

# Censorship of [REDACTED] [REDACTED] LGBTIQ Expression [REDACTED] [REDACTED]

Under the Printing Presses  
and Publications Act (PPPA)

A REPORT BY



WITH THE SUPPORT OF



# Censorship of LGBTIQ Expression Under the Printing Presses and Publications Act (PPPA)

## LGBTIQ CENSORSHIP IN MALAYSIA

### 2025

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## About Justice for Sisters

Justice for Sisters is a human rights group working towards meaningful protection, promotion, and fulfilment of human rights of lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ+) and gender diverse persons in Malaysia.

## Amnesty International Malaysia

Amnesty International is a global human rights movement of more than ten million people. It is funded by donations from its members and supporters throughout the world and is independent of any political ideology, religion or economic interest. Amnesty International Malaysia has for many decades campaigned for the rights of all individuals and peoples in Malaysia, on issues such as the rights to freedom of expression, association and peaceful assembly; abolition of the death penalty; human rights in the administration of justice and accountability for human rights violations; the rights of indigenous communities; the rights of migrants and refugees.

# Censorship of LGBTIQ Expression

Under the Printing  
Presses and  
Publications Act  
(PPPA)

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# Abbreviation

TERM	EXPLANATION
<b>3R</b>	Race, Religion, Royalty
<b>AGC</b>	Attorney General's Chamber
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CIJ</b>	Centre for Independent Journalism
<b>CMA</b>	Communications and Multimedia Act
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CRC</b>	Convention on the Rights of the Child
<b>DBKL</b>	Kuala Lumpur City Hall
<b>DDA</b>	Dangerous Drugs Act
<b>FC</b>	Federal Constitution
<b>GERAMM</b>	Gerakan Media Merdeka
<b>HC</b>	High Court
<b>HRC</b>	Human Rights Commissioner
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IFJ</b>	International Federation of Journalists
<b>JAWI</b>	Federal Territories Islamic Religious Department
<b>JFS</b>	Justice for Sisters

TERM	EXPLANATION
<b>LBTI</b>	Lesbian, Bisexual, Transgender, and Intersex
<b>LGBTIQ</b>	Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer
<b>MOHA</b>	Ministry of Home Affairs
<b>NGO</b>	Non-Governmental Organisation
<b>NUJM</b>	National Union of Journalists Malaysia
<b>PAA</b>	Peaceful Assembly Act 2019
<b>PDRM</b>	Royal Malaysian Police
<b>PKR</b>	Parti Keadilan Rakyat
<b>PPPA</b>	Printing Presses and Publications Act 1984
<b>RPA</b>	Rabat Plan of Action
<b>SIS</b>	Sisters in Islam
<b>SUARAM</b>	Suara Rakyat Malaysia
<b>SUHAKAM</b>	Human Rights Commission of Malaysia
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UPC</b>	Unified Public Consultation
<b>UPR</b>	Universal Periodic Review
<b>UN</b>	United Nations





# Executive Summary

Between 2020 and January 2025, the Printing Presses and Publications Act 1984 (PPPA) was used at least 13 times to censor lesbian, gay, bisexual, transgender, intersex, queer and gender-diverse (LGBTIQ) related publications, including Swatch watches with LGBTIQ-related imprints under the guise of protecting public morality.

Only two of these cases have been challenged in court – the banning of the book *'Gay is OK! A Christian Perspective'* (hereafter referred to as *'Gay is OK!'*) and the confiscation of Swatch watches through a nationwide raid. The former legal challenge by the author and publisher of *'Gay is OK!'* saw a mixed result in courts. While the Kuala Lumpur High Court quashed the ban, the Court of Appeal reinstated it in a 2-1 majority. Their appeal to review the decision was short lived as the Federal Court denied leave to proceed with the legal challenge. In the case of the latter, in November 2024, the Kuala Lumpur High Court ordered the Ministry of Home Affairs (MOHA) to return the confiscated watches to Swatch. While MOHA appealed the High Court decision of the book, it did not do so in the Swatch watch case.

This increased trend of censorship reflects the use of the PPPA as a tool that contributes towards the normalisation of the LGBT panic and discrimination in Malaysia. LGBTIQ people in Malaysia already face multiple forms of state-sponsored LGBTphobia – from criminalisation to Sexual Orientation, Gender Identity, and Expression (SOGIE) change efforts or conversion practices (described by the government as spiritual guidance programmes). Set against this backdrop, the PPPA is employed to control and regulate LGBTIQ information, stories, symbols and images, which all fall under the broad category of publications under the PPPA.

In 2022, the Ministry announced its plans to amend the PPPA instead of repealing it as recommended by various human rights actors. Civil society organisations have long advocated for the Act's repeal to strengthen media freedoms and end censorship of information through bans of publications consistent with international human rights law related to freedom of expression, equality and non-discrimination.

International human rights law provides guidance to safeguard and balance freedoms against the need for national security and public order. This includes provisions in various international instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Rabat Plan of Action. The three-part test, for example, aids in the assessment of whether a restriction on expression is justified.

This report analyses the compatibility of the PPPA with the standards set by international human rights law by measuring various provisions in the PPPA against the requirements of the three-part test – legality, legitimacy, necessity and proportionality.

The report finds that:

- 1. The PPPA restricts freedom of expression in the following ways –**
  - a. restrictions of artistic freedom through banning of publications;
  - b. restrictions on ability to impart and receive information;
  - c. restriction of media freedom through licensing regulations;
  - d. reinforcement of hostility and discrimination towards LGBTIQ people with impunity as the PPPA encourages public complaints against “undesirable publications”.
- 2. The PPPA falls short of the minimum standards set by international human rights law relating to freedom of expression, as the law**
  - a. has overbroad definitions,
  - b. grants the state excessive power to regulate information and expressions,
  - c. lacks judicial oversight,
  - d. uses discriminatory intent as a legitimate aim to pursue restriction of freedom of expression, and
  - e. allows disproportionate criminal penalties.



**WE DON'T  
COWER DOWN IN  
FEAR AND SILENCE.  
WE ARE NOT SCARED**

Zainah Anwar

For these reasons, the amendments should be halted, and instead, reviews should be undertaken to repeal the PPPA.

3. **A trend of weaponisation of public morality and public order against LGBTIQ publications against the backdrop of a state-led anti-LGBT normalisation campaign.** Discriminatory state actions, including the presence of anti-LGBTIQ laws and weaponisation of public morality, public order and national security, cannot be used as a legitimate aim to justify the restriction of freedom of expression of LGBTIQ people.

In the case of *Macate vs Lithuania*, the principle of non-discrimination was central to the Supreme Court decision. The Court stressed that a legislative ban on “promotion of homosexuality or non-traditional sexual relations” among minors does not serve to advance the legitimate aims of protection of morals, health or the rights of others, and that by adopting such laws, the state reinforces stigma and prejudice against LGBTIQ+ people and encourages homophobia, which is incompatible with the notions of equality, pluralism and tolerance inherent in a democratic society.’

4. **In contrast, in the case of ‘Gay is OK’, Section 377 of the Penal Code – a gender neutral law criminalising carnal intercourse – was used by the Minister of Home Affairs and the courts to vilify LGBTIQ people and justify the ban.** Among others, this reflects a lack of appreciation and application of the principle of non-discrimination and other fundamental liberties provisions in the Federal Constitution.
5. **Relatedly, the application and appreciation of international human rights law in Malaysia must be increased all around to ensure enjoyment of human rights by all.** This can be achieved through the domestication of existing human rights treaties to give them full legal effect, training of judges and government actors to ensure the fair and consistent application of international human rights law, and the implementation of treaty body recommendations. In tandem with that, the increasing state-endorsed discrimination against LGBTIQ people must be addressed immediately.

# Methodology

Given the increasing trend of censorship of LGBTIQ publications under the Printing Presses and Publications Act (PPPA) 1984 and the government's plans to amend the law to further regulate publications, this report reaffirms the call to repeal the PPPA. In echoing the call, this report:

- Documents the trend of censorship against LGBTIQ and gender-diverse people in Malaysia, specifically through Section 7(1) of the PPPA;
- Documents and analyses ongoing legal challenges involving the application of Section 7(1) and other relevant provisions of the PPPA;
- Analyses the weaponisation of the argument “protecting public order and morality,” which are commonly used in the censorship against LGBTIQ and gender-diverse people; and
- Provides recommendations and good practices in promoting and protecting the freedom of expression of LGBTIQ and gender-diverse people.

This study primarily employed desk research and interview methods to inform its findings.

The case study in the report was analysed through legal documents, including submissions made by the parties involved in legal proceedings and the decisions provided by the judge(s) of the respective adjudicating courts. JFS's human rights monitoring and analysis, both published and unpublished, informed the writing of this report.

In addition, the researchers reached out to lawyers for additional information to support the case study. However, only one interview was conducted.





# Introduction

The Printing Presses and Publications Act (PPPA) 1984 regulates the use of printing presses and the printing, importation, production, reproduction, publishing and distribution of publications and for connected matters. The law originated from the Printing Presses Act 1948, a pre-colonial law that sought to regulate publications for security reasons, and the Control of Imported Publications Act 1958 (Revised 1972), which regulated printing presses and the printing, importation, production, reproduction, publishing and distribution of publications before the PPPA.<sup>1</sup>

The PPPA was heavily used to suppress freedom of speech during Operation Lalang (see **Box 1**) in 1987 and has continued to be used for revoking or suspending the publishing rights of print media – usually those that would publish content critical of the government of the day.<sup>2</sup>

## **BOX 1** Operation Lalang

Operation Lalang refers to a major crackdown by the Mahathir Administration from October to December 1987 in which over 119 opposition politicians, civil society activists, religious leaders, and intellectuals were detained under the Internal Security Act (ISA) on the grounds of protecting “racial and religious harmony.”<sup>3</sup> During the crackdown, the PPPA was also used to revoke the publishing licenses of major newspapers that were critical of the government or featured dissident and alternative views, including the English language newspapers *The Star* and *Sunday Star*, the Chinese language *Sin Chew Jit Poh*, and the Malay language newspaper *Watan*.<sup>4</sup>

- 1 Laws of Malaysia, *Control of Imported Publications Act, 1958 (Repealed by Act 301)* (Kuala Lumpur: Pesuruhjaya Penyemak Undang-undang Malaysia, 2001), <https://webopac.kln.gov.my/Record/0000007054>.
- 2 Shukry, A., “Malaysia’s brief, rich history of suspending newspapers,” *The Edge Malaysia*, July 27, 2015, <https://theedgemalaysia.com/article/malaysia%E2%80%99s-brief-rich-history-suspending-newspapers>
- 3 FMT Reporters, “Ops Lalang Means Dr M Has No Right to Term Others as Dictators, Says Ex-MP,” *Free Malaysia Today*, March 20, 2023, <https://www.freemalaysiatoday.com/category/nation/2023/03/20/ops-lalang-means-dr-m-has-no-right-to-term-others-as-dictators-says-ex-mp/>
- 4 In-Won Hwang, *Personalized Politics: The Malaysian State under Mahathir*, vol. 237 (Singapore: Institute of Southeast Asian Studies, 2003), 151–52.

Presently, the PPPA is used to ban the sale or distribution of publications. Criteria for banning is broadly defined. Publications related to religion – particularly Islam, philosophy and political ideology, sex and sexuality, and LGBTIQ themes have been particularly vulnerable to censorship under the PPPA.

In May 2024, MOHA announced it was considering expanding the PPPA to cover digital media content and was purported to re-include the mandatory license renewal requirement.<sup>5</sup> The announcements were met with strong criticism from civil society organisations, including the National Union of Journalists Malaysia (NUJM), the Centre for Independent Journalism (CIJ), and Gerakan Media Merdeka (GERAMM).<sup>6</sup> While originally slated to be tabled during the December 2024 parliamentary session, the proposed amendments were deferred to allow more consultations with all stakeholders.<sup>7</sup>

Even prior to these announcements, in a 2022 parliamentary reply, the then-Deputy Communications and Multimedia Minister made it clear that action would be taken against any digital content that promotes “LGBT culture.”<sup>8</sup> The expanded scope of the PPPA encompasses the panic over the alleged ‘normalisation of LGBT’<sup>9</sup> and increased visibility

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5 Alyaa Alhadjri, “Govt stakeholders mull PPPA expansion to online media,” *Malaysiakini*, May 27, 2024, <https://www.malaysiakini.com/news/706796>

6 Malay Mail, “Stricter Printing Presses and Publications Act to also cover online news? Press groups demand clarity from Home Ministry over rumoured changes,” *Malay Mail Online*, November 17, 2024, <https://www.malaymail.com/news/malaysia/2024/11/17/stricter-printing-presses-and-publications-act-to-also-cover-online-news-press-groups-demand-clarity-from-home-ministry-over-rumoured-changes/157149>

7 Malaysiakini, “Home Ministry defers plan to amend PPPA – report,” *Malaysiakini*, December 3, 2024, <https://www.malaysiakini.com/news/727770>

8 Yap Wan Xiang, “Government Reveals The Official Reason Why ‘Thor: Love and Thunder’ Was Banned In Malaysia,” *SAYS*, August 11, 2022, <https://says.com/my/news/thor-love-and-thunder-banned-lgbt-elements-malaysia-government>

9 Ida Latif, “15 Jawapan Balas Kenapa Adegan Gay Dalam Filem Beauty And The Beast Patut Dipotong,” *The Vocket*, 18 March, 2017, <https://thevocket.com/beauty-and-the-beast-tidak-ditayang-di-malaysia/>

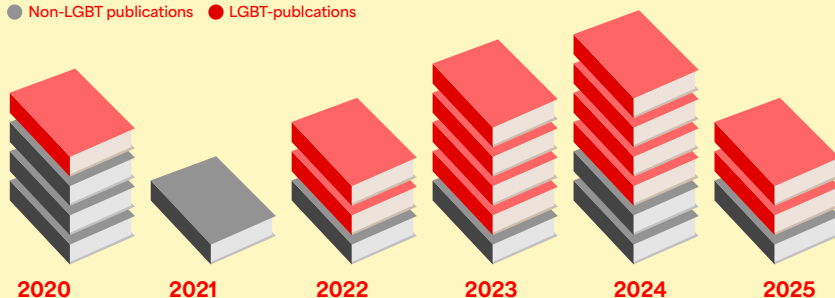


of LGBT symbols among state and non-state actors alike.<sup>10 11 12</sup> According to the Ministry of Home Affairs's list of Prohibition Orders, between 2020 and January 2025, 22 publications were banned in Malaysia, out of which 13 (59%) were LGBTIQ-related publications.<sup>13</sup>

### FIGURE 1 Publications banned in Malaysia between 2020 and January 2025

LGBT publications make up 59% of the overall banned publications

● Non-LGBT publications ● LGBT-publications



While Malaysia has not ratified the International Covenant on Civil and Political Rights (ICCPR), other United Nations (UN) processes such as the Universal Periodic Review (UPR) have brought significant attention to the PPPA and other laws that restrict freedom of expression and opinion.

The compilation report for Malaysia's 4th UPR cycle in 2024 included recommendations by Malaysia's United Nations (UN) country team and other UN agencies to repeal the PPPA and other laws that restrict freedom of expression and opinion:

- 10 Maisarah Sheikh Rahim, "Polis jangan bagi muka, siasat peserta pesta LGBT," *Utusan Malaysia*, March 15, 2023, <https://www.utusan.com.my/nasional/2023/03/polis-jangan-bagi-muka-siasat-peserta-pesta-lgbt/>
- 11 Malaysiakini, "Dakwa Coldplay simbol LGBT, PAS terus lobi batal konsert," *Malaysiakini*, May 15, 2023, <https://www.malaysiakini.com/hiburan/665201>
- 12 Dr Nur Saadah Khair and Prof Rafidah Hanim Mohktar, "Kembalikan warna pelangi kepada kegembiraan bukan simbol LGBTIQ+," *Berita Harian Online*, July 20, 2023, <https://www.bharian.com.my/berita/nasional/2023/07/1128922/kembalikan-warna-pelangi-kepada-kegembiraan-bukan-simbol-lgbtq>
- 13 Ministry of Home Affairs Malaysia, "Senarai Perintah Larangan", *Ministry of Home Affairs Malaysia Website*, <https://epq.kdn.gov.my/e-pq/index.php?mod=public>

*“The United Nations country team recommended that Malaysia urgently review, amend and/or repeal, within a clear time frame, laws that were used to violate the right to freedom of expression and opinion.”<sup>14</sup>*

*“UNESCO recommended that Malaysia ensure that its laws that limited the right to freedom of expression were in accordance with international standards, in particular the Sedition Act 1948, the Printing Presses and Publications Act 1984, the Security Offences (Special Measures) Act 2012 and section 505 (b) of the Penal Code.”<sup>15</sup>*

In the 4th UPR cycle, Malaysia received four specific recommendations to repeal the PPPA and at least 10 recommendations on safeguarding freedom of expression.<sup>16</sup> At least one recommendation was made by Iceland specifically on ending LGBTIQ censorship.<sup>17</sup> However, all recommendations were only noted.<sup>18</sup>

The UN identifies four core legal state obligations in respecting LGBTIQ people’s human rights. These are prohibiting discrimination and violence; repealing anti-LGBTIQ laws; safeguarding freedom of expression, association and peaceful assembly for all LGBTIQ people; and promoting a culture of equality and diversity that encompasses respect for the rights of LGBTIQ people. (See **Box 2**)

Article 8(2) of Malaysia’s Federal Constitution prohibits discrimination based on gender. While gender is not explicitly defined, the government

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<sup>14</sup> Human Rights Council Working Group on the Universal Periodic Review, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights for Malaysia*, A/HRC/WG.6/45/MYS/2 (UPR Info, 13 November 13, 2023), para. 24., [https://upr-info.org/sites/default/files/country-document/2024-05/A\\_HRC\\_WG.6\\_45\\_MYS\\_2\\_E.pdf](https://upr-info.org/sites/default/files/country-document/2024-05/A_HRC_WG.6_45_MYS_2_E.pdf)

<sup>15</sup> *Ibid.*, para. 25.

<sup>16</sup> Human Rights Council of the United Nations General Assembly, *Report of the Working Group on the Universal Periodic Review: Malaysia*, A/HRC/56/11 (United Nations, March 14, 2024), 12-13, <https://documents.un.org/doc/undoc/gen/g24/034/50/pdf/g2403450.pdf>

<sup>17</sup> *Ibid.*, 23.

<sup>18</sup> CIVICUS, “Malaysia: Government undermines civic freedoms and protection of human rights defenders by failing to accept UN recommendations”, *CIVICUS*, 5 July, 2024, <https://www.civicus.org/index.php/media-resources/news/7141-malaysia-government-undermines-civic-freedoms-and-protection-of-human-rights-defenders-by-failing-to-accept-un-recommendations>

has opted for a binary definition of male and female.<sup>19</sup> However, under international human rights law, gender and/or sex as grounds for discrimination are read expansively to also include sexual orientation.<sup>20</sup>

Malaysia's status on the protection of LGBTIQ people has been subject to scrutiny and criticism in various UN processes:

*"The United Nations country team stated that hateful rhetoric and discriminatory laws had led to a rising tide of incitement to discrimination, hostility and/or violence towards LGBTIQ+ persons."*<sup>21</sup>

*"The Special Rapporteur on cultural rights recommended that Malaysia take immediate and effective measures to end hostility and intolerance on the basis of sexual orientation and gender identity and provide meaningful protection to lesbian, gay, bisexual, transgender and intersex persons against all forms of stigmatization, violence and discrimination."*<sup>22</sup>

Relatedly, in 2024 the CEDAW Committee in its concluding observations called Malaysia to:

*(e) Develop and implement a comprehensive strategy to eliminate stereotypes concerning LBTI women, including by addressing discriminatory narratives targeting LBTI women and imposing fines for homophobic speech and raising awareness about the equal rights of LBTI women.*<sup>23</sup>

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19 Ministry of Health, *Garis Panduan Pengendalian Masalah Kesihatan Gender Di Klinik Kesihatan* (Putrajaya: Bahagian Pembangunan Kesihatan Keluarga, 2017), 3, [https://hq.moh.gov.my/bpkk/images/3.Penerbitan/2.Orang\\_Awam/5.Kesihatan\\_Dewasa/2.PDF/8Garis\\_Panduan\\_Pengendalian\\_Masalah\\_Kesihatan\\_Gender.pdf](https://hq.moh.gov.my/bpkk/images/3.Penerbitan/2.Orang_Awam/5.Kesihatan_Dewasa/2.PDF/8Garis_Panduan_Pengendalian_Masalah_Kesihatan_Gender.pdf)

20 United Nations Free & Equal, *International Human Rights Law & Sexual Orientation & Gender Identity*, March 3, 2023, <https://www.unfe.org/en/know-the-facts/challenges-solutions/international-human-rights-law-sexual-orientation-gender>

21 Human Rights Council Working Group on the Universal Periodic Review, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights for Malaysia*, A/HRC/WG.6/45/MYS/2 (UPR Info, 13 November 13, 2023), para. 98, [https://upr-info.org/sites/default/files/country-document/2024-05/A\\_HRC.WG.6\\_45\\_MYS\\_2\\_E.pdf](https://upr-info.org/sites/default/files/country-document/2024-05/A_HRC.WG.6_45_MYS_2_E.pdf)

22 Ibid., para. 100.

23 UN CEDAW Committee, *Concluding Observations on the Sixth Periodic Report of Malaysia*, CEDAW/C/MYS/CO/6 (OHCHR, 6 June 2024), para. 23, <https://www.ohchr.org/en/documents/concluding-observations/cedawcmysco6-concluding-observations-sixth-periodic-report>

## **BOX 2 Core legal state obligations in respecting LGBTI people's human rights<sup>24</sup>**

- Protect individuals from homophobic and transphobic violence and prevent torture and cruel, inhuman and degrading treatment.
- Repeal laws criminalising homosexuality including all legislation that criminalises private sexual conduct between consenting adults. Ensure that individuals are not arrested or detained on the basis of their sexual orientation or gender identity and are not subjected to any degrading physical examinations intended to determine their sexual orientation. Enact legislation that prohibits discrimination on the grounds of sexual orientation and gender identity. Provide education and training to prevent discrimination and stigmatisation of LGBT and intersex people.
- Prohibit discrimination based on sexual orientation and gender identity.
- Safeguard freedom of expression, association and peaceful assembly for all LGBT people and ensure that any restrictions on these rights – even where such restrictions purport to serve a legitimate purpose and are reasonable and proportionate in scope – are not discriminatory on grounds of sexual orientation and gender identity. Promote a culture of equality and diversity that encompasses respect for the rights of LGBT people.

