

CHAPTER I

INTRODUCTION

In today's era, globalization makes the deployment of culture spread globally, which means people will get more various culture and require to increase their tolerance to adapt to the effect of cultural diversity by globalization. Those effects, get multiple responses from around the world which are merely divided into two sides perspectives and implications which are pros or cons, for instance, LGBT (Lesbian, Gay, Bisexual and Transgender) movements. This “new gender identity” has brought the broad world debate in the international arena. Meanwhile, there are several countries which give legal permission to the same-sex marriage and its become concern for international organizations' principle about human rights. The purpose of this research is to examine and explain how do LGBT activist struggle to get their rights and acceptance from government and society, using two methods which give big influences to their goals.

A. Background

According to the American Psychological Association journal about LGBT history wrote that this habitual (LGBT activities) is not a new issue because in the pre-history the symptoms have begun in ancient Israel which was prohibited in Bible (name of city).¹ In the 19th century, there were many organizations emerged which related to LGBT platform in the USA. The first book published about *Friendship and Freedom*, the first U.S. publication for homosexuals. As follow, other release emerged in 1928 by the novel of "The Well of Loneliness" by Radclyffe Hall, this novel refers to the

¹ Adopt from the routine journal in the web page of American Psychological Association written by Bonnie J.Morris, Ph.D. from George Washington University, <http://www.apa.org/pi/lgbt/resources/history.aspx> retrieved on Tuesday, 14 November 2017.

lesbian people and as a result that brought worldwide discussion and becomes a mainstream source for other writer and author to write about LGBT movements.²

The significant amount of LGBT campaigns was started in 1996 when the United States of America and European states have legalized the rights for empowering LGBT movements. In the United States, there are 37 states which already legalize by the constitution to have same-sex marriage. The support of the LGBT movement in the United States also become part of the government policy which can be seen from the comfort which they got from its government. In January 2012 and 2015, the US President at that time, issued a final rule and subsequent guidance to ensure that the Department of Housing and Urban Development's core housing programs and services are open to all persons regardless of sexual orientation or gender identity.³

One of the largest of Muslim majority country in Southeast Asia region such as Malaysia, its country implement the Islamic law on its national regulations which means to counter the LGBT issues, Malaysia naturally performs the punishment based on Islamic rules. One of the biggest event which support LGBT movements in Malaysia called Seksualiti Merdeka (SM) has banned by Malaysian polices in 2011, however after the forbidden issue, in the early of 2012, the theme of sexuality content of LGBT images which spread in poster and others media became one of the concerns for the Malaysian government. Its government assumed that will

² Adopt from the journal about LGBT Rights timeline, <http://breakingprejudice.org/assets/AHAA/Activities/Gay%20Rights%20Movement%20Timeline%20Activity/LGBT%20Rights%20Timeline.pdf> retrieved on Tuesday, 14 November 2017.

³ Adopted from the website <https://obamawhitehouse.archives.gov/the-press-office/2016/06/09/fact-sheet-obama-administrations-record-and-lgbt-community>

poison children as a new generation, so some NGOs which cooperated with schools and other communities often held campaign whether in school, office, and different environments.⁴ Then to eradicate the spreading of LGBT issues, Malaysian government also using media to campaign against LGBT movements by showing some adverse effects of being LGBT for itself and its environment.

The deputy-minister of Malaysia, Dr. Mashitah Ibrahim, given warned stated about the immoral acts which are done by LGBT activists is against Sharia Law and continue by stating that there is no constitutional freedom for LGBT activists who are living in Malaysia.

“Article 8 of the Federal Constitution says there must be no discrimination of citizens in terms of religion or sex. ‘Sex’ has never been interpreted to mean sexual orientation; it has always been interpreted to mean either male or female, and they are (the only ones) protected by the constitution.”

Above Malaysia's regulation has technically stated that Malaysia against LGBT activities. According to National Law of Malaysia which named The Penal Code 1936(amanded up to 1 January 2006) ratified by CEDAW and CRC Treaties stated that the punishment for the LGBT activist is up to 20 years' imprisonment and whipping also two years' imprisonment both male to male or woman to woman. One of the debated issue of LGBT activities in Malaysia there was in June 2015, where there were two couples of LGBT got trapped by police, the lesbian couple only must pay fined for their punishment while the gay couple was jailed terms of two months and also paid for excellent. This issue got some

⁴ Adopt from Malaysia: Human Rights Violation against Lesbian, Gay, Bisexual, Transgender, Intersex and Queer Persons.pdf in 2017-11-06.

response from the deputy chairman of the National Unity Consultative Council (NUCC) law and policy committee believed in prohibiting discrimination even violation based on sexual orientation should remain.

