

# BEING LGBT IN ASIA: INDONESIA COUNTRY REPORT

A Participatory Review and Analysis of  
the Legal and Social Environment for  
Lesbian, Gay, Bisexual and Transgender (LGBT)  
Persons and Civil Society



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United Nations Development Programme

UNDP Asia-Pacific Regional Centre

United Nations Service Building, 3rd Floor

Rajdamnern Nok Avenue, Bangkok 10200, Thailand

Email: [aprc.th@undp.org](mailto:aprc.th@undp.org)

Tel: +66 (0)2 304-9100

Fax: +66 (0)2 280-2700

Web: <http://asia-pacific.undp.org/>

Design: Safir Soeparana/Ian Mungall/UNDP.

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This report documents the presentations and discussions from the Indonesian National LGBT Community Dialogue held in Bali on 13–14 June 2013. Additional information was gained from interviews with Dialogue participants and a desk review of published literature. Please note that due to constant changes in LGBT community advocacy and politics, there may be recent developments that have not have been included in this report at the time of publication.

The organizers would like to gratefully acknowledge all the participants for their participation during the Dialogue and for providing valuable input for the report. A list of organizations is included in Annex 1 of this report.

This report was written by Dédé Oetomo and Khanis Suvianita, with the assistance of Kevin Stevanus Senjaya Halim, Jamison Liang, Safir Soeparna and Luluk Surahman.

All photos in this report are of participants of the Indonesian National LGBT Community Dialogue. They were provided by Deni Ahmad Fauzi of UNDP Indonesia.

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The Indonesian National LGBT Community Dialogue and national report was supported by UNDP and USAID through the regional ‘Being LGBT in Asia’ initiative. Covering eight countries – Cambodia, China, Indonesia, Mongolia, Nepal, the Philippines, Thailand and Viet Nam – this joint learning initiative aims to understand the legal, political and social challenges faced by LGBT people, relevant laws and policies, and their access to justice and health services. The initiative will also review the needs of LGBT organizations, the space they operate in, their capacity to engage on human rights and policy dialogues, and the role of new technologies in supporting LGBT advocacy.



# ACRONYMS

ASEAN	Association of South East Asia Nations.
ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIDS	Acquired Immunodeficiency Syndrome
AMPATI	Aliansi Peduli Acara Televisi Indonesia (Alliance of Concern for Indonesian TV Programmes)
ASC	ASEAN SOGI Caucus
AusAID	Australian Agency for International Development, now changed into DFAT (Department of Foreign Affairs and Trade [Australia])
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CV	Curriculum Vitae
DRG	Democracy, human rights and governance
ECOSOC	Economic and Social Council
FHI	Family Health International
FPI	Front Pembela Islam (Front for the Defence of Islam)
GAM	Gerakan Aceh Merdeka (Free Aceh Movement)
GWL	Gay, Waria, dan Laki-laki yang berhubungan seks dengan laki-laki lain (Gay, Transgender Women and Other MSM)
GWL-INA	Jaringan Gay, Waria dan Laki-laki yang Berhubungan Seks dengan Laki-laki Lain Indonesia, i.e. the Indonesian Network of Gay Men, Transgender Women and Other MSM, related to HIV work
HIV	Human Immunodeficiency Virus
Hivos	Humanistisch Instituut voor Ontwikkelingssamenwerking (Dutch [Humanist] Organization for Development Cooperation)
HIWAD	Himpunan Wadam Djakarta
HRWG	Human Rights Working Group, a coalition of Indonesian NGOs working at the international level
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
ILO	International Labour Organization
ICCPR	International Covenant on Civil and Political Rights
ICT	information and communication technology
IGLHRC	International Gay and Lesbian Human Rights Commission
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
ISEAN	Islands of South East Asia Network of Male and Transgender Sexual Health
KLGI	Kongres Lesbian dan Gay Indonesia (Indonesian Lesbian and Gay Congress)
Kemenkumham	Kementerian Hukum dan HAM (Ministry of Law and Human Rights)
Komnas HAM	Komisi Nasional Hak Asasi Manusia (National Human Rights Commission)
Komnas Perempuan	Komisi Nasional Anti Kekerasan Terhadap Perempuan (National Commission on Violence Against Women)

LBT	Lesbian, bisexual (women) and transgender (men)
LGBT	Lesbian, gay, bisexual and transgender
LGBTIQ	Lesbian, gay, bisexual, transgender, intersex, queer or questioning
LoGa	Law on the Governing of Aceh
MSM	Men who have sex with men
MoU	Memorandum of Understanding
NAC	National AIDS Commission
NGO	Non-Government Organization
PGY	Persaudaraan Gay Yogyakarta (Yogyakarta Gay Brotherhood)
RAN HAM	Rencana Aksi Nasional Hak Asasi Manusia (National Human Rights Action Plan)
RCTI	Rajawali Citra Televisi Indonesia (One of Indonesia's TV Channels)
Rp	Indonesian Rupiah
SOGI	Sexual orientation and gender identity
STI	Sexually Transmitted Infections
SWARA	Sanggar Waria Remaja (Youth Organization for Transgender Women)
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHRC	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal Periodic Review
USAID	United States Agency for International Development
US\$	US Dollar
USG	United States Government
Waria	Wanita Pria (transgender woman)
WH	Wilayatul Hisbah (Shari'ah police in Aceh)





# EXECUTIVE SUMMARY



*Photo: The participants of the Indonesia National LGBT Community Dialogue*

## **BEING LGBT IN ASIA: THE INDONESIA NATIONAL LGBT COMMUNITY DIALOGUE**

### **BACKGROUND**

This report is a product of the Indonesia National LGBT Community Dialogue held in June 2013 in Nusa Dua, Bali, Indonesia. The Dialogue brought together 71 participants from 49 institutions representing the full range of Indonesia's LGBT organizations alongside representatives of the central government, national human rights institutions, donor agencies, universities, non-governmental human rights institutions, legal aid organizations and civil society organizations, as well as religious leaders. It was organized by the United Nations Development Programme (UNDP) in partnership with the United States Agency for International Development (USAID).

The report is part of a broader initiative entitled 'Being LGBT in Asia: A Participatory Review and Analysis of the Legal and Social Environment for Lesbian, Gay, Bisexual and Transgender (LGBT) Persons and Civil Society.' Launched on Human Rights Day, 10 December 2012, 'Being LGBT in Asia' is a first-of-its-kind Asia-wide learning effort undertaken with Asian grassroots LGBT organizations and community leaders alongside UNDP and USAID. With a focus on eight priority countries – Cambodia, China, Indonesia, Mongolia, Nepal, the Philippines, Thailand and Viet Nam – the effort examines LGBT lived experiences from a development and rights perspective.

'Being LGBT in Asia' has a number of objectives. It encourages networking between LGBT people across the region, building a knowledge baseline and developing an understanding of the capacity of LGBT organizations to engage in policy dialogue and community mobilization. Through this work, 'Being LGBT in Asia' promotes understanding of the inherent human rights of LGBT people and the stigma and discrimination faced regionally. It also outlines eight steps toward LGBT-inclusive development work for UNDP and the UN system, USAID and the US Government, and other development partners, through research like this report and other social and multimedia

products. Finally, this initiative highlights the views generated by LGBT participants at community dialogues, linking stakeholders who are working to enhance LGBT human rights across Asia.

## EARLY LGBT MOVEMENT IN INDONESIA

While diverse sexual behaviours and gender identities were known in the Indonesian archipelago in previous times, a homosexual identity only emerged in urban centres in the early twentieth century. It took until the late 1960s for the LGBT movement to emerge through organizing by transgender women, or *waria*, as they came to be known. Gay male and lesbian mobilization occurred in the 1980s with the use of print media and the formation of small groups around the country. HIV provided an impetus for more mobilization in the 1990s, which included the formation of organizations in more locations. This decade also saw the first national meetings and several important developments in the LGBT movement, including alliances with feminist, sexual and reproductive health and pro-democracy and human rights organizations, as well as academics. After dramatic changes in the Indonesia political system and government in 1998, the movement further scaled up and expanded with stronger national organizing, formally funded programmes and the use of human rights discourse to advocate for policy change at the national level. However, success is described as modest overall, with a large number of organizations and individuals working with small successes and changes, without major changes in either legislation or social acceptance.

## FINDINGS

This report reviews the legal and social environments faced by lesbian, gay, bisexual and transgender (LGBT) people in Indonesia. It provides an overview of LGBT rights in Indonesia as related broadly to law, policy, social and cultural attitudes, and religion; and more specifically to employment and housing, education and young people, health and well-being, family affairs, media and information communication technology (ICT), law, human rights and politics, and the capacity of LGBT organizations. The report identifies regional differences in LGBT acceptance and organizing, and how Indonesians' opinion of the law and the presence of corruption affect LGBT rights. An additional section explores the particular situation of LGBT people in Aceh.

Among the report's key findings are:

- **Laws:** National laws generally do not recognize or support the rights of LGBT people, even though homosexuality is not criminalized. Neither marriage nor adoption by LGBT people is permitted. There are no specific anti-discrimination laws that pertain to sexual orientation or gender identity (SOGI). As Indonesian law only recognizes male and female genders, transgender people who do not choose to undergo gender reassignment surgery can have problems with identity documents and related issues. Homosexuality is criminalized in local ordinances where it is seen as an immoral behaviour, although four out of five relevant ordinances do not state an explicit punishment. Police generally fail to protect LGBT people from attacks by hardline Islamist activists and thugs. Those LGBT people who are classified as vagrants for being in public spaces may be subject to abuse and extortion at the hands of officials.

Indonesians often view law and its enforcement practices as corrupt. This context has broad negative effects on the development of LGBT rights in Indonesia, as activists and individuals may not feel confident in laws and policies to be able to protect them, and be unwilling due to perceived or real corruption to appeal to legal institutions or advocate for change in this area.

- **Policies:** Policies related to LGBT rights are variable with some national commissions recognizing and supportive of LGBT people, and expressing official support of LGBT populations as a result of

the HIV epidemic. Progress has been made in LGBT rights due to the movement adopting universal human rights principles and strategies in the last few years, with LGBT organizations and individuals participating in national human rights reviews and processes, which has raised awareness of SOGI issues. This work included nominations of LGBT individuals to the National Human Rights Commission, unsuccessful ultimately but not without some benefits to the community in raising awareness and pride, which should encourage further LGBT activism.

- **Politics:** There have not been any successful openly gay LGBT politicians but there is potential in working with LGBT-friendly candidates.
- **Discrimination:** Discrimination against LGBT individuals in the workplace does not receive significant attention, and there are an absence of anti-discrimination laws as well as clear policies or statements related to LGBT people in the workplace. Gender-conforming lesbians and gay men can avoid discrimination by being closeted. Most discrimination is directed at transgender women, who face challenges with stable employment, prejudice, housing and identity cards, both in obtaining them and in that they do not indicate their chosen gender.
- **Cultural and Social Attitudes:** There is a contrast between those who are progressive and accepting of LGBT people and a much larger population who are generally ignorant of SOGI issues. Transgender persons have higher visibility. Most people do not know openly LGBT people. Some tolerance rather than acceptance may be demonstrated towards people with diverse sexual orientation or gender identity, though this is unlikely to be true for family members. The population of Indonesia is mostly Muslim and Christian and generally these religions are interpreted in a conservative way that disapproves of homosexuality and influences the whole of society in a negative way, in spite of some more progressive and accepting religious individuals. Regional differences in the development of LGBT communities and activities are noted, with more challenges found in conservative provinces dominated by Islamic and Christian teachings. Aceh province represents a particularly challenging situation for LGBT organizing due to laws based on Shariah, resulting in general difficulties in raising LGBT issues and the active possibility of anti-LGBT local by-laws. To improve social and cultural acceptance of LGBT people, public awareness campaigns and working with supportive allies were identified as key strategies.
- **Family:** The family unit is arguably the greatest influence on the lives of LGBT people, yet acceptance by families is limited by strong cultural pressures to enter a heterosexual marriage and form a family, as well as by the influence of religion. Marriages of convenience are common. Livelihood programmes may allow LGBT individuals to build independence from families.
- **Health and well-being:** Information and resources for the health and well-being for LGBT people are predominately related to HIV and STIs. Sexual and reproductive services are aimed at heterosexuals. There is a need for counselling and attention to psychosexual and sexual well-being issues for all LGBT people, information and support for transgender people in relation to hormone therapy, and to expand and build on training for health workers to be sensitive to LGBT issues and people.
- **Education and young people:** A general lack of education on sex and sexuality in schools, and of issues specifically related to LGBT sexuality, combined with a lack of information and guidance from parents, is harmful to the self-esteem of young LGBT people. Some LGBT organizations and NGOs provide resources and organize events to address this gap. Bullying of LGBT students is of concern.
- **Media:** Indonesian media vary in their coverage of LGBT issues, ranging from supportive to hostile. Training of LGBT activists in media issues and of those who work in the media in LGBT issues

is necessary along with a more strategic approach for media engagement. At the same time, information communication technology is being used by LGBT individuals and organizations to disseminate information and develop and publish cultural materials – in spite of some problems with website blocking by service providers at the behest of the government. This medium shows potential for building LGBT communities.

- **Capacity of Grassroots Organizations:** Organizing is easier in large cities and more challenging where the population is sparse, which causes difficulty in communication and transportation. There are a relatively large number of organizations in Indonesia: two national networks and 119 organizations in 28 out of the 34 provinces in the country, diverse in their composition, size and age. They are active in health issues, publishing and organizing social and educational activities. The organizations surveyed view their access to funding sources as generally weak, with challenges in human resources and organizational management. Their leadership capacity was viewed more positively. Organizations face challenges in knowing how to legally register, organizing activities in the face of violent opposition from thugs and Islamist groups, and the lack of official support and protection from government and police. Their involvement in advocacy and policy-making could be improved.

## RECOMMENDATIONS

The National Dialogue produced recommendations addressed to the Indonesian LGBT community, the government of the Republic of Indonesia and international institutions, to be followed up on and prioritized over the next three years.

### *Recommendations to the LGBT Community and Organizations in Indonesia*

In view of the importance of working with a human rights based approach, and the low level of understanding and practice of human rights work, make LGBT human rights advocacy one of the main strategies in each organization, and play an active role in policy advocacy at the regional, national, and international level through UN human rights mechanisms and the ASEAN human rights mechanism.

In view of the increase in the use of ICT, and the resistance of conservative elements, including within the government, to permit discourse on gender and sexual diversity, ensure organizational safety and security systems to protect LGBT people, and ensure that every organization that uses social media as a campaign tool understands relevant policies (such as the Electronic Information and Transaction Law and the Pornography Law).

Strengthen the capacity of LGBT organizations in Indonesia in the areas of: SOGI and human rights, advocacy and policy (international, regional, national, and local levels), counselling services, protection of LGBT human rights activists (including security in the use of ICT), investigation and case advocacy, documenting human rights violations, human rights and religion, gender and sexuality, and sexual and reproductive health rights with the active involvement of legal and human rights institutions at national and regional levels.

Promote education about SOGI and human rights within the LGBT community and to parents and families through both LGBT organizations and non-LGBT human rights and education organizations at the national and at regional level by involving human rights and legal institutions.