<sup>24</sup> United Nations Free & Equal, *International Human Rights Law & Sexual Orientation & Gender Identity*, March 3, 2023, <https://www.unfe.org/en/know-the-facts/challenges-solutions/international-human-rights-law-sexual-orientation-gender>, [https://www.ohchr.org/sites/default/files/Documents/Publications/Born\\_Free\\_and\\_Equal\\_WEB.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/Born_Free_and_Equal_WEB.pdf)

**PART ①**

# **Censorship of LGBTIQ publications in Malaysia**

# Context of freedom of expression

The restrictions of freedom of expression and censorship of LGBTIQ people in Malaysia take many forms—regulation of books, films, discourses, self-expression, gender expression, and the rights to association and public assembly. The trend of LGBTIQ censorship has been consistently increasing since 2020, with the introduction of new forms of censorship through new guidelines or amendments to existing guidelines, namely the Film Censorship Guidelines 2024, the Guideline on Entertainment Activities (Concerts) in Higher Learning Institutions, and the Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines.

While representation of LGBTIQ people has been regulated since the early 2000s, and in many instances, outrightly prohibited through previous iterations of the Film Censorship Guidelines,<sup>25</sup> new restrictions, namely the prohibition of LGBTIQ symbols and regulation of gender expression have been introduced in all three aforementioned guidelines. The concert guidelines, for example, include the regulation of gender expression of local and foreign performers.<sup>26</sup> Meanwhile, the prohibition of the display of LGBTIQ symbols in films and during live performances can be found in all three guidelines. (see **Annex 4**).

In July 2023, the Ministry of Communication and Digital cancelled the Good Vibes Festival after two male members of a foreign band kissed on stage in protest against the discrimination of LGBTIQ people in Malaysia – the band was also banned from performing in Malaysia.<sup>27</sup>

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25 Lembaga Penapisan Filem, *Garis Panduan Penapisan Filem* (Putrajaya: Kementerian Dalam Negeri, 2024), <https://ilpf.moha.gov.my/assets/layouts/layout/img/GarisPanduanPenapisanFilem2024.pdf>

26 The Star, “No cross-dressing, blackout dates among stricter rules mooted for concerts in Malaysia,” *Straits Times*, November 22, 2024, <https://www.straitstimes.com/asia/se-asia/no-cross-dressing-blackout-dates-among-stricter-rules-mooted-for-concerts-in-malaysia>

27 Jane Clinton and Tobi Thomas, “Malaysia bans the 1975 after Matty Healy defies anti-LGBTQ+ laws with stage kiss,” *The Guardian*, July 22, 2023, <https://www.theguardian.com/world/2023/>

Following the incident, another English band MUSE removed a song from its setlist to comply with the government's guidelines.<sup>28</sup> Similarly, Taiwanese singer A-Mei also changed her setlist and released an advisory to fans and concert attendees about the prohibition of any kind of flags with the image of a rainbow.<sup>29</sup>

Notably, the censorship of LGBTIQ people occurs against a background of criminalisation and state-sponsored anti-LGBT efforts, including the promotion of conversion practices or SOGIE change efforts.

LGBTIQ people are criminalised under both federal and state laws, including state syariah laws. Legal challenges mounted by LGBTIQ people to two of the 52 state syariah laws criminalising LGBT people have resulted in significant impacts: one, reduced application of the laws criminalising trans and gender diverse people based on gender and two, a majority of the laws criminalising consensual sexual acts have been rendered null and void. However, the laws remain in state legislatures, and the criminalisation of LGBTIQ people has continued to increase at the state level since 2020 with the introduction of eight new laws criminalising LGBTIQ people on the basis of SOGIE.

On the other hand, although Section 377 A and B of the Penal Code criminalising carnal intercourse are phrased as gender-neutral and applied in sexual assault cases involving cisgender heterosexual people, the laws are perceived as only criminalising gay men, and by extension all LGBTIQ people. More importantly, Section 377 A and B are often used to justify other state-sponsored discrimination.

Criminalisation and other state-sponsored LGBTIQ discrimination evidently increase self-censorship among LGBTIQ people, and their vulnerability to violence in an environment of impunity for those who discriminate and perpetrate violence against them. A 2022 survey

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[jul/22/malaysia-festival-halted-matty-healy-1975-criticises-anti-lgbtq-laws](https://www.thirakiatpost.com/fun/2023/07/27/muse-respects-local-customs-and-guidelines-removes-one-song-from-setlist/)

28 John Peter Tan, "MUSE Respects Local Customs And Guidelines, Removes One Song From Setlist", *The Rakyat Post*, July 27, 2023, <https://www.thirakiatpost.com/fun/2023/07/27/muse-respects-local-customs-and-guidelines-removes-one-song-from-setlist/>

29 Azri Azizan, "Taiwanese Singer, A-Mei Not Allowed to Sing "Rainbow" in M'sia Due to its LGBTQ Elements, Flags are Banned Too", *World of Buzz*, August 26, 2023, <https://worldofbuzz.com/taiwanese-singer-a-mei-not-allowed-to-sing-rainbow-in-msia-due-to-its-lgbtq-elements-flags-are-banned-too/>

captures the experience of a gay man who was arbitrarily stopped and checked by police officers. The officers said to him, “*Do you know that gays are not allowed in this country?*”<sup>30</sup> Similar experiences have been reported by other LGBTIQ people across Malaysia.<sup>31</sup>

The government in general portrays LGBTIQ people’s freedom of expression as a threat, often misrepresented as a “promotion of LGBT lifestyle” which needs to be “mitigated ... from spreading into our society.”<sup>32</sup> In addition, LGBTIQ people’s freedom of assembly and exercise of the right to public life is perceived as an “abuse of democratic space.”<sup>33</sup> In 2024, the Minister of Home Affairs Saifuddin Nasution Ismail stated that Malaysia would not approve films that “promote” LGBTIQ lifestyle for screening.<sup>34</sup>

These trends in Malaysia mirror the rise of LGBTIQ censorship globally (see **Box 3**). In 2023, Machang Member of Parliament Wan Ahmad Fayshal advocated in Parliament for the government to follow in Russia’s footsteps to enact a law “... to restrict propaganda which promotes and normalises unnatural sex, paedophilia and LGBT”<sup>35</sup> while also amplifying global gendered disinformation and fear-mongering related to LGBTIQ people.

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- 30 Justice for Sisters, Diversity Malaysia, PLUHO (People Like Us Hang Out!), Queer Lapis, *Survey findings: Impact of Covid-19 & anti-LGBT narratives on LGBTQ+ persons in Malaysia* (Queer Lapis, December 31, 2021), <https://www.queerlapis.com/wp-content/uploads/2021/12/311221-Survey-findings-Impact-of-Covid-19-and-anti-LGBT-narratives-on-LGBT-persons-in-Malaysia.pdf>
  - 31 Queer Lapis, “Can the police check your Grindr at a roadblock?”, 2020 <https://www.queerlapis.com/can-police-check-your-grindr/>
  - 32 Ella Braidwood, “Police raid Malaysian gay bar to ‘stop the spread of LGBT culture in society,’” *Pink News*, August 18, 2018, <https://www.thepinknews.com/2018/08/18/police-raid-malaysian-gay-bar-to-stop-the-spread-of-lgbt-culture-in-society/>
  - 33 Human Rights Watch, “Malaysia: Drop Investigation of Women’s March Organisers,” *HRW*, March 14, 2019, <https://www.hrw.org/news/2019/03/14/malaysia-drop-investigation-womens-march-organisers>
  - 34 Nor Ain Mohamed Radhi and Qistina Sallehuddin, “Malaysia won’t approve films promoting LGBTQ, says home minister [NSTTV],” *New Straits Times*, 21 March, 2024, <https://www.nst.com.my/news/nation/2024/03/1028713/malaysia-wont-approve-films-promoting-lgbtq-says-home-minister-nsttv>
  - 35 Ragananthini Vethasalam, Rahimy Rahim, Gerard Gimino, and Teh Athira Yusof, “Follow Russia, enact law to restrict LGBT, govt urged”, *The Star Online*, June 12, 2023, <https://www.thestar.com.my/news/nation/2023/06/12/follow-russia-enact-law-to-restrict-lgbt-govt-urged>



## **BOX 3 Legal and administrative provisions that have been used to censor or restrict LGBTIQ expression**

### **Criminal Law Provisions**

- Printing Presses and Publications Act (PPPA) 1984
- Section 233 of the Communications and Multimedia Act (CMA) 1998
- Peaceful Assembly Act (PAA) 2012
- Sedition Act 1948
- Dangerous Drugs Act (DDA) 1952
- Section 14 of the Minor Offences Act 1995

### **Syariah provisions<sup>36</sup>**

- **Musahaqah** (same-sex relations between women) is criminalised in 13 states, except Pahang.
- **Attempted musahaqah** is criminalised in Kelantan.
- **Attempted liwat** is criminalised in Melaka, Kelantan, and Terengganu.
- **“Male person posing as a woman”** laws criminalise trans women and gender-diverse people in all 14 states.
- **“Female person posing as a man”** laws criminalise trans men and gender-diverse people in six states: Sabah, Perlis, Pahang, Negeri Sembilan, Kelantan, and Terengganu.
- **Sex against the order of nature** is criminalised in Selangor, Sabah, Melaka, and Negeri Sembilan.
- **Sexual relations between persons of the same gender** is criminalised in Selangor.
- **Changing gender** is criminalised in Kelantan.
- **Insulting Islam** has been used in two instances in Selangor and Negeri Sembilan.

Note: The Federal Court *Iki Putra Bin Mubarrak V Kerajaan Negeri Selangor & Anor* [2021] 2 Mlj 323 and *Nik Elin Zurina bt Nik Abdul Rashid & Anor v. Kerajaan Negeri Kelantan*, [2024] 2 MLJ 140 ruled that all laws pertaining to “sex against the order of nature”, liwat, and similar laws are unconstitutional, making them null and void.

### **Administrative Provisions**

- Film Censorship Guidelines 2024<sup>37</sup>
- Guideline on Entertainment Activities (Concerts) in Higher Learning Institutions
- Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guidelines

36 This listing includes laws directly criminalising sexual relations of LGBTIQ people, as they have a compounding and chilling effect on freedom of expression.

37 Ministry of Home Affairs, Film Censorship Guidelines 2024 <https://ilpf.moha.gov.my/assets/layouts/layout/img/GarisPanduanPenapisanFilem2024.pdf>

# Key events related to the restriction of freedom of expression



PHOTO BY MOOREYAMEEN MOHAMAD @MOOREYAMEEN

- **August 2018** – In an exhibition in conjunction with Independence Day, the **portraits of two LGBTQ activists were removed** following instructions by the then-Minister of Islamic Affairs, Mujahid Yusof Rawa, as the portraits were deemed as ‘promoting LGBT lifestyle’.<sup>38</sup>
- **2023** – A man was charged with contravening Section 233 of the CMA for a **Facebook post** titled ‘A Historical Look at Attitudes of Homosexuality in the Islamic World’, posted 10 January 2023.<sup>39</sup>

38 Malay Mail, “Stop censoring us: LGBT people are part of the Malaysian picture – 47 civil society organisations”, *Malay Mail*, August 9, 2018, <https://www.malaymail.com/news/what-you-think/2018/08/09/stop-censoring-us-lgbt-people-are-part-of-the-malaysian-picture-47-civil-so/1660695>

39 Hidir Reduan Abdul Rashid, “‘Homosexuality in early Islamic period’: Elderly man claims trial over post,” *Malaysiakini*, November 21, 2023, <https://www.malaysiakini.com/news/687286>

- **2022** – Disney movies ‘Lightyear’ and ‘Thor: Love and Thunder’ were banned from cinemas after the producers of the movies refused to censor the lesbian, gay, bisexual or transgender (LGBT) elements in the films.<sup>40</sup> The government later proclaimed that ‘Lightyear’ would be allowed in cinemas if there were minor cuts and muting of specific dialogues that the film censorship board found to contravene its guidelines.<sup>41</sup>
- **13 October 2022** – Aliff Syukri Kamarzaman was charged with four counts of allegedly uploading offensive videos depicting a group of gender diverse dancers under Section 233 of the CMA – he was later granted bail of RM20,000.<sup>42</sup>
- **8 November 2022** – Hasmiza Othman, also known as Dato’ Sri Vida, was charged under Section 233 of the CMA for allegedly making and initiating an offensive video depicting a group of drag queen dancers on her YouTube channel – she was granted bail of RM5000.<sup>43</sup>



PHOTO BY KELWEN / BEHATI

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- 40 IANS, “Beyond ‘Thor’, ‘Lightyear’, Malaysia Firm On Banning Films With ‘LGBT Elements,’” *Outlook*, August 12, 2022, <https://www.outlookindia.com/art-entertainment/beyond-thor-lightyear-malaysia-firm-on-banning-films-with-lgbt-elements--news-215943>
- 41 FMT Reporters, “We didn’t ban ‘Lightyear’, we only wanted cuts, say censors,” *Free Malaysia Today*, June 12, 2022, <https://www.freemalaysiatoday.com/category/leisure/2022/06/17/we-didnt-ban-lightyear-we-only-wanted-cuts-say-censors/>
- 42 Bernama, “Aliff Syukri pleads not guilty to uploading offensive video,” *The Sun*, October 13, 2022, <https://thesun.my/malaysia-news/aliff-syukri-pleads-not-guilty-to-uploading-offensive-video-MF9979196>
- 43 Bernama, “Cosmetics tycoon Vida pleads not guilty to uploading offensive video,” *Malaymail*, November 8, 2022, <https://www.malaymail.com/news/malaysia/2022/11/08/cosmetics-tycoon-vida-pleads-not-guilty-to-uploading-offensive-video/38277>



PHOTO BY ZAHIM MOHD/PHOTO/GETTY IMAGES



PHOTO BY WOMEN'S MARCH MALAYSIA



PHOTO BY WOMEN'S MARCH MALAYSIA

- **March 2019** – The organisers of the Women's March were investigated by the police under Section 4(1) of the Sedition Act 1948 and Section 9(5) of the PAA due to the high visibility of LGBTIQ and gender-diverse people at the march.<sup>44</sup>
- **March 2023** – Seven organisers of the Women's March were investigated by the police under Section 9(5) of the PAA despite notifying the police five days earlier of the protest. Organisers as well as participants were also investigated for "insulting behaviour" under Section 14 of the Minor Offences Act 1995 for holding LGBTIQ+-inclusive placards, including the idea that women are diverse and include LGBTIQ+ women.<sup>45</sup>

<sup>44</sup> Malaysiakini, "Cops investigating Women's March organisers under Sedition Act," *Malaysiakini*, March 14, 2019, <https://www.malaysiakini.com/news/467955>

<sup>45</sup> Justice for Sisters, "End all forms of harassment against the Women's March Malaysia," *MalayMail*, March 17, 2023, <https://www.malaymail.com/news/what-you-think/2023/03/17/end-all-forms-of-harassment-against-the-womens-march-malaysia-2023-justice-for-sisters/60224>

- **July 2023** – Eight members of the Ahmadi Religion of Peace and Light were arrested and detained at Dang Wangi District police station for organising a protest in solidarity with LGBTQ people and holding placards such as “Only God can judge”, and “Gay people are not criminals and being gay is not a crime”.<sup>46</sup> They were investigated under Section 186 of the Penal Code for obstructing a public servant in the discharge of their functions, Section 14 of the Minor Offences Act 1955 for insulting behaviour, and Section 9(5) of the PAA for failing to notify the police five days before the protest.<sup>47</sup>
- **October 2022** – The police, Federal Territories Islamic Religious Department (JAWI), and Kuala Lumpur City Hall (DBKL) conducted a joint raid on an LGBTIQ Halloween-themed party in RexKL. Over 24 people were arrested under laws which criminalise or are used to disproportionately target LGBTIQ and gender-diverse people’s freedom of expression, including Sections 28, 29, and 35, of the Syariah Criminal Offences (Federal Territories) Act, which criminalises diverse gender expression, “indecent acts” in a public place, and “encouraging vices”, as well as Section 15 (1) (a) of the Dangerous Drugs Act (DDA), which criminalises self-administration or consumption of substances.<sup>48</sup>



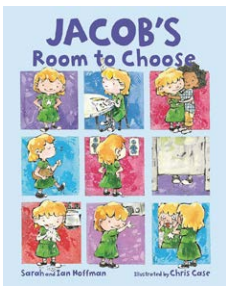
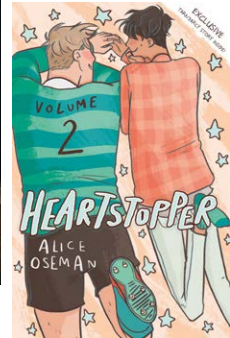
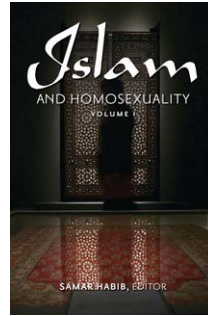
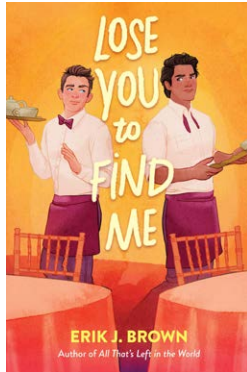
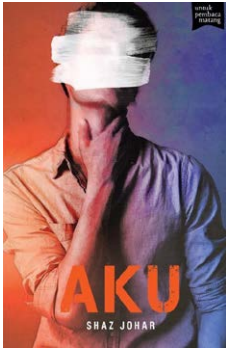
PHOTO BY @BLOOMIN

46 New Straits Times, “Eight men from “Ahmadi Religion of Peace and Light” group detained for LGBT gathering,” *New Straits Times*, July 31, 2023, <https://www.nst.com.my/news/crime-courts/2023/07/937143/eight-men-ahmadi-religion-peace-and-light-group-detained-lgbt>

47 Ibid.

48 Justice for Sisters, “REXKL Halloween raid warrants a review of joint raids & discriminatory laws,” *Justice for Sisters*, November 1, 2022, <https://justiceforsisters.wordpress.com/2022/11/01/rexkl-halloween-raid-warrants-a-review-of-joint-raids-discriminatory-laws/>





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# Censorship of LGBTIQ publications under the PPPA

The criminalisation and discrimination of LGBTIQ people in Malaysia perpetuates an environment of censorship and a chilling effect on their human rights. This is further exacerbated by laws like the PPPA. Bans on LGBTIQ publications have increased since 2020, as evidenced by the fact that LGBTIQ publications made up half of the publications between 2020 and January 2025. This parallels the global trends of censorship of LGBTIQ expressions, particularly in terms of books and other items that symbolise LGBTIQ identities.

In a 2024 parliamentary response to a question on measures taken by the government to curb LGBTIQ rights, the Minister of National Unity Aaron Ago Dagang reiterated that the Malaysian government will not compromise with or recognise the “LGBTQ lifestyle”, which not only violates the “religion, morals, and culture” of Malaysia but is deemed to “violate the country’s laws.”<sup>49</sup>

Citing a statement by the Ministry of Home Affairs, the National Unity Minister emphasised the efforts taken by MOHA to curb the “normalisation of LGBTQ culture” in response to an increase of films in the domestic market that “violate the beliefs and norms of Malaysian society” such as “LGBTQ, communism, Islamophobia, and other films that contravene the Islamic faith.”<sup>50</sup> These measures included using the PPPA to:

1. Conduct inspection and regulation of publications at primary and secondary entry points in the country;
2. Conduct inspection and regulation of publications in the field;
3. Enforce actions such as withholding the delivery, refuse importation, and seizure of LGBT publications;
4. Enforce Prohibition Orders on publications to restrict the printing, importation, production, reproduction, publishing, sale, issuance, circulation, distribution, or possession of LGBT publications;
5. Revoke or suspend Printing Press Licenses/Publishing Permits granted to any printing or publishing company that produces LGBT-related publications that violate public decency (*kesopanan awam*).<sup>51</sup>

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49 Parlimen Malaysia. *Soalan No. 57, Pemberitahuan Pertanyaan Dewan Negara Yang Kelima Belas Penggal Ketiga, Mesyuarat Pertama*, 26 March 2024, <https://www.parlimen.gov.my/files/jindex/pdf/JLDN26032024.pdf>

50 Ibid, 3.

51 Ibid, 4.



PHOTO BY SWATCH MALAYSIA

# LGBTIQ Publications banned under the PPPA

A review of the MOHA's Prohibition Orders shows that the banning of LGBTIQ publications dates back to 2016 with at least four books being banned. They are:

- Islam And Homosexuality Volume 1 (international)
- Lesbian Sex Positions: 100 Passionate Positions from Intimate and Sensual to Wild and Naughty (international)
- Sexual Intimacy for Women: A Guide for Same-Sex Couples (international)
- The Whole Lesbian Sex Book A Passionate Guide for All of Us (international)<sup>52</sup>

Between 2020 and January 2025, 13 publications with LGBTIQ themes or content were banned. The LGBTIQ related publications that have been banned are not limited to books. They include other products,

52 Portal Rasmi Kerajaan Negeri Terengganu, *Senarai Penerbitan Berunsur Islam Yang Diwartakan Haram Oleh Kementerian Dalam Negeri (KDN) Bagi Tahun 2012 Hingga 2016*, [http://jtnkt.terengganu.gov.my/maxc2020/appshare/widget/ar\\_img/37/Penerbitan%20Haram%20drpd%20KDN%202012%20-2016.pdf](http://jtnkt.terengganu.gov.my/maxc2020/appshare/widget/ar_img/37/Penerbitan%20Haram%20drpd%20KDN%202012%20-2016.pdf)



including watches, boxes, wrappers and other relevant materials.<sup>53</sup> This report refers to all of the items as publications in keeping with the language used in the PPPA.