“Some segments of Malaysian society want to demonize the community. Why is it in Malaysia, LGBT is considered a bad word? Our Penal Code criminalizes sodomy, but it doesn't criminalize sexual orientation.”⁵

In the early of the first anti-gay movement formed named *People's Anti-Homosexual Voluntary Movement (PASRAH)* which created by United Malaysia National Organization, have a purpose of preventing any-kind distractions from LGBT people in Malaysia. Cooperated with Malaysia government, the acts of this movement is to eradicate the LGBT movement in Malaysia because they believe that homosexual activity is not only diseases but also it is a "threat" to the social. The formation of this movement has brought debate in the international arena because some of them believe that this movement might become the beginning of the harassment and violation acts toward the rights of homosexual people.⁶ Besides the pros and cons of the PASRAH formation, Malaysia government give full support for them because there has their human rights perspective for its national regulations.

The general perspective of human rights is everyone who is living as a citizen of a country have their rights to get protection and also others rights as a human being and citizen. In many states which already legalize the marriage of LGBT,

⁵ Adopt from Criminalisation of Homosexuality from Human Dignity Trust of Malaysia.pdf.

⁶ Adopt from the article from refworld site <http://www.refworld.org/docid/3ae6aac548.html> retrieved on Saturday, 16 December 2017.

the human right concept become the primary trigger to support the arguments in court. However, inside of countries which implement Islamic value, states still argue about how the human right violate religion value. The human right contribution to LGBT movement enormous since the primary objective of the community is to raise human right for every people, especially the member of a community.

"Human rights can be seen as primarily ethical demands. They are not principally "legal," "proto-legal" or "ideal-legal" commands. Even though human rights can, and often do, inspire legislation, this is a further fact, rather than a constitutive characteristic of human rights."⁷

LGBT communities and its civil society organizations are struggling to reach the goals to ensure non-violations over their people and having the equality right for living peacefully in society no more hiding. By using the human right platform of their perception, LGBT movement uses it to uphold, and the campaign in every states especially in Malaysia. That platform above will explain how LGBT changes offense the policy of a government by giving the theory which claims that ban the existence of LGBT community is violating the human right. Since the concept of people is the freedom of choice for the people is right for every people, the punishment for LGBT community will be only the case of human right violation rise.

According to the report of Being LGBT in Asia by UNDP, respond to the radical action which against LGBT people in Indonesia and Malaysia, United Nations Development Programme (UNDP) in Asia and The Pacific

⁷ Adopt from the summary of the article journal in the websites http://isites.harvard.edu/fs/docs/icb.topic97122.files/Elements_of_a_Theory_of_Human_Rights.pdf about the theory of human rights, definition and its principles of human rights theory.

which one of the fund sources for LGBT communities in ASEAN region, bring out this case to the general forum in United Nations for struggle their rights. Besides UNDP, its also supported by the Embassy of Sweden in Bangkok, the U.S. Agency for International Development and Faith in Love Foundation based in Hong Kong, OHCR, UNAIDS, ILO, UNESCO, UNFPA, UNICEF, UNHCR, UN Women, UNODC, WFP, and WHO.⁸ UNDP stated that the purpose of their programme besides struggle for LGBT people's rights also for the identifies, discuss and solve the problems or obstacles such as discrimination or violation and gender identities. UNDP also view that the close cases of discrimination over LGBT people will give an essential role for Sustainable Development Goals (SDG). UNDP also give around 8 millions dollars of USA for support LGBT movements in Southeast Asia, especially Indonesia.⁹ The programme was approved by UN Secretary-General, Ban Ki Moon's statement :

*"There are 17 sustainable development goals all based on single, guiding principle: to leave no one behind. We will only realize this vision if we reach all people regardless of their sexual orientation or gender identity."*¹⁰

The argument strongly related to the United Nations in their Universal Declaration of Human Rights (UDHR) which is a document for human rights fundamental that was declared

⁸ Adopt from UNDP sites in the article page of Ending LGBTI Discrimination is Key to Achieving SDGs. www.undp.org access on 7 November 2017.

⁹ Adopt from the journal news from the page of designers Indonesia <https://m.detik.com/news/internasional> about some support from UNDP toward LGBT communities in ASEAN countries.

¹⁰ Adopt from UNDP sites in the article page of Being LGBTI in Asia. www.asia-pacific.undp.org access on 7 November 2017.

by the United Nations General Assembly in Paris on 10 December 1948.

