solicit or importune for the purpose of prostitution (trying to sell sex to others)
Section 21 of the Minor Offences Act (Public Indecency law)	Criminalises drunkenness and disorderly behaviour in public places and is often used to charge people who are roaming around on the street as cross dressers during police raids for “obscene” behaviour in public places.
State Laws	Provisions that affect LGBTIQ persons
Liwat	Criminalises sexual relations between men. Liwat is criminalised in 11 states except Pahang, Perak, and Selangor.
Musahaqah	Criminalises sexual relations between women. Musahaqah is criminalised in 13 states except Pahang.
Sexual relations between persons of the same gender	This can only be found in Selangor.
Sexual intercourse against the order of nature	This can be found in 4 states – Selangor, Sabah, Melaka, and Negeri Sembilan.
Male person posing as a woman	Criminalises trans women based on gender identity and gender expression in all states in Malaysia.
Female person posing as a man	Criminalises trans men based on gender identity and gender expression in 4 states – Sabah, Pahang, Perlis, and Negeri Sembilan.

Table X: List of fatwas, gazetted and non-gazetted, that criminalise gender identity and expression, legal gender recognition, and gender affirmation surgery⁸⁹.

Date	Issue	Status
13 April 1982	Sex Change from Male To Female / Pertukaran Jantina Daripada Lelaki Kepada Perempuan	This matter was discussed at the national level. The Fatwa Committee National Council of Islamic Religious Affairs Malaysia decided that a person who is born as a “khunsa musykil”, who has both male and female genitals, is permitted to undergo surgery “to retain the most functional private part according to the suitability”. It was also decided that a person, even if she or he has successfully undergone sex reassignment surgery would still remain a male or a female.
24 February 1983	The Status of Transgender Women In Islam / Kedudukan Mak Nyah Dalam Islam	Sex change is forbidden in Islam for male and female persons.
13 December 1989	The Status of Transgender Women In Islam / Kedudukan Mak Nyah Dalam Islam	Sex change from man to woman and vice versa through operation is prohibited in terms of Syariah.
16 March 1993	Sex Change from Male to Female / Pertukaran Jantina Daripada Lelaki Kepada Perempuan	This discussion was prompted by a successful application by a post-operative trans woman to change her name in her identification card. Was discussed at the state level in Selangor, but was not gazetted.
15 June 1993	Ruling on Change of Gender for Mak Nyah / Hukum Menukar Jantina Mak Nyah	Was discussed at the state level in Selangor, but was not gazetted.
15 June 1993	Marriage between Mak Nyah and Men	This discussion was prompted by a wedding between a trans woman and a cisgender man (Noranizah bte Mohd Yusuf and Richard bin Badry). This issue was discussed at the state level in Selangor, but it was not gazetted.

14 April 2005	The Ruling of Changing The Gender Status In Mykad (ID) / Hukum Menukar Status Jantina di MyKad	<p>The 68th Muzakarah (Conference) of the Fatwa Committee National Council of Islamic Religious Affairs Malaysia held on 14th April 2005 has discussed the ruling on changing gender status in Mykad (ID). The Committee has decided that:</p> <ol style="list-style-type: none"> 1. Changing gender status in the ID for the owner who has undergone sex change operation which is permitted by Islamic law is permissible. 2. Changing gender status in the ID for the owner who had undergone sex-change operation which is prohibited by Islamic law is forbidden.
25 May 2006	The Ruling of Changing the Gender Status in MyKad (ID) / Hukum Menukar Status Jantina Di MyKad	The fatwa only authorizes change of gender in MyKad for those who are permitted to change their sex according to Islamic laws. This fatwa was gazetted on 25 May 2006 in Selangor.
25 October 2007	The Issue of Gender Disorder; Congenital Adrenal Hyperplasia and Testicular Feminization Syndrome / Isu Kekeliruan Jantina Congenital Adrenal Hyperplasia Dan Testicular Feminization Syndrome	The fatwa was gazetted in Selangor on 25 October 2007.
22 – 24 October 2008	Ruling on Women Imitating Men (Tomboy)/ Hukum Wanita Menyerupai Lelaki (Pengkid)	Tomboy or pengkid is defined as “women whose appearance, behaviour and sexual inclination are like men”. This matter was discussed at the national level.
27 November 2008	Ruling on Women Imitating Men (Tomboy)/ Hukum Wanita Menyerupai Lelaki (Pengkid)	Was discussed at the state level in Sarawak, but was not gazetted.
3 December 2008	Fatwa Ruling on Women Imitating Men (Tomboy)/ Fatwa Hukum Wanita Menyerupai Lelaki (Pengkid)	The fatwa has been gazetted in Johor.
14 December 2008	Fatwa on Pengkid	Was discussed at the state level in Kelantan on 14 December 2008, but was not gazetted.
18 December 2008	Banning of Women Imitating Men/ Pengharaman Wanita Menyerupai Lelaki (Pengkid)	The fatwa was gazetted in Malacca on 19 November 2009.