All publications were banned on the grounds that they are “likely to be prejudicial to morality” with the exception of the book ‘Gay is OK! A Christian Perspective’. The prohibition order for the book included the additional grounds, “likely to be prejudicial to public order, which is likely to be prejudicial to morality and which is likely to be prejudicial to public interest ....”<sup>54</sup>

In the Pride theme Swatch watch case, the Ministry justified its ban because “it [the Swatch watch] is a product of publication that is harmful or may cause harm to morality, public order, and national interests by promoting, supporting and normalising the LGBTIQ movement that is not accepted by the general public.” They further noted their “commitment to maintaining public safety and order by periodically monitoring and regulating publications to combat the spread of elements, ideologies, and movements inconsistent with local socio-culture.”<sup>55</sup>

In a statement about six publications banned in December 2024 – four of which contained LGBTIQ themes – the Ministry stated that:

*In line with the principles of the Rukun Negara “Courtesy and Morality” and local socio-culture, the Ministry of Home Affairs, which is given the responsibility to maintain public safety and order, will take action to control and enforce regulations on printing presses and publications in the country. This is important to prevent the spread of ideologies or movements that are contrary to the culture and noble values of the diverse Malaysian society.*

53 Ida Lim, “Three Months after Raids, Home Ministry Bans “LGBTQ+” on Swatch Watches,” *Malay Mail*, August 10, 2023, [www.malaymail.com/news/malaysia/2023/08/10/three-months-after-raids-home-ministry-bans-lgbtq-on-swatch-watches/84574](https://www.malaymail.com/news/malaysia/2023/08/10/three-months-after-raids-home-ministry-bans-lgbtq-on-swatch-watches/84574).

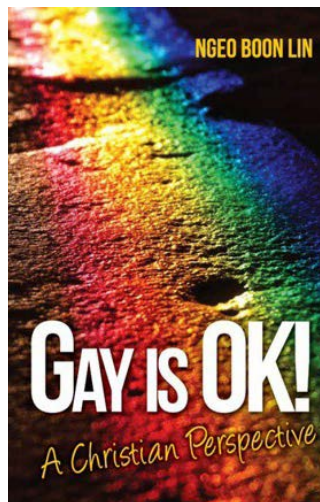
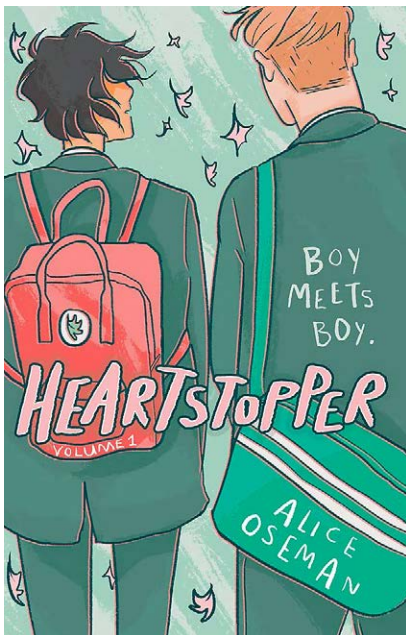
54 Jabatan Peguam Negara, *Federal Government Gazette: Printing Presses and Publications (Control of Undesirable Publications) (No. 3) Order 2020*, P.U. (A) 340, November 27, 2020, [https://lom.agc.gov.my/ilims/upload/portal/akta/output/pua\\_20201127\\_PUA340\\_2020.pdf](https://lom.agc.gov.my/ilims/upload/portal/akta/output/pua_20201127_PUA340_2020.pdf)

55 Kementerian Dalam Negeri, *Tindakan Perintah Larangan Terhadap Penerbitan Melalui Warta Kerajaan*, P.U. (A) 236, August 10, 2023, [https://www.moha.gov.my/images/Agensi/UKOM/Kenyataan\\_Media\\_TINDAKAN\\_PERINTAH\\_LARANGAN\\_TERHADAP\\_PENERBITAN1.pdf](https://www.moha.gov.my/images/Agensi/UKOM/Kenyataan_Media_TINDAKAN_PERINTAH_LARANGAN_TERHADAP_PENERBITAN1.pdf)

# Types of publications banned

The publications consist of a mix of international and local publications with a majority being international publications. Only three of the 13 were local publications. Similar to film censorship, popular international LGBTIQ books are more susceptible to bans. The book *'Heartstopper'*, for example, was banned in 2022 before it was banned in other countries in 2023 and 2024.

Almost all of the banned publications were published and in circulation for at least one year before they were banned by the government. The book *'Gay is OK!'* was in circulation for seven years before it was banned. However, the duration of the availability of banned international publications in Malaysian stores is unclear.



**TABLE 1****List of banned LGBTIQ-related books between 2020 and 2024**

BANNED YEAR	BOOK TITLE	INTERNATIONAL OR LOCAL PUBLICATIONS
2020	1. Gay is OK! A Christian Perspective (2013)	Local
2022 <sup>56</sup>	2. Heartstopper Volume 2 (2019)	International
	3. Cekik (2011)	Local
2023 <sup>57</sup>	4. The Tale of Steven, (2019)	International
	5. Jacob's Room To Choose (2019)	International
	6. Aku (2019)	Local
	7. Swatch watches	International
2024 <sup>58</sup>	8. Scattered Showers (2022)	International
	9. Lose You to Find Me (2023)	International
	10. What If It's Us (2018)	International
	11. When Everything Feels Like the Movies (2014)	International
2025	12. My Shadow is Purple (2022)	International
	13. All That's Left in the World (2022)	International

56 Bernama, "Home Ministry bans three books for 'obscene, immoral' content," *The Vibes*, November 8, 2022, <https://www.thevibes.com/articles/news/76601/home-ministry-bans-three-books-for-obscene-immoral-content>

57 Bernama, "Home Ministry bans three publications for immorality, LGBT," *Malay Mail*, February 14, 2023, <https://www.malaymail.com/news/malaysia/2023/02/14/home-ministry-bans-three-publications-for-immorality-lgbt/54970>

58 Amisha Syahira, "Home Ministry bans 6 books over concerns of 'courtesy and morality'," *New Straits Times*, January 7, 2025, <https://www.nst.com.my/news/nation/2025/01/1157496/home-ministry-bans-6-books-over-concerns-courtesy-and-morality>

# Legal challenges against bans on publications

Of these 13 incidents, only two bans were challenged in court. The first challenge saw the lifting of the ban on the publication ‘Gay is OK!’ by a 2022 High Court decision. However, the ban was reinstated on September 25, 2023 after the government successfully won its appeal.<sup>59</sup>

The second legal challenge was mounted against the raids and seizure of Pride-themed Swatch watches. A ban was gazetted on 10 August 2023 on all Swatch products containing LGBTIQ elements, including watches, boxes, wrappers and other relevant materials,<sup>60</sup> following a raid by MOHA of 16 Swatch stores in May 2023, which led to the confiscation of 172 Swatch Pride watches.<sup>61</sup> The Kuala Lumpur High Court quashed the ban in November 2024, and MOHA did not appeal the decision.<sup>62</sup> While that is a positive sign, no written judgment is available for this reason.

The low number of legal challenges can be attributed to the fact that many of the banned publications are international publications with the exception of Swatch, which operates multiple stores in Malaysia.

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59 Ida Lim, “Why Court of Appeal Upheld “Gay Is OK!” Book Ban in 2-1 Decision,” *Malay Mail*, January 3, 2024, [www.malaymail.com/news/malaysia/2024/01/04/why-court-of-appeal-upheld-gay-is-ok-book-ban-in-2-1-decision/110267](http://www.malaymail.com/news/malaysia/2024/01/04/why-court-of-appeal-upheld-gay-is-ok-book-ban-in-2-1-decision/110267).

60 Ida Lim, “Three Months after Raids, Home Ministry Bans “LGBTQ+” on Swatch Watches,” *Malay Mail*, 10 Aug. 2023, [www.malaymail.com/news/malaysia/2023/08/10/three-months-after-raids-home-ministry-bans-lgbtq-on-swatch-watches/84574](http://www.malaymail.com/news/malaysia/2023/08/10/three-months-after-raids-home-ministry-bans-lgbtq-on-swatch-watches/84574).

61 FMT Reporters, “Rainbow ‘Pride’ watches reported seized in raids on Swatch shops,” *Free Malaysia Today*, 22 May, 2023, <https://www.freemalaysiatoday.com/category/nation/2023/05/22/rainbow-pride-watches-reported-seized-in-raids-on-swatch-shops/>

62 Hafiz Yatim, “High Court quashes Swatch seizure by Home Ministry,” *The Edge Malaysia*, November 25, 2024, <https://theedgemalaysia.com/node/735196>

# Impact of LGBTIQ censorship

The censorship of LGBTIQ publications results in wide ranging impacts from stifling LGBTIQ discourse and information to a heightened sense of impunity among various actors. The cumulative result is a deep sense of mistrust for existing rule of law institutions among LGBTIQ people and restricted access to justice.<sup>63</sup>

Undeniably, censorship of LGBTIQ publications heightens moral panic surrounding LGBTIQ people and the notion that they are a threat that needs to be curbed. In reality, censorship normalises discrimination against LGBTIQ people. In many instances, the culture of impunity among various actors who subsequently feel emboldened to suppress the rights of LGBTIQ people is evident.<sup>64</sup> In 2021, the availability and sale of *'Heartstopper'* – a LGBTQ young adult graphic novel and webcomic series – in local bookstores triggered non-state actors to launch a public campaign to report the book. This resulted in a conservative group ambushing a bookstore looking for the book. In February 2024<sup>65</sup> and March 2025<sup>66</sup>, political parties and non-state actors again called for censorship of LGBTIQ themed books.<sup>67</sup>

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- 63 Breena Au, Sulastri Ariffin, thilaga sulathireh, and Suri Kempe, *Freedom of Expression and Transgender Women in Malaysia* (EMPOWER and Justice for Sisters, 2021), 118, [https://static1.squarespace.com/static/5e2fb70868966a1c84c7e258/t/6156fb9848b86e3bf6013ad3/1633090508281/Empower\\_JFS\\_FOEGI\\_Report.pdf](https://static1.squarespace.com/static/5e2fb70868966a1c84c7e258/t/6156fb9848b86e3bf6013ad3/1633090508281/Empower_JFS_FOEGI_Report.pdf)
  - 64 Rafidah Hanim Mokhtar, "Saya dimaklumkan telah ada buku berunsur LGBT versi remaja di beberapa kedai buku." Facebook, April 29, 2021, [www.facebook.com/drrafidahhanim/posts/saya-dimaklumkan-telah-ada-buku-berunsur-lgbt-versi-remaja-di-beberapa-kedai-buk/1896181893870594/](https://www.facebook.com/drrafidahhanim/posts/saya-dimaklumkan-telah-ada-buku-berunsur-lgbt-versi-remaja-di-beberapa-kedai-buk/1896181893870594/).
  - 65 Focus Malaysia, "PAS fumes at availability of LGBT books at MPH Bookstores" *Focus Malaysia*, 7 February 2024, <https://focusmalaysia.my/pas-fumes-at-availability-of-lgbt-books-at-mph-bookstores/>
  - 66 Nur Fatimah Meor, "Lapor Buku Bertemakan Jenayah Liwat Ke KDN", Facebook, March 17, 2025, <https://www.facebook.com/nurfariha19/posts/pfbid03teaDrcjD7NR2z8abEj7b6R24wsbAfVaeAhchYFo4KzbkihDSuAigBUVxE7AbvoTZI>
  - 67 Melayu Putera Bumi, "Ayuh tularikan dan paksa kerajaan ambil tindakan keras diatas penyebaran novel songsang yang menormalkan penyebaran penyakit kelamin," Facebook, March 17, 2025, [https://www.facebook.com/story.php?story\\_fbid=981026600801558&id=100066826818425&rdc](https://www.facebook.com/story.php?story_fbid=981026600801558&id=100066826818425&rdc)



PHOTO BY NERINGA DANGVYDĖ

In the case of the Lithuanian government's censorship of a fairy tale book by a local author, the European Court of Human Rights unanimously found the government in violation of the author's freedom of expression by labelling the book as harmful to children because of its LGBTIQ content. The court noted that "[H]aving in mind that similar labels are used to mark, among other things, information which is violent, sexually explicit or promotes drug use or self-harm ..., the Court considers that the warning labels were likely to dissuade a significant number of parents and guardians from allowing children under the age of 14 to read the book, especially in the light of the persistence of stereotypical attitudes, prejudice, hostility and discrimination against the LGBTI community in Lithuania." This affected the author's ability to freely impart her ideas.<sup>68</sup> Furthermore, such harmful labels allow LGBTIQ-related disinformation and misinformation to thrive without being corrected.

In the context of Malaysia, where public narratives are dominated by gender binary ideas and the notion that LGBTIQ people must change

<sup>68</sup> European Court of Human Rights, *Macatė v. Lithuania* [GC], 61435/19, January 23, 2023, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-13955%22%5D%7D>

or “return to the right path”, censorship of factual information and limited space to address other barriers in addressing misinformation, has a wide-ranging impact on LGBTIQ people and society at large. The censorship of LGBTIQ publications represents a systemic restriction on access to essential information that is needed to build relationships and challenge existing prejudices against LGBTIQ people. This suggests that the government not only supports hateful narratives but also actively denies people the right to information taking active measures to limit access to critical knowledge about LGBTIQ people. Such restrictions could impede efforts to provide accurate information, foster dialogue, and create avenues for redress, ultimately perpetuating the marginalisation and discrimination faced by LGBTIQ people in Malaysia.

A 2021 study shows the causal link between anti-LGBTIQ narratives and an increase in self-censorship and the desire to migrate. 55.9%, or more than half of the 220 LGBTIQ respondents noted that they experienced increased stress and mental health burden due to anti-LGBTIQ narratives.

Meanwhile, at least 47.7% of respondents noted that they toned down their ‘gayness’, ‘queerness’, and ‘transness’ at home and other places to avoid trouble. 44.1% said that they reduced their social media postings or sharing of LGBTIQ content. Interestingly, 20% of the respondents noted that they experienced increased anti-LGBTIQ conversations at home, in family chat groups, or among family members. At least 85 respondents (38.6%) have thought of or made plans to migrate or seek asylum as a result of the increasing anti-LGBT sentiments.<sup>69</sup>

Another 2022 study indicates that the prevalence of mental disorders among the Malaysian adult LGBTIQ population is more than double that of the general population (80.3% vs. 29.2%). The majority of the participants who were involved in this study were between 25 and 35 years old (64.5%), followed by those under 25 years old (27.0%).<sup>70</sup>

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69 Justice for Sisters, Diversity Malaysia, and PLUHO (People Like Us Hang Out!), “Survey Findings: Impact of Covid-19 & Anti-LGBT Narratives on LGBTQ+ Persons in Malaysia out Now,” *Queer Lapis*, December 2021, [www.queerlapis.com/survey-findings-impact-of-covid-19-anti-lgbt-narratives-on-lgbtq-persons-in-malaysia-out-now/](http://www.queerlapis.com/survey-findings-impact-of-covid-19-anti-lgbt-narratives-on-lgbtq-persons-in-malaysia-out-now/).

70 Johan Ariff Juhari, Jesjeet Singh Gill, and Benedict Francis, “Coping Strategies and Mental Disorders among the LGBT+ Community in Malaysia,” *Healthcare* 10, no. 10 (2022): 1885, <https://doi.org/10.3390/healthcare10101885>.



A natural and logical consequence of this discriminatory environment is the reduced trust by LGBTIQ persons in state institutions. Only 37 respondents (16.8%) indicated that they are comfortable and very comfortable in reporting cases of discrimination and violence that they face to government agencies. Meanwhile, 59.1% of the respondents noted that they were not comfortable reporting cases to government agencies.<sup>71</sup>

Malaysia as a country is also not spared from the negative consequences of its discriminatory actions against LGBTIQ people within its borders. Research shows that anti-LGBT laws and discrimination cost up to one per cent of a country's Gross Domestic Product (GDP).<sup>72</sup> This is supported by the findings of an Open for Business study of six countries, including Malaysia, which found that discrimination against LGBTIQ populations costs Southeast Asian economies up to 1.47% of GDP due to health and wage inequities.<sup>73</sup>



PHOTO BY IZUDDIN ABD RADZAK / SHUTTERSTOCK

[doi.org/10.3390/healthcare10101885](https://doi.org/10.3390/healthcare10101885)

- 71 Justice for Sisters, Diversity Malaysia, and PLUHO (People Like Us Hang Out!), "Survey Findings: Impact of Covid-19 & Anti-LGBT Narratives on LGBTQ+ Persons in Malaysia out Now," *Queer Lapis*, December 2021, [www.queerlapis.com/survey-findings-impact-of-covid-19-anti-lgbt-narratives-on-lgbtq-persons-in-malaysia-out-now/](http://www.queerlapis.com/survey-findings-impact-of-covid-19-anti-lgbt-narratives-on-lgbtq-persons-in-malaysia-out-now/).
- 72 De Guzman, Chad. "How Anti-LGBT Laws Are Bad for Economies." *Time* (New York City), 25 July 2023, [time.com/6297323/malaysia-1975-matty-healy-lgbt-economic-costs/](https://time.com/6297323/malaysia-1975-matty-healy-lgbt-economic-costs/).
- 73 George Perlov et al., *The Economic Case for LGBTIQ Inclusion in Southeast Asia*, Open for Business, [open-for-business.org/southeastasia](https://open-for-business.org/southeastasia).



# A Global Perspective on Censorship of LGBTIQ Publications

Globally, the trend of censoring LGBTIQ publications and materials has increased over the last two decades. This period is marked by the rampant introduction of legislation and other measures to restrict the promotion of LGBTIQ-related expression and information on the grounds of public morality, the need to protect children from “gender ideology,” and public health.

The trend first began in Lithuania in 2009 when the Law on the Protection of Minors against the Detrimental Effects of Public Information<sup>74</sup> was amended to prohibit the “propagation of homosexuality”. In 2014, Lithuania banned a fairy tale featuring LGBT characters, among other marginalised identities, citing it as “harmful, primitive and biased homosexual propaganda.”<sup>75</sup>

In June 2013, Vladimir Putin signed what is popularly known as the “gay propaganda” law into effect, thus banning the promotion of “nontraditional sexual relations to minors”. Human Rights Watch (HRW) dubs the law as a “classic example of political homophobia.” The introduction of the law panders to Putin’s conservative domestic support base, while positioning Russia as a champion of so-called “traditional family values” at the international stage.<sup>76</sup> The law was amended in 2022 to increase penalties under the law.<sup>77</sup>

74 European Parliament, *Lithuanian Law for the Protection of Minors against the Detrimental Effects of Public Information*, O-0080/09, July 16, 2009, [https://www.europarl.europa.eu/doceo/document/O-7-2009-0080\\_EN.html?redirect](https://www.europarl.europa.eu/doceo/document/O-7-2009-0080_EN.html?redirect)

75 Human Rights Monitoring Institute, “Soviet-Era Censorship Is Back: Children’s Fairy Tale Book Banned Because of ‘Harmful, Primitive and Biased Homosexual Propaganda,’” *Liberties*, May 20, 2014, <https://www.liberties.eu/en/stories/censorship-in-lithuania-lgbt/705>

76 Human Rights Watch, “No Support: Russia’s ‘Gay Propaganda’ Law Imperils LGBT Youth,” *Human Rights Watch*, December 11, 2018, [www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth](http://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth).

77 Human Rights Watch, “Russia: Expanded ‘Gay Propaganda’ Ban Progresses Toward Law,” *Human Rights Watch*, November 25, 2022, [www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth](http://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth).



PHOTO BY ROBERT IHNATISIN / BUDAPEST PRIDE

In 2021, the Hungarian parliament passed a law banning the distribution of information about sexual orientation and gender identity to minors. Similar to Russia's laws, Hungary's law conflates homosexuality and paedophilia, increasing misinformation and stigma against LGBTIQ people.<sup>78</sup> Two years later in 2023, the Hungarian Consumer Protection Authority reportedly instructed bookstores to seal children's and young adult books that feature LGBTIQ characters in plastic to prevent customers from opening them in stores.<sup>79</sup> The same year, a bookseller was fined 12m Forints (£27,400) for selling 'Heartstopper', a graphic novel about the love story of two teenage boys without sealed plastic wrapping.<sup>80</sup>

78 Flora Garamvolgyi, "Hungarian Bookseller Wraps LGBTQ+ Books in Plastic to Stop People Reading Them," *The Guardian*, July 12, 2023, [www.theguardian.com/world/2023/jul/12/hungarian-bookstore-chain-wraps-books-lgbtq-characters-plastic](https://www.theguardian.com/world/2023/jul/12/hungarian-bookstore-chain-wraps-books-lgbtq-characters-plastic).

