

# Conceptualizing the Regulation Based on Spiritual Values Toward the LGBT Phenomenon in Indonesia

Zaenal Arifin<sup>1</sup>, Adhi Putra Satria<sup>2</sup>  
<sup>1,2</sup> Universitas 17 Agustus 1945 Semarang  
Email: putraadhisatria1@gmail.com

**ABSTRACT--***Lesbian, Gay, Bisexual, and Transgender (LGBT) is a phenomenon that is always interesting to discuss. LGBT actors continue to campaign to get guarantees of recognition, equality, and legal protection for their existence in Indonesia. The existence of LGBT in Indonesia has caused various reactions from different parties related to the issues of human rights, culture, as well as religion. This study aims to determine and analyze the LGBT phenomenon from the perspective of religion in Indonesia. The results of the study are expected to be the basis for conceptualizing a regulation based on spiritual values towards the LGBT phenomenon in Indonesia. This study uses normative juridical research methods, where the source of the data used in this study is secondary data or data obtained from literature studies. The results showed that the existence of LGBT currently contradicts the values contained in religion found in Indonesia. Therefore, there is a need for a regulation that limits the existence of LGBT by involving various parties, especially religious and medical experts as preventive effort and countermeasures. Finally, a regulation governing penalties for those who campaign for the LGBT movement in Indonesia is required.*

**Keywords:** religion, LGBT, spiritual

## I. INTRODUCTION

LGBT is an abbreviation for Lesbian, Gay, Bisexual, and Transgender. Individuals included in the LGBT population are fewer than heterosexuals[1] The latest data states that in 2015, Indonesia was the country with the 5th most significant number of LGBT in the world after America, China, India, and other European countries. This data was obtained from various surveys, both at national and international levels. The data states that the number of LGBT people in Indonesia has reached 3% of the total population.[2]

Historically, sexual behaviour and gender identity have been known for a long time in Indonesia. However, homosexual identity only emerged in some of the major cities of the world in the early 20th century, precisely in the late 1960s. During this period, the LGBT movement began to develop rapidly through various organizing activities carried out by transgender groups.[3] In Indonesia, LGBT activities and community are not accommodated, and their existence is not recognized in national law. However, the Government of Indonesia has not considered LGBT activities as criminal acts.

LGBT activities are not categorized as criminal acts because there are still pros and cons regarding the issue of LGBT in Indonesia. Many parties recognize the existence of LGBT based on human rights. However, many parties also expressed rejection based on culture and religion. Today's LGBT community always protect behind human rights, with their interpretation that the Basic Law has guaranteed someone's rights as stipulated in article 28 of the 1945 Constitution of the Republic of Indonesia, including guarantees for someone to declare themselves as LGBT.

Such interpretation of human rights is considered wrong by the author considering the accurate interpretation of human rights in Indonesia should be included and associated with the understanding and values contained in Pancasila. Therefore, the application of human rights in Indonesia cannot be separated from religious values or beliefs, respect for others, the spirit of unity, Pancasila democracy, as well as justice and mutual benefit.[4]

Thus, the LGBT community should not only look from a human rights perspective, but also from various angles, including religious and spiritual values that exist in Indonesia. For this reason, this article aims to analyze how LGBT exists from the perspective of religion in Indonesia. The results of the analysis are expected to produce a conclusion as a basis for conceptualizing regulations regarding the prohibition of LGBT activities in Indonesia. The main discussion in this article will focus on answering the following questions: What is the religious perspective of the LGBT community in Indonesia? What is the concept of spiritual-based regulation towards the LGBT phenomenon in Indonesia?

## II. RESEARCH METHOD

This type of study is qualitative research. The subject of the study focused on the legal review of LGBT based on the religious perspective adopted and recognized for its existence in the Unitary State of the Republic of Indonesia as part of the law that lives in Indonesia in general. Qualitative study is a descriptive research and tends to use continuous analysis from the beginning to the end of the study and is inductive. The process and meaning (subject perspective) are more highlighted in qualitative research.[5] By using qualitative methods, a researcher aims to understand or understand the

symptoms being studied.[6] In this study, the author analyzes by looking for patterns, models, and themes regarding the legal review of LGBT phenomena with descriptive explanations. In addition, the writing of this article will be accompanied by an analysis of the author related to government policy in conducting law enforcement. Therefore, the writer will understand the symptoms that are observed [7] namely the LGBT community in general.

