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Indonesia's changing Position on sexuality and gender identity rights

A NORM ANALYSIS

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Abbreviations

DPR	Dewan Perwakilan Rakyat – House of Representatives
KKN	korupsi, kolusi dan neputisme – corruption, collusion of elites and nepotism
Komnas HAM	Komisi Nasional Hak Asasi Manusia – National Human Rights Commission
KUHP	Kitab Undang-Undang Hukum Pidana – Criminal Code
LGBT	Lesbian Gay Bi Trans
LGBTQIA+	Lesbian Gay Bi Trans Queer Inter A and every other form of sexual and gender identity included
PDI-P	Partai Demokrasi Indonesia Perjuangan - Indonesian Democratic Party of Struggle
PKI	Patai Komunis Indonesia – Communist Party of Indonesia
PSI	Patai Sosialis Indonesia – Socialist Party of Indonesia
RUU-KUHP	Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana – Drafted Criminal Code
UI	Universitas Indonesia

Chapter 1 - Introduction and research question

A few days before Joko Widodo's, better known as Jokowi, inauguration to become Indonesia's seventh president in 2014, *Time Magazine* titled his picture with the words "A New Hope Indonesian President Joko Widodo is a force for democracy" (Beech 2014). The article expresses hope and confidence for a more just and democratic Indonesia under the rule of Jokowi, who is portrayed as the "people's president" (Beech 2014). The *Time Magazine* article can be seen as a vicarious representation of hope for the development of Indonesia into a just, democratic nation state – an aspiration and optimism that surrounded the inauguration for the first term of Jokowi's presidency. At this time, Jokowi was portrayed as a progressive people's president who would be there for his citizens and whose government acts only in the people's interest.

Jokowi's second inauguration was conducted behind closed doors, out of sight for the public. During a visit to Jakarta, the Indonesian capital and governmental center, I was able to experience the feeling of the city firsthand in the days of the second inauguration. Armed police and military were present all over the city. Their presence grew stronger the closer I got to the governmental district. Walking through the city felt like how walking through war zone is displayed in movies.

The general feeling in Jakarta during the days leading up to the second inauguration was that the "people's president" began to fear the people. This fear may have been due to protests that took place in the months leading up to the inauguration and the dissatisfaction of Indonesians with the developments and changes that happened during Jokowi's first term (Editorial Board of *The Jakarta Post* 2019). Protests were organized all over Indonesia in 2019 as a response to a new draft of the Indonesian criminal code (RUU-KUHP) that, if passed, would outlaw extramarital sex, alongside restricting freedom of speech and giving more power to the president (Heriyanto 2019).

The reporting on both Jokowi's first and second inaugurations show that there was a major shift in the perception of the influence he has on change in Indonesia. The protests and the revision of the criminal code displayed the shift in the government's position towards sexuality norms. However, the shift in the perception of norms in Indonesia was present before Jokowi's presidency. The public space to define and safeguard perceptions of sexuality norms and gender norms was claimed by religion, especially Islam, and by queer Indonesians themselves (Oetomo and Boellstorff 2015, 308). Stating that the shift within the perceptions of these norms occurred only during Jokowi's first term would be wrong. However, the polarized perception of the

understanding of sexuality and gender norms in Indonesian societal and political sphere became increasingly divided during his first presidential term.

While the demand for the true definition and correct perception of sexuality and gender norms has been primarily within the public discourse, the shift into the political discourse took place in the beginning of 2016. The former minister of Research, Technology and Higher Education started a wave of public statements of politicians and ministers condemning the LGBTQIA+ community¹, labeling them as a threat to Indonesian norms and values (Oetomo 2019). These overtly hostile pronouncements of Indonesian politicians against the LGBTQIA+ community, alongside changes in the revised criminal code, suggest that there was a transformation in attitudes towards sexuality and gender identity² norms in Indonesia.

In the light of the increasingly hostile situation for LGBT Indonesians which is in strong contrast to the description of Jokowi as the President for all Indonesian, this thesis will attempt to answer the question: *How has the position of Indonesian governmental institutions towards sexuality and gender identity changed from 2014 to 2019?* This will be achieved by applying a norm life cycle framework to the analysis of official documents such as publications, speeches, and statements by members of the government that are concerned with sexuality norms and/ or gender identity norms.

1.1 Research design, methodology, and limitations

Applying a norm life cycle approach that goes further than the life cycle of norms and is including norm contestation and localization processes, this research will display the transformation of Indonesia's position towards sexuality norms and gender identity norms. Therefore, it is crucial to define what is meant by sexuality- and gender identity norms. Norms in general can be understood as a form of regulation of behavior that is based on intersubjective

¹ Some statements were collected and translated by Human Rights Watch (Human Rights Watch 2016). This list is not complete, but it gives a general idea of the perception of Indonesian politicians about the LGBTQIA+ community.

² Gender identity and sexuality norms in this research refer to the regulations of gender identity and sexuality in Indonesia. These are manifested in the Indonesian Criminal Code (Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia 2019) as well as in the Pornography Law, Undang-Undang Nomor 44 Tahun 2008 tentang Pornografi (Sitompul 2018).

validity (Zimmermann 2017, 7). Sexuality and gender identity norms can therefore be a form of individual and collective benchmark, that is providing standards of right and appropriate behavior (Zimmermann 2017, 7). The conformity of norms in this research can be understood as adopting and complying with international and/or regional standards (Finnemore and Sikkink 1998, 902), such as human rights standards on sexuality and gender identity. Sexuality and gender identity norms, in this research, are understood as regulations that are concerned with gender identity and/ or sexuality. For the analysis, two different types of sexuality and gender identity norms will be defined. The first is in reference to international standards, set by the United Nations, of gender identity and sexual orientation norms³. The second norm is manifested in the Indonesian Criminal Code (KUHP), a draft of the Indonesian Criminal Code (RUU-KUHP) and the Indonesian Pornography Law⁴. The regulations are mostly focusing on the nuclear family⁵ as the main institution to regulate and control sexuality and gender identity. How Indonesia is judging and re-interpreting these sexuality- and gender norms will be part of the analysis.

The data used in the analysis will incorporate three different sets of sources: it will look at yearly reports of the Commission of Human Rights Indonesia (Komnas HAM), the so called “LGBT crisis” and its impact on the redrafted Indonesian Criminal Code, and lastly it will incorporate the appendixes of the yearly Presidential Speeches on the Current Status of the Country as well as a four-year report on the achievements of the government. All these sources have been collected through different websites of the Indonesian government including the Komnas HAM and the ministry of communication and publication. Most sources used are in Indonesian language and the translations into English have all been done by me if not labeled differently.

Before entering the analysis, it is important to define the terminology used. Debates in academia often rely on general concepts, even if these concepts are not applicable to local experiences. The same accounts for the use of the term LGBTQIA+ in the following. While it has been argued that the acronym LGBTQIA+ does not do justice to the historical diversity of gender

³ For more information see: (Madrigal-Borloz n.a.)

⁴ For more information see footnote 2.

⁵ A nuclear family as understood in this thesis is compromised of mother, father, and children –a heteronormative family.

identity and sexuality in Indonesia (Ridwan and Wu 2018, 124; Thajib 2014, 2) the shorter acronym of LGBT was used in anti-LGBT discourses, and thus paradoxically mainstreamed in society (Yulius 2017, 4). Therefore, LGBT or LGBT Indonesians will be used in the following. However, I do not intend to erase gender diversity and local sexual practices⁶ existing in Indonesia (Yulius 2017, 8) but include them in the understanding of LGBT.

Analyzing the transformation of Indonesia's position towards sexuality norms and gender identity norms, this research will contribute to the existing literature in multiple ways. First, most research on norms is still largely centered on the global north, by locating the case of Indonesia in the center of this research, this study will contribute to research on norms in the global south. A need for research that does not only translate norms from the global north into norms in the global south but is focusing on dynamics of norm contestation (Zimmermann, Deitelhoff, and Lesch 2017, 693) and localization (Acharya 2009, 16) was emphasized. Secondly, this research will contribute to the understanding of norms by focusing on current perspective(s) on gender identity and sexuality norms in Indonesia. Gender identity norms and sexuality norms have been important in research for a long time but the focus on local shift of understanding has often been disregarded in the global understanding (Oetomo and Boellstorff 2015, 311)

Applying a specific framework for the analysis of mostly Indonesian language sources will contribute a unique viewpoint on norms of gender identity and sexuality in Indonesia. The specific framework that is to be applied to understand the changes in Indonesia's position towards sexuality- and gender identity norms will be outlined in the third chapter of this thesis.

Locating the historical context of the Indonesian government before Jokowi's presidency will be part of the next chapter as an understanding of the history and the influences shaping Indonesia is vital to understand the norms in question and their transformation. This will be followed by a descriptive overview of the developments of gender rights and perception of Indonesia in general. Therefore, the main point of reference in the overview will be anthropological research on gender identity and sexuality in Indonesia. Using anthropological research to set the scene is useful to reach an understanding of the status that sexuality and gender identity norms have in Indonesia.