79 Ibid.

80 Oliver Slow, "Heartstopper: Hungarian Retailer Selling Graphic Novel Fined under Anti-LGBT

The globalisation and internationalisation of anti-rights and anti-gender groups and their agenda has accelerated these trends.

A public hearing on ‘Foreign interference on the financing of anti-choice organisations in the EU’ was organised by the European Parliament in 2021 in response to the increasingly organised movement in Europe against access to safe abortion and contraception, LGBTIQ rights, and sex education. The European Parliamentary Forum for Sexual and Reproductive Rights (EPF) reported that over US\$702 million had been spent in the European region on anti-gender activities as of 2019. These funds come mainly from European countries, the Russian Federation, and the US.

The source of US funds were linked to ten key Christian right organisations. These organisations are reportedly linked to private actors who typically support far-right and libertarian causes in the US. Russian funds, on the other hand, reportedly come from several sources – 1) two oligarchs with a particular focus on social media advocacy and outreach; 2) ‘laundromats’ moving illicit money from the Russian Federation to Europe; and 3) agencies set up by the Russian government who engage in “anti-gender soft diplomacy”.<sup>81</sup>

OpenDemocracy revealed in an investigation paper that American Christian right groups have spent at least US\$280 million in dark money fueling campaigns against the rights of women and LGBTIQ people across five continents.<sup>82</sup> An analysis by the Global Philanthropy Project found that US-based bodies linked to the ‘anti-gender ideology’ movement received more than US\$6 billion between 2008 and 2017 – of that, more than US\$1 billion was spent on overseas activities.<sup>83</sup>

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Law,” *BBC*, July 3, 2023, [www.bbc.com/news/world-europe-66197171](https://www.bbc.com/news/world-europe-66197171).

81 Greta Hughson, “Who’s Financing the “Anti-Gender” Movement in Europe?” *Aidsmap*, May 27, 2021, [www.aidsmap.com/news/may-2021/whos-financing-anti-gender-movement-europe](https://www.aidsmap.com/news/may-2021/whos-financing-anti-gender-movement-europe).

82 Nandini Naira Archer and Claire Provost, “Revealed: \$280m “Dark Money” Spent by US Christian Right Groups Globally,” *OpenDemocracy*, October 27, 2020, [www.opendemocracy.net/en/5050/trump-us-christian-spending-global-revealed/](https://www.opendemocracy.net/en/5050/trump-us-christian-spending-global-revealed/).

83 Ari Shaw, “The Global Assault on LGBTQ Rights Undermines Democracy,” *Chatham House – International Affairs Think Tank*, June 2, 2023, [www.chathamhouse.org/publications/the-world-today/2023-06/global-assault-lgbtq-rights-undermines-democracy](https://www.chathamhouse.org/publications/the-world-today/2023-06/global-assault-lgbtq-rights-undermines-democracy).

The US-based International Organization for the Family (IOF), previously known as the World Congress of Families (WCF) promotes its own ideology of the so-called “natural family”. Their ideology centers on the idea that ‘European populations, especially, are in decline because of homosexuality, abortion, feminism, women in the workplace, and a variety of other factors that deviate from the “natural family.”’<sup>84</sup>

It has hosted the World Congress of Families for more than twenty years, including in Prague in 1997, Mexico City in 2004, Sydney in 2013, and Budapest in 2017.<sup>85</sup> Hungary’s leader Viktor Orbán has taken part in the Congress. IOF is also known to lobby the UN. In 2014, it played a significant role in passing a UN resolution on the “Protection of the family” where IOF advocated against the inclusion of language on “various forms of the family”.<sup>86</sup>

Meanwhile, the fundamentalist Christian lobby organisation Family Watch International (FWI) has been accused of backing anti-LGBT laws in African countries, such as Uganda, Ghana and Kenya.<sup>87</sup> FWI has reportedly been campaigning to ban comprehensive sexuality education (CSE) in at least ten African countries. It advocates for abstinence-only sex education and claims that CSE is “abortion, promiscuity, and LGBT rights education”.<sup>88</sup>

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84 “World Congress of Families,” *Southern Poverty Law Center*, accessed April 30, 2025, [www.splcenter.org/resources/extremist-files/world-congress-families/](http://www.splcenter.org/resources/extremist-files/world-congress-families/).

85 Phillip Ayoub and Kristina Stoeckl, “The Global Resistance to LGBTIQ Rights,” *Journal of Democracy* 35, no. 1 (2024): 65, <https://dx.doi.org/10.1353/jod.2024.a915349>.

86 “MAJOR VICTORIES: UN Protection of the Family Resolution”, *UN Family Rights Caucus*, 2014, [unfamilyrightscaucus.org/un-initiatives/recent-victories-2/victories-un-protection-of-the-family-resolution/](http://unfamilyrightscaucus.org/un-initiatives/recent-victories-2/victories-un-protection-of-the-family-resolution/).

87 Caroline Kimeu, “US Intel Executive ‘Actively Responsible’ for Driving Anti-LGBTQ+ Agenda in Africa, Say Campaigners,” *The Guardian*, July 7, 2023, [www.theguardian.com/global-development/2023/jul/07/intel-executive-actively-responsible-for-driving-anti-lgbtq-agenda-in-africa-say-campaigners](http://www.theguardian.com/global-development/2023/jul/07/intel-executive-actively-responsible-for-driving-anti-lgbtq-agenda-in-africa-say-campaigners).

88 Kerry Cullinan, Zarina Geloo, and Tuyeimo Haidula, “US Christian Right Group Hosts Anti-LGBT Training for African Politicians,” *OpenDemocracy*, October 27, 2020, [www.opendemocracy.net/en/5050/us-christian-right-group-hosts-anti-lgbt-training-african-politicians/](http://www.opendemocracy.net/en/5050/us-christian-right-group-hosts-anti-lgbt-training-african-politicians/).

## **PART ②**

# **Overview of the PPPA**

# Overview of the PPPA

The PPPA has an expansive scope. It plays a dual role in regulating the media and publications in Malaysia through its broad definitions and licensing powers for printing presses and newspapers. The PPPA regulates a broad range of printed, audio-based materials or “anything which by its form, shape or in any manner is capable of suggesting words or ideas”.<sup>89 90</sup> Violations of the PPPA can result in severe fines (between exceeding RM 5,000 and RM 25,000) and a prison sentence of up to three years. This directly affects freedom of expression.

The PPPA has been amended several times since coming into force in 1988. To some extent, these amendments reduce the absolute power granted to the Minister of Home Affairs under the PPPA. The 2012 amendments removed the Minister’s absolute power in granting or refusing a printing press license and reinstated judicial oversight over the minister’s decisions.<sup>91</sup> However, the powers granted to the Minister for banning publications have not been adequately reviewed.

The excessive use of power under the PPPA further undermines the pursuit of rule of law, equality and freedom of expression.

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89 Laws of Malaysia, *Printing Presses and Publications Act 1984* (Act 301), 6, <https://tcclaw.com.my/wp-content/uploads/2020/12/Printing-Presses-and-Publications-Act-1984.pdf>

90 Justice for Sisters., “LETTER | PPPA must be reviewed following Swatch raid,” *Malaysiakini*, 27 May 2023, <https://www.malaysiakini.com/letters/666591>

91 The Edge, “Changes to press law tabled, draw criticism,” *The Edge*, April 19, 2012, <https://theedgemalaysia.com/article/changes-press-law-tabled-draw-criticism>

## BOX 4 The process of banning a book in Malaysia

- 1** The Ministry of Home Affairs learns about a book or receives a public complaint through the MOHA's Enforcement and Control (EC) Division or Integrated Public Complaints System (SISPAA; <http://moha.spab.gov.my>).<sup>92</sup>
- 2** MOHA's EC Division conducts surveillance or monitoring of the book following the alleged complaint.<sup>93</sup> Authorised MOHA officers may conduct a random search at the alleged premises involved as part of their investigation.<sup>94</sup>
- 3** Under Section 17 and 18 of the PPPA, authorised MOHA officers may also examine any package, seize, or detain any printing press, publication, or material which they have reasonable grounds to believe is evidence that an offence has been committed.<sup>95</sup>
- 4** The EC Division examines and reviews the content of the book and submits it to the Minister of Home Affairs.<sup>96</sup>
- 5** The Minister determines if the book should be prohibited under Section 7(1) of the PPPA on grounds of being prejudicial or likely to be prejudicial to public order, morality, security, likely to alarm public opinion, likely to be contrary to any law, or is prejudicial to or is likely to be prejudicial to public interest or national interest.<sup>97</sup>
- 6** The Minister issues a prohibition order through the Federal Government Gazette to ban the printing, importation, production, reproduction, publishing, sale, issue, circulation, distribution, or possession of said book.<sup>98</sup>

92 Bernama, "KDN haramkan tiga penerbitan", *MyMetro*, February 14, 2023, [https://www.moha.gov.my/images/Agensi/UKOM/Kenyataan\\_Media\\_TINDAKAN\\_PERINTAH\\_LARANGAN\\_TERHADAP\\_PENERBITAN1.pdf](https://www.moha.gov.my/images/Agensi/UKOM/Kenyataan_Media_TINDAKAN_PERINTAH_LARANGAN_TERHADAP_PENERBITAN1.pdf)

93 High Court of Malaysia Putrajaya, *Swatch (Malaysia) v. Menteri Dalam Negeri & Anor* (Respondents Submission), PN/WKL/HQ/SD/11/47/2022, March 26, 2024, para. 4, available at <https://ecourtservices.kehakiman.gov.my/>

94 Ibid.; Nora Mahpar, "Books not seized just taken to check contents, says Saifuddin," *FMT*, August 22, 2023, <https://www.freemalaysiatoday.com/category/nation/2023/08/22/books-not-seized-just-taken-to-check-contents-says-saifuddin/>

95 Laws of Malaysia, *Printing Presses and Publications Act 1984* (Act 301), 16, <https://tcclaw.com.my/wp-content/uploads/2020/12/Printing-Presses-and-Publications-Act-1984.pdf>

96 Court of Appeal Putrajaya, *Menteri Dalam Negeri & Anor v. Chong Ton Sin & Anor* (Grounds for Majority Judgement), W-01(A)-156-03/2022, December 19, 2023, para. 7, available at <https://ecourtservices.kehakiman.gov.my/>

97 Laws of Malaysia, *Printing Presses and Publications Act* (Act 301), 10, <https://tcclaw.com.my/wp-content/uploads/2020/12/Printing-Presses-and-Publications-Act-1984.pdf>

98 Ibid.

# Proposed amendments to the PPPA

Between 2022 to 2024, MOHA conducted various engagements with stakeholders on the efficacy of the PPPA and amendments to the Act.

Together with three public universities, the Ministry embarked on a two-year study on the “Effectiveness of Enforcement and Regulation of Publications under the PPPA 1984” involving Focus Group Discussions (FGDs), interviews, and town hall sessions with stakeholders in 2022.<sup>99</sup>

At least 15 consultations were held (12 consultations in 2022, three in 2024) with local Malaysian publishers, large distributors, major newspaper publishers, NGO representatives such as the Centre for Independent Journalism (CIJ) and Sisters in Islam (SIS), and government agencies, including the Royal Malaysian Police (PDRM), Ministry of Communication, and Selangor and Wilayah Persekutuan Mufti Departments.<sup>100</sup> Concerns regarding the “normalisation of LGBT lifestyle” and the flood of publications that allegedly harm morality and promote ‘LGBT ideology’ were discussed in at least two consultations with industry players and with Singapore’s Ministry of Communication and Information.<sup>101</sup>

Justice for Sisters (JFS) alongside other NGOs participated in the FGD on 24 August 2022, where the normalisation of LGBT publications and the need to preserve majoritarian norms were heatedly debated. JFS observed bias and a lack of understanding about LGBTIQ people by the participants, moderator, and representatives of MOHA. During the

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99 Kementerian Dalam Negeri, *Laporan Konsultasi Awam Berhubung Cadangan Pindaan Akta Mesin Cetak dan Penerbitan (AMCP) 1984* (Unified Public Consultation, April 1, 2024), 7, available at <https://upc.mpc.gov.my/csp/sys/bi/%25cspapp.bi.work.nc.custom.regulation.cls?regld=828>

100 Ibid., 13–48.

101 Ibid., 36, 39.



discussion, JFS raised concerns about how LGBTIQ people and related topics were discussed, while stressing the need to ensure respect for LGBTIQ people's dignity.

The Ministry launched another online survey on the Unified Public Consultation (UPC) Portal to collect further input and feedback from the public regarding the PPPA amendments between 3 April and 3 May 2024. Besides questions on the effectiveness of current PPPA provisions and its enforcement, the survey included several biased and leading questions that singled out LGBTIQ publications and suggested that LGBTIQ people and publications are a threat to public morality and national security that need to be restricted. (see **Annex 5** for the full survey).<sup>102</sup>

### **BOX 6 Anti-LGBTIQ Questions in PPPA Online Survey for Public Consultations**

**Q7. “In your opinion, do you agree that the production and dissemination of printed materials with elements of LGBTQ/radicalism/terrorism harms morality and impacts national safety and security?”**

i.) Yes

ii.) No (If not, please explain): \_\_\_\_\_

**Q11. Are you aware that undesirable publications encompass the following:**

- a) Materials containing pornography/explicit content
- b) Materials normalising LGBTQ lifestyle
- c) Materials containing communist / radical / terrorist ideologies
- d) Materials provoking elements of 3R (race, religion, and royalty)

i.) Yes

ii.) No (If not, please explain): \_\_\_\_\_

**Q14. Are you aware that the Printing Presses and Publications Act (PPPA) 1984 is crucial for restricting elements which go against the norms and culture of society, especially in addressing the increase in moral problems?**

i.) Yes

ii.) No (If not, please explain): \_\_\_\_\_

<sup>102</sup> Kementerian Dalam Negeri, *Soal Selidik berkaitan Cadangan Pindaan Akta Mesin Cetak dan Penerbitan 1984, UPC*, accessed March 12, 2025, <https://upc.mpc.gov.my/csp/sys/bi/%25cspapp.bi.viewfile.cls?upcAttId=13021>.

# Outcomes of the consultations

The Ministry of Home Affairs published a report on the outcomes of the consultations in April 2024. The report concluded that the PPPA must be amended to ensure more effective enforcement and regulation of publications “to curb the spread of ideologies such as liberalism, atheism, and pluralism, sexual deviancy and cultural norms inconsistent with Malaysian society, as well as manipulation of sensitive issues involving race, religion, and royalty (3Rs).” <sup>103</sup>

It also surmised that the PPPA remains relevant and must be retained as “freedom of expression and creativity must be balanced with the need to safeguard public order and national security.” In addition, the Ministry recommended “introducing several amendments to ensure more effective enforcement and regulation of publications, particularly undesirable publications, whether in print or online, that are harmful or potentially harmful to public order, security, public interest, national interest, morality, public perception, and which contradict Malaysian laws.” <sup>104</sup>

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<sup>103</sup> Kementerian Dalam Negeri, *Laporan Konsultasi Awam Berhubung Cadangan Pindaan Akta Mesin Cetak dan Penerbitan (AMCP) 1984* (Unified Public Consultation, April 1, 2024), 7–8, Available at <https://upc.mpc.gov.my/csp/sys/bi/%25cspapp.bi.work.nc.custom.regulation.cls?regld=828>

<sup>104</sup> Ibid, 37–38.

In March 2024, the Minister confirmed the PPPA will be amended and potentially tabled in December 2024.<sup>105</sup> While the amendment bill is not publicly available, some of the proposed amendments to the PPPA – based on media reports and information shared by the Minister – include:<sup>106 107</sup>

1. Reinstatement of the license and permit renewals (every three years) for media companies;
2. Regulation of digital media by expanding the definition of publications to include digital and electronic content, potentially also including content on apps;
3. Expansion of “undesirable publications” to include matters relating to the 3R (race, religion, and royalty);
4. Expansion of criminal penalties. This includes a proposed three years’ jail time or a fine of up to RM100,000, or both for violation of newspaper publication permit conditions,
5. Expansion of powers of search and seizure.<sup>108</sup>

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<sup>105</sup> Adam Ayyzat, “Yes to media council, but no plans to abolish PPPA: Saifuddin,” *Scoop*, March 1, 2024, <https://www.scoop.my/news/173169/yes-to-media-council-but-no-plans-to-abolish-pppa-saifuddin/>

<sup>106</sup> Chang Teng Peck, “Regressive PPPA amendments a sign of ‘reformati’,” *MalaysiaKini*, December 2, 2024, <https://www.malaysiakini.com/columns/727647>

<sup>107</sup> Intan Farhana Zainul, Adam Aziz and Jose Barrock, “Stricter Printing Presses and Publications Act in the offing?,” *The Edge*, December 2, 2024, <https://theedgemalaysia.com/node/735391>

<sup>108</sup> Ibid.

The proposed amendments faced criticism from media practitioners, civil society organisations,<sup>109</sup> and others,<sup>110</sup> leading to the postponement of the tabling until “after the views of all stakeholders have been considered.”<sup>111</sup> Media practitioners particularly note that the PPPA threatens media freedom, and proposed that the PPPA be replaced with the Media Council Bill.

**TABLE 2**  
**Timeline on the development of the PPPA**

DATE	EVENT
1948	PPPA was introduced
2012	Amendment to PPPA
2022 – 2024	Consultation to amend the PPPA
3 April and 3 May 2024	Online survey on the Unified Public Consultation (UPC) Portal on amendments to PPPA

109 Ameer Fakhri, “Repeal PPPA, don’t extend it to online news portals, govt told,” *Free Malaysia Today*, May 27, 2024, <https://www.freemalaysiatoday.com/category/nation/2024/05/27/repeal-pppa-not-extend-it-to-online-news-portals-govt-told/>

110 National Union of Journalists Peninsular Malaysia (NUJM) and International Federation of Journalists (IFJ), “Malaysia: Proposed PPPA amendments threaten media independence,” *IFJ*, December 4, 2024, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/malaysia-proposed-pppa-amendments-threaten-media-independence>

111 N. Trisha, “PPPA amendments to be tabled only after stakeholders consulted, says Saifuddin,” *The Star*, December, 3, 2024, <https://www.thestar.com.my/news/nation/2024/12/03/pppa-amendments-to-be-tabled-after-stakeholders039-views-consented-says-saifuddin>

# Applicable International Human Rights Standards

This section of the report focuses on relevant international human rights standards in the context of freedom of expression, and introduces the three-part test, which is used to determine if a restriction to freedom of expression is justified. Further analysis is also provided of the PPPA in relation to the three-part test, to better understand whether the restrictions the Act imposes on freedom of expression are grounded in legal principles and serve a compelling public interest.

## The protection of freedom of expression under international law

Freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR)<sup>112</sup> and given legal force through Article 19 of the International Covenant on Civil and Political Rights (ICCPR).<sup>113</sup>

While Malaysia is not a party to the ICCPR, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted in 2021 that the content of Article 19 of the ICCPR is based on Article 19 of the Universal Declaration on Human Rights (UDHR) and thus should inform Malaysia's obligations under international law.<sup>114</sup>

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<sup>112</sup> UN General Assembly Resolution 217A(III), *Universal Declaration of Human Rights* (UDHR), adopted December 10, 1948, [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_217\(III\).pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_217(III).pdf)

<sup>113</sup> UN General Assembly Resolution 2200A (XXI), *International Covenant on Civil and Political Rights* (ICCPR), adopted December 16, 1996, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>114</sup> Irene Khan, *Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, OL MYS 5/2021 (OHCHR, March 25, 2021), 2-3, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26287>

The obligations set out in the ICCPR reflect customary international law primarily and should, therefore, guide the interpretation of guarantees for freedom of expression in Article 10(a) of the Malaysian Federal Constitution, as well as other international human rights instruments to which Malaysia is a State party.<sup>115</sup>

Article 19 of the Universal Declaration of Human Rights states:

*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 and regardless of frontiers.*

Similar language is included in Article 19 of the International Covenant on Civil and Political Rights (ICCPR):

*(1) Everyone shall have the right to freedom of opinion.*

*(2) Everyone shall have the right to freedom of expression; this right shall include **freedom to seek, receive and impart information and ideas of all kinds**, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.*

The right to freedom of expression is universal, meaning it is enjoyed by everyone – regardless of gender, sexual orientation, race, colour, nationality, sex, language, social origin, property, or any other status. Freedom of expression cannot be restricted solely based on a person’s or a collective identity.

The Yogyakarta Principles, a set of principles on the application of human rights standards and principles relating to SOGIESC, defines freedom of expression as including “expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or

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<sup>115</sup> See, for example, Article 13 of the Convention of the Rights of the Child and Article 21 of the Convention of the Rights of Persons with Disabilities. UN General Assembly Resolution 44/25, *Convention on the Rights of the Child* (CRC), adopted November 20, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>; Sixty-first session of the General Assembly by resolution A/RES/61/106, *Convention on the Rights of Persons with Disabilities* (CRPD), adopted December 12, 2006, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

any other means, as well as the freedom to seek, receive and impart information and ideas of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.”<sup>116</sup>

The **freedom to seek, receive and impart information and ideas of all kinds** includes meaningful protection of information and ideas of all kinds, including those that might shock, offend or disturb. Freedom of expression encompasses media freedom and any form of artistic expression in all its mediums – books, movies, paintings, and songs, among others. The UN Special Rapporteur in the field of cultural rights has stated that the right to freedom of artistic expression includes the rights to freely contribute to and disseminate artistic expression and creation and also to freely experience, access and enjoy artistic expression<sup>117</sup>.

Media freedom is critical in ensuring freedom of expression and opinion of society as a whole. In tandem with that, the ICCPR prohibits the state from refusing to permit the publication of newspapers and other print media other than in the specific circumstances allowed to restrict freedom of expression. The ICCPR explicitly states that “such circumstances may never include a ban on a particular publication unless specific content, that is not severable, can be legitimately prohibited under paragraph 19(3).”

