

Lifestyle of LGBT Community in Pancasila Legal Country

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Lifestyle of LGBT Community in Pancasila Legal Country



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Abstract

The existence of the *Lesbian, Gay, Bisexual, and Transgender (LGBT)* communities in Indonesia is still a pro and contra. There are people who support the LGBT community as a social phenomenon, but there are also people who cannot yet accept the LGBT Community. Indonesia as a rule of law deserves to protect the entire Indonesian people and the entire bloodshed of Indonesia. But in reality, LGBT people still feel discriminatory treatment and tend to be marginalized groups in society. This paper seeks to understand behavior, lifestyle, and legal protection for LGBT communities in the State of Pancasila law. The approach used is interdisciplinary which combines methods of empirical legal research and cultural studies. The target of field studies reaches LGBT communities in the western, central, and eastern parts of Indonesia. The results of the study show that the behavior of the LGBT community is closed and inclusive, with a tendency to follow a modern trend. In the perspective of the State of Pancasila law, the LGBT community gets legal protection just like citizens in general, except in similar marriages.

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1. Introduction

In early 2016, the Indonesian society was shocked by the news in the mass media about a male celebrity who was suspected of having a sexual orientation disorder. This celebrity was reported an underage assistant with accusations of being indecent or sexually abusing. Rather later, it was discovered, there were two more men who complained about the *dangdut singer* to the police for the same case (Kompas, 2000).

As the glance is a case that happened seemed simple like ordinary crime. However, if it is viewed from the LGBT perspective, this problem becomes sensitive to the community. Moreover, there is an issue activity of the LGBT

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community in Indonesia receive financial support from abroad, especially the World Organization Agency, the United Nations. In the incident aftermath, the caliber figure of the chairman of PB NU helped to express their anxiety, and called for groups belonging to the LGBT is not given space to develop in the community. The Chairman of the National Broadcasting Commission reacted strongly, "protect our young generation from LGBT influences". There are even extreme community groups who regard LGBT as a disgusting community and must be shunned by the society. The LGBT phenomena are considered as endemic in infectious psychiatric diseases that must be prevented for various efforts (Liu & Mustanski, 2012). Thus, the existence of the LGBT communities raise polemics in the society, and it is still a controversial issue in Indonesia.

Some groups included in the category of the LGBT groups regretted the allegations made to them. The multi-talented singer namely Dorce revealed a concern. Dorce argued that nobody wants to, having a dream to be LGBT. All of that the God grace just flowed away. Banning the space for LGBT creations is a human rights violation that is not accommodated by the Pancasila (<https://www.detik.com/>). Likewise, Selly (not a real name) stated the LGBT dialogue on a national TV station, that:

"I have not been interested in male friends since grade IV. I always play with female friends, who would blame me? Let no scripture verses be used to measure the existence of our community, do they deny that we are God's creation. The verses are still debatable, but our existence is a fact (<http://www.tvone.com/>, March 3rd, 2016).

Referring to Law No. 1 in 1974 concerning the principles of marriage in a limited manner, it expressly only recognizes marriages carried out by a man and a woman. This means that the LGBT groups are not at all regulated in Law No. 1 in 1974. Therefore, the LGBT was accused of deviating and violating the law. In fact, towards some states, the United States has legalized similar marriages. The fact was used as a reference for the LGBT community in Indonesia. Therefore, the government amended Law No. 1 in 1974, or there are parties who want to conduct a judicial review to the constitutional court. Thus, the provisions concerning marriage are only carried out by men and women are changed. This argument becomes more valuable if it is associated with the ideal foundation of the Republic of Indonesia i.e., Pancasila and human rights practices in Indonesia. The LGBT phenomenon seems analogous to the existence of the children with special needs. As it is revealed by Dr. Ketut Sumartawan, M.Hum, a senior teacher of the students with special needs (children with disabilities), that:

"The disabled children cannot be changed, s/he is present in all times, time and place, no matter where they come from, they are gifts and destiny. In the Mahabharata, the Drestarata is the king's son, he is blind, and he is honored as a king. If that time alone was able to respect people with special needs (disabilities), why are there still people who are ashamed of having children with disabilities today? In Europe, America and other developed countries, children with special needs are protected by the State. They are valued by the community (interviewed on March 10th, 2016).