⁶ Indonesia has a culture of non-normative genders and sexuality, such as calalai, calabai and bissu in the Bugis society of Sulawesi more information can be found at (Blackwood 2015, 223–25) and (Boellstorff 2005, 38–40)

However, this will also be a potential limitation of the research conducted, as it must be recognized that some have argued that one must question the use of anthropological knowledge regarding its habit of displaying unmediated realities. This is particularly problematic due to the problems of representation within the discipline itself. (Vrasti 2008) Nevertheless, anthropological research about sexuality and gender identity norms in Indonesia remain an important source as some research is conducted by queer Indonesians themselves. Hence, this research is relevant and useful for the contextualization of the developments between 2014 and 2019.

A second limitation will be the access to data. Though I do speak and understand Indonesian language, acquiring the data can be difficult, as some documents are not open for public access or are difficult to access. Additionally, there might be a limitation in understanding the context correctly, as I can only have a certain level of understanding of the contexts the data has been drawn up which might be restricted due to being an outsider myself⁷.

Another limitation of the thesis will be the geographical focus. While it would be interesting to look at how sexuality and gender identity norms are understood all over Indonesia, it is not possible to include the autonomous regions⁸ into the analysis. These regions are as their autonomy indicates not part of the central state regulations of Indonesia. Therefore, including the regulations and understanding of gender identity and sexuality of these region would exceed the scope of this thesis.

Following the contextualization of gender identity and sexuality norms in Indonesia, the aforementioned framework for the norm life cycle will be defined and then applied to the analysis of the sources specified above.

⁷ The term outsider refers to my own positionality as being an outsider to the Indonesian culture and society because I was socialized in Germany. This might result in the limitation of not being able to fully understand certain contexts to the same extent possible for someone socialized in Indonesia.

⁸ The autonomous regions are Aceh – North Sumatra, Yogyakarta – Central Java and Minangkabau – West Sumatra. These regions have their own legislative independent from the central government in Jakarta. More information can be found here (Rahma 2021)

Chapter 2 – Postcolonial Indonesia, Pancasila and the meaning sexuality and gender identity

The following chapter will first give a short historical overview of the development of Indonesian politics and the implementation of human rights in post-colonial Indonesia. In a second step, there will be an overview of the social and political meaning of gender identity and sexuality in Indonesia. This will mostly be focused on the gender identity and sexuality rights and norms in Indonesia. Therefore, before continuing, the concepts used will be defined.

2.1. Postcolonial Indonesia - Orde Baru and Reformasi

The most important time periods to be able to understand the current situation of human rights in Indonesia are the developments in the postcolonial Republic of Indonesia. The history of postcolonial Indonesia can be divided into the *Orde Baru* – New Order and *Reformasi* – Reform era, which will be briefly explained below. Following the historic contextualization of the Indonesian state, a brief elaboration of the meaning of the Pancasila and the state motto *Bhinneka Tunggal Ika* – Unity in Diversity will be given.

2.1.1. From Colonialism to Orde Baru

Pre-colonial Indonesia consisted of different kingdoms. Indonesia has always been influenced by a wide range of cultural heterogeneity, because the country has always been highly frequented by merchants from all over the world as it is located along the major trade routes between Asia and the Middle East (Houben and Connley 2015, 16,24). During colonial time⁹ the bureaucracy of a feudal state, along the lines of the Dutch state system, was established (Houben and Connley 2015, 27). Following the country's independence and the first elections in 1950 and 1955, the diversity manifested in the Indonesian society was expressed in the allocation of electoral votes. They were almost equally distributed between religious parties (Islamic and catholic), the pro-nationalist party - built out of the independence movement, and socialist/ communist parties (that have been criminalized in the aftermath of a “attempted coup”

⁹ Indonesia was colonized by The Netherlands, 1595-1940 and 1945-1949/63, and Japan, 1940-1945. The specific years of the occupation differ in sources.

in 1965¹⁰) (Dahm 2015, 72,75). Sukarno was appointed as the first president of Indonesia and he was involved in including human rights in the Constitution of post-colonial Indonesia. In the early years after the independence, the debate over how to incorporate human rights became prevalent. The question of putting the family principle above the individual was a key factor in those debates. (Supriatna 2008, 98–101)

The “attempted coup” and Sukarno’s reaction of non-intervention led to the redirection of power to General Suharto (Hearman 2015, 94). Suharto was declared President in March 1967 and was formally elected as the new President in 1968 (Dahm 2015, 80). Under the regime of Suharto, which lasted a total of 32 years, the *Orde Baru* – New Order was established (Dahm 2015, 84). Suharto was successful in centralizing the state (Houben and Connley 2015, 25) by collectivizing the political parties into three¹¹, standardizing the political ideological education in schools and centralizing the economy benefit on a few people close to him (Dahm 2015, 85–87).

During the *Orde Baru*, human rights violations could be found everywhere in Indonesia as the elite saw human rights as a Western concept and against the Pancasila¹². Human rights were seen as an obstruction for the economic development of that era. The rejection of human rights was mainly due to the dispute about individualism, equated with western values, and a cooperative lifestyle mostly based on the family as a point of reference. (Supriatna 2008, 113) As Supriatna argues, “[...] Indonesia has adopted human rights in its laws without any implementation.” (Supriatna 2008, 120) Hence, though human rights during the Orde Baru were written in the applied laws, it doesn’t mean that the laws have any implementations for the

¹⁰ The coup was led by the pro-communist group *Gerakan 30 September* – Movement of the 30th of September associated with the communist parties PKI - *Partai Komunis Indonesia* and PSI – *Partai Sosialis Indonesia* that tried to kidnap and killed high ranked generals of the Military involved in the nation building of Indonesia. For more information see (Hearman 2015)

¹¹ The PPP – *Partai Persatuan Pembangunan* United Development Party – a collection of different Islamic Parties, the PDI – *Partai Demokrasi Indonesia* Democratic Party of Indonesia, and the Golkar – *Golongan Karya* the ruling party of President Suharto

¹² The Pancasila are the five pillars Indonesia is built on. They are: *Ketuhanan Yang Maha Esa* – The belief in the almighty God; *Kemanusiaan yang Adil dan Beradab* – A just and civilized humanity; *Persatuan Indonesia* – A unified Indonesia; *Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan dan perwakilan* – Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; *Keadilan Sosial bagi seluruh Rakyat Indonesia* - Social Justice for all Indonesians.

citizens. To prevent international intervention, the Komnas HAM - National Human Rights Commission was established to monitor¹³ and implement human rights in Indonesia (Supriatna 2008, 121).

After the fall of Suharto, which happened due to the high levels of corruption present in the system he established, the financial crisis in 1998, and due to pro-democratic movements, the *Reformasi* – the reformation era began (Dahm 2015, 89).

2.1.2. *Reformasi – Institutionalizing Human Rights?*

Reformasi, the post-Suharto political development in Indonesia, is comprised of an absolute change from the *Orde Baru*, the renunciation of what was coined as KKN – korupsi, kolusi dan nepotisme – corruption, collusion of elites and nepotism, which was seen as the heritage of the Suharto-era (Schiel 2015, 101) In March 1998, Suharto stepped down and his vice president Jusuf Habibie was declared president for the transitional period. Habibie, though perceived as a close associate of Suharto, started off his presidency with major political reforms and a structural change of the state. These changes and transformation can be seen in the ratification of the Human Rights declaration and lifting censorship of the press as well as granting autonomy for educational institutions. However, Habibie could not get rid of the image he portrayed as close associate of Suharto. (Schiel 2015, 103)

In the succeeding elections of 1999, the PDI-P – *Partai Demokrasi Indonesia Perjuangan* - Indonesian Democratic Party of Struggle won. Following the elections, the leader of the PDI-P, Sukarno's daughter Megawati Soekarnoputri, called Megawati, was not appointed as president, but instead her vice candidate Abdurrahman Wahid, better known as Gus Dur. This was due to the refusal of the conservative Muslims, involved in the appointment, to accept a woman as President-elect.(Schiel 2015, 103)

Gus Dur was overthrown after several failed attempts of liberalizing the country. This was due to his collaboration with former military generals, and because of his lacking interest for internal problems, such as the weak Indonesian economy. The former *Orde Baru* forces declared Megawati as the new president. (Schiel 2015, 106) During Megawati's presidency,

¹³ The Komnas HAM was introduced to monitor, investigate and promote human rights in Indonesia. A detailed list of its competences can be found in (Supriatna 2008, 122–25)

Indonesia became a member of the United Nations and ratified several human rights instruments (Supriatna 2008, 153). Megawati's presidency was followed by the presidency of Susilo Bambang Yudhoyono, who was first elected in 2004 and reelected in 2009. However, he did not have any major influences on the status of human rights in Indonesia as his presidency was mostly shadowed by fighting against Islamic terrorism; his approach in doing so was criticized internationally (Stange 2015).

