**Shadow or Alternative Report to the UN CEDAW Committee**

**on the Situation of**

**Lesbian Bisexual and Transgender (LBT) in Indonesia**

**Prepared by:**

Qbukatabu

**Report Contributions:**

Cangkang Queer

Esbisquet

Kolektif LBT Kawanua

Komunitas Keluarga Pelangi Indonesia

Persatuan Priawan Indonesia

Qbukatabu

Talita Kum

Waria Crisis Centre Yogyakarta

September 2021

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# Situational Analysis on Lesbian, Bisexual, Transgender (LBT) from 2016-2020

1. This report is written by Qbukatabu with 10 other organizations (with two organisations request to be anonymous) that specifically work on fulfilling the rights of the LGBT in Indonesia. Qbukatabu conducted an online workshop on 11-12 September 2021 to discuss the CEDAW framework and mechanism as well as various organizations’ findings from 2016 to mid-2021 regarding violence and discrimination against Lesbian Bisexual Transgender (LBT) communities across regions such as Banda Aceh, Medan, Jakarta, Central Java, Yogyakarta, Kalimantan, East Nusa Tenggara, South and North Sulawesi. This is our first shadow report to the CEDAW committee.
2. We note State commitments to respect, protection and fulfillment of, the rights of humans with diverse sexual orientation and gender identities:
3. Indonesia’s commitment to the Universal Periodic Review (2017) of supporting the recommendation for ensuring a safe and enabling environment for all human rights defenders, including those representing the LGBT community; and implementing the freedom of expression and assembly, along with prioritizing progress on equality and non-discrimination including in relation to LGBT persons;
4. The National Commission on Violence Against Women (*Komnas Perempuan*) and the National Commission on Human Rights (*Komnas HAM*) are National Human Rights Institution (NHRIs) committed to eradicate violence based on sexual orientation and gender identity. Since 2012, *Komnas Perempuan* has included an analysis of violence based on sexual orientation and gender identity in its Annual Note (*Catatan Tahunan*) and several independent reports on international human rights mechanism. In addition, *Komnas HAM* in 2015 has published The Yogyakarta Principles that serve as a guide for strengthening the State obligation to respect, protect, and fulfill the fundamental rights of humans with diverse sexual orientation and gender identities;

c. The Indonesian Police’s Chief Regulation No. 8 Year 2009 on the Implementation of the Standard and Principles of Human Rights in Police Duties as well as the Chief’s Letter SE/6/X/2015 on Solving Hate Speech. Several discriminating regulations including the ones towards lesbian, bisexuals, and transgender at the national and local levels which are published before the moral panic in 2015 and are still in effect.

d. In March 2020, Hendrika Mayora Victory became the first ever transwoman to hold a political office as member of the Village Council or *Badan Permusyawaratan Desa* (that functions as village-level policymaking board) in Habi Village, Sikka Regency, East Nusa Tenggara. Mayora garnered public support for her activism in her village’s health post (*posyandu*) and church activities. During the election, she won by defeating six other, all-male candidates

e. In June 2021, the Interior Ministry provides services such as administering electronic ID card and Family Card issuances for transgender people as a realization of accessible and non-discriminative public service. Although the ‘sex’ query is still binary—female and male—the service at least helps transgender citizens who were previously undocumented.

3. The year 2016 was a year of the state and society’s moral panic with the LGBT people. It started from various state actors’ statement in the media, from the ministers, parliament speaker, to members of parliament. It began from the Education Minister’s prohibition of LGBT people from entering campuses. Then, the Defense Minister’s statement that LGBT issue is a proxy war and a threat. The Bureaucratic and Administrative Reform Minister’s statement that LGBT people are not eligible to be civil servants. Moreover, the People’s Consultative Assembly (MPR) and House of Representatives (DPR) asserted that LGBT has to be fought against and prohibited for it threatens the country’s culture and national security.