In the debatable the existence of the LGBT community in Indonesia, the present study is intended to identify two important issues related to the existence of the LGBT in the community. Next, it is to try finding alternative solutions to problem-solving. The problems included (1) how is the legal protection of the LGBT community in the Pancasila Law State?, (2) what are the behaviors and lifestyles of the LGBT community in Indonesia? The specific aims to be achieved from this research is to understand the legal protection for the existence of the LGBT communities in the Law State of Pancasila and try to identify the behavior and lifestyle of LGBT communities in Indonesia.

2. Materials and Methods

The research design of the LGBT community is to use an empirical legal research model combined with a cultural study approach. The researchers conducted observations, direct interviews with the LGBT community, informants who were determined to be used as research samples. The characteristic of empirical legal research is the researchers meet directly to the study location and doing observations over a relatively long period time by recording the phenomenon of the community behavior under study (Marzuki, 2006).

The research location was conducted throughout Indonesia by determining the sampling area based on the time division. The representation of western Indonesia will be represented by samples in the Cities of Bandung and Medan. The territory of Central Indonesia is represented in the City of Denpasar of and Mataram at Lombok. The Sorong City in West Papua and NTT is a representation for the eastern part of Indonesia. The visualization of the Indonesia Map

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below will easily give a description regarding the distance among Denpasar City as a research center activities based on the cities that were sampled.

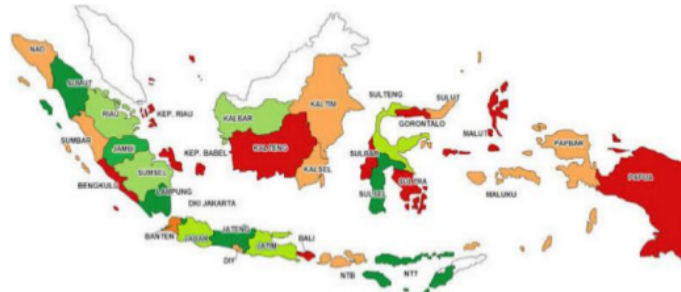


Figure 1. Map of Indonesia and Estimated distance in KM

The distance from the Denpasar City to the study location included: (1) Bandung City \pm 1600 km, (2) Medan City \pm 1700 km, (3) Kupang City \pm 1450 km, and (4) Sorong City \pm 3000 km. From a sample distance to Denpasar City, it can be destined by land transportation or airplane.

The present research is supported by three types of data from different sources, namely primary, secondary, and tertiary data. The type of primary data is data that has high authorization on research content. The primary data is searched directly to the data source in the field. The primary data may be in the form of the community reactions, or reactions of the LGBT communities are recorded for analysis. The secondary data is the type of data that has been found by researchers before and has been reported in the publications form. The secondary data sources come from literature, related regulatory regulations, mass media news, journaling, web and so on. The tertiary data is the data that is used as lighting or to clarify if there are meaningful primary and secondary data. This data comes from dictionaries, encyclopedias and so on.

In the present study, the terminology of the resource persons and informants was distinguished. The resource persons are those who are directly involved in the LGBT activities, both communities and NGOs that are active in the LGBT issues. The informants are those who provide information about the LGBT unlike community leaders, religious leaders, and related officials. The research model conducted is qualitative research those who the researcher as the subject or instrument in the research. In order to support the smoothness of the research used aids, included (1) manual stationery, (2) smartphone as a means of documentation for images/photos, recorder and camera, (3) LCD, and (4) laptop.

3. Results and Discussions

3.1 Protection of the LGBT community in Pancasila legal country

According to the Pancasila ¹ philosophy studies, every citizen as a legal subject supporting rights and obligations ¹ should be seen as a whole as is. Through self-awareness, the essence of independence, health, the purpose of life and personal dignity, love, sincerity will develop optimally under the control of the noble values of Pancasila (Sitorus, 2016).

¹ The phenomenon of the human identity is recognized by all the world's major religions. The human civilization is as a complete ¹ natural phenomenon like the land topography, there are mountains, ravines as well as lowlands. Similarly, the human rights perspective should be seen as a whole. The mountains do not consider rivers and seas to be low. Conversely, the lowlands do not see the mountain as a natural phenomenon that must be eliminated (Muhtadi, 2005).

¹ Since the Proclamation on August 17th, 1945 as a statement of Indonesian Independence, the nation and State of Indonesia, independent and sovereign are free from power and influence of the power of any nation and country. The national and state independence of Indonesia is upheld based on the ¹ 1945 Constitution with all the dignity and ideological and constitutional philosophical identity contained therein. It means that the nation and state of Indonesia uphold Pancasila State philosophy in the order of national and cultured life, reflected and enforced in the political,

legal, economic, socio-cultural, and defense and national security ideology. As it is a philosophical and normative constitution, the Pancasila State philosophy becomes the foundation and source of the ideals of the nation and the State. It is enforced by the government to guarantee people's welfare.