18 December 2008	Ruling on Women Imitating Men (Tomboy) and Ruling on Men Imitating Women (Pondan and Mak Nyah)/ Hukum Wanita Menyerupai Lelaki (Pengkid) Dan Hukum Lelaki Menyerupai Perempuan (Pondan Dan Mak Nyah)	Was discussed at the state level in Perak on 18 December 2008, but was not gazetted.
29 December 2008	Ruling on Women Imitating Men (Tomboy)/ Hukum Wanita Menyerupai Lelaki (Pengkid)	Was discussed at the state level in Pahang on 29 December 2008, but has not been gazetted.
18 March 2009	Fatwa Ruling on Women Imitating Men (Tomboy)/ Fatwa Hukum Wanita Menyerupai Lelaki (Pengkid)	The fatwa was gazetted in Wilayah Persekutuan Kuala Lumpur on 2 April 2009.
29 May 2009	Gender Determination for (Ambiguous Genitalia and Testicular Feminisation Syndrome) / Penentuan Jantina Bagi (Ambiguous Genitalia dan Testicular Feminisation Syndrome)	Was discussed at the state level in Pahang on 29 May 2009, but was not gazetted.

Glossary

Mak nyah	Transgender woman
Mukhayyam	Camps, run by the federal Islamic Affairs Department (JAKIM) and various state Islamic departments, that in accordance with the belief that LGBT people should be “rehabilitated,” undertake sexual orientation and gender identity change efforts, known as conversion practices, targeting Muslim LGBT people.
Ustad/ustaza	Religious teacher
Liwat	Same-sex conduct, particularly anal sex, with a similar connotation to the term “sodomy”.
Musahaqah	Female same-sex conduct.
Pondan	A pejorative term that can designate queer men, trans women, and gender nonconforming people assigned male at birth.
Khunsa	Intersex individuals, as defined by Islamic literature as, “a person with both male and female organs or with an opening in place of a sexual organ from which he urinates.”
Mukhannath	A term used in Classical Arabic and Islamic literature to describe gender-non conforming people, and it has typically referred to effeminate men or people with ambiguous sexual characteristics, who appeared feminine and functioned sexually or socially in roles typically carried out by women.
Khunsa ghayr musykil/wadhih	Sub-category of khunsa defined as a person with both male and female genitals who can be assigned a specific sex and gender based on which genital organ is the more dominant of the two.
Khunsa musykil	Sub-category of khunsa defined as a person who cannot easily be categorised as either male or female, i.e. this person continues to urinate from both the penis and the vagina.
Fatwa	A fatwa is an edict issued by a Muslim religious authority. It is usually issued in order to resolve an issue when there is some doubt whether a particular practice is permissible (halal) or forbidden (haram) in Islam. According to Malaysian law, fatwas approved by the Sultan in each state are published in the gazette and then the fatwa becomes part of Shariah criminal law. There are also fatwas issued by the National Fatwa Committee which technically have no legal value as they are not gazette under the laws of any state.
Antara jantina	A term in Malay to describe an intersex individual, it directly translates to between two genders.
双性人	A term in Malaysian Mandarin to describe an intersex individual, it directly translates to dual sex person.
இடையிலிங்கம்	A term in Tamil to describe an intersex individual, it directly translates to intersex person.
இரூ பாலின உடலி	A term in Tamil to describe an intersex individual, it directly translates to the one with two organs.

Intersex Asia is an autonomous regional network of intersex-led organizations and individuals from Asian countries that work to support, educate, and advocate for the rights and lives of intersex individuals as well as raise awareness on human rights violations and discrimination faced by intersex communities. It envisions a world where the beauty of intersex people is celebrated, intersex persons can love themselves, and intersex people grow together as a community. It seeks to create a space for intersex people where they can come forward and act as a stakeholder of the global intersex rights movement.

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