General Comment 34 of the ICCPR calls for the state to refrain from “imposing onerous licensing conditions and fees on the broadcast media” and recommends “reasonable and objective, clear, transparent, non- discriminatory and otherwise in compliance with the Covenant.”

Commercial advertising is also protected as a form of freedom of expression, although subject to some limitation and restriction, for example, in the context of paid political advertising, harmful advertising against children.<sup>118</sup>

<sup>116</sup> “Principle 19: The Right to Freedom of Opinion and Expression”, *Yogyakarta Principles*, accessed April 30, 2025, <https://yogyakartaprinciples.org/principle-19/>

<sup>117</sup> Farida Shaheed, *Human Rights Council Twenty-third Session, Report of the Special Rapporteur in the Field of Cultural Rights: The right to freedom of artistic expression and creativity*, A/HRC/23/34 (OHCHR, March 14, 2013), para. 85, <https://docs.un.org/en/A/HRC/23/34/>

<sup>118</sup> Dominika Bychawska-Siniarska, *Protecting the Right to Freedom of Expression Under the European Convention of Human Rights: A Handbook for Legal Practitioners* (Council of Europe, 2017), 96, <https://rm.coe.int/handbook-freedom-of-expression-eng/1680732814>

## Limitations on the right to freedom of expression

The UDHR and ICCPR specify the exceptional and temporary circumstances that allow limitations to rights and freedoms. Both stress that the derogation of rights must comply with the principles of non-discrimination and the right to fair trial.<sup>119</sup>

Article 29 of the UDHR only allows derogation of rights and freedoms, “as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

Meanwhile, Article 19(3) of the ICCPR explicitly states that the right to freedom of expression can only be limited (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals. In addition, the restriction must meet the three-part test, which requires that any restrictions comply with the principles of legality, legitimacy, necessity and proportionality.<sup>120</sup> Restrictions to freedom of expression”must also themselves be compatible with the provisions, aims and objectives of the ICCPR. Laws must not violate the non-discrimination provisions of the Covenant.”<sup>121</sup> The principles of equality and non-discrimination are part of the foundations of the rule of law and human rights (Articles 2 and 26 of the ICCPR). Similarly, the UN Human Rights Committee

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<sup>119</sup> “Article 29 – Community Duties Essential to Free and Full Development,” *United Nations*, accessed April 30, 2025, <https://research.un.org/en/udhr75/28-29>

<sup>120</sup> Paragraph 2 requires States parties to guarantee the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. This right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, subject to the provisions in article 19, paragraph 3, and article 20. It includes political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse. It may also include commercial advertising. The scope of paragraph 2 embraces even expression that may be regarded as deeply offensive, although such expression may be restricted in accordance with the provisions of article 19, paragraph 3 and article 20. UN Human Rights Committee, *General Comment No. 34 – Freedom of Opinion and Expression*, CCPR/C/GC/34 (OHCHR, July 29, 2011), para. 11–12, <https://docs.un.org/en/CCPR/C/GC/34>

<sup>121</sup> *Ibid.*, 26.



has emphasised, restriction based on discriminatory grounds cannot be said to constitute one of the enumerated legitimate grounds for restrictions to freedom of expression.<sup>122</sup>

The UN Special Rapporteur for Freedom Expression observed in his report on artistic freedom of expression that discrimination is often the underlying reason for unlawful restrictions, noting that “[m]inority groups are particularly vulnerable to restrictions on artistic expression because the art will frequently be challenged solely for its existence and not any alleged challenge to state authority or public outcry. Women and LGBTI people are especially targeted.”<sup>123</sup>

## Article 19(3) of the ICCPR

*The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

*(a) For respect of the rights or reputations of others;*

*(b) For the protection of national security or of public order (ordre public), or of public health or morals.*

### **General Comment 34 (Article 19: Freedoms of opinion and expression), Human Rights Committee (para 22):**

*“Paragraph 3 lays down specific conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be “provided by law”; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality. **Restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected in the Covenant.** Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.”*

<sup>122</sup> Ibid., 26, 32.

<sup>123</sup> UN General Assembly, *Research report on artistic freedom of expression: Report of the Special Rapporteur on the promotion and protection of the freedom of opinion and expression*, A/HRC/44/49/Add.2 (OHCHR, July 24, 2020), 33, <https://docs.un.org/en/A/HRC/44/49/Add.2>

# The Three-Part Test

This section analyses the PPPA against the requirements of the three-part test.

## 1 Provided by law (legality)

Interference to freedom of expression must be stated in a law passed through Parliament. The restrictions must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly.<sup>124</sup> Therefore, overly broad restrictions on freedom of expression are impermissible.

It is also important to reiterate that limitations can only be made *(a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals*. The ICCPR Committee stresses that when restrictions are imposed, they “may not put in jeopardy the right itself.” Meaning, the restrictions for example, cannot hinder a person’s ability to impart, receive or seek information or express themselves. Further, the Committee emphasises that “the relation between right and restriction and between norm and exception must not be reversed”.

The restrictions must adhere to specific standards of clarity and accessibility. As such,

- A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.
- Laws must not violate the non-discrimination provisions of the Covenant.
- Laws must not provide for penalties that are incompatible with the Covenant, such as corporal punishment.

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<sup>124</sup> UN Human Rights Committee, *de Groot v. The Netherlands*, CCPR/C/54/D/578/1994 (ICC Legal Tools Database, views adopted July 14, 1995), <https://www.legal-tools.org/doc/rad88x/pdf>

- Laws must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expressions are properly restricted and what sorts are not.
- The restrictions must comply with the strict limitations under the Covenant, while maintaining its compatibility with the provisions, aims and objectives of the Covenant
- The government has a duty to demonstrate the legal basis for any restrictions imposed on freedom of expression. This includes providing details of the law and of actions that fall within the scope of the law. Meaning, those subjected to restrictions should have the right to be heard and opportunities to appeal the restrictions.

# Does the PPPA meet the requirements of the three-part test?

## TEST 1 – Legality

There are three main components to the legality analysis:

- 1) Overbroad definitions and restrictions in the PPPA;
- 2) Disproportionate power of the Minister of Home Affairs, “any senior authorised officer” or “any authorised officer” designated by the Minister without judicial oversight;
- 3) The right to be heard and the right to redress.

### COMPONENT 1.1

## Overbroad definitions and restriction in the PPPA

The PPPA is far more restrictive than what is allowed for under the ICCPR and UDHR. Section 7(1) enumerates seven grounds under which undesirable publications can be banned.<sup>125126</sup> However, only the first three restrictions are permissible (with caveats) based on international human rights law.

The PPPA contains several overbroad provisions, lending to its extensive reach on restriction of artistic expressions, media freedom and freedom of expression as a whole. Publications are defined broadly as “any written or printed matter and everything whether of

125 Bahagian PK KDN Putrajaya, “Infografik PK KDN,” Facebook, July 9, 2024, [www.facebook.com/story.php?story\\_fbid=122185256462035797&id=615510739241788\\_rdr](https://www.facebook.com/story.php?story_fbid=122185256462035797&id=615510739241788_rdr).

126 Seksyen Pengurusan Strategik SPS, Seksyen 7(1) AMCP – Hasil Penerbitan Yang Tidak Dingini, May 19, 2024, [anyflip.com/fclqe/hcof/basic](https://anyflip.com/fclqe/hcof/basic).

a nature familiar to written or printed matter containing any visible representation”, including documents, newspapers, books, audio recordings, or “anything in any form, shape or in any manner is capable of suggesting words or ideas.”

Secondly, according to the Ministry’s educational materials that provide further explanation of each item, it can be seen that each item is broadly defined.<sup>127</sup> In its application, these overbroad restrictions have resulted in arbitrary enforcement, widespread restrictions of freedom of expression, and reinforcement of stereotypes and hostility towards marginalised groups, human rights groups, and others. In the Swatch case, watches, words, and even colours that could suggest ideas fell under the broad definition of publications. MOHA, in its delayed Prohibition Order, noted that “[A]ny publication related to Lesbian, Gay, Bisexual, Transgender, Queer and + Plus (LGBTQ+) in any form appearing on Swatch watches of any collection including the boxes, wrappers, accessories or any other related things” are banned.<sup>128</sup>

The ban on the Swatch watches is not the first time the PPPA has been used against non-typical publications. In 2015, MOHA banned Bersih 4 T-shirts and other publications under the PPPA. This ban was later quashed by the Court of Appeal.<sup>129</sup>

<sup>127</sup> Seksyen Pengurusan Strategik SPS, Seksyen 7(1) AMCP – Hasil Penerbitan Yang Tidak Dingini, May 19, 2024, [anyflip.com/fclqe/hcof/basic](https://anyflip.com/fclqe/hcof/basic).

<sup>128</sup> Attorney General’s Chambers, *Printing Presses and Publication (Prohibition of Undesirable Publications) Order 2023*, P.U. (A) 236, August 10, 2023, [database.ilga.org/api/downloader/download/1/MY%20-%20EXE%20-%20PU.%20\(A\)%20236%20\(2023\)%20-%20OR-OFF\(ms\).pdf](https://database.ilga.org/api/downloader/download/1/MY%20-%20EXE%20-%20PU.%20(A)%20236%20(2023)%20-%20OR-OFF(ms).pdf).

<sup>129</sup> Malaysian Bar, “The Malaysian Bar Reiterates Its Call to Repeal the Printing Presses and Publications Act 1984 – the Malaysian Bar,” *Malaysian Bar*, August 30, 2023, [www.malaysianbar.org.my/article/news/press-statements/press-statements/press-release-the-malaysian-bar-reiterates-its-call-to-repeal-the-printing-presses-and-publications-act-1984](https://www.malaysianbar.org.my/article/news/press-statements/press-statements/press-release-the-malaysian-bar-reiterates-its-call-to-repeal-the-printing-presses-and-publications-act-1984).

## The seven grounds that allow the banning of publications under the PPPA

1.

To be or likely to be prejudicial **public order**, publications that contain elements that encourage violence against other people or property, acts of breach of peace, acts of hostility towards other people or races, spread teachings that are inconsistent with a particular religion. In particular to Islam, contradictions with the Islamic doctrines based on the ahl Sunnah wal Jamaah doctrines, ridiculing, questioning the authority and misappropriation of the main sources of Islam

2.

To be or likely to be prejudicial **morality**, includes “any matter which in appearance, form and conduct or in any way may suggest words or ideas that are obscene, provocative or otherwise contrary to public decency, moral values, social decency and religious beliefs.”

3.

To be or likely to be prejudicial **security**, includes publications that contain elements that touch on the sensitivities of the Federal Constitution, are seditious in nature, promote conflicting beliefs or ideologies, and false and incorrect statements that threaten national security

4.

To or likely to alarm **public opinion**, includes publications that contain unfounded, false or factually incorrect matters and may cause confusion, doubt, anxiety or fear among the public

## 5.

Is or is likely to be **contrary to any law**, includes publications that contain elements that are contrary to and inconsistent with the Federal Constitution, any Federal or State law including rules and regulations, or official fatwas issued

## 6.

Prejudicial to or is likely to be prejudicial to **public interest** covers any form of report, article, plan, picture, illustration or expression that is contrary to the interests of society or religious beliefs

## 7.

Prejudicial to or is likely to be prejudicial to **national interest**. This includes publications that “contain elements that can be harmful to the country politically, economically and socially”



## COMPONENT 1.2

Excessive, disproportionate and unchecked power to the Minister of Home Affairs, “any senior authorised officer” or “any authorised officer” designated by the Minister without judicial oversight.

### Minister of Home Affairs

The concentration and centralisation of the Minister’s power raises serious concerns around accountability and the potential for misuse and overreach with limited checks and balances, as there is little opportunity for recourse. In an environment of growing anti-LGBT sentiment, the potential for the abuse of such power has a chilling effect on the freedom of expression of LGBTIQ and gender-diverse people. The numerous provisions listed below highlight the power granted to the Minister of Home Affairs:

- **Section 3(3)** explicitly gives the Minister of Home Affairs absolute discretion to grant a licence and refuse any application for a licence—which means without the need for any objective reasons. The licence can be revoked or suspended at any time and can be given for a limited period. In granting a licence, the Minister may impose conditions such as insisting upon a deposit. The deposit may be forfeited if an offence under the Act is committed. Without judicial oversight, such powers carry a high risk of misuse.
- **Section 7(1)** grants the Minister of Home Affairs absolute discretion in banning books, pamphlets, and the import of publications from abroad entirely or with conditions. The possible reasons for a ban are extensive and broadly defined.



- Similar to Section 3(3), Section 7(1) also grants the Minister power to ban publications without judicial oversight and risks arbitrary interference with freedom of expression. All that is required is for the Minister to be “satisfied” that the publications are prejudicial to or likely to be prejudicial to public order, morality, security, etc., and the Minister will subsequently have the final say in deciding which publications make it to the public audience and which do not without any judicial oversight.
- **Section 9** allows the Minister of Home Affairs, without any judicial oversight, to refuse or to withhold publications from outside of Malaysia on the basis that the Minister is satisfied that the publications are likely to be prejudicial to public order, morality, security, that which is likely to alarm public opinion, or likely to be contrary to any law, or is otherwise prejudicial or is likely to be prejudicial to the public interest or national interest.
- **Section 13** grants the Minister the authority to revoke or suspend the license or permit of any printing press without judicial oversight. The only requirement for the Minister to take this action is that they be satisfied that the publication being printed is detrimental to public order or national security. This blanket provision does not provide for any assessment of proportionality and necessity, which constitutes a violation of freedom of expression. .
- **Section 26** grants the Minister power to make subsidiary rules without any oversight or review from the Parliament, ignoring established rules around check and balances

### “[A]ny senior authorised officer” or “any authorised officer” designated by the Minister.

Sections 16, 18, and 20, are among provisions that outline various law enforcement powers in the PPPA. Notably, these powers are not limited to police officers; they can also be granted to “any senior authorised officer” or “any authorised officer” designated by the Minister.

It is essential to highlight that while these powers are defined, there are no specified limitations or due process requirements concerning these officers. Consequently, it remains unclear whether this framework effectively creates a new category of law enforcement personnel with police powers but without accountability.

Furthermore, it is uncertain whether the authorised officers are required to undergo any training or possess meaningful qualifications. Without proper oversight mechanisms to monitor or otherwise review the decision of the officer, these sections allow for a wide degree of discretion.

- **Section 16(1)** allows a senior authorised officer to seek a search warrant from the Magistrate to conduct a search on any premises to seize prohibited items or publications based on reasonable suspicion.
- **Section 16(2)** provides leeway for the officer to carry out a search without obtaining an arrest warrant. This can happen in the case where the officer has “reasonable ground to believe that there is concealed or deposited in any premises any prohibited publication” and believes that the time required in obtaining a search warrant could delay, and ultimately prevent or frustrate the search efforts.

Allowing for the search of premises solely on the basis of suspected publication being present, is an extreme and disproportionate infringement of individuals rights. Searching premises should be reserved for suspicion of serious crimes if approved by a judge.<sup>130 131</sup>

- **Section 18** grants any officer acting under sections 16 or 17 the authority the rights to seize and detain the following items:
  - (a) any printing press, publication, or other material that the officer has reasonable grounds to believe is evidence of an offence committed under the PPPA or any related rules;

130 McBride, Jeremy. The Case Law Of The European Court Of Human Rights On The Application Of Coercive Measures In Criminal Proceedings. <https://rm.coe.int/council-of-europe-georgia-european-court-of-human-rights-case-study-co/16807823c2>

131 Electronic Frontier Foundation and Article 19. “Necessary & Proportionate: International Principles on the Application of Human Rights Law to Communications Surveillance Background,” May 2014. <https://www.article19.org/data/files/medialibrary/37564/N&P-analysis-2-final.pdf>

(b) any publication that the officer suspects may be prohibited under subsection 7(1) or liable to be refused importation under subsection 9(1), or returned to the sender.

**Section 20** allows any police officer to arrest without a warrant for a wide range of actions – actual or reasonably suspected – under the Act. This includes for producing, printing, publishing, selling a publication deemed undesirable or unlawful. It is unclear what may satisfy the “reasonable suspicion” criterion or how this should be demonstrated. This section is not accompanied by necessary procedural safeguards against abuse, which violates due process requirements (see **Box 6** for examples). Moreover, the ability to arrest individuals on the basis of broadly defined categories of undesirable publications is unnecessary and disproportionate.

## COMPONENT 1.3

# Right to be heard and redress

Sections 13A and 13B deprive writers, publishers and printers of their rights to be heard or seek redress.

- **Sections 13A** states that the Minister’s decision, including order or direction, is final and not to be questioned on any grounds whatsoever including by any court.
- **Section 13B** explicitly excludes the right to be heard with regard to the application for a licence or where the licence is revoked or refused.

## BOX 6 Examples of excessive, disproportionate and unchecked power

The raid on the Swatch outlets to seize their pride watches demonstrates an ongoing trend of impunity as a result of the Minister's wide-ranging powers and the limited recourse for those directly affected by the banning of their publications.

In the Swatch case, the government contended that the raids were conducted under Section 17 and 18 because there existed a reasonable suspicion that the stores contained publications that can be prohibited under Section 7(1). Swatch on the other hand argued that the officers did not have a warrant to search the premises or seize the watches under Section 16, and that the Gazette publicising the ban was only issued 88 days after the initial raids had been conducted.<sup>132</sup>

The High Court ruled in favour of Swatch, declaring the raid illegal due to the lack of a warrant by MOHA officers and the fact that the watches were not yet banned at the time of the raid.

Similarly, in August 2024, MOHA raided an independent bookstore and confiscated two books: *Marx Sang Pendidik Revolusioner*, a Malay translation of the book "Karl Marx: The Revolutionary as Educator" by Robin Smalls, and *Koleksi Puisi Masturbasi*, a book by Benz Ali, a local author.<sup>133 134</sup> However, the prohibition order was only issued in January 2025.<sup>135</sup>

132 Alex Loftus, "Malaysia government told to return seized LGBT watches," *BBC*, November 25, 2024, <https://www.bbc.com/news/articles/c245jrdpmjgo>

133 R. Loheswar, "Home Ministry raids bookstore, seizes a copy of book on Karl Marx and education," *MalayMail*, August 19, 2023, <https://www.malaymail.com/news/malaysia/2023/08/19/home-ministry-raids-bookstore-seizes-a-copy-of-book-on-karl-marx-and-education/85987>

134 R. Loheswar, "Why raid a store for books that aren't banned? Legal rights group slams Home Ministry for overzealous act," *MalayMail*, August 19, 2023, <https://www.malaymail.com/news/malaysia/2023/08/19/why-raid-a-store-for-books-that-arent-banned-legal-rights-group-slams-home-ministry-for-overzealous-act/86024>

135 (22-01-2025 P.U. (A) 31)

## 2 Pursue a legitimate aim (legitimacy)

The definition of “pursue a legitimate aim” is exhaustively enumerated in Article 19(3)(a) and (b) of the ICCPR as:

- respect for the rights or reputations of others,
- protection of national security, public order, public health or morals.

Article 29(2) of the UDHR provides similar language as explained above. As noted earlier, restrictions on this ground must be sufficiently precise to comply with the requirement that restrictions be ‘provided by law’.

This section will only unpack protection on the grounds of national security, public order and morals, as they have been commonly used as justifications to ban LGBTIQ publications in Malaysia.

## Protection of national security, public order, public health or morals

The ICCPR stresses that the restrictions of rights on the grounds of national security or public order through laws require extreme care. The formulation of the laws and their application must be compatible with the strict circumstances allowed for the derogation of rights. Such restrictions cannot “suppress or withhold from the public information of legitimate public interest”.

### General Comment No. 34

**30.** “Extreme care must be taken by States Parties to ensure that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements of paragraph 3. It is not compatible with paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.”<sup>136</sup>

**31.** “On the basis of maintenance of public order (ordre public) it may, for instance, be permissible in certain circumstances to regulate speech-making in a particular public place. Contempt of court proceedings relating to forms of expression may be tested against the public order (ordre public) ground. In order to comply with paragraph 3, such proceedings and the penalty imposed must be shown to be warranted in the exercise of a court’s power to maintain orderly proceedings. Such proceedings should not in any way be used to restrict the legitimate exercise of defence rights.”<sup>137</sup>

Restrictions on freedom of expression and information based on public moral grounds have sparked concerns and public debates, primarily because there is no universal definition of morality.

<sup>136</sup> UN Human Rights Committee, *General Comment No. 34 – Freedom of Opinion and Expression*, CCPR/C/GC/34 (OHCHR, July 29, 2011), para. 30, <https://docs.un.org/en/CCPR/C/GC/34>

<sup>137</sup> *Ibid.*, para. 31.

In defining public morality, General Comment 34 notes that “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition”. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination (para 32).<sup>138</sup>

Public morality as a ground for limitation of rights has not been thoroughly examined, particularly regarding their implementation, which varies significantly from region to region. Furthermore, governments that justify such restrictions often favour dominant or majority groups while marginalising minorities.

This is true in the case of LGBTIQ people. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, in a 2024 report relating to LGBTIQ people’s Freedom of Expression, Peaceful Assembly and Association, stated that *laws against violating “public morals”, “good morals”, “decency” or laws against “debauchery” and “immorality”, are often weaponised and misused against LGBTIQ people, single women, sex workers, and other marginalised groups.*

*“Subjective ideas about “morality” are often misused as pretexts to impose illegitimate restrictions on freedoms of expression, as well as freedom of peaceful assembly and association, especially in relation to sexual orientation and gender identity.*

*Specifically, laws against violating “public morals”, “good morals”, “decency” or laws against “debauchery” and “immorality”, many with colonial-era origins, are now repurposed and redeployed by current regimes to shut down the public presence of a wide range of persons not acting in conformity with politically deployed claims of “family values”, often including single women, sex workers and LGBT persons.*

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<sup>138</sup> Ibid., para. 32.

