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Malaysian launches test case against Islamic gay sex law

By AFP

Bangkok Post (27.05.2020) - <https://bit.ly/301D4Hd> - A Malaysian man has launched the country's first legal challenge against Islamic laws banning gay sex, a test case supporters said Wednesday could help combat growing persecution of the LGBT community.

He was charged last year for allegedly attempting to have "intercourse against the order of nature", and several others in the same case have already pleaded guilty and were caned as a punishment.

Critics say there is a worsening climate for the gay community in Muslim-majority Malaysia, with several states enacting their own Islamic laws banning gay sex.

But campaigners say a victory in the challenge at Malaysia's top court could help halt the trend of local sharia authorities introducing harsh legislation targeting gay people.

"The case could discourage state overreach in terms of law-making," Thilaga Sulathireh, from campaign group LGBTIQ+ Network, told AFP.

The immediate impact of a victory would likely be to halt ongoing cases under the Islamic law only in Selangor state, where the man was charged, but campaigners may then aim to bring cases against other states.

The man, who has not been named, is challenging the accusations levelled against him in an Islamic court at Malaysia's Federal Court on the grounds they breach the constitution, his lawyer Surendra Ananth told AFP.

He said it was the first such challenge in Malaysia.

Malaysia has a dual-track legal system, with Islamic courts handling some matters for Muslim citizens, and sharia laws set by individual states.

Selangor state outside Kuala Lumpur has enacted its own law against gay sex, so-called "intercourse against the order of nature".

But the man will argue that local authorities have no power to criminalise gay sex, as a state cannot enact a law when it already exists at the national level, according to the constitution.

Sodomy is already a crime under Malaysia's national penal code, a legacy of British colonial rule -- although the statute is rarely enforced.

The man was among 11 arrested for allegedly having sex at an apartment in 2018. Four of them admitted to the offence before an Islamic court and received six strokes of the cane, a fine and jail terms of up to seven months.

In another high-profile case, two women were caned in a sharia court in 2018 after being found guilty of having lesbian sex under Islamic laws in Terengganu state.

About 60% of multi-ethnic Malaysia's population are Muslims.