Article 2

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status. Furthermore, no distinction shall be made by the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty." (USAID & UNDP, 2013)

Based on the principle of Universal Declaration of Human Rights above, they have incredibly support for LGBT movements. That can be approved by the funding of UNDP towards LGBT communities in ASEAN region every year. Even though those programmes can probably influence the domestic political system, however, the possibility to change or even intervene the local government can be a failure because this country which, Malaysia have strong regulations relating to the Islamic values (Sharia Law) because of their majority Muslim people.

According to the facts which have explained, behind of multiple pro and cons which occur in many perspectives between Muslim country and LGBT movements and also some problems of human rights abuse toward LGBT people, their actions in struggle to take a role or effect to the political system especially in Muslim majority country, Malaysia, are moving fastly. By multiple factors which support LGBT movements, it makes them more intense for embracing their voice about their rights like the social campaign, social act and more which will attract societies and

its government. They are no longer hide their status as before, they have bravely shown up their communities performances to the public. By this research, the writer want to examine and explain more about how LGBT activists struggle for their human rights acceptance in the country with majority Muslims people and have some strict regulations, like Sharia Law which used by Malaysian government about the same-sex relationship then the discrimination to their people

B. Research Question

From the information above regarding the background of conflict, then the question emerged as:

How do LGBT activist in Malaysia as one of Southeast Asia's Muslim majority countries struggle for their acceptance?

C. Purpose of Research

The purpose of this research intentionally to explain how the LGBT movements struggle for their recognition of existence in Southeast Asia country which implement Islamic value, especially in Malaysia. This research will beneficial to predict the future of LGBT activist existence's recognition in Southeast Asia majority muslim states.

D. Theoretical Framework

1. Constructivism

Alexander Wendt argues that existence of social facts is mainly constructing the society and the reality itself happened because of the general recognition. The recognition itself will transform into a robust material to influence on social activity and political action. The attention can be formed as a paradigm, belief, ideology, even interest, and identity. It is a matter that the form of ideas can be affected by types of action which the subject will do. Wendt says "actors acquire identities relatively stable, role-specific understandings and expectations about self by participating in

collective meanings. It developed at the end of the 1980s in the first of 1990s which can be found in Nicholas Onuf's and Alexander Wendt's written. Besides Wendt, there is one of theory about social constructivism which perfectly relate to this research which the social general perspective play an important role in the social constructed looking on the perspective about LGBT.

“Ideologies or shared belief system is a systematic set of doctrines or beliefs that reflect the social needs and aspirations of a group, class, culture, or state. Normative (or principled) beliefs are beliefs about right and wrong...” (Tannenwald 2005:15-16)

Viewing the idea of Tannenwald above, some beliefs are a belief that the unusual phenomena are sometimes wrong. At that point, specialists and structures are commonly constituted. Regularizing and ideational structures may well condition the characters and interests of performers. However, those structures would not exist if it was not for proficient practices of those on-screen characters.¹¹

This theory will examine how the technique for LGBT development supporter endeavor to impact the state of reasoning and seeking after general acceptance in Southeast Asian states with a specific end goal to achieve legitimation from the government. Within the countries which execute Islamic incentive as the wellspring of strategy, the LGBT development will impact on how the general point of view of the general population is affected by the legislature and giving the new impression of how various the LGBT developments are. Be that as it may, the idea which doctrine by the administration is not objective and disregard the opportunity of reasoning.

¹¹ Adopt from IR Theory 2 Presentation by Mr. Winner Agung Pribadi

In this way, the principal question of LGBT development is to change the point of view of the general population and pick up the new mentality of individuals which is the inverse of central tenet. Its LGBT activists will utilize a few techniques to impact others, for example, media, both full communications and online networking which today individuals are effortlessly pulled in by anything which comes up as inclining in media. Eventhough general perspective from social environment about LGBT movements have adverse idea, however the LGBT actors make an effort to changing the adverse perspective by general social's perspective into positive perspective about its LGBT movements. Likewise in Malaysia, the LGBT activists using the role of media as one of method to influence people's perspective toward LGBT, look into and support their struggle to get acceptance from social and Malaysian government. This LGBT activist' effort is one of an effective method in this developing era (globalization) because several researchs find that in this era, media (mass media, book, social media) has play an important role in influencing people's perspective even their lifestyle. (Agerholm, 2018)

2. International Regime Concept

The idea of the international regime is an idea which rises out of the branch of neo-liberal institutionalism by Robert Keohane and Joseph Nye which clarify about the conduct of states in rebel structure which will tend to make collaboration among countries keeping in mind the end goal to dodge the contention in global society. The international regime could be characterized because of cooperation as it was described by Stephen D Kanser in his journal titled "Structural Causes and Regime Consequences: Regimes as Intervening Variables."