*The vague wording of these laws provides authorities with broad discretion and subjective interpretation of the concept of “protecting public morals”. These laws are frequently used to clamp down on the public expression of sexual and gender identities, and the expression of ideas that allow the construction of diverse gender and sexual identities.”<sup>139</sup>*

Similarly, the former Special Rapporteur on freedom of opinion and expression David Kaye, in an amicus curiae for *Macate vs Lithuania*, censorship of an LGBT fairytale for children, noted an “increased “weaponization of public morals” to restrict the freedom of expression of women and LGBTIQ and gender diverse people. He stressed such weaponisation stems from discrimination.

*“Many States attempt to justify restrictions on freedom of expression by evoking public morals, but the underlying discriminatory intent renders the restriction unlawful. In such cases, UN Special Rapporteurs and this Court refused to allow States to hide behind the veil of public morals when engaging in discriminatory practices. As the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has pointed out, there is an increased “weaponization of public morals” that is used to silence women and sexual minorities. Such weaponization is rooted in discrimination.”<sup>140</sup>*

According to General Comment 34, when governments invoke a legitimate ground for restricting free expression, they “must demonstrate in a specific manner the exact nature of the threat to any of the enumerated grounds listed in paragraph 3 that has led to the restriction of freedom of expression.”<sup>141</sup> It is within the state’s obligation to ensure that individual rights are not infringed upon.

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<sup>139</sup> Graeme Reid, *Report of the Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity*, A/HRC/56/49 (OHCHR, April 18, 2024), para. 25, <https://docs.un.org/en/A/HRC/56/49>

<sup>140</sup> European Court of Human Rights, *Application No. 61435/19: Case of Macaté v. Lithuania – Third Party Intervention from Professor David Kaye*, (Article 19, January 16, 2022), para. 19, <https://www.article19.org/wp-content/uploads/2022/01/Macate-v-Lithuania-16012022-Third-party-intervention.pdf>

<sup>141</sup> UN Human Rights Committee, *General Comment No. 34 – Freedom of Opinion and Expression*, CCPR/C/GC/34 (OHCHR, July 29, 2011), para. 35, <https://docs.un.org/en/CCPR/C/GC/34>



# Does the PPPA meet the requirements of the three-part test?

## TEST 2 – Legitimate aim

The pursuit of legitimate aim in the PPPA can be analysed through the restriction imposed by the PPPA as well as its enforcement and application.

### Restrictions to freedom of expression imposed by the PPPA

As discussed in the earlier section, the seven grounds used for the banning of publications under the PPPA go beyond the strict circumstances allowed for the restriction of rights under the ICCPR and UDHR.

### Enforcement and application of the PPPA

The expansive and arbitrary use of “protecting morals” in the PPPA impose a singular understanding of morality as prescribed by the state or the majority of a society’s population (majoritarian morality) and discriminatory intent.

This is evident in the case of bans on LGBTIQ publications. The government’s pursuit for such restriction is to curb the normalisation and acceptance of LGBTIQ people. This was explicitly stated in the government’s Prohibition Order in the case of the ban on the Swatch watches, which stated “it [the Swatch watch] is a product of publication that is harmful or may cause harm to morality, public order, and national interests by promoting, supporting and normalising the LGBTIQ movement that is not accepted by the general public.”

This is further analysed in a case study on the banning of the book ‘*Gay is OK!*’ on [pages 74-94](#).

**BOX 7 Prominent Case – *Macatė v. Lithuania***<sup>142</sup>

In *Macatė v. Lithuania* – a case in which the Lithuanian government censored a fairytale book that featured same-sex couples – the European Court of Human Rights (ECHR) found that placing a warning label on the book indicating that the content was “harmful” to children violated the author’s freedom of expression and the availability of information for children.

The Lithuanian government contended that the book was labeled harmful due to:

1. a scene where the princess and the shoemaker’s daughter sleeping in each other’s arms on the night after their wedding was described as sexually explicit and as “depicting carnal love too openly for children”.
2. protecting children from information seen as presenting same-sex relationships as superior to different-sex relationships.

The ECHR held that the government did not have a legitimate aim in pursuing the censorship of the book. The Court disagreed with the government’s arguments, and found that the aim of the censorship of the book “was to bar children from information depicting same-sex relationships as being essentially equivalent to different-sex relationships”.

While Lithuania has a law that criminalises “promotion of homosexuality or non-traditional sexual relations” among minors, the court affirmed that the law “does not serve to advance the legitimate aims of protection of morals, health or the rights of others, and that by adopting such laws the authorities reinforce stigma and prejudice and encourage homophobia, which is incompatible with the notions of equality, pluralism and tolerance inherent in a democratic society”.

<sup>142</sup> European Court of Human Rights, *Macatė v. Lithuania* [GC], 61435/19, January 23, 2023, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-13955%22%5D%7D>

### 3 Necessary and Proportionate

The principles of necessity and proportionality relate to the pursuit of legitimate aim.

The test of **necessity** must be applied to the imposition of restrictions on the right to freedom of expression so as to achieve a legitimate purpose<sup>143</sup> – the state must clearly demonstrate that there is a pressing social need for these limitations, and is obligated to give “relevant and sufficient” reasons for restricting freedom of expression.<sup>144 145</sup> The restrictions must not be overly broad, and the approach should be the least intrusive means of achieving the intended goal. If an alternative measure can achieve the same objective with less intrusion, then the selected measure is deemed unnecessary.

Additionally, the restrictive measure must adhere to the principle of **proportionality** and be appropriate for fulfilling the purpose of the restrictions to ensure that the restrictions imposed are proportionate, the following conditions must be fulfilled:

1. The restrictions must be appropriate to achieve their protective function;
2. The restrictions must be the least intrusive instrument amongst those which might achieve their protective function;
3. The restrictions must be proportionate to the interest to be protected;

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<sup>143</sup> UN Human Rights Committee, *CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, CCPR/C/21/Rev.1/Add.4, (Refworld, adopted July 30, 1993), para. 8, <https://www.refworld.org/legal/general/hrc/1993/en/13375>

<sup>144</sup> European Court of Human Rights, *Zana v. Turkey: Judgement of the Grand Chamber*, 69/1996/688/880, 25 November, 1997, para. 51, <https://hudoc.echr.coe.int/tur?i=001-58115>

<sup>145</sup> *Ibid.*, para. 61.

4. The principle of proportionality must be embodied in the law restricting freedom of expression and observed by administrative and judicial bodies applying the law;
5. The principle of proportionality must consider the form in which the speech is made and how it is disseminated.

It also affirms that States have an obligation to clearly demonstrate the direct and immediate connection between the expression and the threat it poses.<sup>146</sup>

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<sup>146</sup> UN Human Rights Committee, *Shin v. Republic of Korea*, CCPR/C/80/D/926/2000, adopted March 16, 2004, para 7.3, <https://juris.ohchr.org/casedetails/1107/en-US>

# Does the PPPA meet the requirements of the three-part test?

## TEST 3A – Necessity

Restrictions under the PPPA are overly broad. Further, the use of “prejudicial or likely to be prejudicial” together with the seven grounds for banning of publication under Section 7(1) fail to demonstrate a clear and pressing need for a restriction.

The use of likely to be prejudicial can be, and have been arbitrarily interpreted. For example, in the case of ‘*Gay is OK!*’, despite being in circulation since 2013 without any untoward incident, the Minister proceeded to ban the book on the grounds that “the contents of the book as a whole and contextually defend, promote and encourage homosexuality which was likely to be prejudicial to public order, morality and public interest”.

As explained in other parts of the report, the restrictions of LGBTIQ publications are intended to restrict the normalisation of LGBTIQ and thus inclusion of LGBTIQ people, which clearly show discriminatory intent. Consequently, there is no necessity to pursue such restrictions against LGBTIQ people solely based on their identity.

## TEST 3B – Proportionality

Restrictions under the PPPA result in criminal prosecution (refer to [Annex 4](#)), which is neither necessary nor proportionate.

Furthermore, the sanctions specified under the relevant provisions—such as criminal penalties, restrictions, and imprisonment for up to three years—are unjustifiable by the standards set under the proportionality test. Criminal prosecution, particularly with the risk of imprisonment, is not proportionate to the alleged legitimate aims.

## BOX 8 Application of the principle of necessity

As stated throughout the report, any form of restriction of rights is bound by the principle of non-discrimination. The principle of non-discrimination is also applied in determining the necessity of a state action, as reflected in **Ross v Canada** and **Fedotova v. Russian Federation**.

Both cases were submitted as individual complaints to the Human Rights Committee, as both Canada and Russia are party to the ICCPR and its optional protocols. The optional protocols allow individual members from the state party to file communications to the Committee.

In the case of **Ross v. Canada**, where a teacher and author had published and advocated anti-Jewish views, the Committee held that the restriction imposed on the author was necessary in order to uphold the principle of non-discrimination stipulated in Article 20(2)<sup>147</sup> of the ICCPR.<sup>148</sup> It concluded that:

*“...the removal of the author from a teaching position can be considered a restriction necessary to protect the right and freedom of Jewish children to have a school system free from bias, prejudice and intolerance.”<sup>149</sup>*

<sup>147</sup> 20(2) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. UN General Assembly Resolution 2200A (XXI), *International Covenant on Civil and Political Rights*, adopted December 16, 1996, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>148</sup> UN Human Rights Committee, *Ross v. Canada*, CCPR/C/70/D/736/1997, adopted July 17, 2006, para. 11.5, <https://docs.un.org/en/CCPR/C/70/D/736/1997>

<sup>149</sup> *Ibid.*, para. 11.6.

In the same vein, the Committee recalled the principle of non-discrimination in **Fedotova v. Russian Federation**. In this case, the complainant was fined under a Russian law for displaying LGBTIQ-related posters near a school. The law prohibits “Public actions aimed at propaganda of homosexuality (sexual act between men or lesbianism) among minors”. The Committee held,

*“With reference to its earlier jurisprudence, the Committee recalls that the prohibition against discrimination under article 26<sup>150</sup> comprises also discrimination based on sexual orientation.”<sup>151</sup>*

The UNHRC added further:

*“While noting that the State party invokes the aim to protect the morals, health, rights and legitimate interests of minors, the Committee considers that the State party has not shown that a restriction on the right to freedom of expression in relation to “propaganda of homosexuality” – as opposed to propaganda of heterosexuality or sexuality generally – among minors is based on reasonable and objective criteria.”<sup>152</sup>*

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150 26. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. UN General Assembly Resolution 2200A (XXI), *International Covenant on Civil and Political Rights*, adopted December 16, 1996, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

151 UN Human Rights Committee, *Fedotova v. Russian Federation*, CCPR/C/106/D/1932/2010, adopted October 31, 2012, para. 10.5, <https://docs.un.org/en/CCPR/C/106/D/1932/2010>

152 Ibid., para. 10.6





## **PART ③**

# **Case Study: The Banning of “*Gay is OK!* *A Christian Perspective*”**

# 1.1. Facts of the case

'*Gay is OK! A Christian Perspective*' authored by Ngeo Boon Lin was published by Gerakbudaya in 2013.

On 18 February 2020, an Assistant Enforcement Officer from the Regulatory and Enforcement Division of MOHA conducted a random inspection of books that were on display in Gerakbudaya's bookstore in Petaling Jaya, Selangor. The officer purchased a copy of '*Gay is OK!*' after which it was examined by the Enforcement Division before being submitted to the Home Minister.

After reviewing the book's contents, the Minister of Home Affairs on 17 November 2020, ordered a total ban or absolute prohibition on the printing, publishing, sale, distribution or possession of the book throughout Malaysia, citing the reason that it is "likely to be prejudicial" to three things: public order, morality, and public interest. This was done pursuant to Section 7(1) of the PPPA, and the order was published through a federal gazette on 27 November 2020.<sup>153</sup> Gerakbudaya and Ngeo discovered the book ban from online news reports on 18 December 2020,<sup>154</sup> on the same day of MOHA Secretary-General's announcement of the ban. On 30 December 2020, a letter was sent to Gerakbudaya explaining MOHA's reasoning for issuing the ban.<sup>155</sup>

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<sup>153</sup> Nor Idayu Bosro, "'Gay is OK! A Christian Perspective' dan 'Peichi' dikenakan Perintah Larangan," *Kosmo!*, December 18, 2020, <https://www.kosmo.com.my/2020/12/18/gay-is-ok-a-christian-perspective-dan-peichi-dikenakan-perintah-larangan/>

<sup>154</sup> Ibid.

<sup>155</sup> Ida Lim, "Why Court of Appeal Upheld 'Gay Is OK!' Book Ban in 2-1 Decision," *Malay Mail*, January 3, 2024, [www.malaymail.com/news/malaysia/2024/01/04/why-court-of-appeal-upheld-gay-is-ok-book-ban-in-2-1-decision/110267](http://www.malaymail.com/news/malaysia/2024/01/04/why-court-of-appeal-upheld-gay-is-ok-book-ban-in-2-1-decision/110267).

Gerakbudaya and Ngeo filed their court challenge about two weeks after sending a letter on 2 February 2021 to request for the Home Minister to revoke the book ban order, which went unanswered.<sup>156</sup> On 17 February 2021, Gerakbudaya via its sole proprietor Chong Ton Sin and Ngeo filed the lawsuit through a judicial review application to challenge the book ban, with the two respondents being the Minister of Home Affairs and the Malaysian government.<sup>157</sup>

## Timeline of events

- **2013:** *'Gay is OK! A Christian Perspective'* written by Ngeo was published.
- **2020, 18 Feb:** Officer from MOHA purchased a copy of the book from Gerakbudaya for inspection by the Minister of Home Affairs.
- **2020, 17 Nov:** The Minister of Home Affairs banned the book.
- **2020, 27 Nov:** Federal gazette announcing the ban was published.
- **2020, 18 Dec:** Ban was announced by the Home Affair Ministry's secretary-general; Gerakbudaya and Ngeo find out about the ban.
- **2020, 30 Dec:** Letter sent to Gerakbudaya explaining reasons for the ban.
- **2021, 2 Feb:** Ngeo and Gerakbudaya requested revocation of the ban to the Minister through email – email was not answered.
- **2021, 17 Feb:** Chong (sole proprietor of Gerakbudaya) and Ngeo filed a lawsuit to challenge the ban.
- **2022, 22 Feb:** The Kuala Lumpur High Court quashed the ban by MOHA.

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<sup>156</sup> Ibid.

<sup>157</sup> Ibid.

- **2023, 25 Sept:** The Court of Appeal overturned the High Court decision on the ban.
- **2023, 24 Oct:** Gerakbudaya and Ngeo filed an application for leave to appeal the ruling at the Federal Court. <sup>158</sup>
- **2024, 28 Feb:** The Federal Court unanimously dismissed their application for leave to appeal against the Court of Appeal ruling which upheld the book ban. The Federal Court also ordered Gerakbudaya and Ngeo to collectively pay RM30,000 in costs to the Minister of Home Affairs and government of Malaysia. <sup>159</sup>

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<sup>158</sup> Ida Lim, "'Gay Is OK!' Book Remains Banned in Malaysia after Failed Federal Court Bid by Publisher, Author." *Malay Mail*, 28 Feb. 2024, [www.malaymail.com/news/malaysia/2024/02/28/gay-is-ok-book-remains-banned-in-malaysia-after-failed-federal-court-bid-by-publisher-author/120510](https://www.malaymail.com/news/malaysia/2024/02/28/gay-is-ok-book-remains-banned-in-malaysia-after-failed-federal-court-bid-by-publisher-author/120510).

<sup>159</sup> Ibid.

## 1.2 Decision by the Kuala Lumpur High Court

On 22 February 2022, the Kuala Lumpur High Court ruled in favour of the publisher and writer of the book and quashed the Minister of Home Affairs's ban on the book. The presiding judge was Justice Noorin Badaruddin.

In examining the judicial review, the Kuala Lumpur High Court highlighted that its role is only to examine if the Minister of Home Affairs had followed or breached the law in deciding to ban the book, and that the court's role or powers is not to override the Minister's decision or to evaluate whether his decision was correct.

The applicant's arguments were summed up as:

1. *The ban is illegal as the book is a form of expression protected by art. 10(1)(a) of the Federal Constitution ("FC");*
2. *The book is unlikely to be prejudicial to public order, morality and public interest;*
3. *The ban was a disproportionate fetter to the applicants' freedom of expression and right to equal treatment;*
4. *The ban is irrational, disproportionate/excessive because the first respondent failed to take into account relevant considerations and had instead taken into account irrelevant considerations;*
5. *There is a procedural impropriety as the applicants were not given the right to be heard before the ban which goes against the right to be heard guaranteed under the doctrine of legitimate expectation.*

The Kuala Lumpur High Court judge had found that the publication of the book was not likely to be prejudicial to public order – this was substantiated by the argument that since the book's publication in 2013, no incidents that pose a threat to public order have arose, and

neither did the Home Minister furnish any evidence of “actual prejudice to public order” and therefore was not “likely to be prejudicial to public order” as per Section 7(1) of the PPPA.

While the Minister of Home Affairs had in an affidavit said the public opposes homosexuality to the extent of organising mass protests and that Ngeo’s book could – if widely circulated – lead to demonstrations that could cause chaos, the court disagreed with such a view. The judge stated that at most, such incidents would only represent the views of a limited group of persons of a particular religion that in no way represents Malaysian society as a whole. Furthermore, no evidence was adduced by the Minister regarding how many copies of the book was printed, published, or circulated before the ban.

The judge noted that the Minister of Home Affairs had in an affidavit said he found the book’s contents as a whole and contextually to be promoting, defending and encouraging homosexuality. The Minister of Home Affairs also stated in his affidavit that homosexuality was seen as immoral and not accepted in Malaysia and that this position was also recognised through laws such as the offence of unnatural sex.

The Kuala Lumpur High Court said the Minister of Home Affairs’s statement that homosexuality was not accepted by the entire society of Malaysia and that it is an offence in all religions in this country is “unsupported” – Ngeo had also introduced expert opinion by an Adjunct Lecturer of Religion and Philosophy to support this claim. It was further stated the relevant views should have been confined to just Christianity since the book is only on homosexuality from that religion’s perspective. The court also noted that the book involves a religion which the Home Minister cannot be said to be an expert on.

The Kuala Lumpur High Court’s decision to quash the Minister’s ban on the book was appealed by the Minister of Home Affairs and MOHA.

# 1.3 Majority decision of the Court of Appeal

At the Court of Appeal on 25 September 2023, Justices of the Court of Appeal Azizah Nawawi and Wong Kian Kheong decided in favour of the appellant to reverse the Kuala Lumpur High Court’s quashing of the book ban. Meanwhile, judge Gunalan Muniandy dissented.

The judges held that the test to be applied is whether a hypothetical “reasonable minister” who knows of all the relevant facts and circumstances as the actual minister would be satisfied that the book’s contents fall under any Section 7(1) reasons for banning – such as actually or likely prejudicing public order, morality or public interest; adding that this test would depend on the facts and contents of each publication and that past court decisions on other book bans cannot be binding precedents.

Justice Wong said the majority of the Court of Appeal’s panel had read the book’s title and its entire contents, adding that their objective assessment was that the book conveys the general message or impression that homosexuality is not objectionable and is permissible in Christianity. The majority judgment said it was satisfied that the book’s general message is likely to prejudice morality, as “the moral values of Malaysian society do not condone” or accept homosexuality. The judgement cited a High Court decision in a 1979 case that made observations regarding the act of sodomy.

**Lim Hui Lian v CM Huddlestan** [1979] 2 MLJ 134

*“Having regard to the petitioner’s upbringing as an Asiatic race of Chinese origin, in my opinion, it is reasonable for her to view the act of sodomy with abhorrence and revolt against such conduct. The act of sodomy is considered shameless and unclean by the community to which she belongs. Such despicable conduct though permitted among some westerners should not be allowed to corrupt the community’s way of life.”*

The Court of Appeal's majority decision also said a reasonable minister in the same position as the Home Minister would have been satisfied that the book's general message is likely to prejudice public order because a homosexual act of intercourse between two males is criminalised and punishable under Malaysia's Penal Code. The Court of Appeal contended that public tranquillity and even tempo of the community's life would be disrupted if the book is not banned, as there would be public disaffection with the Malaysian authorities on why the book is allowed to be printed and sold in Malaysia when homosexuality is criminalised here and as such public disaffection would have the "potential to lead to public unrest, if not public riot."

The majority court ruling agreed that the book's general message is likely to prejudice public interest, due to the potential outcome of public disaffection and public unrest and as the book's publication, sale, circulation or possession does not bring any benefit or advantage to the society as a whole.

Another reason given by the majority decision on why the book is likely to prejudice public interest was that the book's general message to non-Christians in Malaysia is that homosexuality is permitted in Christianity, with the Court of Appeal judge highlighting that homosexuality is not allowed in Islam. The majority judgment hence contends that the general message or impression of the book is one that does not promote a harmonious relationship between Christians and the Muslim majority in this country.