Strengthen networking and collaboration with non-governmental agencies from legal and human rights organizations (including Human Rights Working Group (HRWG), Legal Aid Foundation, and others), the media (including the Alliance of Indonesian Journalists, the Association of Internet Service Providers in Indonesia, ICT

Watch, Media Watch, and mainstream media including television, radio, and print sources), knowledge centres, and the private sector in promoting and mainstreaming human rights and SOGI issues.

Strengthen human rights advocacy networks among LGBT organizations in Indonesia through active participation in Forum LGBTIQ Indonesia and activities and advocacy campaigns on social media.

Actively participate in a variety of dialogues and coalitions at the regional, national, and international level and actively encourage constructive dialogues related to LGBT human rights in Indonesia (e.g. Internet Governance Forum, the ASEAN People's Forum, ILGA conferences, UN human rights mechanisms, Alliance One Vision, and others).

### ***Recommendations to the Government of the Republic of Indonesia***

Officially recognize the existence of LGBT people of diverse SOGI as an integral part of Indonesian society as well as respect and protect the human rights of LGBT people as of other Indonesian citizens, both at national and international levels through existing human rights mechanisms. *This recommendation is addressed to the President of the Republic, the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the National Human Rights Commission, the National Commission on Violence Against Women, the Indonesian Child Protection Commission, the Representative of Indonesia in the ASEAN Intergovernmental Commission on Human Rights (AICHR), the Indonesian Representative in the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), and the Representative of Indonesia in the United Nations Human Rights Council (UNHRC).* These institutions and individuals should develop national mechanisms to promote the human rights of LGBT Indonesians and incorporate LGBT and SOGI issues into the National Human Rights Action Plan (RAN HAM), the National Plan of the National Human Rights Commission including the National Commission on Violence against Woman and the Indonesian Child Protection Commission, the State Accountability Report in UN human rights mechanisms (including UPR, ICCPR, ECOSOC, and CEDAW), and the ASEAN human rights mechanism (including AHRD), as well as promote the Yogyakarta Principles. All of this must be done with the active involvement of LGBT people.

Stop all forms of discrimination and violence based on sexual orientation and gender identity whether committed by state officials (including police and municipal police) or the general public (including faith-based organizations) by proposing anti-discrimination laws or policies. Furthermore, fully investigate human rights violations facing LGBT people, including cases which have not yet been resolved. *This recommendation is addressed to the Indonesian National Police, the National Human Rights Commission, Ministry of Law and Human Rights and the Ministry of the Interior.*

Prioritize the review of all state policies (including local ordinances) that directly or indirectly criminalize and discriminate against LGBT people, and harmonize national laws, policies and legal practices with the Yogyakarta Principles. *This recommendation is addressed to three state institutions that have the authority to evaluate state policies, including the Ministry of the Interior (executive branch), Parliament (legislative branch), and the Constitutional Court (judicial branch).*

Create and circulate a technical guide to government registration of LGBT organizations that contains the principle of anti-discrimination against LGBT people. *This recommendation is addressed to the Ministry of Justice and Human Rights.*

Mainstream human rights and SOGI issues within national institutions, in particular the Ministry of Justice and Human Rights, the Ministry of Education and Culture, the Ministry of the Interior, the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Housing, the Ministry of Manpower and Transmigration, the Ministry of Social Affairs, the Ministry of Women's Empowerment and Child Protection, the Ministry of Communications and Information Technology, the Ministry of Religious Affairs, the National Human Rights Commission, the National

Commission on Violence Against Women, the National Commission on Child Protection, the Ombudsman, the Indonesian Broadcasting Commission, the State Consumer Protection Board, the House of Representatives, the Supreme Court, the Constitutional Court, as well as within the private sector and media. *This recommendation is addressed to the President of the Republic and the relevant executive, legislative, judicial, and autonomous organs of the state.*

Mainstream human rights and SOGI issues within state institutions at the local level (including governors, regents, district leaders, and village heads), Parliament, the Ministry of Justice and Human Rights, the Population and Civil Registration Department, and the Department of Manpower and Transmigration, as well as the private sector. *This recommendation is addressed to the President of the Republic and the Ministry of the Interior.*

Encourage reporting of LGBT news that is unbiased, constructive, and inclusive of SOGI and human rights issues so as to improve public opinion. *This recommendation is addressed to the Ministry of Communications and Information Technology and the Indonesian Broadcasting Commission.*

Mainstream SOGI and human rights issues in the national education curriculum starting from the secondary school level. *This recommendation is addressed to the Ministry of Education and Culture.*

Conduct campaigns against discrimination facing the LGBT community in local governments and among society at large through events such as public forums. *This recommendation is addressed to the Ministry of Interior and the Ministry of Justice and Human Rights.*

Provide safe houses, shelters, and nursing homes in every province, guaranteeing the welfare of LGBT people who are in need of them. *This recommendation is addressed to the Ministry of Health, the Ministry of Social Affairs, and the Ministry of Welfare and Housing.*

Urge central and local governments to provide inclusive health services for LGBT people, including LGBT youth, as well as engage with Lesbian, Bisexual, and Transgender (LBT) groups in programmes of sexual and reproductive health rights. *This recommendation is addressed to the Ministry of Health and the Ministry of Women's Empowerment and Child Protection.*

### ***Recommendations to Multilateral and Bilateral Organizations***

Mainstream SOGI and human rights issues in international initiatives in Indonesia through LGBT-inclusive policies and support capacity building programmes of LGBT organizations in Indonesia, both technically and institutionally. *This recommendation is addressed to the United Nations and in particular to agencies operating in Indonesia, such as UNDP, UNESCO, UNICEF, UN Women, ILO as well as to multilateral and bilateral agencies including the World Bank, Asian Development Bank, USAID, AusAID, and the European Union.*

Facilitate multi-stakeholder dialogues between various stakeholders and policy makers to raise awareness on SOGI and human rights issues. *This recommendation is addressed to all international institutions operating in Indonesia, including foreign embassies and bilateral and multilateral organizations.*

Prepare a public transparency report regarding the impact of international aid given to Aceh after the tsunami in 2004, particularly in relation to the promotion of democracy and human rights in Aceh as they concern LGBT people. *This recommendation is addressed to the United Nations through UNDP.*

Actively campaign for the human rights of LGBT people in the public sphere and through social media, as well as ensure that official UN websites provide educational and informative content in Indonesian related to human rights of LGBT people in Indonesia. *This recommendation is addressed to the United Nations through UNDP.*



# INTRODUCTION



## BEING LGBT IN ASIA

'Being LGBT in Asia: A Participatory Review and Analysis of the Legal and Social Environment for LGBT Civil Society', a collaboration between UNDP and USAID, seeks to understand, map and analyse the situation of LGBT rights in communities and countries by producing an analysis and review of the situation of the LGBT community and their human rights in specific countries in Asia. The initiative comes at a time in the midst of the human rights challenges faced by LGBT people worldwide, but increasing international engagement with the UN Secretary-General, UNDP Administrator, UN OHCHR, and US President and Secretary of State expressing concerns.

By developing important new knowledge and connections, 'Being LGBT in Asia' seeks to improve the networking of LGBT organizations in South, East, and Southeast Asia and to inform policy and programming in the development context through a participatory process that emphasizes innovative approaches, including the use of video, the internet, and social media. The initiative aims to achieve two-way learning, establish a baseline vis-à-vis legal and human rights issues, and empower LGBT participants. It will also help to create multimedia and social media tools and resources, engage youth leaders to support LGBT civil society, and to improve the capacity of the US Government and the UN family to work with LGBT civil society organizations across Asia.

An important objective of 'Being LGBT in Asia' is bringing together emerging communities of practice among individuals and organizations working on LGBT issues throughout the region, in the eight participating countries in particular, including development partners, governments, LGBT civil society organizations, and faith-based organizations. By investing in and developing a network of creative interactions among agencies and grassroots development partners, stakeholders

will be better positioned in the future to realize LGBT-inclusive development approaches and programming. In each country, a national LGBT community dialogue is the first key activity of the initiative.



## THE INDONESIAN NATIONAL LGBT COMMUNITY DIALOGUE

The Indonesia National LGBT Community Dialogue was held in Nusa Dua, Bali on 13 and 14 June 2013 as a key activity of the Indonesian component of the 'Being LGBT in Asia' initiative. The Dialogue was organized in collaboration with two national networks, the HIV-related GWL-INA, comprising community-based and non-governmental organizations working to control HIV among gay men, transgender women and other men who have sex with men (MSM), and the Forum LGBTIQ Indonesia, comprising many of the same organizations as well as other organizations working with lesbians, bisexual women and transgender men (LBT), and organizations working on human rights based on sexual orientation and gender identity.

The National Dialogue was attended by 71 participants from 49 institutions, including representatives of LGBT organizations from 15 of 34 provinces alongside representatives from the central government, national human rights institutions, donor agencies, universities, non-governmental human rights institutions, legal aid organizations and civil society organizations, as well as religious leaders.

Specifically, the participants were from the Ministry of Justice and Human Rights (Kemenkumham), the National Human Rights Commission (Komnas HAM), the National Commission on Violence Against Women (Komnas Perempuan), the Gender and Sexuality Studies Center at the University of Indonesia, the Jakarta Theological Seminary, the International Conference on Religion and Peace, the ASEAN SOGI Caucus (ASC), the Australian Agency for International Development (AusAID), the Dutch development cooperation organization Hivos, the Human Rights Working Group (HRWG), the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Asia, Islands of South East Asia Network of Male and Transgender Sexual Health (ISEAN), Strategic Asia, World Bank, UNAIDS, the Indonesian Legal Aid Foundation, and 36 LGBT organizations.<sup>1</sup> Also present were activists from the organizing networks, GWL-INA and Forum LGBTIQ Indonesia, officials and support staff from the regional and national offices of UNDP and USAID, and the two facilitators of the meeting.



## THE INDONESIAN NATIONAL LGBT REPORT

This report encompasses the findings of the Indonesia National LGBT Community Dialogue and includes findings from a desk review and analysis of published literature on LGBT issues in and about Indonesia. Following the Executive Summary which includes recommendations for the LGBT community and organizations, government and international institutions, the report's introduction is followed by a brief history of LGBT advocacy in Indonesia including a historical perspective on diverse sexual orientations and gender identities and a review of the LGBT movement's development over the last decades. An overview of LGBT rights in Indonesia as related to law, policy, social and cultural attitudes, and religion is provided, along with an exploration of regional

<sup>1</sup> For a directory of LGBT organizations in Indonesia compiled by GWL-INA and Ardhanary Institute, please see Annex 1. Organizations participating in the National Dialogue are starred (\*).



differences in LGBT acceptance and organizing and how Indonesians' opinion of the law and the presence of corruption affect LGBT rights. An additional section explores the particular situation of LGBT rights in Aceh.

The exploration of the protection of LGBT rights in Indonesia is mainly derived from discussion groups held at the National Dialogue and covers the areas of employment and housing, education and young people, health and well-being, family affairs, media and ICT, and law, human rights and politics. Case studies that illustrate relevant human rights contexts have been included, mostly based on reports from dialogue participants. A final section reports on the findings of a survey on the capacity of LGBT organizations in Indonesia.



# A BRIEF HISTORY OF LGBT ADVOCACY IN INDONESIA

A homosexual identity in Indonesia only emerged in urban centres in the early decades of the twentieth century. Before this, diverse sexual behaviours among men are known to have been practised in the context of performing and martial arts, spirit medium and shamanistic rituals, rite of passage initiations or just in daily life in all-male settings in many of the Indonesian archipelago's ethnolinguistic groups, with identities sometimes connected to these contexts. Less is mentioned in the literature about this phenomenon among women, though one occasionally reads about sexual behavior between women in the women's quarters of palaces and Islamic boarding schools. The fact that women and men's sexuality can be diverse and the pressure to form a heterosexual family is very strong means that bisexuality is fairly common, although a bisexual identity is not.

Similarly, legends of intersexed deities are known and diverse gender expressions and identities have been common and tolerated in many ethnic communities in similar cultural contexts. Some ethnolinguistic groups have provided the possibility of crossing genders and assigned specific roles for those who do so. Nevertheless, only in the second half of the twentieth century did a transgender identity, the male-to-female transgender (*banci* or *bencong* in Indonesian), come into being, again in urban centres, that was not necessarily connected with the aforementioned contexts.

Significantly, a female-to-male transgender identity is less clear. What we must add is that for ordinary Indonesians, real-life transgender women are much better known than gay, lesbian or bisexual people. In other words, non-conforming sexual orientation or behaviour is often perceived as non-conforming gender expression or identity (Oetomo 1996, 2000).

LGBT advocacy in Indonesia started with the formation of Himpunan Wadam Djakarta (Hiwad, Jakarta Association of Transgender Women) in the late 1960s, facilitated by the then Governor of Jakarta, Marine General Ali Sadikin. The term *wadam* (*wanita Adam*, "Adam woman") was coined to substitute for the pejorative *banci* or *bencong*. In

1978 the term was replaced by *waria* (*wanita pria*, “man woman”) because the Council of Muslim Clerics deemed it inappropriate to use a prophet’s name (Adam) in the term referring to men who express their gender more like women. Functioning as a social and cultural safe space, the organization was soon followed by similar ones in other major urban centres, some of which still exist today. Many of them received support from local governments, usually through the Social Affairs Department, on the basis of an understanding that transgender women are a disadvantaged or psychologically disabled group. The organizations attempted to boost transgender women’s morale and livelihood by showing that they are useful members of society. Society was then supposed to accept them and treat them humanely.

Homosexual men started organizing in 1982 with the foundation of Lambda Indonesia. The founders made use of letters to the editor sections of key national newspapers to announce its formation, as well as direct mailings to dozens of gay men who had responded to earlier letters, inviting them to start organizing openly. While the gay founders attempted from the start to invite lesbians, the organization and the local chapters that later formed were dominated by men. Also significantly absent were transgender women, though in some localities, they helped spread the word about the organization.

While using concepts from the West such as “coming out” and “liberation”, the founders were aware that the organization had to embrace local communities and deal with local issues. The key term used in the founding document is “emancipation”, referring to the emancipation of women which had started earlier in the twentieth century. Without explicitly mentioning human rights, the articles in Lambda Indonesia’s magazine, *G: gaya hidup ceria* (G [pronounced “gay” in Indonesian]: the gay lifestyle, 1982–1986),<sup>2</sup> exhorted gay men and lesbians to disclose their identity, because homosexuality is not a psychological disorder or disease, and homosexual acts are not a crime under Indonesia’s penal code. Culturally, the organization pointed out the acceptance or institutionalization of homosexuality and transgenderism in societies that later formed the Indonesian nation (as described above). Attempts were also made to reinterpret tenets of Christianity and Islam, and to a lesser extent Buddhism and Hinduism, to show that homosexuality does not violate them.

In 1986 a few Jakarta lesbians, encouraged by the 1981 wedding of two women covered by the media and inspired by their participation in Lambda Indonesia’s Jakarta chapter, set up Persatuan Lesbian Indonesia (Perlesin, Indonesian Union of Lesbians). The organization was not as public as its gay counterpart; it lasted less than a year (Agustine 2008).

