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# PRIDE at work

A study on discrimination at work on the  
basis of sexual orientation and gender  
identity in Indonesia



Gender,  
Equality  
and Diversity  
Branch

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# A study on discrimination at work on the basis of sexual orientation and gender identity in Indonesia

Study based on the research undertaken by Centre for Population and Policy Studies, Gadjah Mada University, on behalf of the ILO

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## **Preface**

Discrimination and violence against people of diverse sexual orientation and gender identity is a serious problem around the world. Lesbian, gay, bisexual and transgender (LGBT) workers face discrimination in the labour market throughout the employment cycle because of their perceived or actual sexual orientation. They may be denied access to employment, to training and promotion, and access to social security. Since LGBT workers are unlikely to be well represented in government structures, or in employers' and workers' organizations, their particular interests are rarely the subject of social dialogue or reflected in collective agreements. Consequently when they encounter discrimination, harassment or bullying, the avenues for workplace dispute resolution may be scarce.

The International Labour Organization is committed to eliminating discrimination in the world of work, promoting workplace diversity and achieving decent work for all women and men, including people of diverse sexual orientation and gender identity. The right to equal treatment and opportunities is primarily a rights issue. However, promoting equality also makes good business sense, as liberating employment practices from bias allows companies to improve their talent pool and increase their access to markets.

In order to effectively deliver upon its mandate to end discrimination in the workplace in all its forms, the ILO has been undertaking country-specific studies to identify the extent and forms of discrimination faced by LGBT workers at all stages of the employment cycle. The research analyzes the legal framework to identify gaps and possibly discriminatory laws, the national social protection system, and identifies challenges as well as good practices implemented by government, employer's and worker's organizations. This study was prepared in the context of the ILO's Gender Identity and Sexual Orientation: Promoting Rights, Diversity and Equality in the World of Work (PRIDE) project, with the generous financial support of the Government of Norway.

This report reflects the study's findings and recommendations from Indonesia. While awareness about rights has grown among the LGBT community in Indonesia, public conservatism and traditional gender norms remain a barrier to LGBT person's access to the labour market. Indonesian law does not specifically mention sexual orientation and gender identity as prohibited grounds of discrimination. The lack of explicit prohibitions against discrimination based on sexual orientation and gender identity therefore poses a challenge for the protection of LGBT people in the workplace in Indonesia. The study also reveals that many LGBT workers choose to hide their sexual identity at work, for fear of losing their job or missing career opportunities. Often working in the informal sector and under difficult working conditions, LGBT workers are marginalised and may have difficulties accessing social protection.

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## Abbreviations

|           |  |
|-----------|--|
| APINDO    | <i>Asosiasi Pengusaha Indonesia</i> (Indonesian Association of Business Owners)  |
| Askes     | <i>Asuransi Kesehatan</i> (health protection programme for employees and their families)   |
| BPJS      | <i>Badan Penyelenggara Jaminan Sosial</i> (Social Security Agency)   |
| GWL-Ina   | <i>Jaringan Gay Waria dan Lelaki yang Berhubungan Seks dengan Lelaki Lain Indonesia</i> (Indonesian Network for Gay, Transgender, and Men who have Sex with Men) |
| HIWAD     | <i>Himpunan Wadam Jakarta</i> (Jakarta Transgender Association)  |
| IDR       | Indonesian rupiah  |
| IGLHRC    | International Gay and Lesbian Human Rights Commission  |
| ILO       | International Labour Organization  |
| Jamkesmas | <i>Jaminan Kesehatan Masyarakat</i> (Community Health Insurance)   |
| KTP       | <i>Kartu Tanda Penduduk</i> (identity card)  |
| LGBT      | lesbian, gay, bisexual, and transgender  |
| PBI       | <i>Penerima Bantuan Iuran</i> (recipients of contribution assistance)  |
| PRIDE     | Promoting Rights, Identity, Diversity and Equality   |
| RI        | Republic of Indonesia  |
| Satpol PP | <i>Satuan Polisi Pamong Praja</i> (municipal administrative police unit)   |
| UNAIDS    | Joint United Nations Programme on HIV/AIDS   |
| UNDP      | United Nations Development Programme   |
| USAID     | United States Agency for International Development   |

# I. Introduction

## A. Background

Although issues related to people who are lesbian, gay, bisexual or transgender (following increasingly accepted practice, referred to henceforward in the present report as LGBT) people are not new in Indonesia, there are few publications on LGBT issues. The year 2005 saw the publication of a well-received book by Tom Boellstorff, entitled *The Gay Archipelago: Sexuality and Nation in Indonesia*. The book is based on his extensive work on Indonesian gay identities in the light of global, national and local influences. In 2014 the United Nations Development Programme (UNDP) released its study, *Being LGBT in Asia: Indonesia Country Report*, which provides an overview of Indonesian LGBT experiences in seven different spheres: employment and housing; education; family affairs and social and cultural influences; media and technology; law, human rights and politics; the special case of Aceh; and the capacity of LGBT organizations. The findings of the UNDP report are based on research, consultation and the national LGBT community dialogue that was held in Bali.

In addition, the Indonesian National Human Rights Commission has published reports on workplace discrimination. The most common employment-related problems for Indonesian LGBT people include the lack of job opportunities for those who do not conform to normative gender roles. This includes dismissal from jobs for gender-related behaviour that is considered abnormal. In Indonesia, identification cards are an important key to access to many services, including employment. Many transgender people have difficulty changing their identity cards to reflect their true gender and face many challenges in obtaining decent jobs and social security as a result of this obstacle.

Workplace issues are among the least studied human rights issues (Ozeren, 2014). Global studies on LGBT workplace issues reveal the existence of various manifestations of discrimination, such as bullying and harassment (Colgan et al., n.d.; Hoel et al., 2014, for United Kingdom cases) and direct discrimination: being threatened with dismissal, refused a promotion or taken out of their job (Boerties, 2012, for cases in the Netherlands) and wage differentials between heterosexual and non-heterosexual employees (Badgett, et al., 2007, for United States cases).

LGBT people who are open about their sexual orientation are often harassed and subjected to discrimination. Those who are secretive about their sexual orientation or gender identity are not immune from discriminatory practices. They may be assumed to be LGBT because of their dress, physical features or mannerisms. Stereotypes can be used to discriminate against gays and lesbians who do not conform to heterosexual gender identities (Hoel et al., 2014). Furthermore, LGBT employees also use stereotypes, both consciously and unconsciously, to determine their career choice, often leading to very narrow employment options (Hoel et al., 2014).

Keeping identities hidden is stressful for LGBT people, as they are forced to live double lives (Colgan, et al., n.d.; Hoel et al., 2014). There are several factors that hinder LGBT employees from disclosing their sexual orientation or their gender identities, including fears about career progression, temporary employment status, masculine or religious attitudes or behaviour of co-workers, and a lack of visible senior LGBT staff (Colgan, et al., n.d.).

Ragins and Cornwell (2001) point out that LGBT employees who experience discriminatory treatment in the workplace demonstrate more negative job attitudes, feel reduced job satisfaction and organizational commitment, and have fewer career opportunities. In addition, LGBT employees who are subjected to discriminatory behaviour tend to have poorer physical and psychological health than their heterosexual counterparts (Badgett, et al., 2007; Boerties, 2012; Colgan, et al., n.d.; Hoel et al., 2014).

Based on the above, it seems obvious that diversity and equality in the world of work, in particular with reference to LGBT people, merit special attention. Moreover, Boerties (2012: p. 6) provides a poignant reason for studying the experiences of LGBT people in the workplace:

The answer to that is actually quite simple. We should consider that most people spend the larger part of their lives working in a setting with others. Throughout a working life, social relations with co-workers might actually be more frequent and intensive than relations with family or friends... [Some LGBT people] can only work by making themselves “invisible”. Imagine the pressures faced by LGBT employees around the world who are forced to hide an essential part of their identity in order to keep their jobs (and in some cases their lives).