In the decision to restore the book ban, the majority judgment said the High Court (HC) judge had made seven appealable errors. <sup>160</sup>

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160 Court of Appeal Putrajaya, *Menteri Dalam Negeri & Anor v. Chong Ton Sin & Anor* (Grounds for Majority Judgement), W-01(A)-156-03/2022, December 19, 2023, para. 28–46, available at <https://ecourtservices.kehakiman.gov.my/>



The HC Judge:

1. did not apply the Test of the Minister's assessment of "Likelihood to Prejudice Morality/Public Order/Public Interest;"
2. made a plain error of fact in deciding that the Minister "in fact dissected significant excerpts" of the book because he, in fact, read the entire book;
3. has relied on, among others, *Radhakrishnan's Case*, an Indian case on the Constitutionality of limiting the right to freedom of expression, which has been rejected by Malaysian jurisdiction;
4. had committed an error of law by applying Section 4(4) of the Human Rights Commission of Malaysia Act to justify the invocation of the Universal Declaration of Human Rights in this case;
5. had taken into account irrelevant matters (listed below) into the exercise of her discretion to allow the judicial review application;
6. had erred in deciding that the Respondents had a constitutional right to be heard before the ban was issued by the Minister;
7. had committed a plain error of fact by deciding that the Minister did not provide any reason for the ban.

Since the Minister of Home Affairs's ban of the 'Gay is OK!' book was based on the "likelihood" of prejudice to morality, public order, public interest instead of "actual prejudice," <sup>161</sup> the Court of Appeal's majority decision said the High Court made an error in considering the five following "irrelevant" matters when deciding to quash the book ban.

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<sup>161</sup> The Court of Appeal also cited *Mohd Faizal bin Musa v Menteri Keselamatan Dalam Negeri* [2018] 3 MLJ 14 at [21] which states that the phrase "likely to be prejudicial to public order" may cover "anything which has the potential to disrupt public order" and hence does not require the existence of an actual public disorder.

3 These five “irrelevant” matters are the fact that:<sup>162</sup>

- there was no untoward incident from the book’s publication, sale or possession for more than seven years since it was published in 2013;
- no evidence on how many copies had been published, sold, circulated or possessed by Malaysians;
- the government not having provided views from different religious and cultural groups of Malaysian society on the book;
- the expert opinion by a lecturer supporting Ngeo’s view that homosexuality was not necessarily prohibited in Christianity; and
- the government not having produced any expert’s view to rebut that lecturer’s opinion.

Even if these five matters were assumed to be relevant but were not considered by the Home Minister, the majority judgment said a “reasonable minister” in the position of the Home Minister would still be satisfied that Ngeo’s book’s general message has the potential to cause the likelihood to prejudice morality, public order and public interest.

The Court of Appeal’s majority ruling concluded it was unable to find that the Minister of Home Affairs had committed any error of law regarding the book ban, or that the ban was irrational in the sense that no reasonable minister would have issued the ban, or that the ban was so disproportionate that the court should quash the ban.

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<sup>162</sup> Court of Appeal Putrajaya, *Menteri Dalam Negeri & Anor v. Chong Ton Sin & Anor* (Grounds for Majority Judgement), W-01(A)-156-03/2022, December 19, 2023, para. 36, available at <https://ecourtservices.kehakiman.gov.my/>

## 1.4 Minority decision of the Court of Appeal

Out of a quorum of three judges, Gunalan Muniandy JCA agreed with the High Court's decision to quash the book ban for reasons such as being denied the right to be heard before the ban, and said the High Court judge did not make legal or factual errors in her findings and ruling.

Saying that each case must be decided on its facts, the judge said the High Court judge had correctly applied the objective test of whether a "reasonable minister" would objectively be satisfied that the book's contents are likely prejudicial to public order, morality and public interest.

His view was that the High Court judge had correctly taken into account these five facts: <sup>163</sup>

- that the book was published for seven years since 2013;
- that its contents were widely published in an online news portal from 2010 to 2011;
- that there was no evidence of any reports lodged that the book posed a threat to public order, morality or went against public interest;
- and that there was no evidence of any negative response from the public to the issue of homosexuality raised in the book as incidences referred to by the Home Minister were unrelated to the book and did not disrupt public safety and tranquillity;
- and that no evidence was given on how many copies of the book were printed and how widely it had been circulated to pose a threat to public order.

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<sup>163</sup> Court of Appeal Putrajaya, *Menteri Dalam Negeri & Anor v. Chong Ton Sin & Anor* (Minority Judgement), W-01(A)-156-03/2022, December 6, 2023, para. 15, available at <https://ecourtservices.kehakiman.gov.my/>

The dissenting judge said the High Court had made its findings – based on those five facts – that the Minister of Home Affairs had failed to justify the book ban for being likely to prejudice public order as there was no evidence shown of “actual prejudice” after over seven years of the book’s publication.

He said the High Court judge had “correctly remarked” that the Minister had failed to show evidence that the views among Malaysian society’s different religious bodies and its diverse cultural segments had been taken into consideration, further noting that the High Court had viewed the incidences referred by the Minister at most “represent views of a limited group of persons or individuals of a particular religion which in no way represent current the view of the Malaysian society as a whole”.

The dissenting judge viewed the High Court as having correctly decided that the Minister of Home Affairs had failed to justify the ban on the reasons that the book was likely to be prejudicial to public order, morality and public interest as there was no evidence of such reasons; that he had failed to assess the book objectively; and had taken into account irrelevant considerations.

# 1.5 Discussion

## Ministerial discretion

Article 10(2)(a) of the Federal Constitution provides for the power of Parliament to impose restrictions on the Article 10(1) freedoms of speech and expression by law (including written law) in the interests of public order and morality. The PPPA, which is written law, is assumed to be constitutional. This principle is taken in **Public Prosecutor v Pung Chen Choon** [1994] 1 MLJ 566.

*“But, with regard to Malaysia, when infringement of the Right of freedom of speech and expression is alleged, the scope of the Court’s inquiry is limited to the question whether the impugned law comes within the orbit of the permitted restrictions. So, for example, if the impugned law, in pith and substance, is a law relating to the subjects enumerated under the permitted restrictions found in cl 10(2)(a), the question whether it is reasonable does not arise; the law would be valid.”*

Nonetheless, the exercise of “absolute discretion” by the Minister of Home Affairs is reviewable by the courts on the existence or non-existence of the likelihood of the matters stated in Section 7(1) of the PPPA. In other words, the courts are not able to question the absolute discretion of the Ministers, but rather the basis by which they exercise this absolute discretion – the role of courts to assess “likelihood” will be explored subsequently.

One of the main cruxes of arguments by both majority and minority decisions in the Court of Appeal is whether or not the Minister of Home Affairs had acted as a “reasonable minister” in attempting to prospectively account for the likelihood that the publication and continued distribution of the book would be prejudicial to public order. Both judgements cited *Sepakat Efektif Sdn Bhd v Menteri Dalam Negeri & Anor and Another Appeal* [2015] 2 CLJ 328:

*"... Where an administrative power is granted as a subjective discretion, courts will subject its exercise to review based on an objective assessment... The test is that of whether a reasonable minister would have acted in the same manner. The courts can test the exercises of the subject discretion against the objective facts in order to determine whether the discretion has been fairly and justly exercised..."*

However, the majority decision also cited an additional case on the matter of justiciability of ministerial decisions in *Arumugam a/l Kalimuthu v Menteri Dalam Negeri, Malaysia & ors* [2013] 5 MLJ 174, a case that also concerns the decision to ban a book under Section 7(1) of the PPPA:

*"It is our judgement that on the facts of the case the decision by the Deputy Minister to ban the book is neither so outrageous that defies logic nor against any acceptable moral standards. The action taken by the Deputy Minister was one that is needed to be taken in the interest of national security (including public order) for which the executive bears the responsibility and alone has access to sources of information that qualify it to decide what the necessary action is. And whether the decision is irrational or not, is a question of facts, to be decided by the judge."*

The above-cited case concerned the banning of a Tamil-language book entitled 'Mac 8'. The book contained ten accounts by the victims of a racial disturbance that took place in Kampung Medan between 4<sup>th</sup> and 8<sup>th</sup> March 2001. These accounts were reproduced with permission from a PhD thesis in the library of the University of Malaya.

One of the primary contentions of the majority decision in the banning of the ‘Gay is OK!’ book seems to be that of whether or not the facts considered by the High Court judge were relevant to an “objective assessment” of how a reasonable minister would have acted given the facts of the situation. These facts were:

1. that there was no untoward incident from the book’s publication, sale or possession for more than seven years since it was published in 2013;
2. no evidence on how many copies had been published, sold, circulated or possessed by Malaysians;
3. the government not having provided views from different religious and cultural groups of Malaysian society on the book;
4. the expert opinion by a lecturer supporting Ngeo’s view that homosexuality was not necessarily prohibited in Christianity;
5. and the government not having produced any expert’s view to rebut that lecturer’s opinion.

The minority decision, on the other hand, had accepted these as important considerations for carrying out an “objective assessment”. In citing *Arumugam*, the majority coram quite clearly took the view that although there is a need for an objective assessment of ministerial decisions, the decision must fulfil a very threshold of being “so outrageous, defying logic or against any acceptable moral standards” before the courts are willing to challenge it.

The dispute between the majority and minority coram strongly indicates that the term “likely” as per Section 7 of the PPPA heavily informs the approach judges take in assessing ministerial decisions. In keeping with the principle established in *Mohd Faizal bin Musa v Menteri Keselamatan Dalam Negeri*, the phrase “likely to be prejudicial to public order” may cover “anything which has the potential to disrupt public order” and hence does not require the existence of an actual public disorder – the majority coram explicitly accepts this definition. It is contended here that “likely” in this specific form is actually a misnomer. The Oxford Dictionary defines “likely” as “having a good chance of happening or

being something; probable or expected”. However, the approach taken in *Mohd Faizal* does not consider the probability of prejudice to public order to be an occurrence that is more probable to occur than not – it instead broadens “likely” to mean having any remote possibility.

This approach to “likelihood” seems to strongly favour the discretionary power of the Minister in making decisions to ban publications – and simultaneously obstruct the court’s oversight on this discretionary power – to the detriment of individuals or groups who have found themselves subject to it. So long as the Minister is satisfied that the possibility of prejudice to public order is present, even if the likelihood of the occurrence of prejudice to public order are miniscule, the court will be satisfied that the Minister has acted reasonably.

In the context of the ‘*Gay is OK!*’ book ban, this approach informs the way in which judges retroactively consider and weigh the facts of a case during deliberations. In validating the Minister’s anticipation of “threats to public order”, the majority coram has relegated many of the facts considered by the High Court judge irrelevant. In doing so, the erroneous view that homosexuality is a moral hazard and widespread enough to cause unrest remains unexamined.

The judicial precedent set has created an avenue for decision-making that inherently favours ministerial discretion.

## Entrenched anti-LGBTIQ sentiments in the legal system

In this instance, homosexuality was described in the Minister’s affidavit as immoral and not accepted in Malaysia and that this position was also recognised through the criminalisation of consensual carnal intercourse between adults through Sections 377A and B of the Penal Code. Further, the Minister alleges that a book presenting a charitable view on homosexuality from a Christian perspective would lead to interfaith conflict between Christians and Muslims – wrongly implying that the LGBTIQ population as the cause of racial and religious tensions.



In a similar fashion was the majority coram's invocation of *Lim Hui Lian v CM Huddleston* to assert that the moral values of Malaysian society do not condone or accept homosexuality, despite the fact that *Lim Hui Lian* was decided in 1979, over 40 years ago. The transcript of this case is particularly vitriolic, describing sex acts between men as "despicable conduct" and "shameless and unclean".

While understanding that the judicial system inherits the principles of cases past, the use of outdated cases is common in LGBTIQ-related cases. It is particularly apparent in legal gender recognition cases, where trans people seek a court declaration to change their gendered details in their legal documents. Despite progressive Malaysian legal decisions and growth in knowledge and legal jurisprudence in this area, Malaysian courts have opted to rely on outdated case law, such as *Corbett v Corbett*,<sup>164</sup> resulting in trans people being denied their right to identity, self-determination, equality, and non-discrimination.

*Corbett v Corbett* is based on Ormrod J's judgment in the 1970s, which argues that sex is immutable. In *JG v Pengarah Jabatan Pendaftaran Negara (2005)*, the Kuala Lumpur High Court allowed a trans woman to change her gendered details in her legal documents. The court departed from *Corbett v Corbett* and noted that "when medical evidence has established that the gender of the plaintiff was other than the biological sex, it was the duty of the Court to grant relief."<sup>165</sup> However, this decision was not used as precedent in subsequent cases.

This trend underscores 1) pervasive discrimination against LGBTIQ people in Malaysia 2) the lack of access to information among justice actors on LGBT and human rights case law, resulting in continued discrimination 3) lack of judicial activism.

It is important to note that Section 377 and similar laws have been

<sup>164</sup> Fifah Rahman and thilaga sulathireh, *Legal Gender Recognition in Malaysia: A Legal & Policy Review in the Context of Human Rights* (Asia Pacific Transgender Network (APTN) and SEED Malaysia, 2017), 39, [https://www.undp.org/sites/g/files/zskgke326/files/migration/asia\\_pacific\\_rbap/Malaysia-APTN\\_Publication\\_OnlineViewing.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/asia_pacific_rbap/Malaysia-APTN_Publication_OnlineViewing.pdf)

<sup>165</sup> High Court of Kuala Lumpur, *JG v. Pengarah Jabatan Pendaftaran Negara*, May 25, 2005, <https://www.icj.org/sogicasebook/jg-v-pengarah-jabatan-pendaftaran-negara-high-court-of-kuala-lumpur-malaysia-25-may-2005/>

decriminalised. According to UNAIDS In 2018, the proportion of the world's population that lived in countries that criminalise same-sex sexual relations (Section 377 or equivalent) decreased from about 40% to 23%.<sup>166</sup> Since then, more countries such as Singapore have repealed Section 377. There are mainly two versions of 377 – a gender-neutral version and a gendered version. In Malaysia, Section 377 is a gender-neutral law. However, it is widely perceived, including by the Court, to only criminalise gay men.

In *Johar v India*, where the Indian Supreme Court reviewed the constitutionality of Section 377 of the Penal Code, the Court stressed that a person's sexual orientation "is intrinsic to their dignity". Criminalisation "prevents LGBT persons from leading a dignified life as guaranteed by Article 21 (equality and non-discrimination)", as it forces LGBT people to "lead closeted lives" or hide their sexual orientation from others, owing to stereotypes, stigma, discrimination and violence. The criminalisation of LGBT people through Section 377 "perpetuates notions of morality which prohibit certain relationships as being against the 'order of nature'."

Building on *Toonen vs Australia*<sup>167</sup> and other cases, the Indian Supreme Court also maintained that discrimination based on sexual orientation falls under discrimination based on sex, prohibited under Article 15 of its constitution. Under international human rights law, sex and/or gender subsume sexual orientation given that sex, gender, and sexual orientation stereotypes are interlinked and rooted in cis-hetero patriarchy.

The court examined whether criminalisation of LGBT people could be regarded as a "reasonable restriction" of freedom of expression on the grounds of "public order, decency or morality". The judges noted that Section 377 criminalises "private acts of adults including the LGBT community which are not only consensual but are also innocent, as such acts neither cause disturbance to the public order nor are they injurious to public decency or morality." the court further affirmed that the law violates

<sup>166</sup> "Criminalization of same-sex sexual relationships decreasing," *UNAIDS*, October 7, 2019, [https://www.unaids.org/en/resources/presscentre/featurestories/2019/october/20191007\\_criminalization-same-sex-sexual-relationships-decreasing](https://www.unaids.org/en/resources/presscentre/featurestories/2019/october/20191007_criminalization-same-sex-sexual-relationships-decreasing)

<sup>167</sup> "Human Rights Explained: Case Studies," *Australian Human Rights Commission*, accessed March 12, 2025, <https://humanrights.gov.au/our-work/education/human-rights-explained-case-studies>

the principle of proportionality and that “public decency and morality... cannot be accepted as reasonable grounds for curbing the fundamental rights of freedom of expression and choice of the LGBT community”

In the decision, the Court made a distinction between social or majoritarian morality and constitutional morality. The Court rejected the notion of being guided by majoritarian views or popular perception. Instead, the Court stressed that as the final arbiter of the Constitution, it “has to be guided by the conception of constitutional morality and not by the societal morality” in upholding the Rule of Law. The Court noted

*“In the garb of social morality, the members of the LGBT community must not be outlawed or given a step-motherly treatment of malefactor by the society. If this happens or if such a treatment to the LGBT community is allowed to persist, then the constitutional courts, which are under the obligation to protect the fundamental rights, would be failing in the discharge of their duty.” ....*

*Constitutional morality cannot be martyred at the altar of social morality and it is only constitutional morality that can be allowed to permeate into the Rule of Law. The veil of social morality cannot be used to violate fundamental rights of even a single individual, for the foundation of constitutional morality rests upon the recognition of diversity that pervades the society.”<sup>168</sup>*

## Application of the Universal Declaration of Human Rights and International Law

It is also important to mention the Court of Appeal’s discussion on the subject of the applicability of the Universal Declaration of Human Rights

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168 “Johar v India, 2018 Case Digest,” *Human Dignity Trust*, January 2019, 12. <https://www.humandignitytrust.org/wp-content/uploads/resources/2019.01-Case-Digest-Johar-v-India-2018-.pdf>

(UDHR) into domestic legislation. The High Court judge had decided in favour of quashing the ban of the 'Gay is OK!' book by the Minister of Home Affairs, in part relying on **Section 4(4)** of the **Human Rights Commission of Malaysia Act (HRCMA) 1999** which states:

*"For the purpose of this Act, regard shall be had to the Universal Declaration of Human Rights 1948 to the extent that it is not inconsistent with the Federal Constitution."*

The High Court judge relied on this provision, in part, as grounds to decide that the Minister's banning of the book was contrary to the principles of the UDHR to quash the ban. The majority coram of the Court of Appeal dismissed this argument, stating that they were of the view that the High Court judge had committed an error of law by applying Section 4(4) HRCMA to justify the invocation of the UDHR. They ultimately concluded that the HRCMA, and its Section 4(4) does not provide that the exercise of discretionary power by the Minister under Section 7(1) of the PPPA 1984 is subject to the UDHR. The Court of Appeal referred to the case of *Kraft Foods Schewiz Holding GmbH v Pendaftar Cap Dagangan [2016] 11 MLJ 702*, that itself cites a number of cases that affirmed that international laws have no jurisdiction in domestic Malaysian law unless Parliament specifically enacts legislation to give effect to them.

This was made clear in *Sepakat Efektif Sdn Bhd v Menteri Dalam Negeri & Anor and Another Appeal*, at [57]:

*"[57] As regards the issue of international law standards being applicable, and the legitimate expectations of the appellants in this regard, the findings of the learned judge are correct. Section 4 [HRCMA] merely requires our courts to have regard to [UDHR] in the process of interpretation and in the absence of clear constitutional provisions in [FC]. The facts of these appeals require the court to have regard to express the constitutional provisions in the form of art. 10, 8 and 5. There is no compelling need to directly apply international law rules to supplement our domestic provisions."*

These decisions clearly demonstrate a rift between international

law and national legislation. To point out that Malaysian laws are not in compliance with the standards set by international law is useful in providing an aspirational goal in terms of what Malaysian law should be.

It is important to distinguish between human rights treaties and declarations, as they carry different legal responsibilities and commitments. While human rights treaties, such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD) require domestication, the UDHR does not, as it is a declaration.

Chief Justice of Malaysia, Tengku Maimun Tuan Mat in a 2023 legal colloquial on gender equality while agreed that lack of domestication of human rights treaties, such as CEDAW, CRC and CPRD pose limitations in its application in courts, noted that "Our Courts have interpreted Article 8(2) of the Federal Constitution in a way so as to achieve the avowed purpose of complying with Malaysia's international obligations and also ensuring that the constitutional outlawing of unfair gender discrimination does not become a mere pious platitude. Where the law is ambiguous, the Courts' duty is to interpret local statutes in a manner such that their language will be in accord and not in conflict with international law."

She further noted that "the principle of gender equality, enshrined in Article 8 of the Federal Constitution, is a pivotal constitutional assurance that Malaysia is duty-bound to uphold. As for the Judiciary, in resonating with global conventions like CEDAW and CRC, the adaptive stance taken is a testament to its broad, purposive and proactive approach."<sup>169</sup>

The role of justice actors, particularly judges cannot be denied in the growth of human rights based LGBTIQ legal jurisprudence. In *Adheep Pokhrel v. Ministry of Home Affairs*, the Nepal Supreme Court,

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<sup>169</sup> Tun Tengku Maimun Binti Tuan Mat, *Opening Speech by the Right Honourable The Chief Justice Of Malaysia*,

Tun Tengku Maimun Binti Tuan Mat on the Occasion of Judicial Colloquium 2023: 'Breaking Barriers: Empowering Women And Girls Through Human Rights and SDGs' August 21, 2023, 10, <https://www.kehakiman.gov.my/sites/default/files/2023-10/Judicial%20Colloquium%2021.8.2023%20-%20Opening%20Address.pdf>

in addition to citing its Constitution, national laws and human rights treaties ratified and domesticated by Nepal, also referenced other human rights declarations and human rights reports to safeguard the rights of the applicants, who sought relief due to the denial of a non-immigrant visa to a foreign same-sex spouse.

The concept of human rights has evolved based on the inherent integrity and dignity and value of every person. The principle that no person should be deprived of their rights based on their identity also applies to the rights of the LGBTIQ and gender-diverse people. Also, based on the principle of equality under the UDHR, the discrimination faced by members of gender and sexual minorities in both social and legal contexts is inconsistent with the fundamental principles of human rights and human rights law.