Lambda Indonesia’s national leadership also fizzled out by 1986, although some of its chapters continued activities. In 1985 the chapter in Yogyakarta set itself up as an independent local organization, Persaudaraan Gay Yogyakarta (PGY, Yogyakarta Gay Brotherhood) that also published a periodical, *Jaka* (Young Man). A few former activists in Lambda Indonesia’s Surabaya chapter founded the Indonesian Lesbian and Gay Working Group (Kelompok Kerja Lesbian dan Gay Nusantara, or GAYA NUSANTARA in short), with a periodical also called *GAYA NUSANTARA*. One of their goals was to encourage the formation of communities and organizations in various parts of the nation. PGY renamed itself the Indonesian Gay Society in 1988 and continued to publish a periodical, *Jaka-Jaka*, and held regular meetings and discussions in Yogyakarta, attracting not only local gay men but also others from around Central Java.

As early as 1983 the media started covering the movement, some with a voyeuristic, sensationalist slant and others more seriously. The media had already reported on the *waria* movement from its beginning in the late 1960s. While activists were initially cautious not to always reveal their identities, by the mid-1980s a few began to be bolder and gave interviews as well as wrote in the media and were invited to seminars organized by universities and social organizations. An increasing number of gay men and a few lesbians would write to

2 All eight issues of the publication are available at <http://gn-download.blogspot.com/search/label/gaya%20hidup%20ceria>.

publishers to be connected to the organizations. Many of these then subscribed to the periodicals by mail or bought them at designated points. The readers of periodicals like *G: gaya hidup ceria*, *Jaka*, *GAYa NUSANTARA* and *Jaka-Jaka* contributed fiction and non-fiction, as well as sketches and cover photographs. To a large extent the media and the post office network were instrumental in supporting the growth of the early movement and these organizations, which also reached out to existing local communities.

By the early 1990s the increasing media coverage of HIV, which almost always mentioned homosexual men and transgender women, became another opportunity for the few organizations that appeared in the media to reach out to their constituencies. The first few years of the decade saw the formation of organizations in Bandung, Jakarta, Pekanbaru, Denpasar, Malang, and Makassar. Lesbians and transgender men also tried to organize again in Jakarta, Makassar and Singaraja. Chandra Kirana, the Jakarta lesbian collective, produced their own periodical, *Gaya Lestari*, that was published as an insert in *GAYa NUSANTARA* for a couple of years.

By late 1993 there were enough organizations and individual activists to hold the first Indonesian Lesbian and Gay Congress (KLG I) in Kaliurang near Yogyakarta. More organizations sprang up in different parts of the country: Medan, Batam, Ambon and so forth. Two more congresses were held: KLG II in Lembang, near Bandung (1995), and KLG III in Denpasar (1997). The number of participants in the meetings grew; they were representatives of organizations, individual activists and those active within caucuses in sexual and reproductive health and rights organizations. Lesbian participation was very small, and no transgender activists took part. The 1997 Congress was the first to be reported in a local newspaper.

In addition to those who were active in the different organizations, members of communities, often together with organizational activists, organized small and large parties, either at cafés or restaurants in town or at resorts on the slope of a mountain. People would come from other islands to Java for the bigger parties. Throughout the 1990s, the most famous was September Ceria, held on the first Saturday night of September in the hill resort town of Tawangmangu, near Solo. Thus at the third Congress, it was decided that instead of congresses held in different parts of the country, starting in 1999 the gathering of activists would take the form of a working meeting to be held in Solo a few days before September Ceria.



Photo: Participants at work during a breakout session at the National Dialogue

Throughout the 1990s, lesbian communities organized gatherings and other events in different cities, and there were attempts to set up organizations. Towards the end of the decade Swara Srikandi (Voice of Srikandi<sup>3</sup>) was formed in Jakarta, with chapters or correspondents in other cities. Lesbians in Singaraja and Makassar continued activities started in the previous decade. Lesbians were also active, openly or discreetly, in the increasingly vibrant feminist movement, which had also started in the 1980s.

The 1990s saw several developments in terms of support from various national and local ally organizations:

1. Many feminist organizations, though not all, were increasingly supportive of discourse on lesbians, female sex workers, and former women political prisoners.
2. Some sexual and reproductive health organizations, specifically Planned Parenthood associations and HIV service organizations, provided safe space and support for occasional activities, often disguised as activities for young people.
3. Pro-democracy and human rights organizations started to raise LGBT rights as a human rights issue, lending respect and legitimacy to the movement.
4. A few academics organized study groups and seminars relying on academic freedom, and also organized gender and sexuality trainings, often discussing gender and sexual diversity.

The dramatic changes in the political system and government in May 1998 opened the doors for a scaled-up, expanded movement:

1. The Indonesian Women's Congress in December 1998 officially included representatives of lesbians, bisexual women and transgender men (LBT). The Indonesian Women's Coalition for Justice and Democracy (Koalisi Perempuan Indonesia untuk Keadilan dan Demokrasi [KPI]) confirmed at the Congress that they officially included Sector XV, comprising LBT people. While there has been resistance in some more conservative provinces to the inclusion of LBT people, in areas where this framework has existed, it has empowered LBT people to organize.
2. An approach based on human rights became increasingly explicit in the work of many existing and emerging LGBT organizations. Further collaboration with mainstream human rights organizations became possible.
3. While the discourse around HIV in the media in the previous decade had increased visibility of issues around gay men and transgender women, an ad hoc response to HIV was replaced by strategic, systematic and properly funded programmes. National consultations were conducted in 2001 and 2004, and by early 2007 the Indonesian Gay, Transgender Women and Other MSM Network (Jaringan GWL-INA) was formed, with support from national, bilateral and international partners (Anonymous 2012).
4. After the 3<sup>rd</sup> ILGA-Asia Conference in Chiang Mai, Thailand in January 2008, six LGBT organizations based in Jakarta, Surabaya, and Yogyakarta united to strengthen the movement. This was the beginning of the Forum LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex & Queer) Indonesia.

The GWL-INA Network has been able to partner with the National AIDS Commission to develop and do capacity-building with communities and organizations in many parts of the country, though the strength and quality of programmes varies. This extensive network has been fairly successful in expanding HIV work but less so in advocacy concerning human rights related to sexual orientation and gender identity. While an approach based on human rights is integrated in the National AIDS Strategy 2011–2014, in practice, it has not translated into much action. A report commissioned by Hivos evaluated a two-year training programme in LGBT human rights

3 Srikandi (Sikhandi, Sans.) is a character in the Indian Mahabharata epic popular in many Indonesian cultures. Depending on the version, she is either a woman who swaps gender with an ogre to become a man or a female warrior. The name refers to powerful women and has been used by both lesbian and transgender women organizations in their names.

monitoring and documentation that paired twenty LGBT organizations with so-called mainstream human rights organizations (2011–2012).<sup>4</sup> It came to the conclusion that most LGBT activists in Indonesia generally prefer to adapt to existing conditions than to change society, i.e. their cultural preference appears to be to generally work around existing barriers rather than to seek to fundamentally change the system to make it more equal or accepting.

Forum LGBTIQ Indonesia, more loosely organized and less securely funded than the GWL-INA Network, has managed to be active in organizing at the national and regional (ASEAN) levels. With support from GAYa NUSANTARA and Arus Pelangi, two organizations committed to human rights work, the Forum had been able to integrate a section on sexual orientation and gender identity (SOGI) in the civil society reports coordinated by Human Rights Working Group (HRWG), a coalition of human rights organizations working at the international level, in the framework of Indonesia's second Universal Periodic Review (2012) at the UN Human Rights Council<sup>5</sup> – as well as in the review of Indonesia at the UN Human Rights Committee as a signatory of the International Covenant on Civil and Political Rights (ICCPR) in 2013. The Forum has also been active in the ASEAN SOGI Caucus, including the debates around the drafting of the ASEAN Human Rights Declaration throughout 2012.

Despite these international achievements, local and national success has been patchy. An understanding of human rights issues as related to SOGI is growing, especially among younger activists, but many still cannot imagine a different reality or condition when it comes to being LGBT in Indonesian society; the status quo is strong. The ability of activists to think or act differently is adversely affected by strong conservative discourses, heteronormative in nature that maintain existing cultural and religious values. Examples of these discourses can include whether coming out is appropriate in the Indonesian context, and the oppressive pressure to engage in heterosexual marriages. This is the objective context in which activists and LGBT rights organizations work, and which needs changing to create conditions in society more conducive to the protection and promotion of human rights of LGBT Indonesians.

4 The programme was implemented by GAYa NUSANTARA on behalf of Forum LGBTIQ Indonesia. Support came from the Ford Foundation and was administered through Hivos.

5 The first civil society report exclusively on SOGI issues had been compiled and submitted by IGLHRC with support from GAYa NUSANTARA and Arus Pelangi in 2008.



# OVERVIEW OF LGBT HUMAN RIGHTS IN INDONESIA

The following section provides an overview of LGBT human rights in Indonesia in relation to laws, policy, social and cultural attitudes, and religion. It describes variations between regions in Indonesia as well as the effect of corruption on the protection of human rights. The overview draws from primarily from desk research and the expert knowledge of the report writers.



## LAWS

Indonesian law stipulates there are only two genders: men and women. One can infer this from the explicit mention of men and women in the Marriage Law (No. 1/1974) and from a similar mention in the contents of the identity card in the Population Administration Law (No. 23/2006). This is a problem for transgender persons, since the discrepancy between their stated gender and their appearance could cause problems in accessing services, traveling, business permits and the like. Local authorities, often as a result of advocacy by transgender or HIV service organizations, have made ad hoc exceptions, but this is not always possible and could change at any time.

Intersexed babies born with visibly ambiguous genitals at major hospitals often undergo corrective surgery if the parents can afford the cost. Religious authorities who know little about intersexuality are consulted, which does not always help. Those with less visible indicators only approach medical authorities when they are adults and have problems with gender identification. The most celebrated case is that of Alter(ina) Hofan, who was born with Klinefelter's syndrome, was gendered as a girl, but later had corrective surgery of the breasts and genitals and was officially granted a

change of gender in court to be a man. When he married a woman, the mother-in-law accused him of falsifying his gender (Wieringa 2010).

While there is no law explicitly penalizing the expression and appearance of the opposite gender, in a few cases where a person changes their gender in personal documents (without prior gender reassignment surgery), usually in order to get married, they have been prosecuted and convicted of falsification of identity.

The following story is based on documentation carried out by the LBT organization Ardhanary Institute:

[In] ... a 2011 case from Central Java, ... a 26-year-old trans man known as Rega wound up in jail after the family of his bride “discovered” he was born a woman on the day of his wedding. His 17-year-old bride, identified in news reports as Siti, claimed she had no idea that her groom was biologically female even though they had had sex repeatedly while they were dating. Rega was charged with fraud and having sex with a minor, and was forced to hold up the sex toys he used to “trick” Siti during the trial. He wound up serving 18 months in prison.<sup>6</sup>

Ardhanary Institute documented ten more such cases in the past three years.

On the other hand, based on jurisprudence from the verdict in a case of a legal gender change in 1973 involving a male-to-female transsexual, Vivian Rubianti (née Iwan Rubianto), it is possible, after gender reassignment surgery, for someone to go to court and request a gender change. (Boellstorff 2007, n. 25)

Sex between consenting adults (defined as 18 years of age by the Law on Child Protection, No. 23/2002) of the same sex or gender is not criminalized in the Indonesian Penal Code, which was largely adapted from the Netherlands Indies Penal Code.

There are five exceptions where homosexuality is criminalized in local ordinances:

1. Provincial Ordinance on the Eradication of Immoral Behavior (No. 13/2002) in South Sumatra. This classifies homosexual acts and anal sex performed by men (without specification whether insertive or receptive) as immoral behaviour, along with acts such as prostitution, adultery, gambling and the consumption of alcoholic drinks.
2. City Ordinance on the Eradication of Prostitution (No. 2/2004) in Palembang, capital of South Sumatra Province. It is similar to the Provincial Ordinance, but uses the term “prostitution” instead of “immoral behavior.”
3. District Ordinance on Social Order (No. 10/2007) in Banjar, South Kalimantan Province. It mentions “abnormal” homosexual and heterosexual acts (in addition to “normal” ones) in its definition of “prostitute.” No explanation is given for “normal” or “abnormal” acts. It also prohibits the formation of organizations “leading to immoral acts” that are “unacceptable to the culture of [local] society.” These are later explained by giving examples of lesbian and gay organizations “and the like.”

<sup>6</sup> J. Lester Feder, “The Hidden History of Same-Sex Marriage In Asia,” BuzzFeed 28 Oct 2013, <http://www.buzzfeed.com/lesterfeder/the-hidden-history-of-same-sex-marriage-in-asia>, accessed on 30 Nov 2013.



4. City Ordinance on the Development of a Value System in Social Life Based on the Teachings of Islam and Local Social Norms (No. 12/2009) in Tasikmalaya, West Java. It prohibits adultery and prostitution, both heterosexual and homosexual.
5. City Ordinance on the Prevention, Eradication and Prosecution of Social Ills (No. 9/2010) in Padang Panjang, West Sumatra. The section with definition of terms explicitly mentions “homosexual and lesbian” relationships and later prohibits such relationships and prohibits persons from “offering themselves for homosexual and lesbian relationships either with or without payment.”

The first four ordinances are vague when it comes to the punishment of such immoral behaviours. They generally mention “existing laws”, referring to national legislation. The fifth one, though, explicitly mentions the punishment for different immoral behaviours as a maximum of three months jail or Rp10,000,000 (approx. US\$835) fine.

Another local ordinance on immoral behaviours was passed by the Provincial Legislature of Aceh<sup>7</sup> in 2009, criminalizing consensual sex between adult men and adult women, but the draft has not been signed into law by the Governor.

It is interesting to note that *waria* (transgender women) are never mentioned in the ordinances. This appears to be the logical consequence of the assumption of only two genders in the country’s law. They are considered men under Indonesian law.

While the five local ordinances could be seen as exceptions to the rule, LGBT human rights activists and their allies in the mainstream and feminist human rights movements often worry that demands by conservative legislators and pressure groups, based on their interpretation of Islamic *shariah*, may become increasingly vocal and that this could translate into more similar local, and perhaps even national, legislation. *Shariah* is generally described as:

a comprehensive set of standards governing all aspects of life from religious observance, to banking, to proper social conduct, derived primarily from the Quran, the central religious text of Islam, and the hadiths, a collection of sayings and descriptions of the sunna, or exemplary and normative conduct, of the Prophet Muhammad.<sup>8</sup>

The politicians’ interpretation defines the State as a controlling agency to ensure that Muslim citizens adhere to the doctrines of their religion.

One should also look at the other local ordinances that regulate sexual acts in general and in relation to prostitution and dress, which, while not explicitly mentioning *shariah*, are clearly inspired by it. Furthermore, while there is, under the current regional autonomy system of governance, a mechanism to challenge local ordinances that go against national legal and human rights principles, the national government has ignored such challenges. National policymakers and law seem to compete in bowing to pressures from Islamist groups and largely believe in and practise human rights interpreted to further their own interests as well in accordance with the view that local traditional values should be upheld in regulating “deviant” behaviour.

<sup>7</sup> Aceh is a special region officially governed using Islamic *shariah*.

<sup>8</sup> Christen Broecker et al., *Policing Morality: Abuses in the Application of Sharia in Aceh, Indonesia*. (New York etc.: Human Rights Watch, 2010), p. 13.