Attempts to advance the rights of LGBT people in Indonesia have been under way for quite some time. The number of LGBT organizations in Indonesia has grown significantly since the 1960s, when the organizations Himpunan Wadam Jakarta (HIWAD), which represented transgender people, and Lambda Indonesia, which mobilized gay men and women, were established. The New Order regime (1970–1995) witnessed the development of civil organizations focused on LGBT advocacy, including advocacy for their rights and recognition. These included Arus Pelangi, GAYa Nusantara, the Ardhanary Institute, Our Voice, Kipas, and Perwakos. In the early 2000s, in an attempt to galvanize support for people living with HIV and AIDS, there was a move to organize an umbrella organization for all LGBT people, known as the Jaringan Gay Waria dan Lelaki yang Berhubungan Seks dengan Lelaki Lain Indonesia (Indonesian network for gay, transgender, and men who have sex with men – GWL-Ina). This passion for fighting for LGBT rights percolated down to the regional level. In all research sites – Yogyakarta, Jakarta, Kupang and Pontianak – there are now LGBT organizations, particularly for gay and transgender individuals.

Despite the proliferation of LGBT organizations, however, the stigmatization of LGBT people and discrimination against them persist (Boellstorff, 2005; IGLHRC, 2007; UNDP and USAID, 2014). LGBT people are often targeted for abuse because of their sexual orientation, gender identity, and gender expression. Many governments exacerbate these abuses by not providing the necessary protection, for a variety of reasons (Cabral and IGLHRC, 2007). The type and severity of abuse varies, and is determined by the visibility of non-conforming sexual orientation or gender identity. Transgender individuals are not able to hide the way in which they express their particular gender – their gender expression – and hence are subjected to the most severe forms of stigma and discrimination (IGLHRC, 2007; UNDP and USAID, 2014a). Although there are a few studies about the lives of LGBT people in Indonesia, such as Boellstorff, 2005; IGLHRC, 2007; UNDP and USAID, 2014a–d, studies on the stigma and discrimination faced by LGBT people in the workplace are non-existent. The present study represents an attempt to fill in that knowledge gap.

## **B. Objectives**

The purpose of this study is to identify the extent and forms of discrimination faced by LGBT workers in the world of work, at all stages of the employment cycle, and to investigate both challenges and good practices for combating discrimination and promoting equality in employment for LGBT women and men in Indonesia, under each of the four pillars of the ILO's Decent Work Agenda. Specifically, the objectives of this study are:

(a) with regard to fundamental principles and rights: to identify gaps and shortcomings in legal provisions and their application that lead to discrimination against LGBT persons in the workplace, and to record positive legal provisions where such rights are protected;

(b) with regard to social protection: to assess to what extent:

- social security services such as medical care, health insurance, pension entitlements and other benefits are available to LGBT workers on the same terms as other workers;
- LGBT people face challenges in relation to HIV and AIDS in the workplace due to their sexual orientation and gender identities (the UNAIDS Global Report 2010 revealed that LGBT persons have generally been marginalized in the global response to AIDS);
- LGBT persons face discrimination in the workplace or limited access to work, and in some cases, turn to sex work as an alternative;

(c) with regard to awareness: to assess understanding of LGBT issues and concerns among ILO constituents, and to share knowledge on non-discrimination and the promotion of equality through social dialogue between ILO constituents and LGBT persons in Indonesia;

(d) with regard to discrimination: to identify the multiple forms of discrimination faced by LGBT persons in relation to HIV and AIDS, including in gaining access to HIV prevention, treatment, care and support through the workplace. LGBT people living with HIV tend to face double discrimination (based on their gender identity and sexual orientation, in addition to their HIV status), which makes it increasingly difficult for them to obtain information about HIV prevention and services such as counselling, testing and treatment.

## **C. Research method**

### **1. Research approach**

This study used mixed research methods, which combine elements of both quantitative and qualitative approaches. This combination has the potential to produce data of greater breadth and depth, which increases the robustness of the analysis. The research ranged over a substantial amount of data, with the consequence that qualitative methods – such as in-depth interviews or focus group discussions – would have been insufficient on their own; for that reason, quantitative methods were necessary.

## **2. Sampling technique**

The sampling method used in this study was purposive sampling, in which samples are selected by applying specific criteria, so that different groups meeting particular criteria will be represented. In this study, informants were selected based on their sexual orientation or their gender identity to represent LGBT employees. The only employees who are not represented in this study are bisexual employees, as in the course of their investigation the research team did not find anyone fitting this description, despite specifically asking for such informants to be introduced to them.

## **3. Data collection methods**

### **(a) Survey**

The survey method is a data-gathering technique that involves putting questions to people who are thought to have the desired information. A quantitative survey was carried out within one trade union in order to gain an indication of trade union views on LGBT people and their right to obtain decent work. The respondents were representatives of labour unions.

### **(b) In-depth interviews**

A semi-structured interview guide was used for in-depth interviews with individuals. These interviews were conducted with five leading representatives from Indonesian LGBT networks, one representative of the Ministry of Manpower, and three representatives of the Asosiasi Pengusaha Indonesia (APINDO, the Indonesian Association of Business Owners).

### **(c) Focus group discussions**

Three rounds of focus group discussions were held with representatives of lesbian, gay, bisexual and transgender communities, along with one mixed discussion with representatives from all LGBT groups. The discussions were each attended by 5–10 people. Seven in total were held in Jakarta, Kupang, Yogyakarta and Pontianak. Some of the respondents preferred to keep their identities hidden and are referred to in this report by pseudonyms.

## **4. Data analysis**

Three stages of data analysis were used in this study. First, quantitative data from the survey were analysed using the statistical software package SPSS. Analysis was mainly based on descriptive statistics such as frequency, percentage, and cross-tabulation. Frequency, percentage, and tabulation assist researchers in understanding tendencies, whereas cross-tabulation sheds light on the association between the variables.

Second, data resulting from the in-depth interviews, focus group discussions, and secondary source documentation were analysed. The initial stage of analysis included data preparation and organization (such as transcribing recorded information from the interviews and discussions), data reduction (putting aside unused data), and data

grouping (categorizing data according to their themes and sequences). The last stage of data analysis involved the interpretation of both quantitative and qualitative data.

#### **D. Study limits**

The qualitative study focused on LGBT people in Yogyakarta, Jakarta, Kupang and Pontianak. Data were collected through focus group discussions and in-depth interviews. Although the qualitative research involved other stakeholders, namely representatives of the Ministry of Manpower and APINDO, there was not enough time to apply triangulation and increase the robustness of the analysis. For instance, there were no data from supervisors or heterosexual co-workers regarding their attitudes and behaviour toward LGBT people. The quantitative data provide a description, in broad strokes, of the attitudes of workers, supervisors, and labour union officials to LGBT people and LGBT-related matters. The questionnaire for the quantitative research, however, was not based on the results of the qualitative survey, and thus, even though the quantitative and qualitative data complement each other, they do not form a perfect union in terms of the themes of this study.

#### **E. Situational analysis**

Even though the Indonesian Manpower Act (No.13/2003) prohibits any form of discrimination, employment discrimination against LGBT people is common (Adihartono, 2014; UNDP and USAID, 2014a). This is attributable to the lack of any law that explicitly prohibits discrimination in the workplace based on sexual orientation and gender identity. Discrimination most commonly takes place during recruitment and during employment.

At the enterprise level, very few companies in Indonesia have policies on discrimination against LGBT employees (Hapsari, 2010). Stigma, discrimination and the lack of legal protection conspire to create a stumbling block for LGBT people in obtaining jobs as civil servants, joining the Indonesian military or police, or advancing in sport. As a consequence, LGBT people are more likely to work in the informal economy, particularly in the media, public relations, entertainment, beauty, and creative design industries (Hapsari, 2010).