This method was chosen because the researcher sought to understand the situation and conditions globally, then conclusions were drawn based on religion adopted in the Unitary State of the Republic of Indonesia. In this case, the understanding of the law contained in the legislation product is naturally based on norms and values.

Qualitative research is focused on social reality between the researcher and the substance of research studies and the situational obstacles that influence it. The content of this qualitative research is focused on the issue of values. This gives an influence on how social experience is formed and given meaning related to the phenomenon of LGBT in Indonesia.

### III. FINDINGS AND DISCUSSION

#### A. *LGBT in Religious Perspectives in Indonesia*

##### 1. *LGBT in Islamic Perspective*

LGBT acts are behaviour that is forbidden by Islam, Islam has a view that relationships established by humans can become *Sakinah, Mawadah, Warhmah* if the relationship is carried out by a partner of the opposite sex.[8] LGBT behaviour in Islam is despicable behaviour, according to what is stated in the Al-Quran and Hadith, where Allah SWT has said in Surah Al-Araf 80, which states that:

“And [We had sent] Lot when he said to his people, “Do you commit such immorality as no one has preceded you with from among the worlds? Indeed, you approach men with desire instead of women. Rather, you are a transgressing people.” (Q.S. Al-A’Raf [7]: 80-81)

In addition, the Prophet Muhammad also emphasized the prohibition of LGBT acts in his words:[9]

“If you find anyone doing as Lot’s people did, kill the one who does it and the one to whom it is done.”(Five scholars of hadith except for An-Nasa’i)

Therefore, it is certain that LGBT activities are acts that are prohibited by Islam. In the Islamic perspective, LGBT activities are acts that have exceeded the limits, and the perpetrator deserves to be punished.

##### 2. *LGBT in Christian Perspective*

Christianity, be it Catholic/Protestantism has banned and rejected the existence of LGBT. In the Christian perspective, LGBT activities are acts that are condemned. The Bible does not divide or classify LGBT behaviour as something innate and abnormal.[10]. It is based on the Gospel that is believed by Christians (Catholics and Protestants) and is contained in the Book of Leviticus which reads as follows: [11]

“You shall not lie with a male as with a woman; it is an abomination.”(Leviticus, 18: 22).

“If a man lies with a male as with a woman, both of them have committed an abomination; they shall surely be put to death; their blood is upon them.”(Leviticus, 20: 13).

##### 3. *LGBT in Buddhist Perspective*

Buddhism recognizes Buddhist Pancasila, Pancasila Buddhism is a suggestion or command that must be carried out and practised by Buddhists in order to refrain and not do things that consist of: killing living beings, taking what is not given, sexual perversion, telling lies, and consuming addicting drugs and liquor.

Buddhism does not explicitly regulate the prohibition of LGBT activities. In its teaching, Buddhism does not say the object of sexual desire can determine the good or bad of a person’s sexual relations, but rather the reasons underlying these actions. However, sometimes the Buddha encourages someone to avoid a certain activities, such as behaviour that is contrary to social norms or violates applicable law. In this case, the Buddha said that his people should distance themselves from such behaviour in order to free him from the anxiety and shame caused by incompatibility with community norms or breaking the law. Homosexuality is undoubtedly included in this category. In this case, a homosexual must decide whether he will follow social norms or try to change the attitude of the public or the general public in viewing homosexuality. [12]

##### 4. *LGBT in Hindu Perspective*

In the perspective of Hinduism, rejection of LGBT can be seen from the purpose of marriage. Hinduism holds that marriage is aimed at making people achieve happiness by having children. We can see this in Rg Veda X.85.42 which reads: [14]

“Verily, a married couple, I hope thee stay here and are never separated. May thou both achieve a happy life. I hope thee playing with thy sons and grandsons, live in this house happily.”

Therefore, it can be concluded that LGBT in the Hindu perspective is not acceptable. It is because LGBT is a same-sex relationship and is not possible to produce offspring. The existence of LGBT and their relationship is considered to be impossible in achieving the goal of as expected in Hindu.