The existence of the LGBT Community in Indonesia cannot be separated from the existence of the State. The existence of the country will certainly be supported by the existence of three important elements, namely the existence of a certain area, the existence of a population, and the existence of a legitimate government. According to Aristotle who also followed his predecessor, Plato stated that a good country is a country that is governed by the constitution and has legal sovereignty (Steinberger, 1987). Philosophically, Plato and Aristotle allude to human dreams that correspond to the absolute world, namely:

1. The ideal to pursue truth (*idee der waarheid*);
2. The ideal for pursuing decency (*idee der zadelijkheid*);
3. The ideal of human aspirations to pursue beauty (*idee der schonheid*);
4. The ideal to pursue justice (*idee der gerechtigheid*) (Gadamer, 1986).

Aristotle then reaffirmed that a State as a state of jurisdiction is a State in which there is a number of citizens who participate in the deliberation of the State (*ecclesia*). The state of the law according to them is a state that stands under the law that guarantees justice to its citizens (Solmsen, 1964).

In Indonesia, the existence of the LGBT community is a necessity, and even its existence as a part of citizens should be given a deep understanding of its behavior. Therefore, it is in accordance with applicable laws in Indonesia based on Pancasila. The LGBT community is a biologically female, but psychologically s/he feels like a men/man, and vice versa there are those who are biological as men but psychologically feel like a woman. There are also multiple personalities, men are accepted, but women are also not rejected. Thus, the State needs to intervene to accommodate the existence of its citizens who are instinctively different from other citizens.

The principle of the state law should be improved and developed according to the principles of democracy or the sovereignty of the people (*democratische rechtsstaat*). The law may not be made, determined, interpreted, and enforced with a power based on mere power (*machtsstaat*). The principle of the law rule must not be enforced by ignoring the principles of democracy stipulated in the Constitution. Therefore, it is also necessary to emphasize sovereignty. It is in the people hands carried out according to constitutional democracy, which is balanced by the assertion that the Indonesian State is a democratic state of the people (*democratische rechtsstaat*) (Mahfud, 2012).

Regarding the LGBT issues in Indonesia based on the Pancasila law state, the researchers argue that the existence of the LGBT community should also be given a space to move according to their rights and obligations as part of citizens who have the same rights and obligations as other citizens born with normal behavior. As it is an example of the behavior of the LGBT communities that researchers have obtained or discovered at the time of research, namely the desire of the LGBT community, who wants to be treated equally with other citizens, such as in terms of fostering households as guaranteed and regulated in the constitution.

The citizens with special needs such as the blind, physically disabled, deaf and so on, in the perspective of human rights, they remain equal. Analogous to citizens with special needs, of course, the LGBT community in special human rights studies, of course, the LGBT community in the study of the human rights in Indonesia based on the Pancasila will give its own views. The existence of the LGBT community in a state of law based on Pancasila remains respected in accordance with its dignity and citizenship who obey the applicable law. Even though, they have the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law. If the LGBT community violates the applicable law, they will be gotten the sanctions in accordance with the applicable legal mechanism in Indonesia.

In accordance with efforts are to realize the state goals set out in the Fourth Paragraph Introduction of the 1945 Constitution of the Republic of Indonesia, i.e., "...protecting the entire Indonesian nation and the whole bloodshed of Indonesia and for advancing public welfare, educating the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice". For this reason, the State is inevitably obliged to regulate the LGBT people. Considering they are all part of citizens who have the same rights and obligations as other citizens. The state of the law in Indonesia is inseparable from aspects of welfare, education, order, peace, and social justice which will guide the Republic of Indonesia in carrying out its functions and role as a state organization.

3.2 The behavior and lifestyle of the LGBT people in Indonesia

The behavior of the LGBT community in Indonesia is basically not much different from the behavior of the common society. They show attitudes and behavior according to the gender orientation referred to. Non-confirming gender identities have relatively striking characteristics and behaviors that are easily recognized compared to homosexuals and bisexuals. Similarly, transgender people, especially transvestites, are easily recognized for their behavior, body style, and verbal communication. This group is easier to communicate with the community in their environment. Moreover, in certain regions in Indonesia, such as in Bali, this group provides public space to actualize themselves both in the field of work involved and in certain activities. Therefore, this community can participate in the public arena. However, in the regions which lack space for this group to express themselves life, in the public spaces such as in West Irian (Sorong City, Raja Empat) and NTT areas (Kupang and Flores) the behavior of this group is rather closed and only develops intense communication in the group only.

