

CHAPTER III

MALAYSIAN GOVERNMENT EFFORTS IN PREVENTING THE DEVELOPMENT OF LGBT ISSUES

Human rights acceptance in social living is not easy to achieve for LGBT people even for ordinary people. Some people have conflicting perspectives about LGBT people because they think that LGBT people are doing mistakes and its unusual for their tradition. Many sources of news talk about the discrimination towards LGBT people and show how are the living of being LGBT people in the social life with some life pressures such as being expelled from their original village, not considering as family members anymore, difficulty in getting a job and many more. As the problems of LGBT people growing become more prominent these days, its make existences of a new group of people which support LGBT movements and also groups which consists of LGBT people. Although in recent years many leading international actors, including the UN and European Union, have endorsed the idea that

"LGBT [lesbian, gay, bisexual and transgender] rights are human rights, and human rights are LGBT rights" (Clinton, 2011),

At the local and national levels bolster is still a long way from ensured. The outcome is that while internationally there has been a remarkable advance in perceiving the privileges of LGBT individuals, now and again helped by and bringing about social change, there has likewise been a going with ascending in both famous, religious and political homophobia in numerous states. These clashing and often exceptionally opposing flow are especially apparent in Southeast Asia, where some extraordinary jumps forward in securing the privileges of LGBT individuals have happened in parallel with considerable misfortunes. For instance, in late 2014, a Malaysian Appeals Court decided that a prohibition on cross-dressing be illegal, while a Singapore Court held that a

law criminalizing consensual same-sex direct between men was established.

A. **THE PROBLEMS OF LGBT MOVEMENTS IN MALAYSIA**

At the regional level, the diversity of stances on LGBT rights is clearly seen in debates between member states over “Asian values” and especially in relation to the content of the ASEAN Human Rights Declaration (**Langlois, 2014**), while at the national level approaches to LGBT issues have been exceptionally varied and often on the surface, at least seemingly contradictory. To take three recent examples: in late 2014, a Malaysian Appeals Court ruled that a ban on cross-dressing be unconstitutional (**ABC News, 2014**), yet a “morality raid” in Johor by Malaysia’s Islamic police in September 2014 resulted in the arrest of two women for allegedly having same-sex relations (**Autostraddle, 2014**).

According to the United Nations Development Programme report titled "Being LGBT in Asia", it shows the rudeness of local people toward LGBT people, and also mentioned about the LGBT issues in Malaysia about the Malaysian Police who banned the most significant annual event of LGBT communities named Seksualiti Merdeka, along with the arrested of lesbian couple who got caught having same-sex relations which has mentioned above. The report (article) also mention that Malaysian government was intolerant, discriminate, and unfair to give the rights of the human being as Malaysian people.

In Southeast Asia region especially in countries with majority Muslim people such as Indonesia, Malaysia and Brunei Darussalam, the group or community who support LGBT movement increasing as time goes by. Actually, in case of prohibition the LGBT terms, all religion has the same rule on prohibition to same-sex relationship or marriage. However many people see that Islam has some strict regulations about the marriage relationship and its only men and women couples, based on Holy Quran and some Hadits.

One of the Islamic countries which have implementing Islamic regulations is Saudi Arabia, and for the countries which located in southeast Asia region are Brunei Darussalam and Malaysia. The first time of their independence from the colonization, both countries have the written regulation of the countries based on Holy Quran (Islamic laws). Especially Malaysia, after got independence from Great Britain in the colonialization era, this country has its regulations for Malaysia and using Islamic values, a different path with Britain's system or country's values at that time.

1. The Banned of Seksualiti Merdeka

One of the biggest problem in LGBT issues was when Malaysia's policies stated to banned the festival for LGBT people, gender issues, women's protection in 2011, which done by one of the famous community which supported LGBT movement, Seksualiti Merdeka (SM) with some partners from Malaysia's communities and also from other countries' communities. This issue brought up the debate between the pros and cons arguments which came from Malaysian people who strict on Islamic regulations which already implemented by the Malaysian government and other Islam organizations, and the cons argument came from the UN human rights, UNDP, and the communities which support its festival and LGBT movements.