The exact number of LGBT people in Indonesia is unknown. According to the Ministry for Women's Empowerment and Child Protection, there are at least 3 million lesbians, gay men and transgender people in Indonesia (Hapsari, 2010). Many LGBT people remain closeted for different reasons, such as fear of being stigmatized, of being disowned by their families, of not being able to obtain or maintain a job, and of being persecuted by certain religious groups.

While there is a tendency to lump all LGBT people together in one group, a closer examination of their workplace experiences reveals that they are divided both by differences of gender identity and sexual orientation and by their various social, economic and religious positions in society. It is true that they are likely to be stigmatized and discriminated against, but the manifestation and severity of this stigma and discrimination vary considerably. LGBT people whose sexual orientation and gender identity and expression are not readily evident in their appearance face less harassment, bullying and discrimination than those whose gender expression diverges from the expected norm. It is less problematic for gender-conforming

LGBT individuals to find employment than for their gender non-conforming counterparts (Adihartono, 2014).

Transgender individuals, on the other hand, tend to be discriminated against the most (Koeswinarno, 2004; Pamungkas and Aswim, 2013). This tendency is attributable to the fact that their physical appearance is often perceived as incongruent with their gender identity, and this is unsettling to the general public (Indonesian NGO Coalition on LGBT Issues, 2013). Transgender women and men are often the targets of ridicule and violence, which is sometimes perpetrated by the Government and the police. They are often raided and apprehended in the ostensible interests of “maintaining public order”. Once they are in police custody, they are frequently subjected to physical, psychological and even sexual violence (Wijaya, 2010).

Furthermore, discrimination against LGBT people is not only based on their sexual orientation or gender identity, but also their social and economic status. Gay women and men from wealthier backgrounds can afford privacy, either by working on their own, or by selecting more supportive working environments. In contrast, transgender people, with less formal education, are more likely to have little choice in where they work. Many of them engage as sex workers or street singers, living with the double stigma of being both sex workers and transgender (Adhi et al., n.d.).

Transgender people are also impeded in their efforts to obtain a national identity card (*Kartu Tanda Penduduk*, or KTP). Many are unable to obtain these cards because they left home before they could register through their family registration process. Without the identity card, they find it difficult to obtain formal sector employment or to gain access to a number of social services, including health care.

Conservative employers still view LGBT people negatively, often stereotyping and characterizing them as people who have gone astray and who need to be “put straight”, so to speak, in accordance with religious teachings. For that reason, many LGBT employees feel that they must keep their sexual orientation and gender identity secret, for fear of suffering discrimination, or worse, losing their jobs (Adihartono, 2014). Research in China (UNDP and USAID, 2014b), Cambodia (UNDP and USAID, 2014c) and Viet Nam (UNDP and USAID, 2014d) shows a similar tendency for LGBT employees to remain closeted, leaving them feeling anxious and emotionally isolated.

## **F. Legal framework**

In an attempt to synchronize this diverse body of labour laws and regulations regarding the protection of workers, the Indonesian Government promulgated the Manpower Act (No. 13/2003) on 23 March 2003. The act contained new provisions and synthesized regulations from different sources into a single legal instrument.

The Manpower Act is non-discriminatory in principle. For example, its article 5 states that any person shall have the same opportunity to get a job without discrimination. In addition, its article 6 stipulates that every worker has the right to receive equal treatment without discrimination from their employer. Non-discriminatory practice is also applicable to social security, as prescribed in article 99, paragraph 1, which states that workers and their families shall all be entitled to social security, and paragraph 2, which states that the social

security mentioned under paragraph 1 shall be administered in accordance with the prevailing laws and regulations.

The Manpower Act is one of the most important products of the Labour Law Reform Programme, which grew out of the historic events in 1998 that led to the reinstatement of democratic rule in Indonesia. Two other important laws in this regard are the Trade Union Act (Act 21/2000), which was promulgated on 4 August 2000, and the Settlement of Industrial Relations Disputes Act (Act 2/2004), which was enacted on 14 January 2004 (ILO, 2004). The Manpower Act governs termination of employment, employment discrimination, and workplace harassment. Termination of employment is also governed by the Settlement of Industrial Relations Disputes Act (ILO, 2004). Where termination of employment is concerned, the employer is generally required to exhaust efforts to prevent such termination. In paragraph 1 of article 151, the act stipulates that the entrepreneur, the worker and/or the labour union, and the government must make all efforts to prevent employment from being terminated. Furthermore, the same act also protects employees from being fired based on several types of discrimination, including discrimination based on differences in understanding, belief, religion, political orientation, ethnicity, colour, race, gender, physical condition and marital status (article 153, paragraph 1 (i)).

Workers' protection in Indonesia is in line with other legal instruments, such as the Indonesian Constitution and the Human Rights Act. Article 28D, paragraph 2, of the amended 1945 Constitution protects the right to employment and guarantees fair and appropriate remuneration and treatment in an employment relationship. The Human Rights Act further provides protective legal measures against discrimination in employment-related matters. The Human Rights Act states that:

- All people are born free, having the same and equivalent human dignity, and are gifted with minds and consciences to live in a society, nation, and state in the spirit of brotherhood.
- All people have the right to just legal recognition, guarantee and protection and to obtain legal certainty and equal treatment before the law.
- All people have the right to human rights protection and basic human freedoms without discrimination.

Despite the protective nature of the laws, they do not specifically prescribe measures to combat discrimination based on sexual orientation and gender identity. In paragraph 1 (i) of article 153, the Manpower Act specifies that employees should not be dismissed on the basis of gender, among other factors. The explanatory notes to the act, however, as set out in the supplement to the State Gazette of the Republic of Indonesia No. 4279, make specific mention of "male" and "female" workers, from which it may be assumed that the legal interpretation of gender is still based on the binary male-female paradigm. The lack of explicit prohibitions against discrimination based on sexual orientation and gender identity therefore poses a challenge for the protection of LGBT people in the workplace in Indonesia.

There are other laws and regulations that have a negative impact on LGBT individuals, in particular those who are transgender. The Ministry of Social Affairs Regulation Number 8, 2012, on the guidelines for the collection and management of data regarding people with social welfare problems and social welfare potential and sources, classifies lesbians, gay men



and transgender individuals as having a social function disorder (*gangguan keberfungsian sosial*).

The enactment of Act No. 32/2004 on decentralization has strengthened the power of provincial and district governments. One unintended result of regional autonomy has been the increased unpredictability of policymaking at the subnational level. Some provincial and district level governments have enacted regulations that conflict with national legislation. Such conflicting local regulations are often approved by the Regional People's Representative Council through the Ministry of Home Affairs. For example, there are a number of subnational regulations, laws and bylaws that govern sex work, since it is perceived to be sinful or immoral. National laws do not specifically prohibit sex work, although the Penal Code prohibits the facilitation of acts of obscenity by others to earn a livelihood (Article 296), trading in women (Article 297), vagrancy (Article 505) and living on the earnings of female sex workers (Article 506) (UNDP, 2012).

## **G. Stigma and discrimination**

The aim of the present section is to facilitate an understanding of the experiences of LGBT people in the workplace, since stigma and discrimination against LGBT in society often permeate the workplace. Stigma and discrimination limit the career choices of LGBT people and represent a stumbling block at each stage of the employment cycle, ranging from trying to obtain a job, maintaining a job, seeking promotion and obtaining employment benefits.