2.2. Pancasila, Religion and Diversity

The Pancasila, the five pillars¹⁴ the country's constitution is built on constitutes the identity of the Indonesian society as much as the state motto, enshrined in the coat of arms – the Garuda, *Bhinneka Tunggal Ika* – Unity in Diversity (Nilsson and Nilsson 2020). Both the Pancasila and the state motto are reflected in the diversity of the society's language, religion, and ethnicity. However, it has been often criticized that the Unity in Diversity as well as the first pillar of the Pancasila *Kethuhanan Yang Maha Esa* – belief in the almighty God, are restrictive – especially, in terms of acceptance of religious diversity, gender diversity and diversity of sexuality (Nilsson and Nilsson 2020; Samuels and Saptari 2019). While diversity of gender identity and sexuality in Indonesian society will be discussed later, religion remains an important marker for identity.

Indonesia has formally recognized six religions¹⁵ and is defined by a diversity of different local religions that are not formally recognized but often mixed with the main classified religions (Houben and Connley 2015, 23). The dominating religion in Indonesia is Islam, approximately 87,2% percent of the Indonesian population identify as Muslims (Portal Informasi Indonesia 2020). Islam, as the most dominant religion in Indonesia, plays an important role in public and political life. The rising political power of Islamic elites is visible in recent debates about state forms, Islamic or secular, and in the rise of (radical) Islamic groups in Indonesian politics. (Robinson 2009, 165; Stange 2015, 289) The rise of Islam in Indonesian politics had severe consequences on gender identity rights in Indonesia. This is especially important as the domestic spheres of kinship and marriage, which include sexuality and gender identity, are fundamentally tied to religious, most dominantly Islamic, jurisprudence (Boellstorff 2006,

¹⁴ See footnote 12 for all five pillars.

¹⁵ Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism

1037). This brings me to the next section which is concerned with the status of gender identity and sexuality rights in Indonesia and the meaning of gender identity and sexuality for the Indonesian society.

2.3. The Status of Gender identity Rights and Sexuality Rights in Indonesia

Gender issues are highly debated in Indonesia. However, they are mostly focused on gender identity and sexuality rights as merely women's rights. Therefore, gender identity in the sense it will be understood in this thesis is reaching further and will also include LGBT rights as these are often neglected in the academic debate in Indonesia. However, the focus of the debate surrounding sexuality and gender identity rights and norms in Indonesia is often linked to women's rights as an entry point to LGBT issues. Another point of entry to the discourse is the fight against AIDS. This connection is opening up spaces for discussions about rights of LGBT Indonesians, which might then be used to broaden the debate (Tidey 2019). However, by using AIDS and the health discourse around it as an entry point, LGBT Indonesians have also been stigmatized as spreaders of the epidemic (Khanis 2013, 132). Researching gender identity and sexuality in Indonesia is regarded as a sensitive endeavor (Ridwan and Wu 2018, 123) as LGBT Indonesians are often regarded as the "enemies" that need to be destroyed and fought against (Pitaloka Negara Puteri and Wijaya 2020).

Looking at how Indonesian identity is constructed; this becomes especially obvious. Nationhood is often related to the family and is therefore often considered to be heterosexual. (Boellstorff 2004, 470) The nuclear family posed an important vehicle for nation building, as procreation was seen as a means for development and national morality (Platt, Davies, and Bennett 2018, 2). Morality has been important in defining Indonesian citizenship and belonging to the nation. National belonging has been built on the morally rightful place of both men and women in the society, hence the family is perceived as the proper locality for nationhood. (Platt, Davies, and Bennett 2018, 5)

Thus, the nationhood constructed around the family excludes any form of national belonging for LGBT Indonesians as their sexuality and gender identities are often disregarded. This neglect was coined as "political homophobia" (Boellstorff 2004, 480). Political homophobia refers to the differentiation between heterosexism and homophobia: while homophobia is understood as the "disgust or repulsion to the presence of homosexuality" and heterosexism is understood as "a belief or ideology that heterosexuality is the only natural or moral sexuality"

(Boellstorff 2016). While both heterosexism and homophobia are found in Indonesia, political homophobia was used to explain the public denunciation of LGBT Indonesians by different political and religious actors in the post-New Order era (Boellstorff 2004, 465–67; 2016a; Ridwan and Wu 2018, 125; Thajib 2018, 2–3; Yulius 2017, 11). Political homophobia can be understood as a political homophobic attitude towards LGBT issues while the actions taken to discriminate against LGBT is understood as “state straightism”, a heterosexist understanding of sexuality and gender identity. That is perceived as the need for anti-LGBT legislation. (Boellstorff 2016).

Public assaults against LGBT Indonesians have long been considered as individual cases. However, there has been an increase in the incidents of public assault against LGBT Indonesians during *Reformasi*, such as the attack during an event held by LGBT groups in 2000 (Boellstorff 2004, 465) and the raids by the Front Pembela Islam (FPI) – Islamic Defenders’ Front, an Islamic terrorist organization¹⁶, in 2010 on the International Lesbian, Gay, Bisexual, Trans and Intersex Association Asia (ILGA) in Surabaya and on a trans issue workshop held by the Komnas HAM in Depok (Oetomo 2019).

However, the most important incident of public denunciation of LGBT Indonesians for this thesis is an incident that has been called “LGBT crisis” where different members of the government publicly condemned LGBT Indonesians (Human Rights Watch 2016). As this incident happened two years into the first term of Jokowi’s presidency, it will be part of the analysis in Chapter 4.

In short, the Minister for Technology, Research and Higher Education, Muhammad Nasir, condemned the support group for LGBT students at the University Indonesia (UI) and asked the university to ensure that LGBT people were banned from entering university campuses (Hegarty and Thajib 2016). This comment resonated with other members of the government and several politicians from different parties saw the need to express their view on LGBT Indonesians (Human Rights Watch 2016). Most comments were condemning LGBT Indonesians – some deprived them the right to citizenship by equalizing non-normative sexuality and gender identity with a proxy-war against the nation (Tempo.co 2016), describing it as a mental disease that can be cured (Tang 2016), and as shifting the religious and moral

¹⁶ The FPI was outlawed in 2020 more information about the FPI can be found here: (Paddock and Sijabat 2020)

values of the nation (Waskita 2016). (Hegarty and Thajib 2016; Boellstorff 2016; Oetomo 2019).

This overview shows that gender identity is highly contested and debated within Indonesia. The will to regulate especially non-normative gender identity and sexuality grew stronger over the years and reached its peak in the 2016 LGBT crisis. The results are said to be mirrored in the new draft of the criminal code (RUU-KUHP) which is trying to criminalize sexual intercourse outside of marriage (Davies and Hidayana 2020), including same-sex intercourse. These debates around sexuality and gender identity rights in Indonesia show that they can be understood as norms. The extent to which these norms changed during the first term of Jokowi's presidency will be analyzed in Chapter 4. The framework for the analysis will be given in the next chapter.

Chapter 3 - The norm life cycle framework

3.1. Norms, Norm entrepreneur, and norm-takers - defining the main concepts

Explaining the framework of the norm life cycle, as it will be used in this thesis, necessitates a conceptualization of the main concepts that will be employed. While the concept norm has already been defined in the Introduction, it remains important to understand how they work. Therefore, they need to be categorized. Martha Finnemore and Kathryn Sikkink (1998) defined three distinct categories of norms: regulative norms – that order and constrain behavior; constitutive norms – that create new actors, interests, and categories of action; and evaluative and prescriptive norms – through their evaluative and/or prescriptive nature toward what ought to be, they are making norms distinct from other rules. All these different categories of norms are involved in setting standards of proper and appropriate behavior against which other norms are measured (Finnemore and Sikkink 1998, 891; Krampf 2013, 7). Norms set standards of behavior as they display how and what ought to be done (Zimmermann 2017, 7). They are, however, not always visible and are often only noticed when they are contested or violated (Deitelhoff and Zimmermann 2013, 3).

The important actors involved in the norm life cycle are norm entrepreneurs as well as norm-takers. The concept of norm entrepreneur was defined by Finnemore and Sikkink (1998, 895), it is widely used in the literature regarding norm research in IR. Norms are actively built by agents that have a strong view of how desirable and appropriate behavior of their respective community should look like (Finnemore and Sikkink 1998, 896). Norm entrepreneurs promote norms by challenging ideas of appropriateness and by challenging existing standards by calling their limitations out (Finnemore and Sikkink 1998, 897). The most important characteristic of a norm entrepreneur is the belief in the ideals and values they promote with the norm (Finnemore and Sikkink 1998, 897).

Following this definition, everyone who has an interest in altering existing norms could become a norm entrepreneur. Their success however depends on the platform they have to advocate for the norm they believe in (Finnemore and Sikkink 1998, 989). Therefore, a norm entrepreneur could be any institution that has a platform to promote their norm.