As well as time passed by, Malaysian government gets forced for being assertive to the banned issue by every element around the world not only from their citizens but also from human rights NGOs, indeed United Nations of Human Rights Council. They have to finish the debate and create the final decision for the annual festival (Seksualiti Merdeka) banned issue to end the high tension atmosphere. The problem solving was not clear enough, or it means there was still no decision for the debate after the banned issue at that time, however, in the early of 2012 the protest by LGBT activist brought the theme of sexuality content which not good sight

for people under-age (children), spread in poster and others media. That kind of protest from LGBT communities and their supporter to pushed Malaysian pulled out the banned of Seksualiti Merdeka and its events, create more tension in the social environment and provoke protest and demonstrations by Malaysian people who againts with the LGBT movements. behind that, they were also tried to reach their goal to get equal rights as the other ordinary people.

Indeed, Malaysian government implements the regulations. Equally, we can see the case from 2013 about opposition leader Anwar Ibrahim is languishing in jail after being convicted of homosexual acts with a consenting adult. His supporters claim the charges were trumped-up after he won the popular vote over Prime Minister Najib Razak at elections in 2013. (Palatino, 2011) However, the LGBT issues cannot accept by people because the LGBT issues often tend to pornography actions and campaigns, that is one of the reasons why its government releases the regulation about prohibited the LGBT issues in Malaysia. Besides that reason, the basic or fundamental of the regulation is based on the Islamic values according to Quran and Hadits (see pg.). Al Quran surat Asy Syu'araa' [26] Verses 165 – 175 :

(165) أَتَأْتُونَ الذُّكْرَانَ مِنَ الْعَالَمِينَ

"Why do you come to this type of man among men, "

(166) وَتَذَرُونَ مَا خَلَقَ لَكُمْ رَبُّكُمْ مِنْ أَزْوَاجِكُمْ بَلْ أَنْتُمْ قَوْمٌ عَادُونَ

"and ye leave the wives your Lord has made for you; ye are even transgressors."

(167) قَالُوا لَنْ نَمُتَ نَنْتَه يَا لَوْطُ لَتَكُونَنَّ مِنَ الْمُخْرَجِينَ

"They replied: "O Lut if you do not stop, you are really among those who are expelled."

(168) قَالَ إِنِّي لِعَمَلِكُمْ مِنَ الْقَالِينَ

"Lut said: "I hate your deeds."

(169) رَبِّ نَجِّنِي وَأَهْلِي مِمَّا يَعْمَلُونَ

"(Lut prayed): "O my Lord saves my family and me from the (result) deeds they do '."

(170) فَنجَّيْنَاهُ وَأَهْلَهُ أَجْمَعِينَ

"Then We saved him and his family all."

(171) إِلَّا عَجُوزًا فِي الْغَابِرِينَ

"Except for an old woman (his wife), who belongs to a resident class."

(172) ثُمَّ دَمَرْنَا الْآخَرِينَ

"Then We destroyed the others."

(173) وَأَمْطَرْنَا عَلَيْهِمْ مَطَرًا فَسَاءَ مَطَرُ الْمُنذَرِينَ

"And We showered them with rain (stones) it was hideous that the rain that struck those who had been warned."

(174) إِنَّ فِي ذَلِكَ لآيَةً وَمَا كَانَ أَكْثَرُهُمْ مُؤْمِنِينَ

"Verily, in that, there are real proofs. Moreover, most of them do not have faith or belief."

(175) وَإِنَّ رَبَّكَ لَهُوَ الْعَزِيزُ الرَّحِيمُ

"And verily thy Lord, truly He is the Mighty, the Merciful."

Those verses show that in Islamic values, same-sex marriage is forbidden and its a big sin. Islam believes that Allah (God) has given people's destiny whether it is a birth, death or even partner for life to each person of a human being, its always cross-sex relationship or marriage, and the most important is Allah never make any mistakes in every decision. Even though when the Prophet era, there was a member of Prophet's family being lesbian, and it was spread around the city which becomes many gay, and lesbian couples existed at that time, however not long time after the issue spread, Allah (God) gave flood disaster toward the city which full of gay and lesbian couples. From the Prophet era history, many Muslims people believe that to avoid any catastrophe or damages; they should avoid the LGBT behavioral and be unfriend with LGBT people. Besides of the effect of Prophet's history, some Muslims believe that LGBT behavioral is infectious diseases.