Attitudes towards LGBT people are diverse, reflecting the varied worldviews among Indonesians. A small number of Indonesians are quite tolerant of LGBT people. A substantial number, however, still consider non-standard sexual orientation and gender identity to be a sexual deviation (Handayani, 2011). At the heart of this perception is the concept of heteronormativity, which neatly separates gender into biological males and females, aligning with socially constructed ideals of masculinity and femininity. Heteronormativity positions heterosexuality as “normal”, and homosexuality as “abnormal” and highlights the naturalness of the binary opposition (Wierenga, 2014). Heteronormativity in Asia is built upon the idea that members of society strive towards the creation and preservation of a heterosexual family. Furthermore, Wierenga (2014: 4) argues:

Heteronormativity informs the normativity of daily life, including institutions, laws and regulations that impact the sexual and reproductive lives of members of society as well as the moral imperatives that influence people's personal lives. Heteronormativity refers to practices, norms governing those practices, institutions that uphold them and effects produced by those norms within individuals. These effects can be seen in behaviours and feelings as well as in the aspirations for the future that the narrators nourish for themselves and their children.

Thus, those who fall outside the purview of heterosexuality are viewed less favourably. As a consequence, LGBT people are subjected to stigma and discrimination at both the personal and social level. The manifestation and severity of stigma and discrimination vary, depending on individuals' sexual orientation or gender identity, with transgender people suffering the brunt of such stigma and discrimination because of the visibility of their gender expression.

In Indonesia, heteronormativity is very closely linked to marriage and reproduction. At the heart of what it means to be a man or a woman in Indonesia is a clear recognition that getting married and producing children is key to fulfilling a person's obligation as a man or a woman. Whereas typical masculine expressions by a woman or feminine expressions by a man may be viewed as a form of deviation and may result in a range of teasing, harassment and bullying, it is the failure by an individual to conform with the conception of what Indonesians refer to as *kodrat*, or the divinely sanctioned roles of men and women, which lies at the heart of their refusal to accept such behaviour or expressions.

Alternative ways of expressing gender, including behaviour, styles of dress, speech intonation and other characteristics, become particularly problematic when individuals reach that stage of life when they are expected – and fail – to comply with the social norms of getting married and having children.

Same sex behaviour itself is often not the main source of the problem with regard to society's views of LGBT people. This is particularly the case for men, who generally have far fewer constraints placed on them in respect of their sexual behaviour. Many younger gay men in this study explained that, although their parents and colleagues knew about their so-called lifestyle, their main concern was that they would still one day get married and have children:

*My mother knows about me. She read some text messages on my phone when I was out of the room. She confronted me and told me that one day I had to get married. That was the end of the discussion. (Anto, gay man, Jakarta)*

It is also common for gay men to marry women and have children, but at the same time, maintain their homosexual lifestyle on the side. Women rarely have this kind of flexibility, and they are often expected to develop a sexuality that is geared more towards producing children and fulfilling the needs of husbands, rather fulfilling any internal needs.

In either case, LGBT people often face challenges at work because their sexual orientation or gender identity conflicts with social expectations, and these expectations are often continuously reinforced in their work environment.

This study found that transgender people faced the highest level of discrimination and mistreatment in the workplace. This was in all likelihood driven by the fact that these individuals were seen as having transgressed the boundaries of appropriate gender behaviour, as they had chosen to defy the biological – and, in the view of many, divinely sanctioned – role of their gender to reproduce. By expressing their gender identity as something distinct from their biological sex, they had subverted the gender hierarchy with little hope of returning to what was deemed to be an “acceptable” state.

Nonetheless, there is evidence from this research that attitudes are changing and that western concepts of lesbian, gay, bisexual and transgender identities are increasingly influencing young people, in particular the notion that people can maintain an alternative sexual orientation and gender identity through the course of their life. Many of the respondents noted that they wanted to be open about their sexual orientation and gender identity in the workplace and in broader realms of society. These respondents tended to be young, between the ages of 20 and 30, and they shared experiences both positive and negative about their experiences of what is known as “coming out” and “being out”.

As western notions of LGBT identities become increasingly influential among members of the community, however, religious discourses on gender and sexuality have become increasingly rigid and confining. While religion has always played a central role in the ideology of the Indonesian State, more recently religious fundamentalism has become a growing driving force in the national debate and policymaking.

With the fall of the Soeharto regime and the economic collapse of the late 1990s, political discourse increasingly took into account religious values related to gender and sexuality. In particular, in the early 2000s fundamentalist religious perspectives began to play an influential role in public discussions on gender and sexuality. In these debates, homosexuality and, to a lesser extent, transgender identities were often positioned in the context of negative or even corrupt Western influences. Increasingly, this perception of what were considered to be appropriate gender roles has a link to religious values. This was reflected throughout the qualitative interviews conducted for this study, in which it was noted that such forms of behaviour existed but were clearly considered to be the result of western influence.

It is within this context that lesbian, gay, bisexual and transgender people experience the world of work. While labour policy and company practices play a fundamental role in this regard, broader cultural and religious values are clearly also in play. The research results varied significantly, but in all cases, the workplace is clearly seen as a zone for negotiating and renegotiating gender roles and identities, along with concepts of sexual orientation.

## **II. Voices from the field: findings and analysis**

### **A. Introduction**

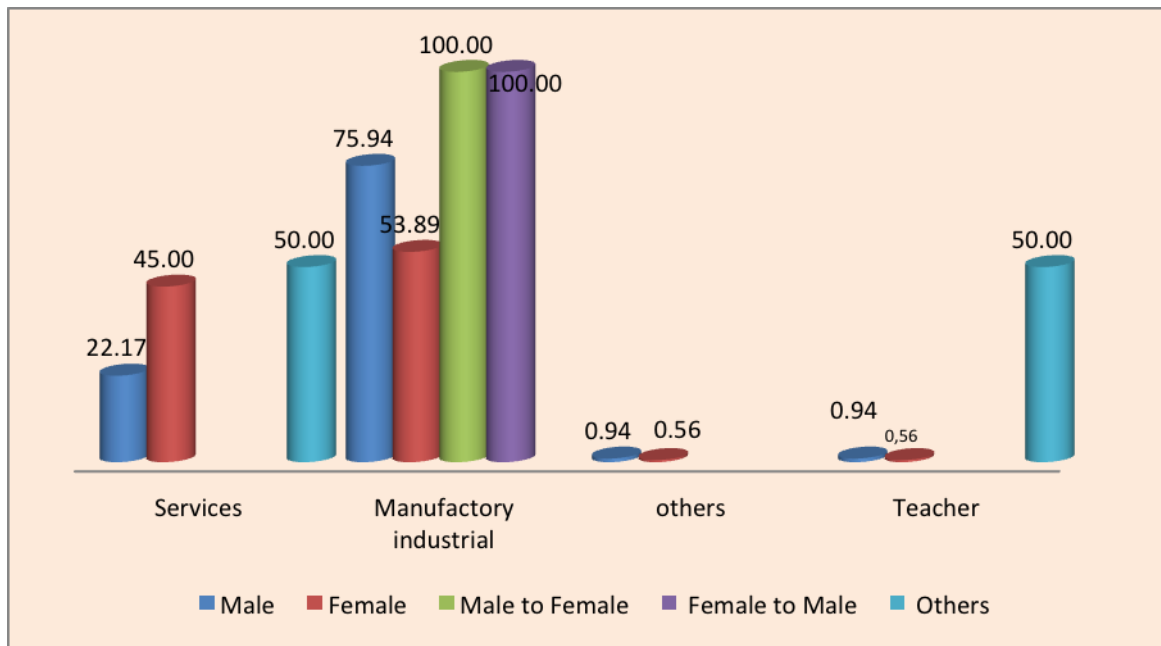
The data gathered in the course of this research are both quantitative and qualitative in nature. The quantitative aspect of the research represents both the endeavour to enrich the data and a means of triangulation. Data from the qualitative research provide a snapshot of the stigma and discrimination in the workplace from the perspective of LGBT people, labour union members, and representatives of APINDO and the Ministry of Manpower. Quantitative data were collected from members of the labour union. The questionnaire captures respondents' attitudes to LGBT-related issues (see tables 1 and 2). The characteristics of the 408 respondents are as set out below.