Norm-takers can be defined as those who are able to take on norms as agents for their social community (Acharya 2004, 241). Finnemore and Sikkink refer to norm-leaders (Finnemore and Sikkink 1998, 901) the meaning is however the same as that of a norm-taker. Norm-takers are important for the norm life cycle as they determine whether a norm can reach the second stage,

the acceptance stage, of the life cycle (Finnemore and Sikkink 1998, 902–5), that will be explained in next section, and how norms are being localized (Acharya 2009, 14; 2004, 243,247) or contested (Deitelhoff and Zimmermann 2013, 5; Lantis 2017, 5). In short, the norm entrepreneur advocates for new norms to get implemented whereas the norm-taker implements them.

3.2. Thinking beyond the conventional norm life cycle

Norms, as they were defined above, are crucial for the meaning of “justice and good society” (Finnemore and Sikkink 1998, 889). However, it is important to emphasize that these norms are not static but transformative and dynamic (Deitelhoff and Zimmermann 2013) and they can be localized as it has been argued by Acharya (2009, 14–21). To understand the transformation, dynamics and localizations of norms, Finnemore and Sikkink defined a norm “life cycle” (Finnemore and Sikkink 1998, 888,895). The analysis will deviate from Finnemore’s and Sikkink’s framework insofar that it does not focus on international internalization of norms as the endpoint of the life cycle (Finnemore and Sikkink 1998, 895). Instead, the analysis will go beyond the life cycle and look at how localization of alternative norms alters internalized norms. Therefore, the framework of the norm life cycle will be amplified by the concepts of localization and contestation.

3.3. Norm life cycle

The norm life cycle as defined by Finnemore and Sikkink, was described as a “definitive first-generation constructivist approach”(Lantis 2017, 3) and as a “seminal piece on norm dynamics” (Zimmermann, Deitelhoff, and Lesch 2017, 692). These depictions of their work show how influential the norm life cycle was for research on norms in understanding International Relations. However, it has been pointed out that the framework was developed further and that it was criticized for its static understanding of norms and for dismissing individual agency of norm-takers (Zimmermann, Deitelhoff, and Lesch 2017, 693–94). Though this criticism must be taken seriously, it is important to understand the initial framework to amplify it.

According to Finnemore and Sikkink, the norm life cycle consists of three stages that are interdependent: norm emergence, acceptance, and internalization (Finnemore and Sikkink

1998, 895). The respective stages and their actors, motives and mechanisms are displayed in Figure 1.

	<i>Stage 1</i> <i>Norm emergence</i>	<i>Stage 2</i> <i>Norm cascade</i>	<i>Stage 3</i> <i>Internalization</i>
<i>Actors</i>	Norm entrepreneurs with organizational platforms	States, international organizations, networks	Law, professions, bureaucracy
<i>Motives</i>	Altruism, empathy, ideational, commitment	Legitimacy, reputation, esteem	Conformity
<i>Dominant mechanisms</i>	Persuasion	Socialization, institutionalization, demonstration	Habit, institutionalization

Figure 1 Three Stages of the Norm Life Cycle by Finnemore and Sikkink (1998, 898)

Stage one of the norm life cycle is concerned with the norm entrepreneurs' call for attention to certain issues. In the process, they challenge existing standard and perceptions of appropriateness by naming and dramatizing issues at stake. This is crucial as emerging norms are competing with those already existing. (Finnemore and Sikkink 1998, 897) For the promotion of an emergent norm, an organizational platform is needed, as this platform's agenda also determines how the norm is being defined and promoted. (Finnemore and Sikkink 1998, 899) The norm-entrepreneur needs to secure support of a critical mass of norm-takers. A critical mass is important, as it is determining what is perceived as appropriate and natural. The existing individual beliefs are, however, not challenged in their "truth" but challenged in their respective understanding of what is good and appropriate. (Finnemore and Sikkink 1998, 900) Once this understanding is challenged and a critical mass of norm-takers has institutionalized the norm the threshold to the second stage can be reached (Finnemore and Sikkink 1998, 901).

In the second stage, acceptance, or norm cascade, was defined as an active process of socialization of the norm. Norms in this understanding are socialized through pressure that is put on the norm-taker to adopt and comply with the new norm, by repeatedly complying to them publicly. (Finnemore and Sikkink 1998, 902) This process is said to be successful if the norm-takers are within proximity to each other, so that peer-pressure is put on the norm-takers to internalize the norm as esteem plays an important role at this stage. To be perceived well and

to stay legitimate, the norm-taker must internalize the norm to be able to stay in power. (Finnemore and Sikkink 1998, 903) Another factor that plays into socialization is what Park, Murdie and Davis (2019, 315) defined as shaming. Shaming is used by norm-entrepreneurs to improve compliance of the norm taker. The norm-taker in this process can be understood as the state, hence the state needs to comply with certain norms openly to maintain legitimacy of power.

The third stage of the norm life cycle, internalization, is the stage where norms are taken for granted and actors involved conform almost automatically (Finnemore and Sikkink 1998, 904). As norms in this stage are no longer identified as norms (Deitelhoff and Zimmermann 2013, 3) they become a habit and become institutionalized. This framework leaves out localization of norms and their contestations. These will be explained separately in the following.

3.4. Localization

Localization, as it will be used in the following analysis, can be understood as defined by Acharya: Local actors are actively altering foreign ideas to make them comply with local beliefs and practices (Acharya 2009, 15) and to make them fit with identities and cognitive priors of local actors (Acharya 2004, 239).

Acharya (2004, 245) showed, that the localization of norms, as making them compatible with local ideas and beliefs, starts with cultural selection. This means that the only norms selected, “are, or can be made, congruent with local beliefs and that may enhance the prestige of the borrower” (Acharya 2004, 245). The borrower can be understood as the norm-taker. According to Acharya, international norms are borrowed for the purpose of localization then the entity that borrows the norm is then called the borrower (Acharya 2004, 244). In this sense, norm life cycle’s first stage, outlined above, can be complimented by this, as not necessarily all norms will be taken on by local norm-takers. This also means that there needs to be a certain benefit for the norm-taker to take on a specific norm and to then localize it.

Localizing specific norms can be multifarious, but it has been argued sufficiently that demand for new norms needs to be created (Acharya 2004, 246). This demand can appear in various forms, the following are different instances where new norm demand is created. Firstly, post crisis when existing norms are questioned. Next, after a “systemic change” that shifts the distribution of power and, therefore, also shifts interests and interactions of great powers at play. Another factor that could create demand for new norms is a domestic political change.

Lastly, the demonstration effect, both internationally and regionally¹⁷, may stimulate norm localization through acts of imitation, contagion and emulation. (Acharya 2004, 247) Though this elaboration shows how demand for new norms is created, it says little about what kind of norms are likely to be localized. Acharya describes that the likelihood of localization is dependent on the potential the norm-taker sees to enhance their legitimacy and authority without altering their existing social identities, as well as on the ability of to strengthen prior local norms. (Acharya 2004, 248) Therefore, it will be important for the analysis to look at how localization of sexuality and gender identity norms might have an influence on the legitimacy of the government. Hence, it will be important to see what kind of prior norms are strengthened and which actors are involved in localization.

Localization in this sense takes place in the third stage of the norm life cycle as it is being replaced by institutionalization. This becomes especially apparent given that localization is used to enhance legitimization as well as to conform with prior existing norms.

3.5. Contestation

Contestation can take on different shapes, but in general contestation means objection to the norm. The specific form of objection or contestation can be manifolded and is dependent on the understanding of norms in general as well as on the level of agency actors are given (Deitelhoff and Zimmermann 2013, 1). Contestation refers to the inconsistent meaning of norms that can create contradictory understandings. These contradictory understandings of norms emerge through its validation in different normative contexts (Deitelhoff and Zimmermann 2013, 3). Therefore, norm contestation can become a factor that needs to be taken into consideration in every stage of the norm life cycle.

Deitelhoff and Zimmermann explain how contestation of norms can generate normative power and is therefore able to strengthen and weaken a norm. Contestation can also result in an erosion of norms if it “*is constantly and across actors met with non-compliance*” (Deitelhoff and Zimmermann 2013, 5). Hence, meaning and content of norms becomes more vague for norm takers that should comply with norms (Zimmermann, Deitelhoff, and Lesch 2017, 5). Norm

¹⁷ Regional here is to be understood as eg. Southeast Asia.

contestation is, in this sense, putting more emphasis on the role of agency at the different stages of the norm life cycle (Lantis 2017, 5).

Adding the concepts of contestation and localization to the three stages of the norm life cycle broadens the scope of the analysis. Understanding norms as dynamic in this sense makes them more applicable for the analysis that is to follow. Contestation and localization open the scope of understanding norms at a more localized and therefore Indonesian level. Contestation and localization must be taken into consideration especially looking at the understanding and transformation of sexuality norms and gender identity norms in Indonesia.