2. The high tension by Media

After one of the biggest LGBT problem in Malaysia related to the banned of Sensuality Merdeka's annual event in 2011, the debate from pros and cons arguments were not only existed from the private organizations, but most of the high tension of the contest came from the media. There were many journalists wrote the article about "the banned of Seksualiti Merdeka," however, most of the content of the article was not neutral arguments, some of them were blamed to local people who discriminated LGBT people. According to the Human Rights Watch (HRW) routine journals about LGBT community in ASEAN, its journal assumed that the banned of Seksualiti Merdeka in Malaysia was discrimination of human rights. In the HRW articles, most of the arguments showed about how the perception goes toward LGBT people and others sexual orientation. The reports told that LGBT people living a difficult life in their environment, how they got a physical attack, expelled from their origins and job refuses.

As indicated by the report of Being LGBT in Asia by UNDP, react to the radical activity which against LGBT individuals in Indonesia and Malaysia, United Nations Development Program (UNDP) in Asia and The Pacific which one of the reserve hotspots for LGBT people group in ASEAN district, draw out this case to the general discussion in United Nations for battle their rights. Other than UNDP, this program likewise upheld by the Embassy of Sweden in Bangkok, the U.S. organization for International Development and Faith in Love Foundation situated in Hong Kong, OHCR, UNAIDS, ILO, UNESCO, UNFPA, UNICEF, UNHCR, UN Women, UNODC, WFP, and WHO. UNDP expressed that the reason for their programme other than a battle for LGBT individuals' rights additionally for the distinguish, talk about and take care of the issues or deterrents, for example, separation or infringement and sex characters.

As well as extensive reports about the discrimination, marginalisation and violence experienced by LGBT people in the countries of Southeast Asia (**UNDP, 2014 & 2015**), point to the reality that, in practice, recognition of LGBT people's human rights is uneven, incomplete and frequently contradictory and arbitrary, reflecting national, regional and international politics, as well as multiple intersecting dynamics of privilege and marginalisation. This, in turn, means that the utility of any one model for progress is limited since it cannot account for all aspects of a complex and multifaceted situation. Indeed, any attempt to assess progress against milestones, according to one of the thinker named Waaldjik, he proposes, calls to mind the parable of the blind men and the elephant: one's verdict largely depends on which part of the elephant one examines, as well as one's preconceptions about how the world is, could and should look

Besides Human Rights Watch which extremely against the way Malaysian's government solving LGBT problems in Malaysia, a Malaysian newspaper has published a list of "LGBT characteristics" it claims can be used to identify gay people, sparking anger. Popular Malay language newspaper Sinar Harian reportedly published the list alongside an article describing homosexuality as a "problem" that was becoming more prevalent in Malaysian society. Branded clothes, facial hair and tight shirts that reveal a six pack are among the identifiable characteristics of a gay man, according to the newspaper. Hunter-gatherer people in Malaysia have 'special' sense of smell, Malaysia government minister calls for atheists to be 'hunted down.'

Malaysian newspaper, Sinar Harian, mentioned the exact characteristics of LGBT people who were living in Malaysia based on the research of their daily activities.

"Some of the characteristics lists are; mostly gay people going to the gym only for socialize, for lesbian, they prefer being alone in public area and giving hatred arguments for men, sometimes look down (discriminate) to the men. Girl or women who like hugging or holding hands with other girl or women are indicated as the lesbian."

Those lists of a characteristic which mentioned by Malaysian newspaper, Sinar Harian, create the other debate in the international arena. Some people criticize the article assumption because it is too generalization and become discrimination for people who do the same activities as mentioned on the list but they are ordinary people. Human Rights Watch responded to the Malaysian newspaper's article by released the article about the hatred news/article to build adverse perspectives on LGBT people and create an opportunity to exist the discrimination on sexual orientation.