The majority of respondents were male (54 per cent), followed by female (45 per cent), male-to-female transgender (0.5 per cent), female-to-male transgender (0.49 per cent), and other (0.5 per cent). Even though respondents with alternative gender identities are in a minority, that they were willing to tick that box is indicative of the changing nature of LGBT people's perceptions about themselves and their willingness to take risks by being more open about their sexual orientation or gender identity. The majority of respondents come from the productive age bracket (20–49 years), with those aged 30–39 being the most numerous. Even though respondents might have been born and raised elsewhere in Indonesia, the largest percentage of them work in Jakarta (41.42 per cent). It is interesting to see whether their place of work has any bearing on their attitudes towards LGBT: large cities such as Jakarta consist of people from different backgrounds, with diverse ways of looking at the world, and thus such cities have the potential to broaden their inhabitants' horizons.

Qualitative data were gathered through focus group discussions in Yogyakarta, Jakarta, Kupang (East Nusa Tenggara) and Pontianak (West Kalimantan). The majority of participants in the discussion groups in Kupang and Pontianak worked in the informal economy without contracts specifying their job descriptions, wage raises, and so on. Their workplaces include beauty salons, small cafes, and small grocery stores – places where labour relations are regulated by verbal contracts and mutual trust between employers and employees. A few of our informants worked for the Government as teachers or employees in government offices. A number worked for the Komisi Pemberantasan AIDS (AIDS Commission). The occupations of our informants in Yogyakarta and in Jakarta were more diverse, ranging from sales people and television and information technology specialists to factory labourers. The difference between the ranges of occupations found, on the one hand, in Kupang and Pontianak, and, on the other, in Yogyakarta and Jakarta, can be attributed to two factors. First, our informants in Yogyakarta and Jakarta are better educated than their counterparts in Kupang and Pontianak. Second, given their more strategic geographical and economic locations, Yogyakarta and Jakarta offer a greater array of occupations to workers in general, including those that are LGBT.

## B. Demographic profile of respondents of the qualitative survey

Figure 1 Gender and type of work



Source: PRIDE Survey, 2014

The majority of respondents (74.75 per cent) are full-time workers. From the perspective of LGBT people, the attitude of these workers plays a pivotal role in shaping the work environment. In terms of the type of work, the majority of respondents were factory workers (64.71 per cent) and the bulk of these (28.19 per cent) had been working in their current position for between one and five years.

While they hold different positions in their respective companies, the largest percentage of them (27.45 per cent) were members of trade unions. An additional 3.19 per cent were union leaders. Leaders of labour unions have the capacity to shape regulations and future directions. Their attitudes towards LGBT people are highly influential where union policy and labour negotiations are concerned. Labour union leaders have the power to influence the development of institutional culture, as rank and file employees will adhere to not only their union's regulations, but also its social values. At the personal level, more than half of the respondents (70.59 per cent) are married.

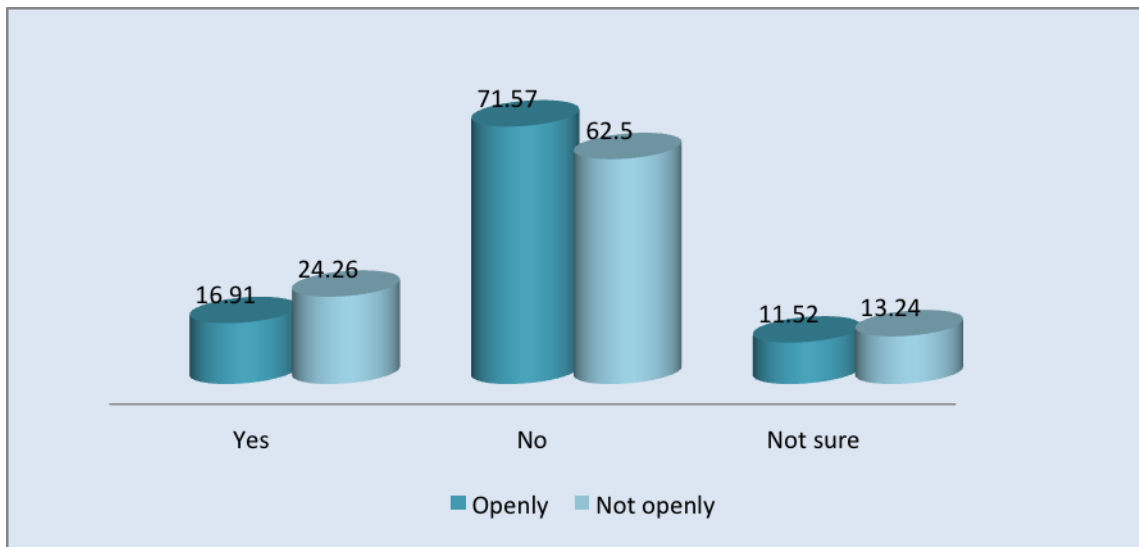
The majority of respondents worked in the manufacturing sector as factory workers (64.71 per cent) in a variety of companies, with products ranging from garments and shoes to metals. The survey found that the respondents who identified themselves as having an "alternative gender identity" work in the manufacturing sector, while those who identified themselves as "other gender" work in the service sector and teaching.

## C. Attitudes and behaviour towards LGBT people in the workplace

Discrimination in the workplace is often related to homophobic tendencies. Homophobic attitudes, in turn, are attributable to fear of the unknown. Hence, knowing people who are open about their sexual orientation or gender identity may diminish this fear. The majority of the respondents did not know anyone who had an alternative sexual orientation or gender identity, either openly (71.57 per cent) or in secret (62.5 per cent). In

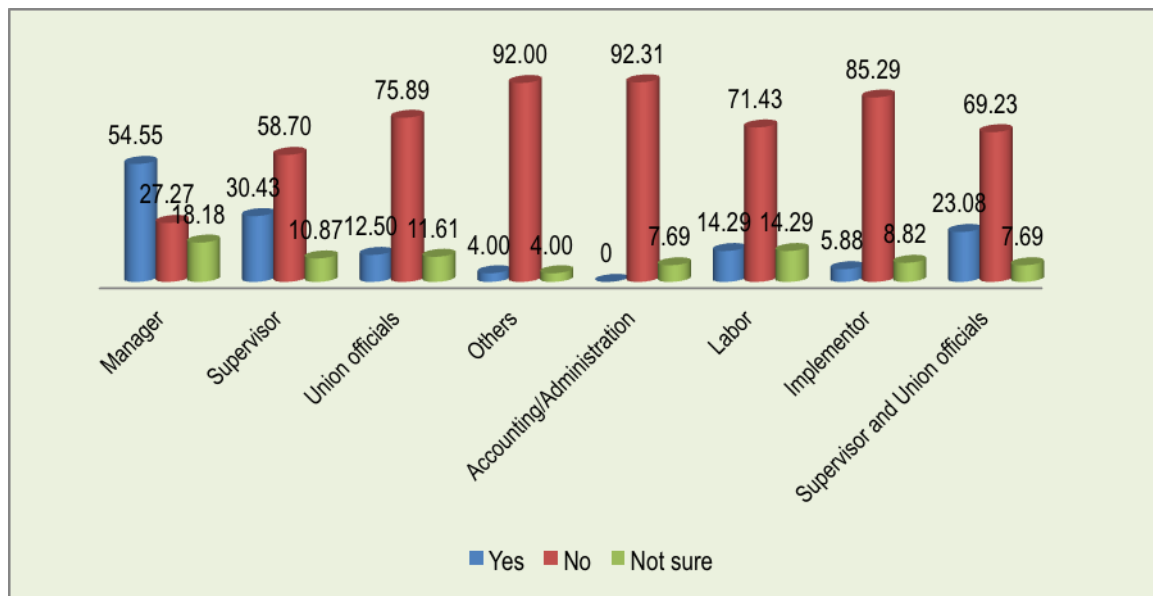
other words, their knowledge about LGBT people and alternative sexual orientations or gender identities comes from non-LGBT people.