Chapter 4 - Beyond the norm life cycle: The localization and contestation of gender identity and sexuality norms

This chapter will look at how gender identity and sexuality rights in Indonesia have changed from 2014 – 2015. The data for the analysis can be divided into three sets of sources. The first set consists of reports published by the Komnas HAM, the Commission for Human Rights in Indonesia. The Komnas HAM was established in 1993 to monitor human rights violations in Indonesia and to advise government bodies if necessary. It is involved in promoting knowledge about human rights in Indonesia, therefore, it has an outreach program which works closely together with the civil society. (Komnas HAM 2016a, iii) As the reports of the Komnas HAM incorporate both an analysis of the current situation regarding human rights and advice on how to react to certain issues, they can be seen as an important tool for the implementation of gender identity and sexuality rights in Indonesia. For the following analysis, the Komnas HAM can be regarded as a norm entrepreneur, as defined in Chapter 3.

The second set of sources will be the discourse around the redrafting of the Indonesian Criminal Code (KUHP) redrafted into the RUU-KUHP during Jokowi's presidency. It is an evidence of how the regulations of gender identity and sexuality were transformed. A special focus will be what was coined as "LGBT crisis". It will be argued that this crisis had a major impact on localizing gender identity and sexual orientation laws. A second norm entrepreneur for the RUU-KUHP will be a civil societal organization, which was chosen exemplary, the AILA- Aliansi Cinta Keluarga, the Family Love Alliance.

The third set of sources will be the appendixes of the yearly presidential speeches about the current state of the country, usually held in August. These speeches can be seen as an indicator for what is perceived as a focal point in the governmental work and what is seen as being in urgent need of improvement and where the focus of work lay in the past administrative year. The 4 year report of the presidency published in 2018 (Kementrian Perencanaan Pembangunan Nasional 2018a) was also included in this set of sources.

The focus of the analysis of these sources will be the representation of gender identity and sexuality norms within the document's analyses. Therefore, the sources will be analyzed according to their use and definition of sexuality and gender identity. By looking at how the sources define and use gender identity and sexuality issues they can be located with the norm life cycle. Therefore, the different competing norms will briefly be displayed before they will be located and analyzed in accordance with the framework developed in Chapter 3.

4.1. Stage 1 – Localizing non-heteronormative gender identity and sexuality norms and creating the demand for localizing international gender identity and sexuality norms

The Komnas HAM can be seen as a norm entrepreneur, as their main task is to ensure international Human Rights standards (Komnas HAM 2016a, iii). Hence, their perception of sexuality and gender identity rights is closely tied to the perception of these norms in the international community (Madriral-Borloz n.a.). The task of the Komnas HAM can therefore be understood as a process of localization (Acharya 2004, 239; 2009, 15) of the international gender identity and sexuality rights in Indonesia. Acharya (Acharya 2004, 246) argued that the localization of norms is highly dependent on the demand created for such localization. The yearly reports of the first two years of Jokowi's presidency, as well as a special report on the status of minority groups in Indonesian created such a demand, as the following analysis will show.

The first report published during the presidency has the overall theme of "hope". The wish for hope is directed at Jokowi's election, as the president and the agenda set out for his presidency, the Nawa Cita¹⁸. Which promised to make human rights the main foundation of Indonesia's development agenda and to eradicate corruption within the government (Komnas HAM 2015a, IV). This report established the expectation, of the Komnas HAM towards Jokowi's presidency, for the localization (Acharya 2004, 239; 2009, 15) of the international human rights agenda in

¹⁸ The Nawa Cita is a 9-point priority agenda for the presidency. It included: 1. national and international security for all Indonesian by establishing and strengthening Indonesia's identity as a maritime country with its own national interest. 2. Building a sustainable and democratic government to re-establish confidence in democracy. 3. Unification of the Indonesian state from the periphery by strengthening local communities. 4. The reform of the weak state system and the law enforcement towards a system without corruption that is dignified and trustworthy. 5. Introducing programs to improve the general quality of life by subsidize housing programs, introducing social security plans and through a land reform. 6. Increase Indonesia's economic competitiveness and productivity to bring forward development and prosperity in Asia. 7. Economic independence through a strategical adjustment of the domestic economy sectors. 8. The transformation of the educational curriculum to enhance civic education with a focus on the education of Indonesian history, the love for the home country, values of patriotism, and the character and spirit for state defense. 9. Re-enforcement of diversity by strengthening the education of diversity and creating space for dialogue between all Indonesian citizens. (Wedhaswary 2014)

Indonesia. The 2014 report does not take any sexuality and gender identity issues into further considerations as it is mostly focused on the election.

In the 2015 report of the Komnas HAM, gender identity and sexuality rights are mentioned in relation to the intolerance and violence by religious groups and unjust behavior of the police into the private sphere of female students (Komnas HAM 2016a, 19, 21). The report mentions LGBT Indonesians, in relation to the counseling role of the Komnas HAM for the government on the rights of minority groups (Komnas HAM 2016a, 126). LGBT Indonesians in this setting are described as *komunitas LGBT* – LGBT community, not reflecting the disconnectedness of LGBT Indonesians (Boellstorff 2016). Furthermore, the “LGBT community” is listed as a minority group, together with people with disabilities, religious-, ethnic-, and racial- minorities (Komnas HAM 2016a, 126).

This listing as a minority group becomes more apparent in the first report on the “State Efforts to Guarantee Rights to Minority Groups in Indonesia” (Komnas HAM 2016c). Though this report is titled the early report, a later report has not been published. The report was published as a response to the 9th point on the Nawa Cita agenda, concerned with creating a dialogue to reinforce diversity. (Komnas HAM 2017, 25) LGBT Indonesians are included as a minority group because they were classified as a “*bagian dari masyarakat tuna sosial*” – socially disabled/defected part of the society in a report by the Indonesian Department of Interior¹⁹ (Komnas HAM 2016c, 18). The Health Department’s definition for minority groups, including LGBT Indonesians, is “difficult to reach” (Komnas HAM 2016c, 19). This is dehumanizing and generalizing minority groups.

Including LGBT Indonesians as a minority group, the Komnas HAM is initiating a localization of the sexual and gender identity rights in accordance with international standards, displaying what was describes as international demonstration effect that is imitating international norms²⁰ (Acharya 2004, 247). By doing this, they are creating the demand for altering the existing regulations. This demand for alteration becomes more apparent considering the display of the general view on LGBT Indonesians in the fourth chapter of the report to guarantee rights to

¹⁹ The report is no longer accessible which is why it will not be included in the analysis.

²⁰ In this case the classification of LGBT Indonesians as a minority group can be seen as the imitation of international classification of LGBT persons as a being vulnerable to discrimination and violence (Madrigal-Borloz n.a.)

minority groups. LGBT Indonesians are included as a minority group as they are not dominant in society, susceptible and vulnerable to discrimination and prosecution (Komnas HAM 2016c, 73). This displays the status of LGBT Indonesians in Indonesian society. It also displays the awareness of the Komnas HAM for the need to legally protect them.

The emphasis on the vulnerability and discrimination LGBT Indonesians faced locates it in the first stage in the norm life cycle, when existing perceptions and standards are challenged through naming and dramatizing these issues (Finnemore and Sikkink 1998, 897).

Though the Komnas HAM does name the problems and discrimination LGBT Indonesians face, their recommendations to the government remain within the framework of fighting against the HIV/AIDS epidemic (Komnas HAM 2016c, 101–2). Taking HIV/AIDS and health issues as an entry point (Tidey 2019), they further recommend a structural acknowledgement of LGBT Indonesians, to be able to “reach” them through the social services and health care available to all Indonesians who obtain an identification card (KTP – Kartu Tanda Penduduk). Until 2016, this did not include most LGBT Indonesians. (Komnas HAM 2016c, 104, 108)

This shows that they are not necessarily challenging what is understood as “truth” – LGBT Indonesians are seen as a minority group that is affected by the HIV/AIDS epidemic as a severe health issue. However, they are challenging their structural status which hinders LGBT Indonesians to access the health programs in place. Challenging the status of LGBT Indonesians, but not their perception within Indonesian society in general, manifests the location of this effort of norm localization in the first stage of the norm life cycle (Finnemore and Sikkink 1998, 900).

The Komnas HAM also refers to the Yogyakarta Principles (Komnas HAM 2015b), a recommendation of human rights organizations. It compiles the “Principles On the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity” (Komnas HAM 2015b, iii). Though the Yogyakarta Principles were published in 2007 as the result of a meeting of international human rights organizations, the Indonesian translation was published in 2015 by the Komnas HAM. The preamble ends with an advice directed at the Indonesian government:

“Penting bagi Indonesia mempelajari dokumen Yogyakarta Principle ini sebagai dokumen yang lahir di Indonesia dan kini telah menjadi insipriasi dunia untuk melawan homophobia.”
 – “It is important for Indonesia to study the Yogyakarta Principle document as a document that was born in Indonesia and that has now become an inspiration to the world to fight homophobia.” (Muhammad Nurkhoiron in Komnas HAM 2015b, v)

Though Nurkhoiron is not directly advising the Indonesian government to adhere to the Yogyakarta Principles, he is suggesting that the principles are inherently Indonesian. Which, in turn, can be read as a suggestion for the government to fight against homophobia, by localizing the international norms of sexuality and gender identity laid out in the Yogyakarta Principles.