The Pornography Law (No. 44/2008) includes “deviant sexual intercourse” as one of the contents of pornography. In the explanation of the term, it is defined to include “necrophilia, bestiality, oral sex, anal sex, lesbians [sic], and homosexuals [sic].” While what is prohibited is the production and dissemination of pornography, the understanding among many gay men and lesbian women is that the law criminalizes homosexual sex.<sup>9</sup> Again, transgender persons are remarkably not mentioned.

Government Regulation No. 54/2007 on Adoption explicitly stipulates that the adopting parents may not be a homosexual couple. Adoptions by single persons are not allowed.

There is no anti-discrimination law on the basis of sexual orientation and gender identity. Theoretically there is a guarantee of protection against discriminatory practices based on any ground in the Constitution and the Human Rights Law (No. 39/1999). Similarly, the Labor Law (No. 13/2003) prohibits discrimination in employment. However, this is little known in LGBT communities, and has not been used in court in a case to challenge discrimination against LGBT people.

The Indonesian Broadcast Commission, in its 2012 Guidelines for Broadcast Practice and Standard for Broadcast Programs, prohibits programs that stigmatize “people of certain sexual orientation and gender identity.” There is reason to believe that this stipulation may have been the result of advocacy by LGBT organizations against programs that stigmatize LGBT people and people who express gender non-conformity.

Finally, the Marriage Law (No. 1/1974) explicitly defines marriage as a union between a man and a woman. No concerted advocacy effort has been taken by LGBT activists to demand a reform of the law, but individuals such as the current Minister of Religious Affairs, a politician from an Islamist party, and a former Chair of Nahdlatul ‘Ulama, the largest Muslim organization have made statements against a potential reform such as this.



## POLICIES

In 1983 the Directorate of Mental Health in the Ministry of Health changed the classification of homosexuality in the second edition of the Guidelines for the Diagnosis and Classification of Mental Disorders (PPDGJ) into ego-dystonic homosexuality and ego-syntonic homosexuality. Only the former, basically where a person resists rather than accepts their sexuality, is classified as a disorder. In 1993 the Third Edition made no mention of homosexuality except in a brief note stating that it is part of the diversity of human sexuality. Gender identity disorder, however, is still in the third and latest edition of the Guidelines.

A 2012 Regulation of the Ministry of Social Affairs (No. 8/2012) regulates so-called people with social welfare problems. Among such people are those whose sexual behaviour causes them not to be able to function socially, namely transgender women (transgender men are not mentioned), gay men and lesbians. The solution is vaguely mentioned as “rehabilitation.” This regulation does not seem to have been drafted after consultation with the people it is intended to assist, and it is still not clear how it is going to be implemented. What seems to happen in many locations is that there continue to be regular roundups of such people, who are then sent to rehabilitation centres

<sup>9</sup> Among lay people, including LGBT people, there is a tendency to conflate law with social, cultural and religious norms, as we shall see later in this section.

preparing them for “integration into society.” As we shall see later, this is often linked to corrupt practices of law enforcement officials.

The National Human Rights Commission (Komnas HAM) and the National Commission on Violence Against Women (Komnas Perempuan) have provided a safe space for LGBT activists to organize such events as discussions and festivals. In the 2004 National Human Rights Action Plan, there is mention of advocacy for “vulnerable populations.” While LGBT people are not explicitly mentioned, Komnas HAM did organize a few consultations in 2006. However, after that nothing systematic was programmed. In 2010 Komnas Perempuan declared transgender women as women. In mid-2013 Komnas HAM, for the first time in its ten-year history, tabled LGBT rights in its plenary meeting, stirring controversy among the commissioners and the media. The compromise was that LGBT people should receive state protection from violence and discrimination. Interestingly, this was approved by the Council of Ulama (see the later relevant subsection on religion). Komnas HAM and Forum LGBTIQ Indonesia have also signed a Memorandum of Understanding, in which the Commission supports the work of the Forum due to its focus on human rights.

While gay men, transgender women and other MSM (GWL) were largely ignored or their existence denied in the early years of AIDS response, the National AIDS Commission (NAC) officially supported networks of key populations, including GWL-INA, in 2007. GWL were included in the 2007–2010 National AIDS Strategy and the one for 2011–2014. An official GWL Working Group within the NAC has never functioned, and a specific National GWL Strategy has never been ratified.

People who are considered vagrants (such as homeless people, street-based sex workers and transgender women hanging out in streets and parks at night) are regularly rounded up before important events or as part of a campaign to make everyone have identification documents. Transgender women, who are often lumped together with female sex workers (some of whom may be lesbians), and gender non-conforming gay men are often the objects of such programmes, which could involve physical, sexual and verbal abuse and extortion practices (to be described later). As we shall see in the subsection on social and cultural attitudes below, many transgender women have to run away from home to avoid physical abuse at the hands of their family members. This means that they do not have the necessary family card on the basis of which identity cards are issued.

Finally, from the late 1990s, police have failed to protect LGBT people from attacks by hardline Islamist activists and thugs. People hanging out at beats and activists organizing events are not protected by police – as stipulated in law since 1998 – and are usually dissuaded from organizing, thus infringing on their right of assembly. Since 2012 though, at least in some places, advocacy by LGBT organizations collaborating with human rights lawyers seems to have brought about some change in this area.



## SOCIAL AND CULTURAL ATTITUDES

Generally speaking, people with non-conforming gender expression or identity are better known by Indonesians, since their non-conformity is more visible than homosexuality or bisexuality. Many people know the concept of diverse sexual orientations, but most do not know openly homosexual people, or people who are attracted to or have sex with other people of the same gender.

At first glance, transgender persons, especially transgender women, are tolerated and are found in many social settings. What is not realized is that many of these people may be “tolerated” but they have not necessarily been accepted by their own families. Acceptance means transgender persons can take part in all family and social life without reservations, whereas tolerance is usually expressed grudgingly or out of necessity.

Similarly, the few people that are known to be lesbian, gay or bisexual to the people around them tend to be tolerated by people who may not show the same tolerance to members of their own family. Conceptually, though, many Indonesians may state they are against homosexuality. The Pew Research Global Attitudes Project report on attitudes towards homosexuality shows that 93 percent of those surveyed in the country reject homosexuality and only 3 percent accept it.<sup>10</sup>

On the other hand, there are also a growing number of progressive, liberal people who understand principles of human rights or have read about diversity in gender identity and expression and sexual orientation, and accept diversity in all aspects.



## RELIGION

There are many religions practiced in Indonesian society, but the State only recognizes six: (Sunni) Islam, Protestantism (comprising several hundreds churches), Catholicism, Hinduism (mostly practiced by Balinese), Buddhism (of many sects) and Confucianism. The numerous indigenous and syncretic faiths are not categorized as “religions,” but as “beliefs.” While the six recognized religions are bureaucratically managed by the Ministry of Religious Affairs, the other “beliefs” and religions such as Shintoism and Judaism are managed under the Ministry of Education and Culture.

This differentiation of “religions” and “beliefs” is in many ways a legacy of the Dutch colonial regime. Christian missionary activities, for example, were only allowed among people with “beliefs,” but not towards Muslims. Similarly, the separation of Protestantism and Catholicism is something that started in the Netherlands.

Many of the indigenous faiths among ethnolinguistic groups in Kalimantan and Sulawesi incorporate medium priesthood and shamanism involving transvestism (Van der Kroef 1954) or at least accept transgenderism. Ritualized male homosexuality has been found in some Melanesian religious practices on Papua (Herdt 1993), and in some other societies elsewhere. With conversion to Christianity or Islam, many of these have been silenced or pushed underground.

The majority of Christian and Muslim clerics are conservative in all matters sexual, and some are vocal in their homophobic and transphobic views. Most LGBT people who grow up in communities led by such clerics internalize this homophobia and transphobia and find it hard to fully accept their own sexual orientation and gender identities. Religious leaders sometimes speak out in public and say that LGBT are people who go against nature and God’s will. In practice, strict gender segregation has created institutionalized homosexual relationships in some Muslim communities, mostly centered around the more traditional boarding schools (*pesantren*), but also around mosques, without adoption of a gay or lesbian identity (Kholifah 2005, Dzulkarnain 2006, Zuhri 2006).

10 <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>, accessed 22 January 2014.

On the other hand, there is a growing movement among progressive clerics and religious communities to reinterpret the holy texts of their religions and show acceptance and compassion. They assist LGBT people who wish to keep their faith despite their different sexual orientation or gender identity. Muslim and Christian prayer groups have been set up in some locations on Java, and students and faculty at some Islamic studies universities and Christian theological seminaries are exploring diverse genders and sexualities.

The position of Hinduism, the majority religion of the Balinese, and of Buddhism and Confucianism, is less clear, and is often conflated with social and cultural attitudes on community belonging and heterosexual marriage, family and ancestor worship. There are no explicit pronouncements or condemnation of transgenderism or homosexuality. In practice, transgender women can and do take part in dance and other performances in Balinese Hindu rituals, although there have been cases of transgender men being refused entry to temples because of “inappropriate dress,” i.e. wearing the traditional clothes of the opposite gender. There has been no dissenting discourse attempting to accept diverse sexual orientations and gender identities in these religious communities.



## DECENTRALIZATION AND DIFFERENCES BETWEEN REGIONS

The regional autonomy resulting from the change of governments in 1998 from the Suharto dictatorship to a multiparty democracy has highlighted the emergence of conservative forces. The most extreme case is the province of Aceh, which is officially governed on the basis of Islamic *shariah* as part of the 2005 deal to end the insurgency against the central government.

Generally speaking, though, LGBT people are to be found everywhere, and more recently they have become more visible. It is true, though, that organizing is harder in conservative provinces dominated by Islamic and Christian teachings, such as in Aceh, West Sumatra and West Java (Islam), or the Papua provinces (Christian).

Organizing in Papua and the Moluccan provinces may be difficult due to their sparse population and to difficulty in communication and transportation. On the other hand, there are “easier” provinces to organize in such as Bali, East Java and Central Java.



## VIEWS ON THE RULE OF LAW AND CORRUPTION

Broadly speaking, most Indonesians are wary of the law and see its enforcement as largely corrupt. Hence, they will think many times before engaging in litigation. Very few discrimination cases are brought to court. On the other hand, human rights lawyers have always been active in civil and political rights cases throughout the Suharto dictatorship.

This is the condition in which LGBT people and activists find themselves. Those who are lucky will never have anything negative happen to them in the hands of law enforcement officials. But others in the streets and parks at the wrong time of night may find themselves victims of extortion when the police go around checking identification documents or rounding up “undesirable people” because a key event such as a state visit or sports event is about to take place. Being arrested and detained in such roundups could mean physical and sexual abuse and paying bribes to obtain freedom.

Of more concern since the emergence of dozens of LGBT organizations in the 2000s has been the approach taken by police in situations where an LGBT event, be it a conference, edutainment pageant or similar public gatherings, has been threatened and forced to stop by transphobic and homophobic (usually Islamist) groups. In almost all cases police, instead of protecting a threatened minority, choose not to guarantee the safety of participants and in some cases the venue, and instead order the event stopped. This is also the police's approach in cases involving religious minorities such as Ahmadis, Shiites, Christians and indigenous religious communities or artists and intellectuals whose work or activity is seen by conservative Islamists as blasphemous. Civil society organizations have protested, including in international fora, but so far no change is in sight.

This context has broad negative effects on the development of LGBT rights in Indonesia, as activists and individuals may not feel confident in laws and policies to be able to protect them, and be unwilling, due to the perceived or real corruption, to appeal to legal institutions. Their willingness to engage in social change that relies on an enabling law and policy environment will be limited.



# PROTECTION OF RIGHTS OF LGBT PEOPLE

The following section provides an overview of the protection of the rights of LGBT people in seven areas: employment and housing; education and young people; health and well-being; family affairs and social and cultural attitudes; media and information and communication technology; law, human rights and politics; and the special case of Aceh.

The discussion, case studies and analysis in these areas were provided by the participants of the National Dialogue during the second half of the first day when participants were divided into seven breakout groups. Each of the groups was facilitated by two previously designated community leaders, except for the group discussing media and ICT, which only had one facilitator. The breakout groups and leaders were as follows:

1. Employment and housing, facilitated by Rendie Arga (Gaylam/GWL-INA) and Edi “Edyth” Siswanto (GAYa NUSANTARA)
2. Education and young people, facilitated by Alexa (SWARA) and Anna Arifin (Arus Pelangi)
3. Health and well-being, facilitated by Suhendro (GAYa NUSANTARA) and Augustine (Ardhanary Institute)
4. Family affairs and social and cultural attitudes, facilitated by Suleman “Eman” Abu (Komunitas Sehati Makassar) and Juita Manurung (Talitakum)
5. Media and ICT (information and communication technology), facilitated by King Oey (Arus Pelangi/ILGA Asia/ASEAN SOGI Caucus)
6. Law, human rights and politics, facilitated by Yuli Rustinawati (Arus Pelangi/Forum LGBTIQ Indonesia) and Ienes Angela (GWL-INA)
7. Aceh’s special case, facilitated by Edi “Echa” Saputra (Violet Grey) and Ridwan Bakar (Indonesian Legal Aid Foundation).

It should be noted that there was no breakout group on religious issues, which was seen as a cross-cutting issue and discussed accordingly.

In addition to group discussion, complementary material from previous studies and other information is presented in this section. Most of the case studies were excerpted from case documentations compiled by GAYa NUSANTARA on behalf of Forum LGBTIQ Indonesia under the framework of the programme “Enhancing the Capacity of LGBT Human Rights Defenders”, supported by the Ford Foundation through Hivos in 2011–2012. Another few cases were taken from other sources: one published at the end of 2013 and another from a case documented after the National Dialogue took place.



## EMPLOYMENT AND HOUSING

The National Dialogue Steering Committee decided to combine the issues of employment and housing since they thought the two were related.

With regard to employment, even though the Indonesian Labor Law (No. 13/2003) clearly forbids any form of discrimination, LGBT people do face such discrimination in reality. Compounding this, the law does not explicitly mention sexual orientation and/or gender identity as grounds for prohibiting discrimination. In cases of discrimination, the shame and the fear of reaction from families are two main reasons for LGBT people not to report cases to the relevant institutions or even document them. There are no clear statements, for or against, from private or public companies regarding employees’ sexual orientation and gender identity, but it is apparent that they are afraid of the “negative image” that might occur from an employee’s sexual orientation and gender identity. Many ill-informed or otherwise prejudiced company managers connect gay men and transgender women with HIV, and feel justified to discriminate against them.

Transgender women face the brunt of discrimination in employment, especially in the formal sector. Group discussion participants came up with many cases of discrimination in such jobs as teaching, banking and even hairdressing (in upmarket salons), which are stereotypically thought to be safe working spaces for transgender women. This could also apply to gender non-conforming gay men. This kind of discrimination is made complicated by the fact that many transgender women, for various reasons, do not attain a high level of vocational or general education. They may drop out because going to school as boys becomes unbearable, or because they have to run away from their families and thus have no financial means to continue their schooling. On the other hand, participants were less certain about discrimination against transgender men. This may be because the issue of transgender men is relatively new in the movement, or because there were very few of them among the participants.

Participants strongly recommended that well thought-out programmes be conducted by LGBT organizations or that the government provide training and education for transgender women so that they can access better livelihood options.