 A few statements from state actors were followed by regional leaders such as:

* In Makassar, the mayor asked the people to fight against LGBT by conducting prayer groups in the city’s 143 wards to “resist the LGBT virus,” and the Indonesian Muslim University’s rector denied LGBT students’ enrollment in the campus.
* In Medan, North Sumatera University’s rector condemned and threatened LGBT students. The rector also dismissed the student press’ governing body (Suara USU) that published a lesbian short fiction.
* In Aceh, the Syariah law explicitly punishes same sex activity since 2014. The mayor disseminated a call to eliminate LGBT people from Aceh through her social media accounts, with a picture of the mayor directing a gun. The Aceh government also established a Taskforce for Combating LGBT.

4. Officials’ statements have impacted the freedom of individuals in the LGBT community to gather and express themselves. Their public statements have also been the cause of attacks toward LBTQ’s human rights activists by the police, intolerant mass organizations, and the media. They also forbid housing for LGBT people. During 2017 in Makassar, the police and intolerant mass organizations collectively dismissed an ongoing activity organized by transwomen. The police stated that it would never issue any permit for activities related to LGBT, such that in mid-2021, a participant of the International Women’s Day parade was arrest for bringing up the LGBT cause. In Medan, LBTQ’s human rights activists and their families were assaulted and persecuted, which led to their organizations’ office evacuation due to security concerns. These events happened after the activists stated their disagreement with the public threats and disapproval of LGBT people to the press. A similar situation happened in Yogyakarta. The Islamic boarding school for transwomen was raided by intolerant mass organizations which led to the freezing of activities and force closure of the school. In Aceh, the media exposed LBTQ’s human rights activists’ private information. In Central Kalimantan’s East Kotawaringin, same-sex individuals are not allowed to live under one roof, unless they can prove their familial relationship by showing their Family Card.

5. The years 2018-2020 had been the time when the regional, legislative, and presidential elections were held, and the issue of sexuality animated the politics of hatred and through populist ways. In 2018 and 2019, a few areas such as Depok and Central Kalimantan took the initiative to establish subnational regulations that directly criminalize LGBT or the anti-LGBT local regulations. Through Qbukatabu media-monitoring of three national media outlets during the campaign season from February to April, the issue of LGBT was utilized to corner candidates. They do so by making the connection that religion will tarnish if LGBT is legalized. A candidate’s campaign team even actively campaigned about the danger of LGBT and the urge for children to be protected from the infection or contagion. Furthermore, prior to the 2020 regional elections, Depok mayor had planned on regulating LGBT raids which permit local authorities to search apartments and rentals. The plan was intended to garner support, especially because Depok is one of the cities in West Java with 91 regulations that potentially discriminate against women, religious and sexual minorities.

1. Throughout 2014-2019, LGBT group in South Sulawesi monitored the media and found 361 news coverages mentioned the term LGBT. Transgender permeated the largest proportion in coverages for as many as 134 (44.52%) news, LGBT fills 127 (42.19%) news, lesbians in 31 (10.3%) news, intersex in 6 (1.99%) news, and gays in 3 (1%) news. There were 16 areas in South Sulawesi that became the setting for local and national media coverage, with the most coverage in Makassar for 195 news (64.78%). As much as 81% of the media coverage in Makassar were negative, such as shaping the narrative with bombastic headlines, objectifying victims, not applying the principle of covering news from both sides, stigmatizing LGBTI as the cause of HIV and are against morality and religion, as well as a social problem and threat to the nation.

The Covid-19 pandemic has impacted LBTQ lives. Based on an April 2020 survey, the pandemic has caused mental health impacts, in which LBTQ people become unease due to pressure and psychological violence from people living under one roof. LBTQ people feel worried for feeling lonely and stressed for losing their livelihood or being unable to work. Furthermore, they have become easily emotional, temperamental, prone to panic attacks, and suicidal. TalitaKum notes that working conditions at home also stimulate the increase of violence at home. When LBTQ people lack income and go home, they become financially dependent on their parents. Such situation makes LBTQ people vulnerable to violence and restraints.