**Figure 2 Knowing LGBT people who are openly LGBT or not openly LGBT**



Source: PRIDE Survey, 2014

**Figure 3 Knowledge about the existence of LGBT workers based on respondent's position in company**



Source: PRIDE Survey, 2014

Figures 2 and 3 reveal that the majority of respondents do not know any LGBT workers who are either open or not open about their sexual orientation or gender identity. This tendency is indicative of the high number of closeted LGBT people in the workplace. Most of the informants in our qualitative study decided to maintain a separate identity in order to conceal their gender identity or sexual orientation. They did not tell their parents, co-workers or supervisors about their sexual orientation or gender identity, and were only open about their orientation with friends within their lesbian, gay or transgender community. Some LGBT people noted that the stress of facing stigma and discrimination for having alternative

sexual orientations or gender identities was too difficult to bear. They chose to get married but at the same time maintain their sexual orientation or gender identity in a separate social sphere. They wanted to fulfil their parents' wishes, make them happy, and at the same time put a stop to questions about when they would marry. Such marriages also helped their career prospects, since co-workers and supervisors would not question their sexual orientation or gender identity. It did not take long, however, for them to realize that this was not the solution. Many feel very uncomfortable with this arrangement, especially when their wives or husbands do not know the real reason for the marriage. Some respondents say that this is the best they can do to maintain family harmony, to keep their jobs and to safeguard their real sexual orientation or gender identity:

*I think about coming out many, many times. I have reached the conclusion that the harms of coming out outweigh the benefits. Yes, my decision not to be truthful is not fair to my wife and children. But what can I do? I am afraid that I will be treated unfairly in the workplace if I am not married. Maybe I will even be dismissed from my job. I work in a small shop. Even now some people say that I am effeminate. Another tell-tale sign of gayness includes not being interested in marriage, even when they are past the ideal marriageable age, hold a steady job, and have a decent salary. So my being married and having kids stops them short of accusing me of being gay. (Ar, a gay man, Pontianak)*

*As for me, I enjoy my life now very much as a gay man but I know it will not stay like this forever. I will eventually have to get married. This is what my family expect of me. Even my co-workers are beginning to ask when I will marry. I do not know how anyone avoids it. (Indra, a gay man, Jakarta)*

*Getting married and having children are very much expected in my workplace. The way co-workers and managers ask me leads me to believe that if I want to advance in this company, I would need to have a family. Otherwise they would not see me as a whole person, qualified to advance in the company. (Sukma, a lesbian in Jakarta)*

Some of the LGBT people who decided to be open about their sexual orientation and gender identity had to separate completely from their families as they failed to establish common ground. They then often face difficulty in obtaining a national identity card as one of the requirements is to have a family card (*kartu keluarga*), which lists the names of family members and their relation to one another. Not having an identity card presents a major obstacle to getting a job and to obtaining public services, including, for example, a driving licence or state-sponsored health insurance (operated by the Badan Pengelola Jaminan Sosial, or Social Security Agency). For transgender people, not having an identity card makes them vulnerable to harassment by the State apparatus, as they will be grouped together with persons who are likely to be charged with disturbing the peace, such as the homeless or sex workers.

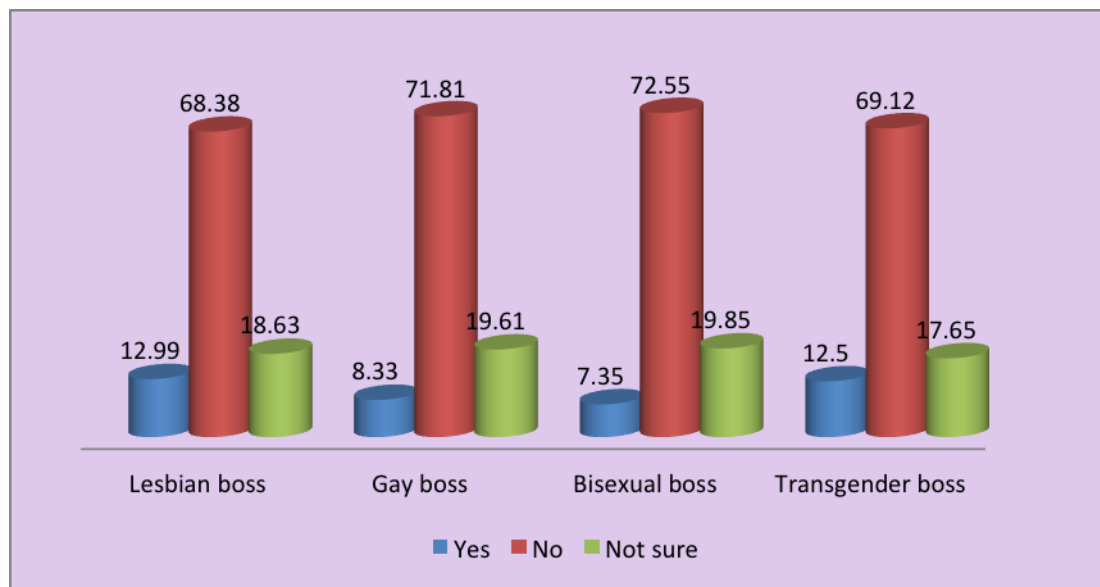
Figure 3 also shows that people in positions of authority, such as managers and supervisors, have greater knowledge about the existence of LGBT people in their respective workplaces. Managers have the greatest awareness (54.55 per cent), followed by supervisors (30.43 per cent), and union officials (23.08 per cent). The data do not reveal the manner through which respondents discovered their workers' sexual orientations or gender identities. Based on data from qualitative research, it is important to bear in mind the likelihood that they may not actually know, but only suspect the workers' sexual orientations or gender identities because of their demeanour (for example, effeminate behaviour displayed by men) or physical characteristics (short hair, sometimes combined with a flat chest, among women). The qualitative study also highlights the fact that being suspected of having an alternative

sexual orientation or gender identity can be as damaging as being open about one’s sexual orientation or gender identity.

Female applicants with very short hair and a perceived manly demeanour (with such attributes as self-assuredness, being straight to the point) are often assumed to be lesbian with a masculine identity – sometimes referred to as “butch” – and are thus subjected to negative judgments:

*When there is a recruitment (drive) in garment factories, everybody is asked to perform certain tasks, such as sewing or measuring fabric. Some female workers may pass those tests. But passing the interview process is something else. Some interviewers may look at their physical appearance. When the workers fit the profile of a butch, they will not pass the interview. It has happened several times. Some of them were not even lesbians! They didn’t get a job because some people assumed that they were lesbians. These interviewers do not know these women personally. They base their judgments solely on their physical appearance. But, of course, there are companies which don’t care whether the workers are butches or not. As long as they can work well, they will be accepted by the factories. (Yu, a member of an LGBT-friendly labour union in Jakarta)*