'Homophobic' sex education video contest causes outrage in Malaysia. One of Health Programme from Malaysian government held the video contest about "Homophobic sex education" which means it is related to the LGBT issues which growing fastly in Malaysia. Another debate created by this trending topic on social media about the video contest "Preventing Gender Dysphoria," Human Rights Watch reports that Malaysian government creates "Myth" about the harmful of LGBT. Moreover, responding to the Malaysian government, Human Rights Watch sent a letter to Health Minister Dr. Subramaniam Sathasivam. In the inside of the letter, the content was about

"Human Rights Watch raised concerns that the competition which proposes that young people submit original videos on topics including "gender dysphoria," and that video submissions should address how to "prevent, control and seek help" for people who are "lesbian, gay, transgender (mak nyah), transvestite, [and] tomboy/pengkid" – promotes stigma and discrimination."

*"By suggesting that LGBT people are second-class citizens whose very existence is viewed as a problem to be solved rather than an aspect of human diversity to be respected and nurtured, the Health Ministry undermines LGBT people's rights to the highest attainable standard of health, and to equality and non-discrimination. The Health Ministry also seems to suggest that LGBT people are responsible for the spread of HIV – when in fact it is stigma and discrimination that lead to increased prevalence,"***Neela Ghoshal, senior researcher on LGBT rights at Human Rights Watch.**

The problems which caused by some media seem to continue in the international debate arena between Malaysian government, UNHCR, UNDP, Human Rights Watch, and other communities, both pros, and cons with LGBT movement. This phenomenon shows how powerful the role of media in influencing people's perspective on seeing the issues and how they solve its problem. Indeed the influence of media creates high tension in the LGBT issues in Malaysia, especially several articles which published by Human Right Watch and UNDP's periodically report. The columns show the kind of "hatred" to the Malaysian government because the perspective which built by the materials is Malaysian people and the government does discrimination toward minority sexual orientation, like Lesbian, Gay, Bisexual, Transgender people.

B. Malaysian government's efforts toward LGBT issues

The spreading of LGBT problems in Malaysia raised high concerns on local people and its government and become new "dread" to the environment. Therefore, Malaysian government compiles several preventing strategics to reduce the development of LGBT people and its movements in Malaysia. Malaysian government was going effort not to discriminate the LGBT people. However, the government prevents to mitigate sexual diseases and its infections. By implementing several preventing actions and campaign, Malaysian government targeting the prevent responses to the kids and youth generation because they believe that the preventing effects are better to implement from the beginning.

1. Sex Health Education and Transgender's Rehabilitation Camp

After the banned of Seksualiti Merdeka issue spread, Malaysian government fast-moving prevent actions by did sex health campaign to Malaysia's school, from elementary school, junior and senior high school (Sekolah Kerajaan) and some universities. This campaign got positive responses from people and especially for parents who scramble to prevent their children become one of the LGBT types. Malaysia government did a great campaign because the kind of campaign was attracted and easy to accepted by the students. Indeed, Malaysian government have done several types of a campaign based on the level of students and also for people who live in Malaysia. The methods are media campaign; online and offline, seminar, and competition. The campaign which spread in school bring the positives responses for Malaysian people, that can be seen there are many people who were volunteering herself to involve in the campaign.

The other effort to reduce the development of LGBT movements of Malaysian government was spiritual rehabilitation for transgender which started from 2004. According to the malaysianmailonline.com, based on the Jawi's (the Federal Territories Islamic Religious Department) report stated that in 2005, this program succeeds "cured" the LGBT people more or less 2000 from LGBT communities in Malaysia. Those people left the lifestyle before and changed to "normal" life. Some of them also bravely transformed "back" into their original sex. Due to the report, some media and transgender experts questioned about the further life of those people (LGBT people who have been cured), "*Are they happy?*", "*Are they doing normal life easily?*", "*Is there any of them become LGBT people again after the "cured"?*". Those questions gave rise to the Jakim for the better of rehabilitation's system.