"International regimes are defined as principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area or international relations. Principles are beliefs of fact, causation, and rectitude; Norms are standard

of behavior defined regarding rights and obligation. Rules are specific prescriptions or prescriptions for action."

In contrast with the institutional organization, an international regime more flexible in membership structural because that is no precisely member on it. This regime understood as an essential term which often changes by the interest and norms. Relating to the research's explanation about human rights issue, the international governments which involve is its specialty on the human rights issues, such as; Human Rights Watch and United Nations of Human Rights Council. In the background of the problem can be reveal that some international actors and regimes involve. They are supporting on LGBT movements and its efforts, besides, the international regimes also make some efforts and movement to force Malaysian government giving the acceptance for LGBT people in Malaysia.

The relation of the concept of international regime and the emerging community of LGBT in Islamic countries is by observing on how the LGBT movement create tension in Islamic countries and proposing the states to the international regime to establish the resolution for the right of LGBT. The international regimes will gather the particular states and solve the problem by conducting several resolutions of human right. Therefore, the role international regime highly spot in the struggle of LGBT activist' to achieve their rights of acceptance.

E. Hypothesis

Based on the circumstances that occurred and the theoretical framework pictured, this thesis seems that there is 2 hypothesis. LGBT communities enhance their movement by:

1. Using the role of media in their campaign to change people perspective on how they see the existence of LGBT activist in society and creating tolerance on their communities. Viewing to the background and theoretical framework, the first hypothesis is LGBT communities will influence to building the people perspectives by their platform to support their movement and influence government to get their equality in human rights by media, whether mass media or social media. They see that era of globalization has bring more positive impact for them because the developing of technology in recent years is magnificent and so does the influence of media. LGBT activist perceive that media is the most ideal in carry out their goals, getting attention and reach more supporter for them. By using this method, LGBT movements will increasing because they have control people to change the wrong perspective of LGBT people.
2. Using the role of an international regime to propose their movements related to their acceptance which also relate to the human rights for its involvement in government policy about legalizing acceptance for LGBT activist. This method can be reveal in the struggle of LGBT activist in Malaysia by using the power of international actors, such as HRW, UNDP, OHCHR, and UNHCR to influence the domestic political system and its regulations. Those institutions were planning some programmes to developing the sustainable of environment by releasing the issues of discrimination and violations especially toward LGBT people. Based on Universal Declaration of Human Rights (UDHR) principles in article 2 which have explain in the background stated that they will giving their hand to erasing the discrimination and violation for all people in no matter gender or sexual

orientation. Adding with some facts that comes up in recent years that because of the declaration, UN having programme that focusing on LGBT issues especially in Asia and Pacific regions.¹² Relating to the second theoretical framework which had explain, the international regime can go well beyond and giving their hand to the LGBT issues because they have an important role in the Asia and Pacific region to solving human rights problems which belong to their principles.

F. Method of research

1. Type of research

This type of research is explanation research, which leaves to the purpose of this research is to explain or examine the steps of methods that used by LGBT activist to sturggle for their acceptance in a country with majority muslims, Malaysia. This research contains the historical background to explain the first movement of LGBT in Malaysia begun. Explaining some aspects in the content of this research was done using several This explanation paper or research is done by qualitative research method.

2. Data Collecting (Qualitative)

This research was done using qualitative research method. This research common using interview and focus groups and group's interviews. Both these method allow researchers to explore a topic in depth with one or two people at time, or within a small group. This research was done by collecting information from reliable sources such as book, e-book, articles, journals and interview's results. Those are analyzed using the theoretical framework mentioned in the previous part. The internet-based sources also have a crucial

¹² *Ibid.*

role in providing data such as a chart, pictures, articles, and reports to obtain the update information.

G. Scope of Research

The title of research "*THE DISCOURSE OF THE STRUGGLE TO ACHIEVE ACCEPTANCE FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER ACTIVISTS IN MALAYSIA AS A MUSLIM MAJORITY COUNTRY*" has a limit problem discussion for the effectiveness in explaining and also not to widely explanation in summary for focusing on the time limit about that issues. This research will debates on several facts which happen in time limit from 2011 - 2017.

H. Systematics of Writing

Chapter 1 is about the explanation about Background, Research Question, Purpose of Research, Theoretical Framework, Hypothesis, Method of Research and Systematics of Writing.

Chapter 2 is about the explanation about Historical Background of LGBT Movements in Malaysia.

Chapter 3 is about explanation The Problems That Faced by LGBT People in Malaysia.

Chapter 4 is about explanation How LGBT Activists Struggle For Their Rights in The Majority Muslim Countries, Malaysia.

Chapter 5 about contains the conclusion of this research.