**Figure 4 Being comfortable working with LGBT supervisors**

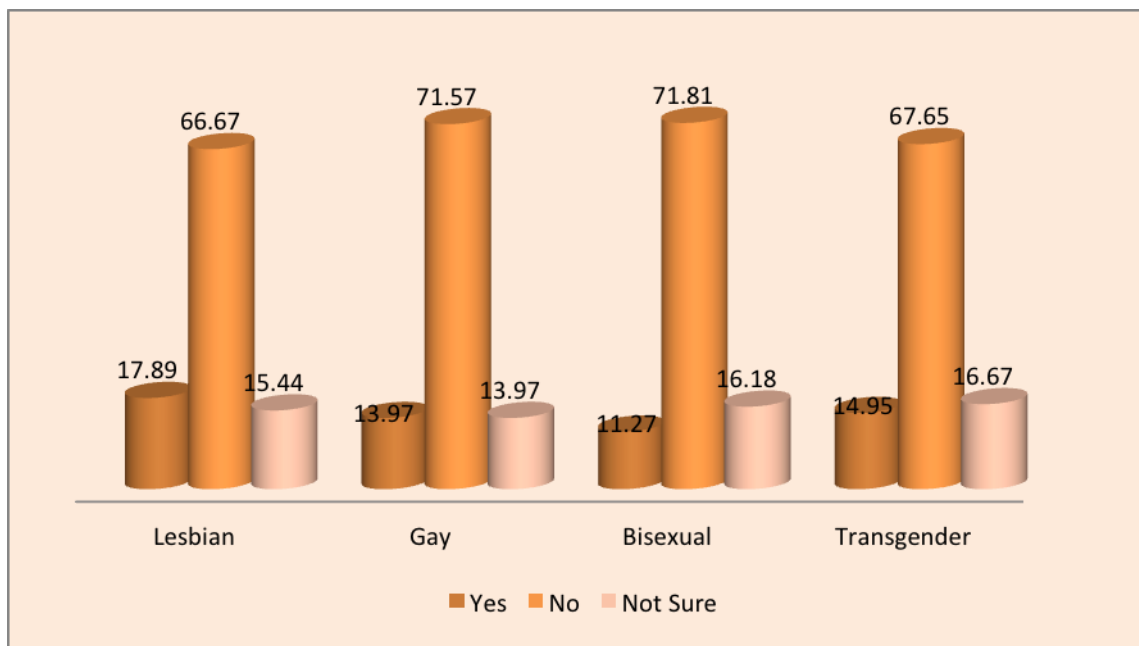


Source: PRIDE Survey, 2014

It appears that the extent to which respondents feel comfortable having an LGBT supervisor, and having LGBT co-workers working in close proximity with them, reflects their perception of “normative social distance”– that is to say, about who should be considered an “insider” and who an “outsider” or “foreigner”. Normative social distance refers to widely shared norms, which may be consciously or subconsciously expressed, about distinctive insiders and outsiders. Consequently, the percentages of respondents who do not feel comfortable working with LGBT supervisors (figure 4) and co-workers (figure 5) do not differ significantly.



**Figure 5 Being comfortable working with LGBT co-workers**



Source: PRIDE Survey, 2014

The LGBT people in the qualitative study expressed the belief that the religious context in Indonesia in general, and specifically in their place of residence, is strongly disapproving of homosexuality. Anti-homosexual sentiment is disseminated through different means, including from the pulpits of mosques, through popular religious shows on television, and in legal codes, social norms and family structures. Since everybody is exposed to a similar religious culture, even people who are not personally religious are intolerant of homosexuality. Based on our focus group discussions, many people, both family members and outsiders – including some co-workers and supervisors – still consider LGBT people to be unnatural or even sinful.

**Table 1 Attitude to same-sex sexual relations**

| Same-sex sexual relations are wrong | Frequency | Percentage |
|-------------------------------------|-----------|------------|
| Strongly agree                      | 288       | 70.59      |
| Somewhat agree                      | 26        | 6.37       |
| Neutral                             | 27        | 6.62       |
| Somewhat disagree                   | 7         | 1.72       |
| Strongly disagree                   | 60        | 14.70      |
| Total                               | 408       | 100.00     |

Source: PRIDE Survey, 2014

**Table 2 Attitude to homosexuality**

| <b>Homosexuality is a natural sexual expression</b> | <b>Frequency</b> | <b>Percentage</b> |
|---|------------------|-------------------|
| Strongly agree                                      | 38               | 9.31              |
| Somewhat agree                                      | 39               | 9.56              |
| Neutral   | 82               | 20.10             |
| Somewhat disagree                                   | 54               | 13.24             |
| Strongly disagree                                   | 195              | 47.79             |
| Total   | 408              | 100.00            |

Source: PRIDE Survey, 2014

The majority of respondents in this quantitative survey expressed strong anti-homosexual sentiment by stating their distaste for same-sex sexual relations (70.59 per cent). Similarly, 47.79 per cent of them strongly disagreed with the idea that homosexuality is a natural sexual expression.

Against this backdrop of respondents' attitudes, the following section will describe the experiences of LGBT employees in the workplace. The discussion will be based on different parts of the job cycle: getting a job, maintaining a job (basically trying to survive in the workplace), and undergoing evaluation and promotion. Even though LGBT people are often grouped together as one entity, this research indicates that their experiences in the workplace, including the stigma and discrimination that they face, are far from uniform.

## **1. Job seeking and acquisition**

All the informants in our qualitative study highlighted the importance of education in obtaining access to work:

*Yes, it is probably true that many LGBT people, particularly transgender people, are concentrated in the informal economy. But it is not because they are LGBT that they are clustered in the informal economy. Rather, it is their lack of education that pushes them into the informal economy. Education is the key to getting a job with a decent income. It also provides people, not just LGBT people, with choices. They can leave a job when they feel that their skills, or personality, are not a good match with that job. Take me, for example. I had a very good career at a bank, but my heart was not in it. I quit and changed jobs, to where I am now. I am currently working for an advertising agency. It's my choice. It has nothing to do with my being gay. (Hal, a gay man in Jakarta)*

*As a transgender person I faced many struggles at an early age. I managed to finish high school and later go on to college. This has helped me a great deal in finding a job. I can look around at other transgender people and see how rare this is. Most did not finish high school and have had so few choices. They never experienced much workplace discrimination because they never really had a chance for a real job. (Arianto, transgender person, Jakarta)*

In practice, however, education is not the only factor that matters in the workplace. All job advertisements in Indonesia use similar wording, as can be seen in this standard example: "Looking for male or female. Healthy physically and psychologically." Over the years, this wording has become so familiar that people do not perceive anything to be wrong

with it. LGBT people, however, find such advertisements discriminatory, as they provide little room for people outside the binary paradigm of male and female:

*You know, those job advertisements are not only discriminatory to LGBT people. They are also discriminatory to people with physical disabilities and those with mental health conditions. For LGBT people, employment-related discrimination starts with the job advertisements. A number of LGBT people are reluctant to apply for jobs that use that kind of wording in their advertisement. (Em, a lesbian in Yogyakarta)*

Many LGBT people find out about job opportunities through information provided by friends, or friends of friends. This is particularly true for those with limited education and skills. LGBT communities play a very important role in providing employment-related information. These communities supply their members with information not only about job vacancies, but also about the nature of the jobs, and supervisors' and workers' attitudes towards LGBT people. Since a low level of education restricts employment opportunities, many LGBT people end up working at the same place as their counterparts. This is particularly true in Kupang and Pontianak:

*Well, there is this cafe that my friend used to work for. He still keeps in touch with his former co-workers, even after he stopped working there. One of his friends told him that the cafe needs a waiter. He informed me about the opening. Once I got the job, he briefed me about what it was like to work there. He advised me to not be open about my gayness, because he honestly did not know how people will react to such a revelation. He never had any problems there, but then again, he never told anyone that he is gay. (An, a gay man in Pontianak)*

Those with a higher level of education and economic status take a different route. They look for jobs through vacancies posted in local newspapers. Those with access to the internet search for job opportunities advertised online.

