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'Mak Nyah' witch-hunt fear

Council raises concern transgender persecution may increase discrimination

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A RECENT case in Negri Sembilan where four transgender persons lost their case when challenging a ban on Muslim men dressing and posing as women could spark a witch-hunt by the authorities against the community, the Malaysian AIDS Council (MAC) said.

"We don't want these things to happen again in other states," said MAC media and communications head Azahemy Abdullah, when commenting on an earlier MAC statement backing the cause of the four transgender persons.

"While MAC respects the decision of the Negri Sembilan Syariah Court, we firmly believe that every Malaysian is entitled to equal protection and dignity under the country's constitutional rights," said Azahemy.

"We fear that this judg-

ment could lead to increased stigma as well as acts of persecution and discrimination by authorities, especially from the enforcement officials of the religious department."

However, practising Syariah Court lawyer Fakhru Azman Abu Hasan said Syariah Courts prosecuting transgender persons was not a new trend.

"The syariah law is very clear. A man cannot act as a woman and a woman cannot act as a man," he said.

He said the Syariah Court prosecution and judges had to act according to the law but usually opt to send transgender Muslims for counselling.

"They give chances, arrange for an Ustaz to give lectures on why they are born as men and women."

"Most will plead guilty and not contest it. They will pay the fine," he said.

Fakhru Azman said transgender persons could challenge the law by claiming it was against human rights

in the Federal Court, or by getting their plight to be heard in Parliament.

If they were to win in court, he said the law would be deemed void, but added that this would be difficult as, unlike in European countries, morality is taken as law in Malaysia.

"They (Europeans) do not take morality as law, but in Asian and Muslim countries, they do."

"The law has been enacted by parliament. If the law is there, the judges have to follow," he said.

Bar Council president Lim Chee Wee said transgender Muslims were treated well in the past and there was no reason as a matter of policy why they should be persecuted or prosecuted now.

He quoted Teh Yik Koon's essay, "The Male To Female Transsexuals In Malaysia: What Should We Do With Them?" in which the writer claimed that transgender persons, commonly known as 'Mak

Nyahs' in Malaysia, had a better standard of living during the colonial days and that there were less sex workers then compared to now.

Many were Mak Andams (bride's attendants), joget dancers, cooks or artistes.

He said in an interview with a 63-year-old 'Mak Nyah', it was related that during the colonial days, they were left undisturbed.

Lim said Malaysians must ask themselves why people who are different and who are at the margins of society could not be accepted.

"Why can't we accept them as who they are with compassion, and liberal and progressive ideals, rejecting extremism?" he asked

Lim said: "Human beings should be treated equally, and the principle of non-discrimination is paramount in this respect."

"Individuals should have the right to make their own choices relating to gender identity," he said.