Similarly, in accordance with the rights to life, equality, dignity, integrity, and privacy guaranteed through the ICCPR , as well as the provisions against torture outlined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the CEDAW (1979), the Yogyakarta Principles, the Yogyakarta Principles plus 10, and the report by the United Nations High Commissioner for Human Rights, it is the responsibility of the state to protect the rights, including the right to self-respect, of individuals within the gender and sexual minority community.<sup>170</sup>

Nepal in a previous case, India and the Netherlands have cited Yogyakarta Principles in their judgements leading to the expansion of LGBTIQ protection and knowledge.<sup>171</sup>

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<sup>170</sup> Department of Immigration, *Adheep Pokhrel and Tobias Volz. v. Ministry of Home Affairs*, 2023, 24–25, [https://www.hrw.org/sites/default/files/media\\_2023/05/20221219%20-%20Adheep%20Pokhrel%20et%20al.%20v%20MoHA%20Dol.pdf?utm\\_source=miragenews&utm\\_medium=miragenews&utm\\_campaign=news](https://www.hrw.org/sites/default/files/media_2023/05/20221219%20-%20Adheep%20Pokhrel%20et%20al.%20v%20MoHA%20Dol.pdf?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news)

<sup>171</sup> Meenakshy Ganguly, "South Asia's Third Gender Court Judgments Set Example," *Human Rights Watch*, June 6, 2018, <https://www.hrw.org/news/2018/06/06/south-asias-third-gender-court-judgments-set-example>

# **Conclusion and recommendations**

# Conclusion and recommendations

The report clearly demonstrates that the Printing Presses and Publications Act (PPPA) 1984 does not meet the international human rights standards as outlined in the three-part test that justify the limitation on freedom of expression, in that they are neither legal, legitimate, necessary or proportional.

The United Nations provides several tools for governments to balance safeguarding freedoms and public order, morality, security and public opinion. Chief among them are the Rabat Plan of Action (RPA) and the Human Rights Council Resolution 16/18 on Combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence and violence against, persons based on religion or belief.

The RPA is important as it promotes a “whole society” approach to counter ‘hate speech’ and discrimination. The RPA provides practical legal and policy guidance to states on implementing Article 20(2) of the ICCPR, and can be adopted with or without the ratification of the ICCPR. It proposes a range of positive policy measures to combat ‘hate speech’ that do not rely on criminal penalties, including facilitating interfaith dialogue, training government officials, promoting media pluralism, and creating ‘equality bodies’ to address conflict and intolerance.

The RPA is an effective tool for addressing differences in understanding. It asserts that, as a default, promoting more expression, in conjunction with the enactment of policies and laws to combat the root causes of discrimination, is the most potent antidote to intolerant expression.

The RPA also provides practical guidance: its six-part threshold test prompts states to consider the speaker’s intent to incite specific harm, as well as a range of contextual factors that aid in determining



imminence, including the speaker's identity, content, and the reach of the speech.

Meanwhile, the Human Rights Council Resolution 16/18 on Combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence and violence against, persons based on religion or belief sets out a universally-agreed action plan by states for addressing prejudice based on religion or belief. It has enormous potential to be a strong vehicle for states to exchange knowledge and experiences and to explore innovative and human rights-compatible approaches to promoting inclusivity, pluralism, and diversity.

This report makes the following recommendations to the Ministry of Home Affairs, Attorney General Chamber (AGC), Ministry of Women, Family and Community Development, Human Rights Commission of Malaysia (SUHAKAM) and Ministry of Communications.

## Recommendations

### **Ministry of Home Affairs and Legal Affairs Division in the Prime Minister's Department (BHEUU)**

1. Halt amendments to the PPPA and develop a roadmap towards repeal of the PPPA.
2. Strengthen capacity on human rights standards relating to protection and promotion of right to freedom of opinion and expression by engaging the OHCHR and UN Special Rapporteur on Freedom of Opinion and Expression.
3. Undertake a study to review the state of freedom of expression in Malaysia against the international human rights law.
4. Develop a national action plan to promote inclusion, diversity, and pluralism, including by implementing the comprehensive recommendations in Human Rights Council Resolution 16/18 on Combating intolerance, negative stereotyping and stigmatisation

of, and discrimination, incitement to violence and violence against, persons based on religion or belief and adopt the Rabat Plan of Action (RPA), as well as the Camden Principles on Freedom of Expression and Equality; with the full and effective participation of diverse stakeholders, including civil society and SUHAKAM.

5. Ratify the ICCPR and Optional Protocols to ICCPR.

### **The Attorney-General's Chambers of Malaysia and the Ministry of Women, Family and Community Development:**

1. Domesticated CEDAW, CRC, CRPD to give them full legal effect.
2. Ratify Optional Protocols to CEDAW, CRC and CRPD
3. Implement all LGBTI-related treaty body based concluding observations, including but not limited to:
  - 13 (c) Establish a system for the collection of data on discrimination against women, disaggregated by age, nationality, ethnicity, geography, disability, socioeconomic and LGBTI status, to inform the formulation of anti-discrimination legislation and policies.
  - 23 (e) Develop and implement a comprehensive strategy to eliminate stereotypes concerning LGBTI women, including by addressing discriminatory narratives targeting LGBTI women and imposing fines for homophobic speech and raising awareness about the equal rights of LGBTI women.
  - 27 (e) Amend laws that discriminate against and criminalise LGBTI women and put in place protection measures to ensure the dignity and physical integrity of LGBTI women and girls.

## **The National Human Rights Commission of Malaysia (SUHAKAM)**

1. Strengthen capacity among the law enforcement agencies, Attorney-General's Chambers and judges on international human rights law and its application.
2. Develop a human rights case law database that also integrates jurisprudence of the United Nations Treaty Bodies (Committees).

## **The Ministry of Communications**

1. Ensure an environment for open, robust debate and dialogue, including through a free and open internet.
2. Repeal laws that restrict freedom of expression including Section 233 of the Communication and Multimedia Act (CMA) 1998.

# Annexes

## Annex ①

### The Federal Constitution

The Federal Constitution (FC) is the highest law of the land, and by right, all Malaysian legislation must adhere to principles set forth in the FC. The right to freedom of speech granted under Article 10 of the FC.

#### ***Freedom of speech, assembly and association***

10. (1) *Subject to Clauses (2), (3) and (4) –*

*(a) every citizen has the right to freedom of speech and expression;*

However, this right is not unconditional, as Article 10 goes on to state the restrictions that the state can apply against the right to freedom of speech.

10. (2) *Parliament may by law impose–*

*(a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence*

It is also vital to raise Article 8 of the FC which provides for the principle of equality.

#### ***Equality***

8. (1) *All persons are equal before the law and entitled to the equal protection of the law.*

*(2) Except as expressly authorised by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.*

## Annex ②

# The Communications and Multimedia Act (CMA) 1998

**Section 211(1)** of the CMA states:

*“No content applications service provider, or other person using a content applications service, shall provide content which is indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten or harass any person.”*

**Section 233(1)** of the CMA provides:

*“A person who—*

*(a) by means of any network facilities or network service or applications service knowingly—*

*(i) makes, creates or solicits; and*

*(ii) initiates the transmission of, any comment, request, suggestion or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person; or*

*(b) initiates a communication using any applications service, whether continuously, repeatedly or otherwise, during which communication may or may not ensue, with or without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at any number or electronic address, commits an offence”*

# Annex 3

## List of Banned Publications Between 2020 and January 2025

Note: LGBT-related publications highlighted in yellow

2020							
1	3145	Rebirth: Reformasi, Resistance, And Hope In New Malaysia	Kean Wong	Strategic Information And Research Development Centre	Vinlin Press Sdn Bhd	English	01-07-2020 <a href="#">P.u.(A) 200</a>
2	3146	Atlas Of Military History	Dr Aaron Ralby	Parragon	-	English	07-09-2020 <a href="#">P.u.(A) 268</a>
3	3147	Gay Is Ok! A Christian Perspective	Ngeo Boon Lin	Gerakbudaya Enterprise	Vinlin Press Sdn Bhd	English	27-11-2020 <a href="#">P.u.(A) 340</a>
4	3148	Peichi	M.navin	Penerbitan Vallinam		Tamil	15-12-2020 <a href="#">P.u.(A) 355</a>
2021							
5	3149	Kama Sutra For 21st Century Lovers	Ann Hooper	Dorling Kindersley	Toppan Printing Co	English	26-01-2021 <a href="#">P.u.(A) 28</a>
2022							
6	3150	Chelsia Amanda (Berdasarkan Kisah Benar)	Mizs Flower	Bwb Production	Pbe One Stop Centre	Malay	12-10-2022 <a href="#">P.u.(A) 328</a>
7	3151	Cekik	Ridhwan Saidi	Buku Fixi Sdn Bhd	Vinlin Press Sdn Bhd	Malay	12-10-2022 <a href="#">P.u.(A) 330</a>
8	3152	Heartstopper Volume 2	Alice Oseman	Hodder Children's Books	Clays Ltd. Elcograf S.p.a	Malay	12-10-2022 <a href="#">P.u.(A) 329</a>
2023							
9	3153	The Tale of Steven	Rebecca Sugar	Abrams		Malay	20-01-2023 <a href="#">P.U.(A) 24</a>
10	3154	Jacob's Room To Choose	Sarah and Ian Hoffman	Magination Press	Phoenix Color Hagerstown Md	Malay	20-01-2023 <a href="#">P.u.(A) 25</a>
11	3155	Aku	Shaz Johar	Buku Fixi Sdn Bhd	Vinlin Press Sdn Bhd	Malay	20-01-2023 <a href="#">P.u.(A) 26</a>
12	3156	Any Publication Related To Lesbian, Gay, Bisexual, Transgender, Queer And + Plus (LGBTQ+) In Any Form On Swatch Watch Collections Including Boxes		Swatch Limited			10-08-2023 <a href="#">P.u.(A) 236</a>
13	3157	When I Was A Kid 3	Cheeming Boey	Grey Pigeon Sdn. Bhd.		English	25-09-2023 <a href="#">P.u.(A) 283</a>

2024							
14	3158	A Million Kisses In Your Lifetime	Monica Murphy	Penguin Books		English	19-12-2024 <a href="#">P.u. (A) 409</a>
15	3159	Lose You To Find Me	Erik J. Brown	Balzer + Gray		English	19-12-2024 <a href="#">P.u. (A) 410</a>
16	3160	Punai	Asyraf Bakti	Buku Fixi Sdn. bhd.		Malay	19-12-2024 <a href="#">P.u. (A) 411</a>
17	3161	Scattered Showers	Rainbow Rowell	Macmillan Children's Books		English	19-12-2024 <a href="#">P.u. (A) 412</a>
18	3162	When Everything Feels Like The Movies	Raziel Reid	Arsenal Pulp Press		English	19-12-2024 <a href="#">P.u. (A) 413</a>
19	3163	What If It's Us	Becky Albertalli Dan Adam Silverra	Balzer + Gray		English	19-12-2024 <a href="#">P.u. (A) 414</a>
2025							
20	3164	My Shadow Is Purple	Scott Stuart	Larrikin House 2022		English	21-01-2025 <a href="#">P.u. (A) 26</a>
21	3165	Koleksi Puisi Masturbasi	Amir Hamzah Bin Akal Ali (Benz Ali)	Orange Dove Sdn.bhd.		Malay	22-01-2025 <a href="#">P.u. (A) 31</a>
22	3166	All That's Left In The World	Erik J. Brown	Balzer + Gray		English	22-01-2025 <a href="#">P.u. (A) 32</a>

## Annex 4

# Legal and Administrative Provisions Restricting Freedom of Expression

Criminal Law Provisions			
Laws or regulation	Description of restrictions	Penalty	
		Fine	Imprisonment
Printing Presses and Publications Act (PPPA) 1984	Among others, the PPPA is used to regulate the licenses of publishers and ban publications on grounds of public order, morality, security, public opinion, public or national interest.		
	<b>Licence to use printing press:</b> Section 3(3) The Minister may grant to any person a licence to keep for use or use a printing press and he may refuse any application for such licence or may at any time revoke or suspend such licence for any period he considers desirable.	Section 3(3): RM 20,000 maximum fine	Section 3(3) : Maximum 3 years of imprisonment (or both)
	<b>Printing press used for unlawful purpose:</b> Section 4(1) criminalises the printing of materials which are considered obscene or against public decency; or which may promote hostility, disunity, among others.	Section 4(1): RM 20,000 maximum fine	Section 4(1): Maximum 3 years of imprisonment (or both)
	<b>Undesirable publications :</b> Section 7 (1) empowers the Home Minister to prohibit the printing, importation, production, reproduction, publishing, sale, circulation, distribution, or possession of any publication if they believe it contains content that is prejudicial to public order, morality, security, public opinion, laws, public interest, or national interest.		
	<b>Offences:</b> Section 8 (1) criminalises the possession while Section 8(2) criminalises the production, publication, and sale of any “undesirable publications” that threaten public order, morality, security, and other grounds for censorship.	Section 8 (1): RM 5,000 maximum fine Section 8(2): RM 20,000 maximum fine	Section 8(2): Maximum imprisonment of 3 years (or both)



Section 233 (1) of the CMA (this text is before the amendments in December 2024)	<b>Section 233 (1) (Improper use of network facilities or network service, etc.):</b> Criminalises and censors online speech with the “intent to annoy, abuse, threaten or harass any person.” Often used to curb freedom of expression online and to arrest, investigate and charge individuals expressing progressive or dissenting views.	RM 50,000 (Additional fine of RM 1,000 for each day the offence continues after conviction) Amendment Bill 2024: RM 500,000 (Additional fine of RM 5,000 for each day the offence continues after conviction)	Maximum 1 year imprisonment (or both) Amendment Bill 2024: Maximum 2 year imprisonment (or both)
Peaceful Assembly Act 2012	Section 9(5) restricts freedom of assembly by subjecting protest organisers to provide 5 days’ notification to the police. Since its introduction in 2012, the police have interpreted the notification process as seeking authorisation. The Royal Malaysian Police (PDRM) have repeatedly ignored this critical distinction and caused many problems, including harassment and post-protest investigations.	RM 10,000 maximum fine	–
Sedition Act 1948	Primarily used to suppress political dissent, restrict press freedom on the Internet, as well as censor discussions of race, religion, and royalty (3Rs).	RM 5,000 maximum fine	Maximum 3 years imprisonment (or both)
Dangerous Drugs Act 1952	Section 15 (1) (a) of the Dangerous Drugs Act is used to criminalise self-administration or recreational consumption of substances, targeting people who use drugs (PWUD)	Maximum RM 5,000 fine	Maximum 2 years imprisonment

Administrative Provisions		
Laws or regulation	Description of restrictions	Penalty
<a href="#">Garis Panduan Penapisan Filem</a>	Imposes censorship on films which are deemed to threaten matters of public order, security, religion, as well as morality and sociocultural perspectives. Censored content includes violence, sexual nudity, “immoral behaviour” such as LGBT relationships, critical representations of Islam and government actors including state agencies, officials, and police.	<ul style="list-style-type: none"> <li>• Films are subject to double censorship where they are cut for any contentious content and age-rated.</li> <li>• Possessing, screening, distributing, selling or renting a film that has not been passed for censorship review under LPF guidelines is punishable with a fine of RM5,000 – RM30,000 and/or imprisonment for a maximum term of 3 years under Film Censorship Act (2002).</li> </ul>
Guideline On Entertainment Activities (Concerts) In Higher Learning Institutions	Primarily used to curb freedom of expression among university students through strict regulation of entertainment activities, including regulations on the attire, hair-styles, accessories, physical interaction, and movement of performers, prohibitions on LGBTIQ+ content, and regulation of interactions between genders through gender segregated seating arrangements and removal of standing area for attendees.	<p>Students, associations and organisers are subject to a number of penalties.</p> <ul style="list-style-type: none"> <li>• Cancellation of performances</li> <li>• Cancellation of bookings and venues before and during performances</li> <li>• Disciplinary action against student organisers based on guidelines in the university</li> <li>• Blacklisting</li> <li>• Legal action against the organisers based on the risk of loss, safety, damage, reputation, and image of the university.</li> </ul>
<a href="#">Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) Guide-lines</a>	Imposes discriminatory restrictions on performances in Malaysia, particularly targeting LGBTQ representation. Male foreign performers are explicitly prohibited from dressing in a way that resembles women. The guidelines also extend to the performance content, banning any symbols or messaging that support LGBTQ rights or non-conforming gender identities.	<p>First-time offence: show-cause letter is issued, followed by a warning if no reasonable explanation is provided.</p> <p>Second-time or criminal offence: Organiser/company may be blacklisted for 6 to 12 months. Repeat offences: Blacklisting period may be extended based on JK-PUSPAL’s discretion.</p>

# Annex ⑤

## Public Consultation Survey on PPPA Amendments – March 2024

1. Nama: \_\_\_\_\_

2. Organisasi: \_\_\_\_\_

3. Jawatan: \_\_\_\_\_

### 4. Jantina

☐ Lelaki ☐ Perempuan

### 5. Umur

☐ 20 – 30 ☐ 30 – 40 ☐ 40 – 50 ☐ 50 – 60 ☐ 60 – 70

### 6. Berdasarkan penerangan di dalam dokumen konsultasi, apakah jenis opsyen kawal selia yang paling sesuai dibawah Akta Mesin Cetak (AMCP) 1984?

- ☐ Kawalan selia kandungan dalam talian dan digital
- ☐ Tempoh sah permit penerbitan dan lesen mesin cetak
- ☐ Perluasan kuasa siasatan
- ☐ Pengkompaunan kesalahan
- ☐ Kuasa pendakwaan yang jelas

### 7. Pada pendapat Tuan/Puan, adakah penuluran dan lambakan bahan bercetak yang mempunyai unsur LGBTQ / radikalisme / terrorisme boleh memudaratkan kemoralan dan memberi impak kepada keselamatan dan ketenteraman negara?\*

- ☐ Ya
- ☐ Tidak (Sekiranya tidak, terangkan.): \_\_\_\_\_

### 8. Adakah Tuan/Puan bersetuju bahawa isu Race, Religion and Royalty (3R) adalah isu sensitif yang boleh menggugat keselamatan dan ketenteraman negara?\*

- ☐ Setuju
- ☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**9. Bagaimana isu Race, Religion and Royalty (3R) ini dapat dibendung dari dimanipulasi oleh pihak tertentu? Adakah Akta Mesin Cetak (AMCP) 1984 boleh membantu mengekang isu 3R ini?\***

☐ Ya

☐ Tidak (Sekiranya tidak, terangkan.): \_\_\_\_\_

**10. Adakah Tuan/Puan bersetuju bahawa kandungan bahan penerbitan mampu membentuk pemikiran dan mempengaruhi tindakan seseorang?\***

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**11. Adakah Tuan/Puan sedar bahawa penerbitan tidak diingini merangkumi perkara-perkara berikut:**

a) Bahan penerbitan lucah / porno

b) Bahan penerbitan yang menormalisasi gaya hidup LGBTQ

c) Bahan penerbitan yang mempunyai ideologi komunisme / radikalisme / terrorisme

d) Bahan penerbitan yang mempunyai provokasi elemen 3R

☐ Ya

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**12. Akta sedia ada tidak mencakupi penguatkuasaan bagi penerbitan berbentuk digital dan kandungan dalam talian. Apakah cadangan bagi memperkukuhkan elemen kawal selia dan penguatkuasaan terhadap kandungan penerbitan tersebut?**

**13. Malaysia merupakan negara majmuk yang mempunyai pelbagai bangsa dan agama. Adakah Tuan/Puan bersetuju bahawa diversiti dan keunikan rakyat di Malaysia ini berpotensi menimbulkan ketegangan sekiranya tiada kawalan ke atas sentimen yang sensitif didalam kandungan penerbitan?**

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**14. Apakah Tuan/Puan bersetuju bahawa Akta Mesin Cetak (AMCP) 1984 penting bagi mengawal elemen-elemen yang bercanggah daripada norma dan budaya masyarakat Malaysia terutamanya bagi mengatasi isu kemoralan yang semakin meningkat?**

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**15. Pada pendapat Tuan/Puan, apakah strategi bagi menambahbaik penguatkuasaan di Malaysia bagi menjamin keselamatan negara?**

**16. Adakah Tuan/Puan tahu bahawa kedudukan Malaysia berdasarkan Indeks Kebebasan Media Sedunia semakin baik dari tahun 2017 (144/180) sehingga 2023 (73/180)? Adakah Tuan/Puan bersetuju bawah kebebasan bersuara terjamin di negara kita?**

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**17. Adakah Tuan/Puan bersetuju bawah kedudukan Malaysia dalam Indeks Kebebasan Media Sedunia menunjukkan bahawa kebebasan bersuara adalah terjamin di negara kita?**

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**18. Apakah cadangan anda bagi memperkukuhkan elemen kawal selia dan penguatkuasaan yang sesuai di bawah Akta Mesin Cetak (AMCP) 1984?**

**19. Adakah anda bersetuju bahawa Akta Mesin Cetak (AMCP) 1984 dan Akta Komunikasi & Multimedia 1998 adalah saling melengkapi di antara satu sama lain?**

☐ Ya

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**20. Akhbar bercetak perlu memiliki Permit Penerbitan berdasarkan AMCP 1984. Adakah Tuan/Puan bersetuju agar kandungan berita di dalam portal berita juga perlu memiliki Permit Penerbitan?**

☐ Setuju

☐ Tidak setuju (Sekiranya tidak setuju, terangkan.): \_\_\_\_\_

**21. Pada pendapat Tuan/Puan, adakah Akta Mesin Cetak (AMCP) 1984 masih relevan untuk menjamin keselamatan dan ketenteraman awam?**

☐ Ya

☐ Tidak (Sekiranya tidak, terangkan.): \_\_\_\_\_

**22. Pada pendapat anda, apakah kelemahan penguatkuasaan atau kawal selia Akta Mesin Cetak (AMCP) 1984?**

**23. Apakah strategi bagi menambahbaik penguatkuasaan di Malaysia bagi menjamin keselamatan negara?**

**24. Berdasarkan penerangan di dalam dokumen konsultasi, apakah cadangan penambahbaikan bagi Akta Mesin Cetak (AMCP) 1984?**