1. LBT organization in South Sulawesi notes that based on an assessment conducted from April to December 2020, LBTQ individuals in South Sulawesi experienced layoff, incentive cuts, business on hold and lack of government aid due to current address that differs from the address in ID card. A similar event happened in North Sumatra, in which some experienced job termination without notice, particularly the transwomen and transmen who mostly worked as unskilled and factory workers. Further, based on the *Waria Crisis Centre* (Transwomen Crisis Center), only 17 out of 183 transwomen in DI Yogyakarta do not possess an ID card, and yet no transwomen has ever received any direct cash assistance from the government.
2. *Waria Crisis Centre* also notes the ways in which transwomen who were Covid-19 positive had faced difficulties in having adequate nutrition during self-isolation, such that 11 transwomen died. Furthermore, hardship continues when gaining access to free burial services for transwomen who died of Covid-19, because their address on the ID card differed from their most recent residence.

**RECOMMENDATION**

1. The government ensures protection for human rights activists including LBTQ rights activists from all forms of assault, intimidation and sexual violence toward them and their families. Furthermore, the government must ensure their access to justice as set forth in the CEDAW General Recommendation No. 33.
2. The government reviews subnational-level regulations and bills that could potentially discriminate its citizens including LBTQ individuals.
3. The government revises the *Qanun Jinayut,* including inhumane punishments such as public caning that is going against national laws.
4. When handling a case, the police does not issue statements, questions, or behavior which belittles sexual orientation and gender identity to prevent revictimization
5. Rectors and campus officials ensure their campuses as a place for anyone to access knowledge and express opinions without pressure or intimidation.
6. The government ensures the delivery of assistance is being run inclusively and is aware of the multiple vulnerabilities which minority groups face to gain such accesses, primarily the ones related to civil administrations.
7. The media stops making news coverages that perpetuate discrimination, violence, stereotypes and hatred to people with diverse sexual orientation, gender identity, and gender expression. Furthermore, the media must conduct trainings on knowledge of SOGIESC, to disengage in the act of connecting one’s criminal act or violence with one’s sexual orientation, gender identity and expression.

# Article 1 and 2 – Violence against Gender Identity, Sexual Orientation and Gender Expression as well as the State’s Measures

1. In 2017, Cangkang Queer with the legal aid institute and National Commission on Anti Violence Against Women served as aide to the case management of F, a transgender man who had to face justice in an area of North Sumatera. F experienced sexual violence in which he was forced to marry his rapist during senior high school until his delivery of the baby. Then, F became an undocumented worker in Malaysia to support his child. F sought protection by willing to be wedded to a male superior in his workplace through religious customs (*siri*). In 2017, F went back to North Sumatera to see his child but did not realize that F was pregnant. F had a terrible stomachache, immediately went to a public bathroom, and gave birth there. When the baby was born, F left the baby for a while to hurry back to his house that was located 100 meters away from the public bathroom to grab a piece of cloth. However, when F arrived home, he fainted and discharged so much blood. F was then put to a civil court trial and received the judge’s verdict of three years jailtime and a three-month detention as fine for attempted murder of the baby and child neglect. F was victimized throughout the process in court, with no legal aid since the beginning and the judge ignored the facts about F’s physical and psychological suffering as results of his history of sexual violence and the gender identity that was assigned by the society upon him.
2. Indonesia already has the 2017 Supreme Court Regulation No. 3 on the Guide to Process Cases of Women in Conflict with the Law for all judges across Indonesia. However, in the case of F, the judge’s view of a transgender man who experienced rape or forced marriage that impacted his physical and psychological condition because of unknown pregnancy and baby delivery emergency, was still biased and binary. The inability to analyze that the violence and discrimination which a transgender man faced because society assigned and decided his gender as woman, had pushed transgender men further away from gaining access to justice and recovery that they ought to receive.
3. In 2018, 12 transwomen were searched and taken by the Wilhayatul Hisbah (WH is the shariah police in Aceh) to North Aceh’s police station. The arrested transwomen were later shaved bald, forced to wear men’s clothes, run and shout as loud as they could until their voice resembled male voices. Furthermore in 2020, two masculine lesbians were taken by local police and the WH to the WH office for not wearing the hijab (generally individuals who don’t wear the hijab would only be lectured on the spot). The two lesbians had to stay overnight in the WH office and were questioned about the LBT community’s whereabouts in Aceh.
4. The *Qanun Jinayat* (penal code) in Aceh explicitly punish same-sex behavior and the people who promote the behavior as criminal offense with public caning as punishment. Although in practice, such offense is hard to be proven, the local police, WH police, and police force actively target transwomen and hijab-less masculine women to ‘convert’ them and dig further information about the LBT community or organizations’ staff and members’ whereabouts.
5. Throughout 2017-2020, the Persatuan Priawan Indonesia (PPI), Cangkang Queer, and Collective of LBT Kawanua each noted separately three cases of the society and local officials’ intervening the private spheres. First, a rental house of 5 people in Medan was raided due to allegations of women kissing each other in the house. They were paraded to the local official’s office by local residents, while television and the print media covered the story without censuring the women’s faces. The event had led the women to become afraid of going back to their homes. It was after Cangkang Queer asked for the right to answer questions from the press council and media to clarify the falseness of the story, then the women felt more relieved to go back to their homes. Second, a lesbian couple were kicked out of their rented house in West Java. Originally, the landlord suspected them as a couple because one looked feminine and the other looked masculine. Another resident of the landlord’s property accused them as a lesbian couple and complained to the landlord and neighborhood chief that having the lesbian couple around caused inconvenience. The neighborhood chief then went to their room, forced them to confess that they were a lesbian couple, and asked them to move out within 24 hours or they would be reported to the police. Third, the Public Order Agency (*Satpol PP)* raided one of boarding room where a transgender man stayed. They asked him to show the identity card and questioned his gender whether he is a man or woman because the gender in the identity card written as woman. Then one of Satpol PP went close to him and touch his breast to make sure the gender and forced him to admit that he has same sex attraction. As the transgender man responded that the Satpol PP treatment violated his right to privacy, he was slapped by the Satpol PP and brought to their office.

