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# Transgenders taking their case to Appeal Court

PETALING JAYA: The Court of Appeal is expected to hear a challenge by three transgenders against the constitutionality of a Negeri Sembilan syariah provision on May 22.

Section 66 of the Syariah Criminal Enactment 1992 prohibits Muslim men from dressing, posing and behaving like women. Offenders face a maximum jail term of six months and a maximum fine of RM1,000.

According to a press statement by the Human Rights Watch (HRW) on May 13, the three petitioners are asking the court to strike down Section 66.

All three identify themselves as female but are described as "male" in their identity cards.

They were arrested because state religious officials considered their attire to be feminine.

"This law has been used repeatedly to arrest transgender women," said Neela Goshal, a researcher on lesbian, gay, bisexual and transgender (LGBT) rights at HRW.

"The government shouldn't be harassing and punishing transgender people for going about their lives peacefully. This is a discriminatory law."

A study carried out by HRW in four states and the Federal Territory of Kuala Lumpur found that transgender women have been subjected to various abuses, including sexual and physical assault, extortion and violation of privacy rights.

These were committed by state religious officials and police departments, according to the research report.

In 2011, religious department officials sexually assaulted Victoria, a transgender woman from Seremban, the report said.

"They were rough," Victoria was quoted as saying. "One of them squeezed my breast. I was completely humiliated. They stripped me naked and one of them took a police baton and poked at my genitals."

Everyone was looking – the men as well as the women. They took photos of my naked body."

An incident in 2010 saw another transgender woman from Seremban, Serafina, physically assaulted by religious department officials who judged her pyjamas to be too feminine.

"They chased me into a hotel and grabbed me. I was hit, punched in the face and choked."

They told me I was guilty. One of them tried to stomp on my chest but I was saved by someone who pulled me to safety."

Abuses against transgender women were an assault on human dignity and violated their basic rights, Goshal said.

"It's horrifying to hear about religious department officials stripping transgender women in front of cameras, poking and prodding at their genitals, and punching them," she added.

According to the applicants' lawyer, Aston Paiva, "people are being criminalised because of something they did not choose, nor can change."

He added: "It's akin to penalising someone for the colour of their skin."

"It's a civil rights issue. It's about harming a person's dignity and devaluing and degrading them because of who they are."

According to Nisha Ayub of Justice for Sisters, the laws serve "as an obstacle to transgender women because the trans-community face violence constantly and are afraid to report it. They feel they are not protected under the law because they are trans people."

The syariah laws and in all 13 Malaysian states prohibit Muslim men from dressing as women.

"The laws do not define what constitutes a man, nor what qualifies as women's attire," said Ghoshal.

Sisters in Islam official Ratna Osman said: "If the appeal hearing is successful, it will be a triumph for the citizens of Malaysia to actually see justice being served."

"Such a decision would be in accordance with the Constitution, and also the basic Islamic principles to uphold human dignity."