A technical hurdle for transgender women (and to a lesser extent for transgender men) is the fact that many of them do not have identity cards because they are not connected with their families any more, whereas the issuance of identity cards are based on so-called “family cards”.<sup>11</sup> Even when

11 The Kartu Keluarga, or family card, contains data about structure, heads of family, family size and relationships, and must be held by each family.



they have identity cards, the discrepancy between their stated gender on the cards (male) and their expressed gender (transgender male or female) is often used by employers to discriminate against them. In the parliamentary debates in preparation of the Population Administration Law (No. 23/2006), a few members of parliament attempted to suggest a third gender category, but they were outvoted at the end.

Participants recommended that this issue of legal gender be seriously addressed by LGBT organizations and the government to ensure legal recognition of alternative genders and therefore protect transgender people from human rights violations.

Gender-conforming lesbians and gay men, as long as they do not come out, are not discriminated against at work, but participants mentioned the burden of not being out and the worry of being found out. In cases where gay men or lesbians are not accepted for employment, employers never explicitly mention sexual orientation as the basis for not hiring them, which makes it difficult to conduct advocacy. In cases where they are already employed, when their sexuality is found out or suspected, and they are then fired, these individuals are very reluctant to pursue the case. It must be noted, though, that there have also been cases where LGBT people have stood up for their right to employment, and have pressured employers not to fire them.<sup>12</sup>

In addition to the personal cost of being in the closet, at the more structural level, one must note the decrease of productivity, lack of company loyalty, and brain drain for government and corporate institutions due to homophobia.

CASE  
STUDY  
#1

**DITA, A TRANSGENDER WOMAN LOOKING FOR WORK**

Dita, 26, a transgender woman, worked as a street musician. Because she was the main source of financial support for her family, she decided to look for a permanent and more decent job because the proceeds from street singing were not enough to meet the economic needs of the family. In late August 2011, Dita went with her gay friend, Prabowo, who was approximately 20 years old, to a salon in one of the shopping centres in Jakarta. She was received by Mr Zunaidi (not his real name, approx. 35 years old), a member of the human resources staff at the salon.

When viewing Dita's CV he was surprised and said, "How come your sex is put as male here, not female?"

Dita replied, "I am transgender, Sir."

"If you are a man, why do you look like a woman?" asked Zunaidi.

"I am male but I am more comfortable being a female," said Dita.

Zunaidi directly said that his salon only accepts men and women. "If you want to work here you have to be a man and should not look like a woman."

Needing the work, finally Dita cut her long hair, although her heart rebelled. She was forced to change her appearance. Today, she is still working at the salon and is accepted more by her co-workers. Occasionally, she dresses in drag and uses a wig while in her boarding house because she still feels comfortable dressed as a woman.

***Case reported by Sanggar Waria Remaja (SWARA), Youth Transgender Women Community, Jakarta***

12 All names of persons in the cases used here are not real names. Details of places and businesses are also not given.

Indonesian society is quite liberal when it comes to renting or owning a dwelling place such as a boarding room or a house. Single persons, as long as they can afford it, are free to rent or own a house. Restrictions of ownership apply to foreign nationals, and in some locations there are housing estates exclusively for people of the same religion or some boarding houses only accept male or female boarders.

The case may be different for LGBT people, though. To begin with, difficulties in accessing proper jobs and occupations could make it impossible for them, especially transgender women, to have credit facility for housing because they do not have a guarantee from established employment. It is also not easy for transgender women to open a bank account, since most of them have a different appearance in their ID card photos. Many transgender women might have photos on their ID as male because most local government authorities, such as in Jakarta, forbid them from appearing as women in their ID photos. Transgender men or gender non-conforming females do not seem to have this particular problem.

The visibility of transgender women could cause them difficulty in obtaining or retaining housing. This could be true in the case of lesbians, gay men and transgender men if their sexual orientation or gender is discovered or they are already “out”. Generally speaking, this is more true in poorer neighborhoods and much less so in middle- or upper- middle-class neighborhoods. On the other hand, participants related anecdotes of out LGBT people who are totally accepted in all kinds of neighborhoods. While it might be unique, the case of Gang Bencong (Tranny Alley) on Batam Island is a case in point.

So far the government of Indonesia has not made any efforts to facilitate housing and employment for LGBT people, but as discussed above, these issues are important, especially in circumstances where LGBT people have to leave their homes due to rejection from their own families.

CASE  
STUDY  
#2

**NANDA, A LGBT ACTIVIST UNDER THREAT OF EVICTION FROM HIS BOARDING ROOM**

Nanda was a 19-year-old gay man who was out to his family and friends and worked as a health (HIV and STI) outreach worker for a LGBT organization. Though his widowed mother lived in the same city, he preferred to live on his own downtown, since most of the young men he did outreach to hung out there and also because he wanted more freedom and privacy.

He rented a room at a boarding house for men in a lower middle class neighborhood near the community center of his organization. Once in a while a gay friend or sexual partner would stay the night at his place.

He was quite honest about his sexual orientation and his work, and being a friendly person he made many friends in the neighborhood. One day some busybody reported him to the neighborhood association chief, Mr Purwanto, and Nanda was summoned and warned by him that he could be asked to leave the neighborhood because some people were restless about his living there.

Nanda went to the officers of his organization and reported his problem. The human rights and advocacy officer of the organization, Anita, a psychology graduate and human rights activist, then went with him to see Mr Purwanto. She explained to him the work of her organization and stressed that Nanda’s work was very important for the gay community as well as for society at large. She made clear that homosexuality is part of diverse human sexuality and that homosexual acts between consenting adults are not a crime under Indonesian law. She then offered to organize a discussion on sexuality and HIV for members of the neighborhood association, to which Mr Purwanto agreed.

The discussion was held at the neighborhood association hall, and In addition to Nanda and Anita, a doctor from a local community health center who had been trained In HIV prevention, care, support and treatment also spoke.

As it happened, some men had died of AIDS-related infections in the neighborhood, so the discussion was welcomed by the members. Mr Purwanto then explained to them that it was not right to tell Nanda to leave the neighborhood because he actually did important work and added that his sexual orientation was a private matter.

*Case reported by GAYa NUSANTARA, Surabaya*



## EDUCATION AND YOUNG PEOPLE

Breakout group participants agreed that young people grow up in a fast-changing society with regard to sexuality. ICT is rapidly growing and increasingly affordable. It provides access to sexual materials of varying educational quality as well as provides opportunities to start engaging in a range of sexual behaviour, including for young LGBT people.

Participants deplored the lack of institutionalized and comprehensive sexuality education in formal schooling. Formal education authorities do not see the importance of such a subject or perceive it as something that would lead to young people engaging in sex before marriage. It is also challenging to implement as talking about sex is considered a taboo, because people usually associate sexuality with religious mores. If so-called life skills education is given in schools, the content is usually about the biomedical and physical aspects of conception, and almost always comes with a warning for students not to engage in sexual behaviour until they are married. The official discourse on sexuality states that people should only have sex within marriage, although in practice many people do have sex before or outside marriage. Thus the warning on pre-marital sex is obviously unrealistic given the plethora of sexuality-related materials available in the media and online.

While much sex-related material is available in various youth magazines, diversity in sexual orientation and gender identity is not always discussed, and sometimes is brought up with stigma attached to it. Online materials are also widely available, but young LGBT people often cannot decide which are accurate and supportive.



*Photo: Participants of the National Dialogue during a break*

All of this leads many young LGBT people to have low self-esteem, since information regarding SOGI is still tightly connected to stigma and discrimination. Guilt, sin, and abnormality are common feelings among young LGBT people, potentially leading to negative health outcomes.

Almost all non-government organizations (NGOs) working on sexual and reproductive rights and health have youth groups, and some of them provide a safe space for young people, including LGBT people, to learn about sexuality. But others still adhere to the belief that sexual behaviour should only be allowed after marriage. Furthermore, even the most organized youth groups reach out, at most, to a few hundred young people.

Participants also underlined the fact that most parents in Indonesia do not talk to and teach their kids about sexuality. Young LGBT people, then, try to find information through self-exploration to know how to deal with their families and society regarding their sexual orientation and gender identity. LGBT organizations have tried to fill this gap by providing information through publications both in print and online mediums, but they have no idea how many young LGBT people they reach. Some LGBT organizations have tried to organize events for parents, but these tend to be one-off events, and many parents are averse to learning about diverse sexual orientations and gender identities from LGBT activists. Allies have also tried to fill the gap, but participants felt they have not been able to do enough.

Participants strongly recommended the provision of comprehensive sexuality education, including diversity in SOGI, in all educational institutions, but they were also aware that schools are not always trusted by young people as the source of accurate, non-judgmental information. They also recommended the use of informal channels, such as churches and community organizations. The Jakarta Theological Seminary has for a few years organized an LGBT awareness week, and some Muslim organizations working on sexual and reproductive rights and health have done similarly, sometimes disguised as health issues.

Other opportunities identified by participants were other education programmes which can be used to discuss sex and sexuality, for example a human rights education programme where SOGI-related human rights such as expounded in the Yogyakarta Principles can be part and parcel of education on diversity and multiculturalism; and HIV education that includes open discussion of sexuality.

Another issue that came up in the discussion was the bullying of young LGBT people in school. Some LGBT organizations, but not all, have started to address this through provision of materials about how to prevent bullying. This is especially urgent given the current higher visibility of young LGBT people in school, such as reported below in Case Study 3.



### FIRMAN, BULLIED AT SCHOOL FOR BEING GAY

Firman, 23, was a student at an Islamic teachers' college in a district town in East Java. One day during the question and answer session in a lecture, he asked questions to Chairuddin, the lecturer, related to the material being taught. Seeing Firman's feminine mannerisms, Chairuddin, instead of answering the questions, called him to come forward and asked a few questions, including his name, his place of origin, his occupation, his income and his daily activities. Firman replied that he was often active in HIV work.

"Oh, no wonder you are so (feminine)," Chairuddin responded. The lecturer then asked Firman about the difference between "waria" (the non-derogatory term for transgender women) and "banci" (the derogatory term for transgender

women), and asked him which one he was. Firman said that he was neither, but gay. Chairuddin then said to the class that there were students who are homosexual like Firman. He then discussed the story of Prophet Luth (Lot). Firman was silent, understanding that Chairuddin tended to be one-sided in his opinions and did not accept other people's arguments. He also had the reputation of being violent to students who came late or fell asleep in class.

One morning about two weeks after that, Firman heard news from his classmates that on that day he would be "put on trial" by Chairuddin. He was worried for a moment, but he still went to class, because he felt there was nothing wrong with him. He was sure that he was not the only homosexual on campus. In Chairuddin's class, Firman was asked to come forward in front of the class, and was told that being a man, he may not be feminine.

One student who also served as assistant lecturer, Ilham, was asked to come forward and shake hands with Firman, who was to be forced to swear a vow. Chairuddin asked him to repeat his words, forcing him to promise not to engage in actions as a homosexual anymore, and to stop acting feminine. Ilham managed to tell his lecturer that he did not have the heart to do this, but Chairuddin forced him to continue. Then he asked Firman to pronounce the statement of faith (shahadah) three times. After that he was allowed to go back to his seat. Chairuddin managed to apologize in front of the class for treating Firman that way, but then told the class, "If he is still feminine, let's beat him up until he becomes sane."

Firman shared his story with Vina, a transgender woman he knew from his HIV work. She suggested that he speak to activists at a crisis centre and an interfaith organization in their town. When they met, Firman said he could not accept the fact that he was not given an opportunity to explain or defend himself in front of his friends. He was also worried that his studies would be interrupted or that he would be expelled from the university, since Chairuddin said he had reported the case to the Vice President for Student Affairs. Firman felt he was forced to come out in front of his class, when he was not even out to his family.

After careful deliberations, including the repercussions on Firman's future at his school, the advocates decided to approach the Student Council and they protested and demanded an apology from Chairuddin. The Board of Trustees of the university was informally consulted and agreed with the approach. The lecturer apologized in class and Firman forgave him. However, he continued to make religious pronouncements condemning homosexual acts.

***Case reported by crisis centre and interfaith activists in an East Java town***



## HEALTH AND WELL-BEING

Participants in this breakout group agreed that sexual health services for LGBT people are skewed towards their physical aspects, and in most cases narrowly limited to HIV and some sexually transmissible infections (STIs).

Some of the more established LGBT organizations have provided support for psychosexual and sexual well-being issues through peer counselling, telephone hotlines, internet chat rooms, instant (Blackberry) messaging and face-to-face encounters during health outreach activities or at designated counselling centres. However, this was viewed as inconsistent and not widely available. There is also no information on the quality of the counselling. Referrals to private therapists are still not practised by most organizations. Nor do government health services take into account the problems faced by LGBT people. Participants strongly recommended that this be addressed soon and in a systematic way, so that such services are widely available to LGBT people.

Most sexual and reproductive health services are actually family planning services provided for heterosexual married couples. As we see in the discussion on education and young people, a lack

of education and discussion on sex and sexuality is a problem for young people in general, not only LGBT people. Lesbians, even if they have correct knowledge about women’s sexual health, are reluctant to access women-related services for fear of their sexual orientation being disclosed. For example, clinic receptionists ask women who wish to have a pap smear standard questions about women being married or not married (rather than if they are engaging in sexual intercourse). Some clinics refuse to provide services to unmarried women. Some lesbian organizations have translated and disseminated lesbian health manuals from overseas, but not widely.

Many transgender people go through gender transition in their teenage years. They self-administer hormones without proper directions from a clinician, although a few, who usually go to Thailand to obtain the hormones, do consult one. Male-to-female transgender people who can afford it also augment their breasts and buttocks, while female-to-male transgender people might undergo breast removal. Generally speaking, transgender organizations have not worked on this issue at all. Folk knowledge is spread by word of mouth. The practice of liquid silicone injection to enhance certain parts of the face or body was popular in the 1990s. This is a dangerous practice, because the silicone can move to adjacent tissues, and is sometimes carried out without proper hygienic precautions. While this has decreased, it may still occur in some salons. Some gay men and heterosexual women and men have been known to have done this too. Nothing is being done about its side effects or after-effects.

The most systematic and widely available health programmes for gay men, transgender women and other MSM have related to HIV and some STIs. Lesbians are not officially included in this programme, although some LGBT organizations reach out to those who are bisexually active (quite a few lesbians have male partners, either as boyfriends, husbands or sex work clients). Not all STIs are addressed in the programme: only syphilis, gonorrhoea and chlamydia are. This prioritization is based on the limited resources available to the programme.

Discussion participants questioned the perception and motivation of health administrators and practitioners, whether they accept LGBT people or consider them deviant and immoral people to be included in HIV and STI programmes as a public health contingency or to be saved from damnation. It is perceived that people using drugs or sex workers may eventually stop drug using or sex work but LGBT people will not “stop” their behaviour; and that health administrators and practitioners may view this negatively. Frontline health workers sometimes assume the role of saviours when delivering services to gay men, for instance, as reported in the following case study.



**URIP RECEIVING MORAL, NOT HEALTH ADVICE**

Urip is a gay university student who is out to the community and many of his straight friends. He finds sexual partners online and has casual sex with them, and sometimes engages in group sex as well. He has a steady partner living in another city, and they both agree to be in an open relationship. He sometimes goes to public discussions run by the several LGBT organizations in his town.