Referring to the story of the Mahabharata as one of the Vedic books, for Hindus brightly tell a character who has transgender symptoms. The character was named Sri Kandi, the daughter of King Drupada from the Kingdom of Pancala. Sri Kandi is not a teenager like the other girls. He aspires to be the commander of the war, a job that is usually held and carried out by men. In the end, Sri Kandi whose transgender name is eternal as a hero after being able to kill Bhishma Putra (Titib, 2005). Towards this perspective, it indicates that Hinduism as the oldest religion in the world greatly glorifies the group that is considered abnormal. The Hinduism gives an equal position between the LGBT and other citizens. This reference is the basis of why the Balinese people tend to be more tolerant in accepting the LGBT behavior in the community compared to other regions in Indonesia.

Even more, the LGBT behavior in the world of entertainment and television media is often a trend. In the socio-cultural arena, the behavior and stage action of the LGBT community often makes people amazed. In Bali, there are a famous “*arja muani*” the dance who is all male players. Even though the players are “*akah canging*” male players, there are some who play female characters such as *galuh*, *inye*, *paramasuari*, and *goddess*. The transgender that they acted was accepted openly by the community. There is no ridicule and insults. The community received elegantly (interviewed to Wayan Karmita, the actor of *arja akah canging* on May 2nd, 2015 in Tabanan). Likewise on TV media often presenters act as transvestites or style like transvestites. The style of clothing and gestures like LGBT, especially varied, has become a trend center on TV media lately. Even though within certain limits, there are also people groups who reject or criticize celebrity behavior in the LGBT style.

The characteristics of the LGBT group identity show a lifestyle that is relatively similar to the lifestyle of the common society. The trend of the LGBT lifestyle community also follows the trends of modern culture. Basically, the LGBT groups show a lifestyle in accordance with social conditions and income economically. That is, there are LGBT groups that follow a consumptive and modern lifestyle, some still look conservative. However, the most LGBT groups show a consumptive modern lifestyle (Cahill *et al.*, 2003; Browne & Bakshi, 2013; Kelly-Campbell & Atcherson, 2012).

In the cultural perspective, Eisenberg & Wechsler (2003), the LGBT group behavior can be understood as a subaltern with visible characteristics. They tend to form a community of fellow LGBT groups and communicate openly. However, the outside community relatively closed. The lifestyle of the LGBT community tends to follow the latest developments such as hedonic lifestyles, prioritizing self-image and appearance (fashion), consuming communication technology (cell phones, internet), ready to eat food, and utilizing leisure time as well as shopping culture. The observations of the transgender groups in Singaraja City, and in Raja Ampat show this group always looks fashionable, with a little minor view, complete with accessories such as bags, bracelets, and the latest gadget products. Likewise, the gay group in Flores almost wears neat clothes, uses a car or two wheels, and carries a bag and cellphone.

The consumption patterns are shown by the LGBT groups that they are also very consumptive in spending their money for the sake of their style and self-image. They prefer to enjoy ready to eat culinarily, and get together at cafes, and take advantage of the free time for vacation. The field observations in regions of Indonesia show that the LGBT communities living in urban and tourist areas show modern lifestyles and tend to follow a culture of consumerism. They usually wear clothing with the latest fashions, from well-known brands, and with accessories always updated. Meanwhile, the LGBT groups living in rural areas follow modern patterns and lifestyles, some of them show the lifestyle of most people.

4. Conclusion

Based on the above results and discussion, the two terms can be concluded as follows;

- 1) The existence of the LGBT community in a legal state based on Pancasila remains respected in accordance with its dignity and status as a citizen. The LGBT community has the right to recognition, protection guarantee, and fair legal certainty and equal treatment before the law. They must obey the applicable law and if they violate, they will get sanctions according to the legal mechanism in Indonesia.
- 2) The behavior and lifestyle of the LGBT community follow the tendency of the modern culture, basically showing the same pattern as the common community. From a cultural perspective, LGBT group behavior can be seen as a subaltern with visible characteristics. They tend to form a community of fellow LGBT groups and communicate openly. However, the outside community relatively closed. The lifestyle of the LGBT community tends to follow the latest developments such as hedonic lifestyles, prioritizing self-image and appearance (fashion), consuming communication technology (cellphone, internet), ready to eat food, and utilizing leisure time for vacation and shopping.

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Statement of authorship

The authors have a responsibility for the conception and design of the study. The authors have approved the final article.

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