##### 5. *LGBT in Confucian Perspective*

Similar to what Buddhism teaches, Confucianism also does not strongly oppose LGBT behaviour. However, in Confucius’s beliefs, LGBT behaviour is also considered to be contrary to what is intended for marriage. According to Confucianism, marriage aims to glorify God and carry on descendants. Thus, the LGBT community can be said to be in conflict with what is the purpose of the game in Confucianism.[15]

#### B. *Spiritual-Based Regulation towards the LGBT Behaviour*

Law has a function as a regulator in the process of social interaction. As a regulator, the law contains a series of instructions about what is recommended and what should not be done.[16] It aims to create an orderly and orderly society. The law was born as a clue about how humans live and understand,[17] Therefore, humans need the law to carry out their activities as individuals who are members of society.

One source of law in Indonesia comes from the conditions that exist in a society with all social institutions in it.[18] Thus, customs, habits, and religious values are part of the source of law that underlies existing laws and applies in Indonesia today. Positive law must not escape from social values that existed before in society - especially religious values that already existed and governed people's lives. At present, views about spiritual values have coloured various national law formations. Many legal rules made by authorized state institutions originate from the principles and values of spiritualism that already exist and develop in Indonesian society. Thus, the concept of law based on spiritual values is part of an effort to regulate all human actions derived from religious laws and values.

The concept of law that is spiritual cannot be separated from the thoughts of Professor EsmiWarrasih. In his book, he stated that law based on the value of spiritualism consists of two aspects, namely the legal and cultural aspects.[19] In terms of the law, he further stated that the laws that exist and are shaped by the state need to reflect spiritual values so that existing laws should be able to relate to almighty divine values.

By paying attention to the discussion of LGBT related to religious values, it is necessary to have an idea and ideas that govern LGBT issues in Indonesia. Regulations that limit LGBT activities need serious attention from the state. Such regulation is needed because Indonesia is a country based on Pancasila, where the first precept of Pancasila is a supreme divinity. Thus, all attitudes and behaviours that do not reflect spiritual values need to be dealt with firmly.

The concept of regulation on the existence of LGBT in Indonesia needs to be based and sourced from legal concepts based on spiritual values as the basis for its formation. We can take the spiritual value from the facts, which of the five religions recognized in Indonesia have the same view, which is against/rejects the existence of LGBT in Indonesia. In the discussion this time, the authors offer a concept that regulations regarding the existence of LGBT need to be strictly regulated with the scope of the regulation, including prevention, countermeasures, and punishment.

The scope of prevention regulated in regulation is intended so that the regulation can limit the movements of the LGBT community who continue to campaign for their existence in Indonesia. At present, there is support for the legalization of LGBT in Indonesia, which is a domestic phenomenon related to international politics.[20] In addition, there is pressure from international countries through information technology that urges the Indonesian government to accept and legalize the existence of LGBT.

Based on this fact, then, prevention needs to be done so that the Indonesian people continue to maintain their identity as a Pancasila country that upholds the spiritual value in the life of the nation and state.

Regulation on prevention in eradicating LGBT activities can be made through a series of government efforts in limiting information about LGBT and its existence in Indonesia. These efforts need to involve all stakeholders, including the community, to participate in eradicating all kinds of activities related to LGBT, both directly and indirectly. Prevention also needs to be made by carrying out positive activities related to providing an understanding of gender issues to children as early as possible so that children can find out who they are and know their nature as a man or woman. This needs to be done because LGBT always targets children.

Furthermore, the scope of the regulation towards the LGBT community is intended to make efforts to cure LGBT people. This effort can be made through rehabilitation, both medically and physically by involving religious leaders, traditional leaders, and medical experts. Prevention of LGBT behaviour needs to be made because someone who has become an LGBT offender has a hazardous health risk, namely the spread of sexually transmitted diseases. As Rueda E. said, nearly 80% of homosexual/deviant sexual offenders experience sexually transmitted diseases.[21] In addition to prevention efforts in the medical field, LGBT people need physical assistance, especially by traditional and religious leaders.

Finally, the scope of regulations regarding punishment; the punishment is the application of criminal sanctions which are shown to LGBT actors who openly carry out LGBT campaigns in Indonesia. In addition, the punishment must also be imposed on the offender who seduces and forces someone to have intercourse with the same sex.