One day he went to such an event, which happened to be on sexual health, with a strong emphasis on HIV and STI. After that, he realized that he could be at risk, although when engaging in casual penetrative sex he always made sure he or his sexual partner put on a condom.

So he decided to go to a government clinic designated to be a testing centre. The receptionist was a businesslike woman who took down his personal details and asked him about his sexual behaviour and put it down into a form. This was fine for him. He was then asked to go to an inspection room and took the form with him, where he met a male nurse.

When the nurse saw the form, he remarked, "What is a handsome lad like you doing being gay. Come on, you can be cured. Do you want me to find you a girlfriend?"

Urip did not say anything, and neither did the nurse, who proceeded to take his blood sample and swabs from his urethra and rectum. But Urip did not feel good about the facility. The next time he went to a public discussion, he complained to one of the activists he knew at the organization, and the person promised to bring it to the attention of the authorities. Urip also talked to his partner, who suggested that Urip have his next tests where his partner usually does them, at a more LGBT-friendly facility.

*Case reported by GAYa NUSANTARA, Surabaya*

In spite of stories like these, the discussion participants wanted to be fair and acknowledge the effort of the Ministry of Health in organizing workshops for health workers dealing with gay men, transgender women and other MSM. Gay and transgender women activists have been involved in designing such workshops. Participants recommended that such workshops be conducted regularly.



## FAMILY AFFAIRS AND SOCIAL AND CULTURAL ATTITUDES

Indonesian society is very diverse culturally. At one end one finds vestiges of the pre-modern acceptance of diverse genders and sexualities in many ethnolinguistic groups, but at the other end is the conservative heteronormativity and gender binarism derived from early 20<sup>th</sup> century secular and religious modernity that turn their back to the old values. There are also groups of people who perceive Indonesia as a modern nation with liberal, democratic and humanist values. They question and criticize the oppressive aspects of both traditional and modern culture and seek to build a society where differences, including in sexual orientation and gender identity, are fully accepted.

Generally speaking, to individual LGBT people, the family is the greatest challenge to overcome before they can live life to the fullest as lesbians, gay men, bisexuals or transgender people. A few families love their family members to the extent that whatever they do or whatever happens to them, they are still accepted as full members of the family. When parents or siblings in such families find out about their child's or sibling's different sexual orientation or gender identity, they accept them, perhaps with difficulty at first, but with increasing ease. Some may even try to understand issues relevant to diversity in sexual orientation and gender identity by seeking information, a task increasingly made easier with today's better access to the internet.

Other families may be shocked initially, and react violently to the LGBT member, but over time become used to their disclosed sexual orientation or gender identity, especially if they earn income to support the family. Still others turn their child or sibling away, which hurts the LGBT family member deeply. In many cases, these relationships will not be mended.

There are two main reasons that families do not accept their LGBT members:

1. The strong emphasis on entering a heterosexual marriage and forming a family that is strongly evident in Indonesian society. One common question people ask when they meet someone new is “Are you married?” Though forced marriage has all but disappeared, matchmaking is seen as a virtue, and unmarried women and childless married women are perceived with pity. Many people express the pity directly. While LGBT people can brush this away as small talk from other people, they find it bothersome in their own families, to the extent that some move away from them and try not to visit them too often. The fear of being discovered as LGBT adds to this separation.
2. Another pronounced trait of most Indonesians, whether sincere or otherwise, is religion; for many people, it is the literalist doctrines that they are familiar with and try to abide by. This is often conflated with culture, again a version that has had its rich, diverse acceptance of different genders and sexualities erased by early twentieth-century modernity. The stress on the appearance of religiosity came about after the violent 1965–1966 purge of leftist forces focused on communists who were portrayed as godless people. Even now most politicians cannot afford to appear secular, for fear of not getting votes in elections. The literalist doctrines of Christianity and Islam only recognize two genders and condemn sexuality outside marriage. Other major religions reject different sexual orientations and gender identities by referring to heteronormative culture.<sup>13</sup>

As a result of these two narratives, a focus on heterosexual marriage and family and on a conservative interpretation of religion, many LGBT people go through marriages of convenience to please their families. Some internalize the ideals of heteronormativity by wanting to get married and form a family, in the belief that their different sexual orientation or gender identity will “be cured.” Some of these marriages do not last, but others do. Families have been known to pressure known LGBT people to still enter a heterosexual marriage for the sake of family honour. It goes without saying that some of these marriages have ended in disasters, in which women (either the wives of the gay men, or lesbians forced into marriage) tend to bear the brunt of the consequences. Men are implicitly more forgiven for their transgressions, and in most cases, their having tried marriage once satisfies the family.



Photo: The ‘Power Walk’ at the National Dialogue

13 Heteronormativity is a belief and alignment to an ideal of heterosexual relationships and family structures. Sexual orientation and gender identity that does not confirm to this ideal is frowned upon.



Participants recommended that livelihood programmes be systematically implemented so that LGBT people can live independently and thus leave their families sooner, if they so desire. On another level, some participants strongly voiced the need for cultural change and more emphasis on human rights, rather than religion. They realized it is a huge undertaking, but supported the work of some of the more established organizations that have conducted campaigns educating society, for example, that genders and sexualities are diverse. Other ways of raising public awareness of SOGI issues have been to speak publicly about them in schools and universities, places of worship (led by open-minded religious leaders), on radio and TV shows and so forth.

LGBT activists have also approached and been approached by academics, human rights defenders and religious leaders who work more deeply with pluralist, humanist principles. A few of these allies were present and spoke at the National Dialogue. These ties need to be maintained and expanded.

Finally, a few participants pointed out the fact that there were dozens of LGBT activists from all around the country at the National Dialogue. This in itself shows the robustness of the LGBT movement.

CASE  
STUDY  
#5

### KIKI, A LESBIAN AND HER FAMILY'S REACTION

Kiki, 32, is a butch lesbian who lives with her family in Bandar Lampung. The family interacts intensively with their extended family and observes local customs. Her late father's extended family includes customary leaders. All through her life she has socialized with other lesbian as well as gay men and transgender women belonging to the organization GayLam. She has always appeared masculine, whether in the family or outside the home. She feels comfortable with her appearance and her family has never taken issue with it.

Because of their frequent gatherings, Kiki and her friends eventually formed a lesbian organization in Bandar Lampung. The organization developed very smoothly without any hindrances, and a growing number of lesbian friends wanted to join the organization. One evening the organization was screening "Sanubari Jakarta (The Heart of Jakarta)," a film consisting of ten short films on LGBT people. Many members of her organization worked on the event, which was a success. A few days afterwards, a newspaper journalist offered to interview her about her organization. She consented and was photographed. The next day the newspaper published the interview and photograph.

Members of her family saw the coverage, so they knew that she was lesbian and led a lesbian organization. Her paternal uncle and aunt, and a few others came to her house and said that they could not accept her sexual orientation and forbade her from organizing. They also forbade her from going out of the house because they said she would bring shame to the clan because she "had a deviant disease." Her mother and younger sister could not say anything. Kiki could only keep quiet and texted her friends to ask for support and encouragement.

The next morning Kiki was summoned to a family gathering. Her uncle and aunt were the ones most opposed to her sexual orientation and activity. They threatened to strike her from the family and take away all of the facilities that had been granted by her late father as well as stop giving her a monthly allowance. If she was expelled from the family, she would not get any inheritance from her late father. Later that afternoon, she was taken forcibly by the uncle and aunt to a Muslim cleric to have a healing prayer read for her. After that, she was taken to an old man who was referred to as a shaman to be cured of her disease.

Only her mother and sister accepted her as a lesbian. Her uncle and aunt continued to oppose her sexual orientation and her activism. Her late father's family custom is patriarchal, so her mother and sister do not have any power in the matter. Her father was apparently the head patriarch, which made it worse to the clan that he has a lesbian activist daughter.

Kiki could not say anything to her family members. She did get quiet support from her mother and sister, and started clandestinely to meet her friends again and continued the activities of her organization.

*Case reported by organizations in Bandar Lampung*



## MEDIA AND ICT

There are three categories of conventional media, appearing in print and electronically, in terms of how they cover LGBT issues:

1. Media that cover LGBT issues in a balanced manner, with strong attempts at educating the public about LGBT people as an integral, equal part of society, such as the two Jakarta English newspapers, *The Jakarta Post* and *The Jakarta Globe*. The serious newspaper *Kompas* and the newsmagazine *Tempo* are other examples. These media regularly publish or broadcast stories of news developments in other parts of the world that they easily obtain through current wire services. Occasionally, when there is an event such as the annual Q! Film Festival or a march on the International Day Against Homophobia and Transphobia (17 May), they may publish or broadcast special coverage. However, in general, this may reinforce the perception that LGBT issues are foreign issues. One self-criticism from participants was that most of the time there was not much newsworthy happening in Indonesia's LGBT communities. Once in a while there may be a murder by or of a gay man, for instance, and this category of media will cover it in a non-sensationalistic manner. Another self-criticism was that not enough LGBT activists write opinion pieces in the media, and many LGBT organizations have not engaged media people nor sent out press releases.
2. Media that cover LGBT issues in a sensationalistic, voyeuristic and stigmatizing manner. There are plenty of publications in this category, such as the newspapers *Pos Kota* in Jakarta and *Memo* in Surabaya. They often come up with wrong information, conflate sexual orientation with gender identity and insult or denigrate gender non-conforming men. Sometimes this also takes place in popular radio and television shows. Some organizations have protested to them, and in some cases have been heard (*see case study*).
3. Media connected to hardline, conservative or fundamentalist Islam, such as the newspaper *Republika*, the magazines *Sabili* and *Hidayatullah*, and the websites [www.arahmah.com](http://www.arahmah.com) and [www.voa-islam.com](http://www.voa-islam.com). While they only occasionally publish on homosexuality and transgenderism, they take the categorical view (following the conservative interpretation of their religion) that homosexuality and transgenderism are abominations. No amount of advocacy can change their approach. No similar media exist for other major religions.

It is fair to add that more and more LGBT organizations are engaging with those who work in media workers from the first and second categories. However, there is no concerted strategy and thus, media engagement is conducted in a reactive or haphazard manner. Participants recommended a serious programme of educating both LGBT activists and media workers about SOGI issues. A similar programme has been carried out for the past twenty years with regard to HIV issues, which could provide lessons learned for LGBT organizations.

With regard to ICT, young Indonesians, including LGBT people, are among the most connected in the world, especially with the constantly decreasing price of smartphones and the rapidly

increasing use of social media platforms. ICT has been widely used by LGBT organizations, though more cautious participants questioned whether the use has been strategic or just ad hoc. Many recent organizations have developed from an online group. This is especially true of LBT organizations. Numerous LGBT non-fiction and fiction writers have started writing and publishing in blogs, and amateur LGBT filmmakers have started to post their videos on YouTube. Some of the more established organizations have websites, many well maintained but a few not so much because the webmasters do it on a voluntary basis and in their spare time. There are two portals related to HIV work for gay men, transgender women and other MSM: [proyekcinta.com](http://proyekcinta.com) for the more general population and [brondongmanis.com](http://brondongmanis.com) for young people.

Participants agreed that the LGBT movement in Indonesia has not strategically harnessed the potential of ICT. They recommended that a more strategic way of using ICT be thought out thoroughly and implemented.

Internet security, including protection from hacking and phishing, are largely unknown by LGBT activists using ICT. The topics did not come up in the breakout group discussion, and should carefully be considered in future planned activities.

Finally, the Law on Electronic Information and Transaction (No. 11/2008) and the Law on Pornography (No. 44/2008) were seen as unnecessarily and misguidedly constraining the work of LGBT organizations. For example, websites of Indonesian and international LGBT organizations have been blocked by the Association of Internet Service Providers or the Ministry of Communication and Information. There are avenues for appeal, but participants expressed their frustration at the seemingly arbitrary ground for blocking. At the moment, there is pressure from civil society groups to amend the Law on Electronic Information and Transaction.

CASE  
STUDY  
#6

INDONESIAN IDOL: STIGMATIZING NON-CONFORMITY

In May 2012, activists from the Jakarta-based LGBT organization Our Voice, as part of the Community Alliance Concerned with Indonesian Television Programs (AMPATI), reported to the Indonesian Broadcast Commission that two male Indonesian Idol judges, Anang Hermansyah and Ahmad Dhani, made remarks ridiculing male contestants who appear feminine on RCTI (Rajawali Citra Televisi Indonesia), a major television channel. The Commission's Broadcast Guidelines (see the description of 'laws' in the section on Overview of LGBT Rights in Indonesia, p. 21) prohibit stigmatizing LGBT people on television.

The Commission summoned RCTI to speak with the complainants, but explained the incidents away as differences in perception of gender behaviour. AMPATI did not accept this evasive explanation and took the case to the National Human Rights Commission. They "asked that mediation be conducted [to] provide [a] human rights perspective to RCTI. The mediation was held in June 2012 and resulted in RCTI apologizing to AMPATI at the Human Rights Commission and committing to improve the approach of the Indonesia Idol judges on the show in 2013."<sup>14</sup>

14 Case recorded on <http://www.kpi.go.id/index.php/lihat-terkini/30524-our-voice-adukan-indonesian-idol-ke-kpi>, accessed 18 January 2014, with additional follow-up information obtained from National Human Rights Commission of Indonesia, "Report to the Regional National Human Rights Institutions Project on Inclusion, the Right to Health and Sexual Orientation and Gender Identity" [Rome: International Development Law Organization; Bangkok: United Nations Development Programme, Asia Pacific Regional Center, 2013], p. 7.)



## LAW, HUMAN RIGHTS AND POLITICS

Participants agreed that LGBT people should be treated equally in terms of their universal human rights. Activists in the more established organizations are familiar with the Yogyakarta Principles, a set of principles drafted by UN experts, community activists and human rights lawyers in 2006, which apply universal human rights principles enshrined in core UN human rights conventions using perspectives from sexual orientation and gender identity.

In the last decade, with an increasing understanding of human rights in society brought about by the Reformation process occurring after the change of government in 1998, some LGBT activists have approached and engaged with mainstream and feminist human rights organizations to advance LGBT rights issues. This has been a mutual learning process, such that LGBT activists have come to understand broader human rights principles and human rights activists have developed an understanding of LGBT human rights issues. Nevertheless, participants felt that this process needs to be expanded to newer organizations and in locations away from major cities.

In 2011 and 2012, GAYa NUSANTARA, one of the longest running LGBT organizations (established in 1987), implemented the Enhancing the Capacity of LGBT Human Rights Defenders programme on behalf of Forum LGBTIQ Indonesia. The programme, supported by the Ford Foundation through Hivos, trained twenty-one LGBT activists and their local human rights defender partners in human rights principles and their interface with SOGI, and methods of monitoring and documenting human rights violations (see Suvianita et al. 2013).

The programme showed that most LGBT organizations do not generally monitor and document cases, and have the tendency of trying to solve problems without changing the status quo. Most participants in the training workshops could not imagine a different, better world.

Like most Indonesians, LGBT activists are sceptical and wary of approaching law enforcers and engaging in a court procedure, given the reputation of how corrupt the police and legal system is.

