

Discourse on Legality of LGBT from the Perspective of Islamic Law and Indonesian Law

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Abstract

The existence of LGBT communities in Indonesia is getting massive. Several NGO s have been established to support and hold campaigns to take the rights of LGBT communities into account. Principally, Indonesia is not based on Islamic law that follows Islamic principles as its national law. However, Aceh is the only one of the state in Indonesia that complies with Sharia of Islam. To date, there has not been a single regulation of the state regulating LGBT, but eighty-five per cent of Indonesian people are Muslim and Islamic values that ban LGBT are still strongly held. This research is aimed to: (1) elaborate the discourse on the legality of LGBT and the trend that keeps growing within national law in Indonesia; and (2) to analyse the role and influence of Islamic law on national law that will be applied, and to analyse Islamic law that has taken into effect in Aceh for LGBT communities. This study is categorised into normative legal research with statute, conceptual, and analytical approaches, which were analysed by means of descriptive analysis.

Based on this research it is concluded that Indonesia has five principles (*Pancasila*) as the core ideology of the state, in which the highest principle states "Belief in the one and only God". Therefore, every regulation must not be against this principle. LGBT is a crime regulated in regional regulations and *Qanun* Aceh that is more local, while the national law in Indonesia has not formulated the regulation regarding LGBT as a crime. The influence of sharia Islam on and the role of sharia Islam in Indonesian national law over LGBT are regarded strong in *Qanun Jinayat* in Aceh.

Keywords: discourse, LGBT, Islamic law, Indonesian law.

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