#### IV. CONCLUSION

Based on the discussion above, it can be concluded that LGBT behaviour is contrary to religious and cultural values in Indonesia. These values can be used as a basis/source of law to form a regulation that prohibits LGBT activities in Indonesia. The form of regulation of LGBT activities must be based on religious values in Indonesia, including Islam, Christianity, Buddhism, Catholicism, Hinduism, and Confucianism. In addition, there must be criminal sanctions as a form of punishment for LGBT individuals who openly conduct LGBT campaigns in Indonesia, including individuals who seduce and force someone to commit sodomy.

#### REFERENCES

- [1] Jeanete OP, *Lesbian, Gay, Biseksual, Transgender (LGBT) dan Keadilan Sosial*, Jurnal Humaniora Yayasan Bina Darmma, Volume III, Number 1, Year 2016
- [2] Meilanny BS, *LGBT dalam Perspektif HAM*, Social Work Jurnal Volume 6 Number 2 Tahun 2016
- [3] *Laporan LGBT Nasional Indonesia –Hidup Sebagai LGBT di Asia*, accessed on <https://www.usaid.gov/sites/default/files/documents/2496/>

Being\_LGBT\_in\_Asia\_Indonesia\_Country\_Report\_Bahas  
a\_language.pdf

- [4] Erick SM, Ani P, Dyah W, *Regulasi LGBT (Lesbian Gay Bisexual dan Transgender) Dalam Prespektif Pancasila di Indonesia*, Diponegoro Law Review, Volume 5, Number 2, Year 2016
- [5] Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R & D* (Bandung : Alfabeta, 2011)
- [6] Soejono S, *Pengantar Penelitian Hukum, Universitas Indonesia* (Jakarta: UI Press, 2014)
- [7] Matthew BM - A. Michael H, *Analisis Data Kualitatif (translation from Tjetjep Rohendi Rohidi)*, (Jakarta: Universitas Indonesia, 1992)
- [8] *Q.S. Ar-Rum 30: 21*, states that, “And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought.”
- [9] Hasan Z, *LGBT dalam Perspektif Hukum Islam*, Jurnal Ilmiah Syari’ah, Volume 15, Number 1, January-June 2016
- [10] Yofsan T, *Tinjauan Etika Kristen terhadap Homoseksualitas*, <https://media.neliti.com/media/publications/137510-tinjauan-etika-kristen-terhadap-homoseks-7add4308.pdf> accessed on 09-12-2019 at 03.49 AM (GMT +7)
- [11] Syafi’in M, *Homoseksual dalam Perspektif Agama-Agama di Indonesia*, Jurnal Aqlania, Vol. 08, No. 01 (January-June) 2017
- [12] <https://dhammacitta.org/artikel/willy-yandi-wijaya/homoseksualitas-dan-buddhisme.html> accessed on 09-10-2019 at 04.46 AM (GMT +7)
- [13] Ibid page 46
- [14] I Made T, 2003, *Veda Sabda Suci Pedoman Prkatis Kehidupan*, (Surabaya: Penerbit Paramita),
- [15] <https://nasional.sindonews.com/read/1086428/15/majelis-tinggi-khonghucu-sepakat-tolak-lgbt-1455802270>
- [16] Didiek RM, *Fungsi Hukum dalam Kehidupan Masyarakat*, Jurnal Masalah-Masalah Hukum Volume 44 Number 3 Year 2015
- [17] Fitriyani, *Islam dan Kebudayaan*, Jurnal Al Ulum Volume 12 Number 1, June 2012
- [18] Therisa N, *Hukum dan Sumber-Sumber Hukum*, Jurnal Supermasi Volume XI Number 2, October 2016
- [19] Esmi W, *Pemikiran Hukum Spiritual Pluralistik*, Tafa Media, Yogyakarta, 2016.
- [20] Hartanto, *Hegemoni dalam Emansipatory: Studi Kasus Advokasi Legalisasi Lesbian, Gay, Biseksual, dan Transgender (LGBT) di Indonesia*, Jurnal Indonesian Perspective, Vol. 1, No. 2 (July-December 2016)
- [21] Rueda, E. “*The Homosexual Network*.” (Old Greenwich, Conn., The Devin Adair Company, 1982)