In spite of this, during the programme, cases were documented and reported, and some were used in drafting the civil society shadow report in the framework of the UN Human Rights Committee review of Indonesia in connection with its compliance with the International Covenant of Civil and Political Rights. The process was facilitated by HRWG.

The more established LGBT organizations have also taken part in the two Universal Periodic Reviews (2008 and 2012) of Indonesia at the UN Human Rights Council, and in the process leading to the drafting and launch of the ASEAN Human Rights Declaration, although SOGI issues were rejected by Brunei Darussalam, Malaysia and Singapore. Observers have remarked that the process itself, where SOGI issues were debated, and how civil society organizations were involved, already shows progress.

Two transgender activists, Yulianus “Mami Yuli” Rettoblaut and Nancy Iskandar, nominated themselves to be commissioners of the National Human Rights Commission (Komnas HAM) in 2007 and got as far as a review by Parliament. Some parliamentarians ridiculed them, attacking their personal traits and character, and they were not selected. In 2012, Mami Yuli tried again, as did Dédé Oetomo, a long-time gay activist. The former did not make it past the second batch of tests (medical, psychological and essay writing), but Oetomo made it to the final short list of 30 and was reviewed by Parliament. The short list was selected by an independent panel appointed by

the incumbent Commission, consisting of senior human rights and civil society activists. Oetomo underwent a lengthy review by Parliament, something which attending journalists remarked was unusual. Many questions showed that even though in the end, most of the members of parliament did not select him, they have begun to understand issues around LGBT human rights. Participants at the National Dialogue breakout group agreed that Oetomo's experience has inspired many younger activists to follow in his footsteps in the future. One independent commission that some senior activists are considering is the National Commission on Violence Against Women (Komnas Perempuan). The selection of new commissioners will take place in 2015.



*Photo: Panel of Experts and Allies at the National Dialogue*

Participants also agreed that the LGBT movement needs to be more political. However, they also admitted that most LGBT organizations do not yet have the habit of engaging with elected politicians and political parties in attempting to influence legislation and policies. Since 1999, when elections have become more democratic, very few LGBT activists have tried to run for different levels of legislature. No major political parties have fielded openly LGBT candidates, so the few candidates in previous elections have run on small parties' tickets, and hence have failed to be elected. More politically experienced participants remarked that the probable key to advancing LGBT rights is to mainstream LGBT issues in the political discourse in such a way that voters will elect candidates who support diversity in all aspects, including SOGI, instead of only fielding LGBT candidates. Participants recommended that capacity-building and education in politics be given to LGBT activists.

CASE  
STUDY  
#7

### UPS AND DOWNS OF THE Q! FILM FESTIVAL

In 2002, some LGBT film enthusiasts and their allies, organizing under the name Qmunity, initiated the Q! Film Festival. In addition to screening films with discussions afterwards, the Festival also consists of book launches, discussions on different aspects of sexuality, photo exhibits and so forth. When it was first held, it was vehemently protested by hardline Islamist groups, but managed to run without a hitch. By 2009, it was held in several other cities in different parts of Indonesia.

In 2010 there were huge protests again by the same Islamist groups, so widespread and with threats of violence that some venues cancelled screenings and others advertised them clandestinely (by direct text or instant messaging only, for example). Screenings in some cities did not take place at all.

In 2011 the Festival was held only in Jakarta, and was a small affair with the same precautions in inviting participants. In the meantime, Qmunity activists have come to know some supportive human rights lawyers who promised to help the 2012 Festival.

So, when the 2012 Festival was planned, still only in Jakarta, the organizers approached the human rights lawyers and went to the police together to report their plan. Under Indonesian law promulgated after the change of governments in 1998, police cannot prohibit an event from happening, as long as it does not involve violence or physical disturbance, and in fact are obliged to protect it. At first the police came up with the usual line: “We cannot guarantee your safety, so please do not proceed with your plan.” The human rights lawyers reminded the police of the latter’s duty, and threatened to take them to court for negligence. This turned out to work, so the Festival was given a police recommendation that meant the event could go ahead.

The event proceeded with no disturbance, although the invitations to the initial screenings were still sent discreetly and cautiously. After a few days, the organizers became bolder and announced screenings, for example on Facebook, bringing in more participants. The response was so enthusiastic that the Festival went on beyond the closing date for another couple of weeks.

The 2013 Festival happened again without any problems, and although it still only took place in Jakarta, there will now be smaller festivals in different locations around the country.

*Case reported by Qmunity*



## THE SPECIAL CASE OF ACEH

The steering committee of the National Dialogue decided to have a breakout group specifically dedicated to the case of Aceh Province because the situation for LGBT people in this northern Sumatra province and the nature of the response by LGBT organizations are different from the rest of the country.<sup>15</sup>

Aceh is unique in its conservative brand of Sunni Islam (like the rest of Indonesia, of the Shafii school) and its historical tension with Jakarta during the three-decade-long separatist movement spearheaded by the Free Aceh Movement (*Gerakan Aceh Merdeka*, or GAM) over the division of revenues from its rich natural resources with the central government. Under the Special Autonomy Law for Aceh (No. 18/2001), extended by the Indonesian government as a potential peace offering in 2001, the province was granted the ability to make laws based on Islamic law (*shariah*) through the use of *qanun* (local ordinance or bylaw).<sup>16</sup> Fighting continued between Indonesian forces and those of the Free Aceh Movement until the devastating tsunami at the end of 2004. During this catastrophe, 170,000 people died or disappeared and it led to a halt in violence since the focus now became rebuilding Aceh with the help of the international aid community, whose arrival forced Jakarta to release its grip on power and open the province to foreigners.

Finally, in 2005 a Memorandum of Understanding (MoU) between GAM and Jakarta was negotiated with the help of the Finnish president, Martti Ahtisaari, putting an end to the decades-long conflict and establishing greater provincial political autonomy. Importantly, included in this MoU was the

15 This part of the report on Aceh is based on an unpublished piece written by Jamison Liang, dated 11 March 2013, “The Qanun Jinayat: Debating Homosexuality in Acehese Shariah.” The text has been edited and shortened without losing the essence of the description and argument. In the revision of the first draft he worked with Iriantoni Almuna. To them both go our thanks.

16 The term qanun is only used in Aceh Province to refer to all local ordinances, which by law have to be based on Islamic *shariah*.

proposal for the Law on Governing Aceh (LoGA) which, when passed by Indonesian parliament in 2006, included the ability to expand the use of *qanun* in giving Aceh more regional autonomy.

While the initial 2001 *qanun* aimed at the logistics of developing an Islamic legal system in Aceh, the more recent *Qanun Jinayat* (criminal bylaw) pushed through by the departing provincial legislature in September 2009 has garnered more controversy. Among other crimes, it proposed the stoning to death of married adulterers and severe fines, imprisonment, or caning punishments for paedophilia, rape, and homosexual or lesbian acts. Notably, the *qanun jinayat* was not signed into law by the then governor, Irwandi Yusuf, due to his concerns over the validity of the *qanun*, and thus it remains unenforceable. Accordingly, the fate of the *qanun jinayat* became uncertain under Yusuf's tenure, but since his ousting in the gubernatorial elections in late 2012, intense lobbying efforts have resurrected support for its implementation by the new ruling party, *Partai Aceh*. Throughout 2013 discussions continued, including objections by civil society groups objecting to the harsh methods of punishment.

One of the reasons behind Yusuf's refusal to sign the law may have been the civil society protests against the *qanun*. Human rights activists across the archipelago and in the international community strongly condemned its passage in the local legislature and argued that the proposed stoning and caning punishments represented severe human rights abuses and constituted torture. Considering Indonesia's ratification of the UN Convention Against Torture in 1998, these punishments should not have been allowed, they argued. Ultimately, despite Aceh's autonomy, Acehese *shariah* is still subordinate to national Indonesian law and therefore cannot contravene it. Furthermore, some Indonesian Muslims pointed out that there was no real need for this bylaw; Aceh had far more important issues to deal with such as corruption. However, it is important to note that while the *qanun jinayat* was not implemented, other earlier *qanun* which prescribed caning punishments for other crimes (e.g. gambling) remain in place—the objections to caning as a form of torture have been ineffective thus far. For supporters of caning, it embodies not a form of physical whipping or abuse, but a public shaming spectacle that functions as a form of Muslim orthopraxy, the conduct, activity and actions that support this particular interpretation of the religion. The current governor from *Partai Aceh* has expressed verbal support for promoting the "Islamic qualities" of Aceh, which has been read by political observers as expanding the use of *qanun*.

In the three years since the fate of *qanun jinayat* became uncertain, the situation for LGBT residents of Aceh and other marginalized communities has deteriorated further. For one, the 2001 Aceh *Qanun* created the "*shariah* police" (*wilayatul hisbah*, or WH), a civilian force whose mandate is to investigate and prosecute violations of *qanun* in conjunction with the police. The WH routinely monitor Acehese citizens and can apprehend those who they deem to be contravening Islamic law. Waria, or transgender women, have continued to come under increased scrutiny because of their appearance and assumption that they are sex workers.<sup>17</sup>

Acehese human rights groups have only recently come to integrate LGBT issues into their work, and some remain apprehensive that open support of LGBT organizations could jeopardize the advancement of other human rights priorities in the province. LGBT organizations have tried to engage with them, with limited success. They have also approached the National Human Rights Commission, but this independent body has limited influence on government institutions.

17 Christen Broecker et al., *Policing Morality: Abuses in the Application of Sharia in Aceh, Indonesia*. (New York: Human Rights Watch, 2010)

LGBT organizations have reported cases of gender-based violence to the police. While the police have acted on some reports, they have not done so on others. LGBT activists have also tried to be actively involved in neighborhood or community activities such as night watches, to show community leaders and members that they are also good members of society. Lastly, they approached allies within academic and religious institutions to promote understanding of SOGI issues and persuade them to speak on behalf of LGBT people.

It is also worth noting, in the context of reconstruction after the 2004 tsunami, that limited attention was given to LGBT rights in Aceh. Although barracks were set up for all survivors, some transgender (*waria*) residents reported mistreatment and verbal harassment due to their appearance. Indeed, some Acehnese *waria* avoided the barracks altogether due to this problem. While a Dutch organization, Hivos, provided direct support to LGBT community for advocacy and capacity building activities, local activists found other donors to be less engaged. Given the sensitivity of working on LGBT rights at the time, many development organizations did not want to jeopardize their projects with local governments and communities. However, LGBT groups in Aceh did benefit indirectly from the presence of these institutions; several aid workers did care about LGBT rights and considered themselves allies to the community. They, in their individual capacity, provided assistance to LGBT communities through various form of support (e.g. assisting as trainers, speakers, and advisers for LGBT events).

During the report back to the plenary session afterwards, many participants strongly urged everyone concerned, both LGBT activists and allies, to take note of what has happened in Aceh, so that everyone can put their minds together to find solutions, and also so that such a situation will not develop in other parts of the country.

CASE  
STUDY  
#8

### AN ATTACK ON TRANSGENDER WOMEN IN ACEH

This incident happened in Banda Aceh in June 2012. One evening, nine transgender women were evicted from their places of residence by the ward chief and the head of the neighborhood association. They shouted, "Hey trannies, each evening you guys fornicate here. You carry out immoral and obscene acts. You bitches. You plug things into assholes."

Some of the transgender women were asleep and the men forced the doors of their rooms open. Kiki, who was still sleeping, was shocked and screamed to call the owner of the boarding house, but they beat her up and kicked her. They put the transgender women's belongings onto two pedicabs, but many items were just thrown away. Some of them went away with little clothes on. Some only had shorts on. They spent the night on a sidewalk.

The next day, because they felt hungry, four of them wanted to buy food in another neighborhood. A mob of about twenty suddenly chased Kiki and her three friends, waving large pieces of wood and stones and screaming, "Cursed trannies." They ran away, but Kiki did not manage to escape. They beat her with the pieces of wood on her back, stripped her and tore up her clothes. They trampled her head and struck it with the wood until she bled.

Finally a public order policeman saw the incident and rescued her. But he only took her to his office for three hours. He did not treat her injuries.

She could not stand the pain and went to a friend's house, still in her shredded clothes. Kiki's back was fractured and she could not move for two weeks.

*Case reported by organizations in Banda Aceh*





## CAPACITY OF LGBT ORGANIZATIONS

At the end of 2013, there were two national networks of LGBT organizations, and 119 organizations in 28 of the 34 provinces in the country (see Annex 1). The Indonesian Network of Gay, Transgender Women and Other MSM Organizations (GWL-INA) was set up in February 2007 to advance work on HIV and STI among these key populations. Due to the nature of the support from international HIV organization and the Indonesian National AIDS Commission, the focus of the network is limited. Partly in response to this limitation, the second network, Forum LGBTIQ Indonesia, was formed in 2008 to advance more general sexual rights programs and to include organizations of lesbians, bisexual women and transgender men. The Forum has received seed money from Hivos, but otherwise is not as organized as GWL-INA. At the National Dialogue the coordinators of the Forum expressed their hope that support will come from the 'Being LGBT in Asia' initiative.

A few organizations comprised of people of different sexual orientations and gender identities, but the majority consist of one or two related sectors, such as gay men and transgender women or lesbians and transgender men. A few are HIV service organizations that have programmes for gay men, transgender women and other MSM. In places where the communities or clusters of friends are not large, there may be more integration between the sectors: lesbians or transgender men, for example, may be active in gay or transgender women's organizations. More recently, a number of youth organizations have emerged, some affiliated with a more general organization.

A larger number of organizations have cropped up in the more densely populated islands of Java and Sumatra. There are fewer organizations in Kalimantan, Sulawesi and Eastern Indonesia in general.

The two national networks, as mentioned in the introduction, were part of the steering committee of the National Dialogue. Thirty-six (36) LGBT organizations took part in the meeting. The steering committee decided which organizations and stakeholders were to be invited. LGBT organizations were selected based on ongoing assessment by the two national networks. The following table shows the diversity of existing LGBT organizations as well as those participating in the event.

### Diversity of Indonesian LGBT Organizations<sup>18</sup>

	LGBT	LBTm	GBTw	L	G	Tm	Tw	HSO	Total
Number of organizations	10 (1Y)	9 (1Y)	18 (2Y, 1+)	1	35 (7+)	2	38 (1Y, 4+)	6	119 (5Y, 12+)
Number participating in National Dialogue	8 (1Y)	8	4 (2Y)	1	6	1	8 (1Y)	0	36 (4Y)

18 Acronyms: + = PLHIV support group; HSO = HIV Service Organization (with programme for GBTw); B = bisexual; G = gay; GB = gay and bisexual men; L = lesbian; LB = lesbian and bisexual women; T = transgender (men and women); Tm = transgender men; Tw = transgender women; Y = youth.

Youth groups and PLHIV support groups are shown as sub-groups of other categories (e.g. gay, LGBT or GBT) rather than as a separate category.

Organizations invited to the National Dialogue were sent three sets of questions regarding (1) organizational profile, (2) organizational activities, and (3) organizational capacity.



## ORGANIZATIONAL PROFILE

The questionnaire on organizational profile asked for information about organizations as perceived by their leaders. In addition to basic information such as contact details, it aimed to find out how and when organizations were set up, their geographical scope of work (local, national, regional, international), the communities they work with and how many people they reach out to.

Thirty of the thirty-six organizations sent back completed profile questionnaires.