**RECOMMENDATION**

1. The law enforcers integrate CEDAW General Recommendation No. 33 on access to justice in court systems, legal aid and recovery for victims
2. The CEDAW Committee makes a specific General Recommendation that serves to capture the complexities of experience of violence and discrimination which transgender men face as a result of a system which assigns and decides transgender men as women.
3. Public officers at every level, from the neighborhood to national level, ensure a conducive space for civil dialogue and discussions, including not getting involved in initiating and provoking persecution at the hands of particular groups.

# Article 5 – Changing Discriminatory Social and Cultural Practices and Norms

1. In 2018, Qbukatabu noted that in Central Java, a transgender man experienced violence from his parents and extended family due to suspicions of his dating a woman in his campus. His parents prohibited him from continuing his education and transferred him to his aunt and uncle’s home. He was forced to dress and wear the hijab; and perform a rite (*rukyah*) in an Islamic boarding school. Unable to bear with the situation, he finally cut off ties with his family and left his parents’ and extended family’s homes.
2. In 2019, an LBT organization noted that in one of the cities in South Sulawesi, a 27-years-old lesbian experienced multiple violence from her parents for her masculine gender expression. She endured: a) physical violence through beatings, getting locked in the bathroom, and being thrown blunt objects; b) psychological violence through being coerced into wearing a headscarf and treated as a sinner, family’s humiliation, prodigal and hopeless child; c) movement restraint. The situation led her to self-blame, suicidal thoughts, and fleeing from home.
3. Talitakum noted that in 2018-2019, ND, lesbian decided to have romantic relationship with man to avoid the pressure of marriage but she introduced him to other lesbian friends to because ND thought that her boyfriend would accept this. However, she ended relationship because her boyfriend and also his family strongly demand to have the marriage. Then, her ex-boyfriend outed her sexual orientation to her parents. Her parents arranged an engagement with her ex-boyfriend and also marriage in the upcoming month. Her parents asked ND to went home with no specific reason. When ND arrived at home and knew the forced engagement and married, she decided to went away from her parents’ home without any notice.
4. Domestic violence has been regulated by Law No. 23 Year 2004. Nevertheless, in practice the law could not be implemented. Lesbians with masculine look and transgender men often experience violence for parents, extended family, and the society around them still view them as a shame. Furthermore, in the Indonesian society’s culture, an adult individual is still regarded as parents’ responsibility, including expected to live with the parents, if the individual is still not married. This situation complicates lesbian women and transgender men to live independently and separated from their parents. Hence, it is common to find how vulnerable lesbians and transgender men who live with their parents are to violence, how scared and reluctant they are to report their condition.