The recommendation to the government to accept LGBT Indonesian as Indonesians, by referring to the Yogyakarta Principles, can also be seen in the report on “State Efforts to Guarantee Rights to Minority Groups in Indonesia” (Komnas HAM 2016c, 106). Likewise, the yearly report of the Komnas HAM from 2016 advises the government to accept LGBT as a part of Indonesian society and to end hate speech, hostility, and the negative stigma towards LGBT persons. The report lists the accusations and discrimination against LGBT Indonesians in a direct manner. It links local traditional gender identities in Jawa and Sulawesi with LGBT Indonesians, to display that non-heterosexual gender identity and sexualities have long been localized in Indonesian society. (Komnas HAM 2017, 110–11)

Equalizing traditional gender identities and sexualities in Indonesia with LGBT Indonesians shows the effort of the Komnas HAM to localize the “foreign” concept of LGBT with those that have long existed within Indonesian society but are understood as distinct entities. Doing this places the Komnas HAM as a norm entrepreneur (Finnemore and Sikkink 1998, 989) for non-heteronormative gender identity and sexuality norms. As norms are understood as a form of individual and collective benchmark, that is providing standards against which right and appropriate behavior is judged (Zimmermann 2017, 7), it is clear that norms are competing with other norms (Finnemore and Sikkink 1998, 897). Therefore, the next section will display the norm life cycle of the competing norm of that promoted by the Komnas HAM. This norm is visible in the RUU-KUHP, the draft of the Indonesian Criminal Code²¹. How the RUU-KUHP has been established will be described with the norm life cycle and the processes of localization and contestation.

²¹ The specific transformation in the RUU-KUHP will be explained in 4.3.1

4.2. Stage 1 – Creating the demand for new norms: The “LGBT Crisis”, AILA, Religion and the Demonstrational Effect

The following section will display how a competing norm to that described in 4.1. was established. Therefore, it will be analyzed how the “LGBT crisis” in 2016, the efforts to change the Criminal Code, KUHP, to outlaw same-sex sexual intercourse and sexual intercourse outside of marriage, and the demonstration effect created the demand to establish a competing (Finnemore and Sikkink 1998, 897), localized (Acharya 2004, 239; 2009, 15), gender identity and sexuality norm in Indonesia. This section focuses on the second set of sources, described in the introduction of this chapter.

4.2.1 Creating the demand for localization of Sexuality and gender identity norm: The LGBT crisis

One of the main factors for altering the existing sexuality and gender identity norms was coined as “LGBT crisis” in 2016. The “LGBT crisis” was an accumulation of anti-LGBT rhetoric by politicians, that associated LGBT Indonesians with being a threat to the nation, being against Indonesian values, being against Pancasila, and against religious values (Human Rights Watch 2016; Sutrisno 2016; Zuraya 2016; Guci Syaifudin 2016; Waskita 2016; Tempo.co 2016). Through the negative associations of LGBT Indonesians’ sexuality and gender identity, the demand for regulative norms for sexuality and gender identity was created (Finnemore and Sikkink 1998, 891). A crisis that is centered around gender identity and sexuality norms simultaneously created the demand for the localization of gender identity and sexuality within Indonesia (Acharya 2004, 247).

The most pronounced comment, that displays how the “LGBT crisis” was created, was by Ryamizad Ryacudu, the Minister of Defence:

“(LGBT) bahaya dong, kita tak bisa melihat (lawan), tahu-tahu dicuci otaknya, ingin merdeka segala macam, itu bahaya, [...] Kalau perang proksi, tahu-tahu musuh sudah menguasai bangsa ini. Kalau bom atom atau nuklir ditaruh di Jakarta, Jakarta hancur, di Semarang tak hancur. Tapi, kalau perang modern semua hancur. Itu bahaya,[...]tidak berbahaya perang alutsista, tetapi yang berbahaya cuci otak yang membelokkan pemahaman terhadap ideologi negara [...]” (Tempo.co 2016)

- *LGBT are dangerous, we cannot see them (the opponent), they have been brainwashed, they are demanding freedom in every way, that is dangerous [...] In a proxy war the*

enemy controls the minds of the nation without anyone realizing it. If an atomic or nuclear bomb is dropped over Jakarta, Jakarta is destroyed, but Semarang is not. But in a modern war everyone is affected. That is dangerous [...] not in the same way as a war with weaponry is dangerous, the danger comes from the brainwashing which is changing the understanding of [our] state ideology.

This quote highlights two distinct perspectives on LGBT Indonesians that are also reflected in the legislation of the RUU-KUHP. The first one is the general understanding of non-normative sexuality and gender identity as being a hazard to national identity. LGBT persons are seen as a real threat that must be compared to a proxy war. Comparing LGBT Indonesians to a war led by foreign entities, shows that LGBT is understood as not belonging to Indonesian identity. Though, argued differently in the reports of the Komnas HAM (Komnas HAM 2017, 110). However, the conviction that LGBT are not “real” Indonesians, is also highlighted by the reference to LGBT Indonesians as being brainwashed. Though Ryacudu is not directly referring to LGBT as a foreign concept, he is likening it to the changed understanding of state ideology.

This perception of LGBT Indonesians displays the contestation (Deitelhoff and Zimmermann 2013, 3) of the applicable regulations of gender identity and sexuality in the KUHP and in the 2015/2016 reports of the Komnas HAM. Not considering LGBT Indonesians as part of the nation is displaying them as an outside threat to what has been called Indonesian identity, faith, and culture by a member of the House of Representatives (DPR – Dewan Perwakilan Rakyat) (Human Rights Watch 2016; Komnas HAM 2016b, n. 26). This, in turn, called for the need to localize the existing regulations to make them more cohesive with Indonesian identity, which is making regulations more uniform with religious norms (Acharya 2009, 15). This need was articulated by several politician’s during the 2016 “LGBT crisis”, by the Minister of Justice in 2003 as well as by civil societal organizations. These actors, civil societal organizations and those that issued statements during the “LGBT crisis”, can therefore be seen as norm entrepreneurs as they have a strong view of what the sexuality and gender identity of their community, in this sense the Indonesian society, should look like (Finnemore and Sikkink 1998, 897).

4.2.2. Civil societal norm entrepreneur AILA

The effort of civil societal organizations, acting as norm entrepreneurs, is worth a closer look. Norm entrepreneurs have taken great efforts to change the existing regulations to make them more coherent with their beliefs of “good” and “appropriate” sexuality and gender identity

norms (Finnemore and Sikkink 1998, 896). An example of such a norm entrepreneur is the civil societal organization, the Family Love Alliance (AILA – Aliansi Cinta Keluarga Indonesia). The AILA will be included into the analysis, as they tried to introduce a bill to change the KUHP so that the Criminal Code is more in agreement with Indonesian religious values (Hermawan 2016). Their effort can be seen as a contestation of the KUHP, in the sense that they tried to contradict the current meaning of sexuality and gender orientation regulations and replace them with their understanding (Deitelhoff and Zimmermann 2013, 3). Though they have not been successful in changing the law, it is important to see how they were successful in framing LGBT Indonesians as a threat to the family – especially to children, because of their focus to challenge article 292 KUHP (Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia 2019). This article regulates same-sex relations with children by outlawing: *“orang dewasa yang melakukan perbuatan cabul dengan orang lain sesama kelamin, yang diketahuinya atau sepatutnya harus diduganya belum dewasa [...]”* – *adults who behave indecently with another person that is known to be or is appearing as being not yet adult [...]* (Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia 2019).

The AILA tried to eradicate the last part of the article that is outlawing same-sex sexual intercourse with children, to outlaw same-sex sexual intercourse in general (Oetomo and Yulius 2016). They have not been successful in changing the KUHP towards outlawing LGBT sexuality with their bill at the DPR (Qurrata A’yun 2017), thus they did not succeed in weaken the KUHP through contestation (Deitelhoff and Zimmermann 2013, 5). Nevertheless, they can still be seen as the norm entrepreneurs advocating for securing the nuclear family as the proper place for sexuality by trying to outlaw any other form of sexuality.

The substance for what AILA unsuccessfully advocated for in 2016 at the DPR became reality with the introduction of the RUU-KUHP in 2019. This displays how the norm introduced by AILA and several members of the government during the “LGBT crisis” was able to reach the threshold to enter the second stage of the norm life cycle²², the acceptance stage. The introduction of the RUU-KUHP can be seen as a “process of socialization” (Finnemore and Sikkink 1998, 902) where the government has been pressured enough to take on the norm of restricting sexuality to the family as a means to protect the family.

²² The detailed explanation can be found under Norm life cycle.

Before looking at how the second stage of the norm life cycle has been reached by the manifestation in the RUU-KUHP, it is important to see how localization of gender identity and sexuality norms played a role in the manifestation. Therefore, the next section will take a step back and look how localization influenced the norms promoted by the AILA and the “LGBT crisis”.