The organizations range from a few that have existed for about twenty years (GAYa NUSANTARA, IGAMA and Gaya Dewata) and one (Perwakos) that was set up in 1978. The majority of participating organizations, however, were founded in the past ten years.

Many of the newer organizations working with gay men and transgender women are mainly concerned with HIV work. Some of these gay organizations were established because their founders saw friends and community members falling ill in the first half of the decade starting 2000 and with the assistance of concerned stakeholders, mostly health care providers, took needed action. Since then HIV care, support and treatment have become more systematically available. Some municipal or district-level AIDS commissions have been instrumental in the founding of support groups that later develop into full-fledged organizations. HIV work indeed opens up opportunities for organizing for gay men, transgender women and other MSM.

Other organizations were formed when a circle of friends felt that public discourse about LGBT people was incorrect, homophobic, transphobic or discriminatory. They thus started their work by holding discussions initially among themselves and an increasing number of friends which later developed into more public discussions facilitated by university departments (psychology, social sciences, law and even religious studies), media, human rights organizations, feminist, reproductive health, interfaith, pluralist and other community organizations. A few organizations publish newsletters or magazines, books, and other materials uploaded onto websites, blogs and Facebook pages. The more recently founded organizations, which tend to consist of younger activists, are more internet savvy. In fact, some of them started as people meeting in internet chat rooms, mailing lists and Facebook groups and pages.

Some organizations systematically attempt to develop communities and networks in the same city or district, province or even nationally. Gay organizations have facilitated the formation of other gay organizations, and in some cases have also done so for organizations of transgender women or lesbians and transgender men. This facilitation and advice can relate to community development and organizational management as well as knowledge on diverse aspects of gender and sexuality. More established

organizations can also provide newer organizations with safe space, introductions to key stakeholders and allies, and, in some cases, seed money.

Generally speaking, intersectionality is higher between lesbian and transgender men organizations and feminist, labour, peasant and other civil society organizations (recognizing the ways in which institutions such as sexism and homophobia are interconnected and cannot be examined separately from each other), while gay and transgender women are less so. However, lesbian organizations, perhaps through their interaction with feminist organizations, are more concerned about a set of feminist issues such as psychological counselling to victims of gender-based violence, rather than with community development, HIV, and human rights issues.

LGBT organizations primarily provide space for mutual support (psychosocial and economic) and group activities. They may have started as informal groups, but since international and government funding became available in the past decade, some have formalized their structure and taken the form of foundations or associations. With formalization has come assistance from both HIV and human rights programmes to achieve better organizational management.

What is noteworthy is the information on the number of people reached by the organizations. Many modestly claim they only reach fewer than 100 people. Organizations with an HIV programme report they can contact and reach thousands of people during health outreach activities, though these are most likely cumulative numbers. At any rate, this type of organization is accustomed to counting numbers because of programme requirements.

Collaboration between activists of all sexual orientations and gender identities tend to take place at the national level. At the local level, while transgender women organizations and gay men organizations tend to interact regularly and collaborate, they do not do so with lesbian and transgender men's organizations and vice versa.



## ORGANIZATIONAL ACTIVITIES

In line with the objectives of the 'Being LGBT in Asia' initiative, the organizational activities questionnaire posed two sets of questions. The first set attempted to gauge whether or not and to what extent the legal and policy conditions in the country are conducive to the existence of LGBT organizations. The second set asked about the advocacy activities and programme of LGBT organizations, external and internal constraints in conducting them and their successes and challenges.

Sixteen of the thirty-six organizations participating in the National Dialogue returned the activities questionnaire. The more established organizations are legal entities in the form of associations (with membership) or foundations (without membership). To start an organization, the first official who founded an organization needs to approach a notary public to begin the process of legalization and government registration required by law. Notaries tend to recommend that organizations become legal as foundations, on the ground that these are easier to process. Being a legal entity is essential to being able to

engage with government agencies (those that are approachable and have a programme for LGBT organizations as described below) and with international donors.

The first challenge for founders of organizations is to know how to set up their organization as a legal entity. Some of the founders already know the process but others need to learn about it, often with the help of more established LGBT organizations or allies. While in provinces such as Bali and Yogyakarta, notaries public are willing and even supportive, in other locations not all of them are willing to assist in the setting up of LGBT organizations. Aceh organizations reported particular resistance.

Since the enforcement of the Foundations Law (No. 28/2004) with the implementing Government Regulation (No. 63/2008), foundations need to be registered with the Ministry of Human Rights and Law. Ministry officials have consistently stated that the words *gay*, *waria* (transgender woman), *seksual* (sexual) and *seksualitas* (sexuality) may not be used in the name of organizations nor in the text of the by-laws. Their suggested alternative is to change *gay* into *gaya* (style) and *waria* into *warna* (colour). *seksual* and *seksualitas* may not occur at all. They practically force notaries public to make the language of by-laws as bland and vague as possible. No organizations have challenged this apparently unofficial policy. The danger here is if LGBT organizations might be disbanded for carrying out activities that are not formally stipulated in their by-laws.

Some participants at the National Dialogue raised this with an official in the Research and Development Body of the Ministry present at the Dialogue, Dr Adhi Santika, and his response was technical. He gave the example that *waria* is not a legal category in Indonesia, hence the word cannot be used in legal documents. It is thus possible to legalize and register LGBT organizations in Indonesia, as long as officially they are not LGBT organizations and do not carry out activity related to sexual rights. The Ministry officials know that in reality LGBT organizations do carry out sexual health and rights work, but they do not seem to object.

Freedom of speech, assembly and association is enshrined in the Constitution and again in the Human Rights Law (No. 39/1999). In practice, however, the Indonesian police often regard public LGBT activities such as conferences, training workshops, beauty pageants and film festivals as “sensitive activities” that may “cause restlessness in society.” So instead of protecting LGBT people or organizations, the police recommend that activities be stopped or cancelled.

Resistance to LGBT activities comes from hardline Islamist groups and organizations. Some are vigilante groups or groups of thugs running “security” rackets, such as the infamous Front for the Defense of Islam (FPI). 2010 was particularly bad: Different Islamist groups forced the termination of the 4<sup>th</sup> Conference of ILGA Asia held in Surabaya in March that year. The Q! Film Festival, which had been going on for nine years and had events planned in several Indonesian cities, had some of the film showings cancelled due to threats by these groups in Jakarta, Yogyakarta, Surabaya and even Bali (which is majority Hindu). Different ally organizations were able to save some showings.

An improvement can be noted for 2012, when the Festival, held only in Jakarta, took place without disturbance. The police had the same advice to cancel the activities, but the organizers came with a lawyer, who reminded the police of their duty to protect

whoever is being threatened by other groups in society. In 2013 the Festival was held again with no disturbance at all. However, there is no guarantee that there will not be disturbances again in the future. To put it in a larger context, the police have also failed to protect religious minorities such as Ahmadis, Christians and Shi'ite Muslims. This has been brought to the attention of the government, both national and local, as well as to UN bodies, but it seems to be a trademark of the Yudhoyono government (2004 to present) that they are reluctant to be seen as showing strong opposition or demonstrating force with Islamist groups.

Generally speaking, then, the government does not actively repress LGBT organizations, but it does not protect them either. One exception seems to be Aceh Province, where government officials have tried to make it difficult for LGBT people to organize.<sup>19</sup> On a positive note, some semi-government or independent commissions have been either pro-active in or at least amenable to supporting LGBT organizations. The National AIDS Commission is one clear example. Since 2007 it has actively supported the formation of the national network GWL-INA; many local HIV commissions have similarly supported local organizations. The National Commission Against Violence Against Women (Komnas Perempuan) and the National Human Rights Commission (Komnas HAM), though not always pro-active, have also facilitated activities and campaigns on LGBT rights by community organizations.

Participation in policymaking has been limited to HIV strategic planning and programming at the national level and at the local level in some provinces and districts or municipalities. Forum LGBTIQ Indonesia, two of whose coordinators are activists of the Jakarta-based LGBT organization Arus Pelangi, focusing on human rights and legal work, has been active within coalitions of civil society groups in attempting to influence lawmaking in Parliament or to push for judicial review at the Constitutional Court (e.g. on the Pornography Law [No. 44/2008]). It must be admitted that most LGBT organizations are not ready to work on policy at the local level, though there are efforts by activists to educate themselves to be able to do so.

Most advocacy carried out by local LGBT organizations has centred around practical or technical issues facing community members in their daily lives and been carried out by gay and transgender women organizations. This includes advocacy for better prevention, care, support and treatment for HIV and sexually transmissible infections, and for the termination of public order police or police roundups, which often includes physical and sexual violence towards LGBT people. Some lesbian and transgender men organizations join forces with feminist and other civil society organizations to campaign for women's rights and the end of violence against women. However, "advocacy" activities still centre around raising awareness of the existence of LGBT people and of their equality in rights rather than addressing specific issues about sexual orientation and gender identity.

On the other hand, at the national level stronger LGBT organizations have been involved in international processes such as the Universal Periodic Review of Indonesia at the UN Human Rights Council in 2008 and 2012. The activity in 2008 was facilitated by IGLHRC, and the one in 2012 by the HRWG, a coalition of Indonesian NGOs working on

19 See the specific discussion on Aceh Province in the previous section.

international human rights whose governing board includes a representative of LGBT organizations. With the assistance of HRWG and Hivos, Forum LGBTIQ Indonesia took part in civil society preparations for the review of Indonesia's compliance to the ICCPR at the UN Human Rights Committee in 2013. Generally speaking, the government's response has been lukewarm to engaging with LGBT organizations and discussing ways of ensuring policies to protect LGBT rights. LGBT activists were invited to a breakfast meeting with the Foreign Minister after the UPR process but nothing substantial was discussed. Jakarta-based groups continue to have regular meetings with Foreign Ministry officials.

One important external constraint to advocacy activities has been the threat from hardline Islamist groups. This has made open advocacy seen as a risk by LGBT organizations as well as by government officials who could otherwise be supportive (and some are, furtively), and even by foreign missions that have supportive programmes for LGBT organizations. The National Dialogue, for example, could not be announced openly. Another external constraint is the ignorance of most government officials of the issues. Understanding is much better among progressive civil society groups, such as human rights organizations, feminist organizations and organizations that provide HIV services.

As an internal constraint, as already mentioned in the section on the history of LGBT organizations in Indonesia, many LGBT activists do not have a vision of a possible, better world. Thus in their "advocacy", they tend to find ways of adapting to the status quo. One cannot ignore the more immediate worry among activists about being found out by their own families.

While Indonesian LGBT organizations have not demonstrated significant success in their advocacy activities, one lesson learned from their small successes is the importance of collaborating with strategic allies and being consistent in doing so.



*Photo: Hard at work at the National Dialogue*



## ORGANIZATIONAL CAPACITY

The organizational capacity questionnaire aimed to assess the capacity of organizations participating in the National Dialogue in four areas: source of funding, human resources, organizational management and collaboration, and coalition-building. For each area, organizations were asked to rate themselves on a scale from 1 (low capacity) to 10 (high capacity).

Nineteen of the 36 participating organizations returned the questionnaire.

### 1. *Sources of Funding (Score: 4.66/10; n = 15)*

The questions about funding included external and internal sources of funding. Almost all of the organizations have no long-term and reliable financial support and financial resources for LGBT organizations are very limited. They are available, but they do not cover all the needs for organizations' activities. Financial aid from local governments is sometimes allocated for health issues, especially for the response to HIV. The private sector very rarely donates funds to LGBT organizations. Most organizations access funding from international donors such as USAID who, through American organizations such as FHI 360 collaborating with the Indonesian Ministry of Health in the Aksi Stop AIDS Program, started funding programmes for MSM and transgender women in some locations in 2002. AusAID had started a similar arrangement in other locations in the 1990s through the Indonesian HIV/AIDS Prevention and Care Program. UNAIDS and UNFPA have assisted some gay and transgender organizations with short programmes. Some European Union countries have also supported short programmes, mostly concerned with LGBT human rights. The most extensive and systematic funding has been from the Dutch organization Hivos starting in 2003, sometimes with funds from the Netherlands government. Later the Ford Foundation joined Hivos in providing financial resources to LGBT organizations. The last two funders have also focused their funds on LGBT advocacy and human rights instead of the traditional HIV focus of other donors.

Not all organizations have the initiative or capacity for generating their own income. For generating internal income, membership fees are the main means. Transgender women organizations seem to be the ones that conduct this but raise only a modest amount of funds in this way.

*The average score for funding sources is 4.66/10 (n = 15).*

### 2. *Human Resources (Score: 4.93/10; n = 15)*

The questions about human resources asked about capacity-building and access to professionals, i.e. people who either through formal training or experience have the capacity to do the required job. Human resources also vary in the organizations surveyed. Most of them do not have professionals to handle finances; legal, human rights and policy issues; and programming. The provision of grants for HIV and LGBT human rights programmes does include capacity building in organizational management, including financial management. Most of the organizations already

have a mechanism to build capacity in their organizations for officers, staff and also for members, whether through donor assistance or their own initiative.

*The average score for human resources is 4.93/10 (n = 15).*

### **3. Leadership (Score: 7/10; n = 13)**

The questions about leadership related to strategic direction, organizational management, governance structures and collaboration. Almost all of the organizations feel they have strong and visionary leadership. They also feel that they have clear and strategic direction and policies. However, when it comes to organizational management and governance structures, many of the organizations reported that these were not in place yet, though they realized its importance. Organizations were keen to collaborate with other organizations, but because of the sheer geographic expanse of the country, any collaboration that takes place is at the local level.

*The average score for leadership is 7/10 (n = 13).*

### **4. Organizational Management (Score: 5.78/10; n = 14)**

Questions about organizational management related to learning and application of knowledge, cooperating with other change agents, and collaboration with both media and government. All of the LGBT organizations have a strong desire to learn and share and apply their knowledge and skills. They are already cooperating with other agents of change, but the work still feels ineffective because of the lack of professionals dealing with different issues. Almost all the organizations feel that the existing national networks, such as Forum LGBTIQ Indonesia and GWL-INA, are still ineffective and need improvement. Participants believe that a coalition with other agents of change is possible to work on key issues, and that connections are available with other civil society organizations who could assist in advancing LGBT rights by offering to help in areas such as improving knowledge and skills on human rights.

LGBT organizations also actively engage social media as a platform to share information, but these efforts eventually fail as they are not maintained and sustained. Engagement with conventional media is patchy and of an ad hoc nature. Not all organizations have actively engaged with the legislative or executive branches of government, but those who are actively engaged do not feel satisfied and think that the engagement has been ineffective, possibly because government people do not see LGBT issues as urgent, and the pressure has not reached a critical mass yet. From the aspect of efficacy, most of the organizations feel that they do not have the capability to mobilize general society to help them deal with their problems.

*The average score for organizational management is 5.78/10 (n = 14).*





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**United Nations Development Programme**  
**UNDP Asia-Pacific Regional Centre**  
United Nations Service Building, 3rd Floor  
Rajdamnern Nok Avenue, Bangkok 10200, Thailand  
Email: [aprc.th@undp.org](mailto:aprc.th@undp.org)  
Tel: +66 (0)2 304-9100  
Fax: +66 (0)2 280-2700  
Web: <http://asia-pacific.undp.org/>