**RECOMMENDATION**

1. Encourage educators, religious leaders and public figures to give a critical awareness and education about gender and diversity, and to realize values and practices that denounce binary gender roles and acts of intolerance.
2. Revisit the *rukiyah* rite which religious education institutions often perform to change one’s sexual orientation, gender expression and identity, including the effects on LBTQ individuals’ mental condition and growth.
3. Encourage counselors and psychologists to empower parents on parenting with an approach that upholds a listening attitude and discussing as peers, rather than through lecturing and especially intimidation and violence.
4. Family and society should ban forced married because marriage should be based on the consent of persons who become the subject of marriage. Furthermore, parents can’t force the idea and act of marriage as a way to change their daughters’ sexual orientation, gender identity and expression

# Article 11 – Right to Work

1. Through March-May 2021, Talita Kum noted that DS, a lesbian with masculine expression who lived in Central Java, was terminated from her job at a bakery. The bakery owner was troubled by her also masculine-looking friends who often visited the bakery as customers. The owner then asked DS about the customers’ and her sexual orientation. DS refused to accept the treatment and questioned back the relationship between her look and work performance. Due to her attitude, DS was laid off. A similar situation was also experienced by a transman in West Java, as the *Persatuan Priawan Indonesia* noted. Due to the transman’s masculine expression, the superior asked him to change and express in a feminine way. The superior reasoned that the transman is going against destiny and will make his business in property marketing bad. Although there was never any mention of appearance as a condition in the labor contract, the transman was asked to change his gender expression for going against destiny and making business bad. Finally, he quit his job because he refused to follow the superior’s advice.
2. In June 2020, the *Persatuan Priawan Indonesia* noted that a transman in West Java who worked as a security officer of an apartment, was sexually harassed. His superior asked him to resign because he had been absent from work for days, in spite of having already sent a notification for sick leave. He is often mentioned as the “manlike woman” who was expected to perform night shifts, just like the other cis-male security officers. His request for sick leave was denied on the basis of his apparent macho look. He was verbally harassed in order to get him to agree to serving the superior’s sexual desires.
3. In September 2020, *Komunitas Keluarga Pelangi Indonesia,* noted that B, a masculine woman who was an elementary teacher got bullied by the school principle and other teacher because B took off her scarf and erase her make up after the school time finished. B followed the requirement of appearance that a teacher should do at school so that B didn’t lose her job. However, the ongoing verbal bullying due to her decision of changing appearance after school suffered her.

**RECOMMENDATION**

1. Business owners and enterprises ensure a proper working environment that is free from violence and discrimination, including based on gender expression.
2. Teacher and school principle should respect the right of privacy and expression of their colleagues, especially when it has nothing to do with the work responsibility. Furthermore, as educators should promote and realize a learning environment and practices that doesn’t perpetuate the act of bullying towards their peers and students.

# Article 12 – Right to Health

1. Qbukatabu finds lesbian women who gained access to our online counseling services are in much need of information about self-acceptance and coming out to know, understand and accept their own sexual orientation. However, this information is still difficult to be obtained in various counseling services because of the prevailing norm which highly stigmatizes sexual orientations other than heterosexual as deviant. In spite of the second (1983) and third (1993) editions of the Health Ministry’s Guide and Classification of Mental Disorder Diagnosis (PPDGJ) which specify that sexual orientation (homosexual, heterosexual, bisexual) is not a mental disorder, conversion therapies by counseling services and psychologists, not excluding religious education institutions, are still being widely practiced.

**RECOMMENDATION**

1. Mental health service providers give services that are based on The Guide and Classification of Mental Disorder Diagnosis which no longer views sexual orientation as a disorder.
2. Service providers, legal and psychosocial, ensure the advancement of knowledge about gender diversity and sexualities as well as mechanisms and a minimum standard of inclusive services for all genders, sexual orientation and gender expression to guarantee the protection of victims, including LBTQ victims.