4.2.3. Localization, the demonstrational effect, and Indonesian values

Localization in this section will be understood, as defined by Acharya, as: Local actors that actively alter foreign ideas to make them fit with local beliefs and practices and to make them comply with identities and cognitive priors of local actors (Acharya 2004, 239; 2009, 15).

In the case of Indonesia, local beliefs and practices are manifested in the Pancasila. Focusing on the religious values, as these are important for Indonesian identity (Robinson 2009, 165), shows the compliance of sexuality norms with religious values was missing in the KUHP²³. However, it is important for the government to comply with the religious norms, as manifested in the Pancasila²⁴, to maintain their internal legitimacy for power, linking the process back to the norm life cycle (Finnemore and Sikkink 1998, 903). In addition to the influence of civil society and pious members of the government, the external demonstration effect (Acharya 2004, 247) might also have had an influence on the localization of the sexuality norm as it is presented in the RUU-KUHP.

The neighboring country Malaysia has built its state identity around the nuclear family and has restricted sexuality to the married couple, like Indonesia. Respectively, sexuality in Malay understanding is defined through Malay cultural and religious, mostly Islamic traditions. (Mohd. Razif 2020, 328) Thus, the localization of sexuality norms in Indonesia can be seen as being influenced by Malaysia as the demonstration effect suggests (Acharya 2004, 247). Though the demonstrational effect of Malay regulations of sexuality might have had an influence on the demand for localization, the nature of localization in the RUU-KUHP dates

²³ At least following the argumentation of the AILA and the members of the government that have issued statements during the “LGBT crisis”.

²⁴ To understand the importance of the Pancasila for Indonesian identity please see Pancasila, Religion and Diversity.

back further to the influence of Islamic ideas in Indonesian understanding of gender identity and sexuality, as the following section shows.

The understanding of the proper location of sexuality within the family was visible in the literature concerned with gender identity and sexuality, as the review in the second chapter outlined. Islamic Jurisprudence during the *Odre Baru* in Indonesia, although not officially recognized then, did acknowledge that pre-, extra-, and post marital sexual intercourse, including homosexual intercourse, is forbidden not only by Islam but also by other religions and by Indonesian culture in general (Akbar 1982, 15, 85). It was seen that sexuality needed to be protected by the family, the society, and the government, and that it needed to be understood in the way explained above (Akbar 1982, 29). Homosexuality, in this understanding, was seen as not giving any satisfaction to those involved, as sexual satisfaction is only possible through heterosexual intercourse (Akbar 1982, 80). Though this Islamic definition and location of sexuality was written during the *Odre Baru*, it is still relevant as it summarizes the main restrictions of sexuality in the RUU-KUHP.

Both the demonstrational effect and the influence of Islamic Jurisprudence are mirrored in the RUU-KUHP regulation. Thus, they are an evidence of the localization of sexuality and gender identity norms. Before looking at the second stage and the specific norms enshrined in the RUU-KUHP, it is important to notice that the RUU-KUHP was contested by the competing norm entrepreneur, the Komnas HAM.

4.2.4. *Contestation of Localization*

The Komnas HAM, as the competing norm entrepreneur to the family norms introduced by AILA and the “LGBT crisis”, issued a warning of redrafting the KUHP in their 2015 report. The development of a new KUHP was criticized by the Komnas HAM:

[...] Mengapa isu ini [arah politik hukum pidana yang terkandung dalam RUU KUHP] menjadi penting karena rentannya politik hukum pidana dapat dimanipulasi untuk melindungi kepentingan elite yang menguasai negara. Hukum pidana berubah menjadi alat represi, bukan untuk proteksi hak-hak warga negara dan kepentingan menjaga ketertiban. (Komnas HAM 2016a, 122)

- *[...] The issue [the development of criminal law politics part of the RUU- KUHP] becomes important because of the vulnerable nature of Criminal Law Politics that get manipulated to protect the interests of the elites that controlled the state. The Criminal*

Law then turns into a tool for repression instead of a tool to protect citizen rights and the importance of maintaining order.

With this, the Komnas HAM is questioning the motivations behind the RUU KUHP. It is a warning against repression of Indonesians being used as a reason to change the KUHP. By issuing this statement, they are indirectly referring to the time of repression during the Odre Baru era, which most Indonesians still remember. This warning can be understood as contesting the efforts of changing the KUHP into a direction that does not adhere to international human rights standards. Issuing a warning against the legitimacy of certain elites shows how important norms can be for the legitimacy of the government in power (Acharya 2004, 248). This becomes more evident, given the warning issued during the first year of Jokowi's presidency has not been repeated.

In the following reports, the Komnas HAM mentions the RUU-KUHP to draw attention to the need to include international human rights regulation in the general framework (Komnas HAM 2018, 95). They asked to be included into the drafting process, not as an active member but to monitor the process in the name of human rights (Komnas HAM 2017, 108). In the 2019 report, the Komnas HAM advised the government to postpone the final vote on the RUU KUHP to ensure full compatibility with human rights regulations (Komnas HAM 2020, 5).

The findings above display, that the position of the Komnas HAM towards promoting gender identity and sexuality norms in Indonesian changed after 2016. It is notable that the reports after 2016 did not mention LGBT Indonesians or minorities on the basis of gender identity and/or sexual orientation (Komnas HAM 2018). The last report that actively promoted international gender identity and sexuality rights was the Submission of the 3rd Periodic Review to the United Nations in 2016. This review also included a section on LGBT, which starts positively with an emphasis on the progress made to combat HIV/ AIDS as well as the implementations of programs to strengthen minority rights. It continues by criticizing the increased anti-LGBT sentiments and restrictions that have been posed on events concerned with LGBT issues. (Komnas HAM 2016b, 4) Although the overall analysis of the situation for LGBT persons in Indonesia also reveals discrimination, it is mostly positive towards the development in Indonesia. However, the footnotes included describe the full extent of discrimination against LGBT Indonesians in 2016 (Komnas HAM 2016b, n. 25,26). This discrimination includes condemning comments from members of the government (Komnas HAM 2016b, n. 26), the perception of LGBT as a contagious disease that needs rehabilitation, and the freezing of funding for international projects concerned with LGBT issues (Komnas HAM 2016b, n. 25).

After this public criticism of the government's behavior in 2016, there was no further mention of sexuality or gender identity rights in any Komnas HAM reports. Evidently, the Komnas HAM failed to reach the second stage of the norm life cycle (Finnemore and Sikkink 1998, 902) with their understanding of sexuality and gender identity norms. This becomes increasingly evident regarding the yearly reports published after 2016.

The 2017 (Komnas HAM 2018), 2018 (Komnas HAM 2019), and 2019 (Komnas HAM 2020) reports do not mention LGBT Indonesians. However, they do refer to “discrimination and violence on the basis of gender in the name of religion”. Gender identity, in this sense, is associated with women, as the continuous analysis shows – though in the following section the word gender is not used anymore (Komnas HAM 2019, 96). In general, this report is mostly focused on religious extremism and radicalization, which is seen as influencing the position of minority groups negatively (Komnas HAM 2019, 97). In essence, the 2018 report presents a picture of growing intolerance in the country, which makes the differences between minority and majority groups in the society more visible (Komnas HAM 2019, 8). The 2019 report focuses primarily on the election of the year 2019 and there is no mention of either gender identity or sexual orientation in the whole report (Komnas HAM 2020).

Seeing the change in the positions of the Komnas HAM demonstrates that the international norm of sexuality and gender norms is no longer perceived as a competition to the norm promoted by the AILA and the “LGBT crisis”. While the latter reached the threshold to the second stage, the promotion of the international gender identity and sexuality norms did not. Therefore, the nuclear family norm, enshrined in the RUU-KUHP as the appropriated localization of gender identity and sexuality, reached the stage of socialization as will be displayed in the next section.

4.3. Stage 2 – reaching the threshold and ready for socializing gender identity and sexuality norms – RUU-KUHP

The introduced drafted Criminal Code, the RUU-KUHP, can be understood as the proof that the promoted sexuality and gender norm, introduced by the AILA and the “LGBT crisis”, reached the second stage of the norm life cycle, the acceptance stage (Finnemore and Sikkink 1998, 902). At this stage, the RUU-KUHP needs to reach a critical mass complying with the norm (Finnemore and Sikkink 1998, 901), which it did to a certain extent, as the following section will show.

4.3.1. *RUU-KUHP the changing sexuality and gender identity norms*

The RUU-KUHP was criticized and contested since it has been published for the public (Heriyanto 2019). Understanding the contestation and the simultaneous process of socialization, it needs to be recognized that contestation has the ability to strengthen a norm as much as it can weaken it (Deitelhoff and Zimmermann 2013, 5). The two articles concerned with regulating sexuality²⁵ would, if passed into legislation, outlaw any form of extra marital intercourse²⁶ as well as any form of *perbuatan cabul* – obscene/ indecent behavior²⁷ (Saputra 2019).