In 2014 by the success of this program, several medical and gender experts surprisingly with the success of this program, they have questioned how the Jakim (Malaysia Islamic Development Department)'s controlled this program and giving a positive result. Besides the positive comments, they (medical and gender experts) offered to advise that the program could be more successful if the government more concern on their physical health, they believe that those people (who involve in rehabilitation) need much medical care to help them heal their chronic or mental sickness. The government could an agree with medical experts to reach their goals in this program. Several people argue that this program can be more successful if the spiritual rehabilitation and medical care indeed could be great healing to decreasing people who have gender issues.

"insisting they need medical care to transition them into their affirmed gender identities rather than rehabilitation to return them to what some may consider "normal." –Medical experts

The purposes of the sex education campaign on youth generation and the spiritual rehabilitation besides to prevent the spreading of LGBT movements and the developing of “ new gender identities”, Malaysian government also reminding to their people about Islamic values which hold by Malaysian principle and the written punishment for sex criminal which has been write on Malaysian’s regulations, because some people still assume that the punishment for sex crimes is not that strict.

"According to National Law of Malaysia which named The Penal Code 1936(amended 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."

Along with the Malaysian Constitution which mentioned that lesbian, gay, transgender (mak-nyah) often related to pornography actions and its forbidden in Malaysia. Indeed the campaign put values as the national law stated that every people who break the rule (disobey) would get punishment. Besides to prevent the development of LGBT identities of Malaysian people, the other purposes of both campaign and training for transgender is to share Islamic values about the forbidden of being in a same-sex relationship, especially for Muslims. Although, the Muslim gays still doing prayer and follow Islamic instructions, however, they (Muslim gays) doing mistaken by the illegal action. Some people believe that the stereotype of being Muslim who prohibit to be in same-sex marriage, the gay who believe in Islam (Muslims) assume that they get blamed more than others who are not Muslims.

2. National Creative Video Competition on Adolescent Sexual and Reproductive Health

This program initially created by the Malaysian government in 2017, the target was for the young generation who live in Malaysia. Malaysian Ministry of Health a stated the launching of the competition, this purposes of this competition is for "preventing" or "controlling" the existence of lesbian, gay, bisexual, transgender (LGBT) symptoms growing bigger in Malaysia, indeed to spread the Islamic values which again upon LGBT identities. The government initiative creates this competition as suitable as the development of sophisticated technology by the times. They argue that this method can be more easy to spreading the campaign about preventing the symptoms of "gender identities" because of most of the young generation nowadays are addictive to the technology.

Similar to the other Malaysian government's program previous, this program has much criticism, primarily by Human Rights Watch (HRW) and other UN's organization. From HRW's routine reports or journals, the articles wrote about the 'discrimination' of Malaysian government face "gender issues" in Malaysia. Capturing the term of "discrimination" toward Malaysian government's efforts in facing "gender issues" in the context Human Rights Watch's articles seems very harsh and close with physical violation, because this sides believe that those efforts can be assumed to pursuing adverse perspective, harmful and violation actions by ordinary people toward LGBT people and other people in gender problems. Human Rights Watch along with United Nations Human Rights cooperate to admonish the actions by Malaysian government toward LGBT people and other gender issues, in the name of UN's principles which has been written about freedom and human rights.

"Article 18: Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief; and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance."

"Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers."

Those UN's principles were essential regulation to against Malaysian's policies about the discrimination toward minority people like LGBT people and communities. This issue is a concern to the international arena level, and it involves the international regimes and other actors. From the periodically report by Human Rights Watch and UNDP which

showing the interaction with LGBT people and its communities about their living and how to survive in the country with majority Muslims which means the people are against with their existences in social.

Furthermore, the LGBT activists also “ask for help” to the International arena for reaching them out their rights and getting acceptance for same-sex marriage. Support by the results of the interview and their reports in periodical article, the existence of international regimes' role in helping LGBT people in Malaysia to pull them out from the discrimination, their role become wider because not only to eradicate the discrimination but they try to influence Malaysian government's policies about the sexual orientation acceptance.