In the currently applied KUHP, adultery is outlawed if committed by somebody, man or woman, who has already been married – *yang telah kawin*²⁸, hence premarital intercourse is not currently regulated (Santoso 1997, 87). However, this regulation displays that the family, more precisely the nuclear family, and the bond of marriage is already protected by the KUHP clauses concerned with sexuality. By introducing the RUU – KUHP, new sexuality, and gender identity norms, that are restricted to the nuclear family, are about to become internalized (Finnemore and Sikkink 1998, 904) in the Indonesian legislative. This means that the promotion of sexuality and gender identity norm by AILA and those involved in the “LGBT crisis” was successfully accepted in the second stage of the norm life cycle (Finnemore and Sikkink 1998, 902–3). This becomes apparent looking at the appendixes of the yearly presidential speeches from 2015-2019²⁹, the third set of sources outlined in the introduction of this chapter.

4.4.1.1. *Presidential speeches, sexuality and gender identity norms*

Gender identity and sexuality mentioned in the appendixes of the speeches, are either targeted to women or to the need for gender equality in economic entities (Kementrian Perencanaan Pembangunan Nasional 2016, chap. 4.10; 2015, chap. 3.10; 2017, chap. 4.10; 2019, chap. 5,12).

²⁵ Article 284 and article 285

²⁶ Article 417 RUU-KUHP (Rancangan Undang-Undang Hukum Pidana 2019)

²⁷ Article 420 RUU-KUHP (Rancangan Undang-Undang Hukum Pidana 2019)

²⁸ Article 284 KUHP (Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia 2019)

²⁹ The presidential speech from 2014 is not included in the analysis because the president holding the 2014 speech was not yet Jokowi.

In the 2018 and 2019 speeches, gender identity is mentioned regarding the progress of family welfare³⁰ and planning programs³¹. Both are focused on building and securing the nuclear family to bring Indonesia forward (Kementrian Perencanaan Pembangunan Nasional 2018b, chap. 5.1.2, 5.2.1; 2019, 5.4.3). The focus on the family in 2018 and 2019 displays the shift of emphasis on the nuclear family even more explicitly.

In turn, this can then be understood as a proof that localization of sexuality and gender identity norms as defined in the RUU-KUHP were internalized in the understanding of the government. Hence, the norms have successfully reached the stage of acceptance (Finnemore and Sikkink 1998, 902). This is reinforced looking at “Report of 4 Years Joko Widodo – Jusuf Kalla [the vice president] government” (Kementrian Perencanaan Pembangunan Nasional 2018a). Similar to the appendixes of the speeches, sexuality and gender identity are only mentioned in the same context as women and children and mostly referring to the securing of the nuclear family (Kementrian Perencanaan Pembangunan Nasional 2018a, 52,65). In regards to human rights, they are displayed on a progressive scale (Kementrian Perencanaan Pembangunan Nasional 2018a, 113, 114). The focus here is again on protecting children and women’s rights, as they are framed as being the most vulnerable groups of society.

This short overview displays that gender identity and sexuality rights have not been the focus from 2014-2019. However, the focus was always on protecting the nuclear family or the need for gender equality, equal positions for men and women in all areas of work, for economic reasons. This is a clear compliance with the sexuality and gender identity norms as displayed in the RUU-KUHP. The public compliance is repeated in all speeches analyzed, showing that the second stage of the norm life cycle was reached (Finnemore and Sikkink 1998, 902). Therefore, the norms can be understood as being socialized, at least in the Indonesian government. The next section will focus on the meaning of socialization for the third stage of the norm life cycle, internalization.

4.4. Stage 3 – Internalization vs. Contestation the undecided dispute of the RUU-KUHP

The third stage of the norm life cycle was defined as the stage where the norm is no longer considered as a norm (Deitelhoff and Zimmermann 2013, 3) but was internalized as a habit and

³⁰ The Family Welfare Program is called Program Keluarga Harapan (KPH).

³¹ The Family Planning Program is called Keluarga Berencana (KB).

is so far institutionalized that the institutions are no longer reflecting on the norm (Finnemore and Sikkink 1998, 904-5). Following this definition, the RUU-KUHP's sexuality and gender identity norms have not reached the third stage of the norm life cycle, since the norm has not been institutionalized as the new KUHP by the end of Jokowi's first term. Nevertheless, the efforts to protect the nuclear family as the only place for sexuality has also been widely contested, especially by students (Heriyanto 2019). These contestations refer to international human rights standards that need to be uphold, as regulating sexuality is seen as interfering with the privacy that should be protected. The contestation of the RUU-KUHP in Indonesia happened widely through public demonstrations (Heriyanto 2019).

Contrary to the contestations described in 4.3.4., these contestations have the potential to weaken (Deitelhoff and Zimmermann 2013, 3) the RUU-KUHP. This became apparent during a press conference in November 2019 when Jokowi asked the students protesting not to do so to protect the public safety and order, and not to destroy the country through anarchism (KompasTV 2019, sec. 2:30-2:39). Jokowi and his political advisors represent themselves as father figures that are telling the public how to behave and how to react. They determine at what point the demonstrations cross the line into anarchist behavior – though they do not define what is seen as anarchist behavior (KompasTV 2019, sec. 4:25-4:44). The way the government, represented by Jokowi, reacts to the contestation leaves the impression that this form of contestation is not taken seriously. This becomes apparent by the constant reference back to the political experts that “know how to do the job of writing laws” (KompasTV 2019), while the protesters that are contesting them are displayed as being against public order and hindering progress of the revision (KompasTV 2019).

The reaction to the contestation shows the influence contestation can have on norms, the power to weaken and alter existing norms (Deitelhoff and Zimmermann 2013, 5) during every stage of the norm life cycle (Lantis 2017, 5). Though it needs to be said, that for the transformation of sexuality norms, the impact of the contestation remains undecided as the final vote on the RUU-KUHP in the DPR was postponed to the second term of Jokowi's presidency (Ghaliya 2019). However, it still shows that the acceptance of sexuality as only being located in the nuclear family and understood as merely heterosexual. This, in turn, means that LGBT Indonesians do not have any space within the national discourse about gender identity and sexual orientation, as there is no space for alternative discourses. Thus, it could be said that a successful socialization of a norm does not mean that it reaches the third stage of the norm life cycle framework. Contestation at the second stage can have an obstructive influence on the internalization as the analysis in this section showed.

Chapter 5 – Concluding remarks

The research looked at how the norm life cycle can be used to answer the question of how the position of the Indonesian government towards gender identity and sexuality rights has changed during the first term of Jokowi's presidency, from 2014 to 2019. For this purpose, the norm life cycle was complemented by the concepts of localization and contestation. This made it possible to identify different influences on the norm life cycles, as the analysis demonstrated. Mainly these influences came from religious and political elites that tried to re-focus gender identity and sexuality towards the nuclear family.

The main findings of the analysis were that sexuality and gender identity norms did change during Jokowi's presidency from 2014-2019. Until 2016, two competing sexuality and gender identity norms could be identified. The first was described as international norms. They have mostly been promoted by the Komnas HAM, the Indonesian Human Rights Commission, which promoted the acknowledgement and protection of minorities based on gender identity and sexuality. The second norm identified was the nuclear family norm which eradicates any other forms of sexuality and gender identity from Indonesian nationhood. The focus on the nuclear family as the proper space for sexuality and gender identity does not leave any room for LGBT Indonesians. The latter norm was able to reach the second stage of the norm life cycle, the stage of socialization, by using the RUU-KUHP as the main vehicle to socialize it. The RUU-KUHP did not reach the third stage, the stage of institutionalization, as student protests contested it successfully, preventing its passage during the presidential term 2014-2019.

The analysis could not fully trace back the emergence of the nuclear family norm enshrined in the RUU-KUHP. A broader analysis into the ideological impacts on the drafting process would be necessary to be able to fully understand whose ideas are represented. Moreover, the analysis could only partially answer the research question of how the position of the Indonesian government towards sexuality and gender identity norms changed. This is mainly because of the time restriction of the scope, which was restricted to the first term of Jokowi's presidency. Further research is necessary on the developments during the second term, especially seeing that the RUU-KUHP was not passed until May 2021 (der 2021), halftime point of Jokowi's second term. This, might indicate, that the nuclear family as a norm is not able to reach the third stage, the stage of internalization, due to its contestation by the civil society (Heriyanto 2019).

In summary, it can be said that the position of the Indonesian government has changed by directing its focus on the nuclear family as the main institution to accommodate sexuality. This further reinforces the understanding of gender identity and sexuality as merely heterosexual. Sexual and gender identity minorities, such as LGBT Indonesians, have not been part of the political debates surrounding sexual and gender identity regulations since 2016. In reports about the status of human rights, including minority rights, LGBT Indonesians are no longer visible. This indicates that “state straightism” (Boellstorff 2016) has reached its peak in Indonesia. However, if state straightism will be socialized in Indonesian civil society is not yet decided.

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