A few transgender women respondents explained that they had benefited from community support in finding a job. One of them, Yet, was a transgender person in Pontianak. She said that she had been an active volunteer with Pembinaan Kesejahteraan Keluarga, or Family Welfare Empowerment, for some time. The wife of the mayor of Pontianak was highly appreciative of her work performance. In 1980, without Yet's knowledge, the mayor's wife paved the way for Yet to become a full-time employee of the mayor's office:

*Out of the blue, the human resource department at the mayor's office gave me a letter of appointment. I did not even apply for the position. Apparently, being a high school graduate made me qualified for a job in family welfare education. (Yet, a transgender person in Pontianak)*

A prominent family can also be very helpful in securing employment. Az is a lesbian in Pontianak who comes from a well-known, politically active family. Even though being a member of the regional legislative body (Dewan Perwakilan Rakyat Daerah) may not be perceived as holding a job in a traditional sense, it is considered such in Indonesia; some members of local legislative bodies do not hold another full-time job and, in that way, being a member of the local legislative body is their job. Az participated in a previous local election, running for a seat in the local legislative body:

*You know, people call me "abang" (brother) because of my manly appearance. They also know that I am a butch lesbian. Other members of my party know that I am a butch*

*lesbian. My constituents know that, too. How do they know? Well, my partner comes along with me sometimes. My friends from the party often tease me, telling me that my wife has arrived to pick me up. My constituents know about my partner because they are from my village. I have always been open about being lesbian. Nobody has any issue with my sexual orientation, nor my gender identity. Too bad I lost in the election. I had a plan to campaign for the rights of LGBT people. Well, maybe I will run for office again next time. (Az, a lesbian in Pontianak)*

The fact that an openly lesbian person could be a party member, and was able to run for political office, is very surprising. It is not clear, however, whether or not she would have been able to gain party membership without the influence of her politically active extended family. Apparently, constituents are familiar with Az's extended family and view their political track record favourably. Constituents may have extended their positive view to Az, by virtue of her links with her family.

The above discussion shows that, despite the discriminatory tone of job advertisements, many LGBT people look for jobs in ways similar to non-LGBT people. They obtain job-related information by word of mouth, through job advertisements in newspapers, and on line. Some benefit from a patron or prominent family background. The difference between LGBT and non-LGBT people is the fear of being stigmatized and discriminated against:

*Well, you can say that non-LGBT people only think about jobs when they are looking for a job. For LGBT people, we have to think about jobs and struggle to overcome anxiety since there are many "what ifs". What if prospective employers suspect that we are LGBT? What if they ask us questions about our physical appearance during interview? What if... What if... It's very nerve-wracking. (Set, a lesbian, Jakarta)*

Some lesbians and gay men in Yogyakarta consider themselves lucky to be able to work in gay-friendly places. Word travels among gay men and lesbians about certain cafes and restaurants that are welcoming to them:

*I was very unhappy at my workplace. I used to work at this cafe. I had to appear and behave like a guy. The owner never said anything about my behaviour, but I could tell that he was not particularly happy with my effeminate way of behaving. This stressed me out, because I had to be guarded all the time so I wouldn't act effeminate. A friend of mine told me about the cafe where he works. Basically he said that that he can be kemayu (girlish), or whatever, and nobody cares. So I applied where he works, and have been there since. It's not perfect, nothing is. But compared to my other workplace, it is like a slice of heaven on earth. (Yan, a gay man, Yogyakarta)*

There is another avenue by which transgender people can find work, namely participating in training activities carried out by the local office of the Ministry of Social Affairs. In an attempt to get transgender people out of sex work, the Ministry of Social Affairs offers training programmes to assist them with income-generating activities. The training involves sewing and beauty classes. The Ministry of Social Affairs also provides transgender people with sewing machines and a small loan to start their own salons:

*Why sewing or beauty classes? Well, transgender people are known as being good at "feminine" jobs. That's why the Ministry of Social Affairs offers such training. Actually the transgender people could have asked for different training if they wanted to, but they don't want to. That's probably why many transgender people can be found in salons or the*

*entertainment industry. Some of them are successful, some of them are not. It depends on an individual's work ethics, I guess. (Ar, transgender person in Kupang)*

Some of the focus group participants agreed that the female-dominated occupations offered by the Ministry of Social Affairs affirmed people's beliefs that transgender people generally belong in the beauty and entertainment industries, and that such perceptions make it difficult for transgender people to pursue other lines of work, such as in the field of information technology. All agreed, however, that working outside the sex industry and off the streets provided them with dignity, as they were no longer subjected to harassment from the municipal administrative police units (Satuan Polisi Pamong Praja, or Satpol PP), whose main duty is to maintain order.

LGBT people, like others, have hopes about climbing the social ladder by obtaining a better-paid job. They see education as an avenue to fulfil their aspirations. Mami (mother) Yu is a well-known transgender person in Jakarta. She stated that her undergraduate education has helped her move off the street and out of sex work. She now works as a part-time peer educator and is currently enrolled as a graduate student at an Islamic university in Jakarta:

*I always say that if you want a better life, you have to go to school. Get education. Get that degree. Yes, of course, people will look down upon you. People sometimes think that just because I am a transgender person, I don't have the capacity to learn. Well, they are wrong. But I have to work very, very hard to prove that I am just as capable as other people. Perseverance matters. After months of hard work, not to mention hurt feelings from being ignored and discounted, people started to believe in me. Now, with my education, I get invitations to speak at different events. I get recognition. I would like to see more transgender people, gays, lesbians, get a better education. I dream of seeing transgender people hold seats in the national legislative body. (Yu, a transgender person, Jakarta)*

## **2. Recruitment process**

The recruitment process in Indonesia involves at least two steps. Most job selection processes begin with administrative selection. All prospective workers submit their application forms to the human resource department, which will ensure that they meet the selection criteria and are able to provide the requested documentation. Once the documentation is accepted, the prospective workers will be invited to participate in the written test. The selection test may be academic in nature, asking prospective employees to answer questions pertinent to their academic background and to the jobs they are applying for.

Depending on the type of job, some selection tests can be technical. For example, prospective garment workers are required to demonstrate their ability to measure or cut fabric. Those who are able to pass the selection test will go through the last step of the recruitment process, the interview. For LGBT people, the interview is the hardest and the most dreaded part of the recruitment process. This is because they have to meet representatives of their prospective employers and are subjected to their biases. Many transgender people go to great lengths to present themselves as either typical male or female, regardless of their gender identity.

*I had a friend who has since passed away. He had to go to this interview at this office. He really wanted to get that job. He was transgender and had long hair. He cut his long hair and trimmed it neatly. He wore a man's shirt. He appeared like a man. But I guess*

*the interviewers could still sense his aura. You don't understand what I mean by aura? You know, transgender people have some kind of distinctive quality that surrounds them. It kind of gives away their gender identity, even when they say nothing about it. And believe it or not, that was why my friend didn't get the job. The interviewers somehow suspected that he was not a heterosexual man. (No, a lesbian in Yogyakarta)*

Men who are effeminate or have girlish features face the risk of being discriminated against, as they may be suspected of being gay. Similarly, women who appear masculine tend to be discriminated against, under the assumption that they are lesbian.

A gay man, who was applying for a job in a café in Yogyakarta along with six other candidates, was verbally harassed during the interview process. One of the interviewers took a look at the photograph in his application and said “*Mas* (sir, brother), how come your face is so gay (*homo banget*)?” At the time he was in fact keeping his homosexuality a secret. He tried to conceal this fact by saying: “Really? But I am not gay.” The interviewer then answered: “Come on. Come on, now. I will follow you tonight to your dormitory. Then I will find out whether you are a man or a woman.” The man was very embarrassed. He said that the public setting exacerbated the humiliation that he experienced, as there were six other interviewees present, all women, and all wearing headscarves (*jilbab*), a public symbol of piety.

Some LGBT people tend to internalize the feelings instilled in them by the discrimination which they experience. Transgender people are the most heavily discriminated against as they are unable to conform to socially acceptable gender expression in the way that gays and lesbians can. In the light of their belief that discrimination is more pervasive in the formal sector, they do not apply for jobs in that area. Instead, they focus on entrepreneurship, hoping that eventually it will enable them to work for themselves.

### **3. Job maintenance**

All informants, at all research sites, agree that excellent performance is the key to maintaining any job. They believe that job performance can, to a certain degree, shield them from more severe stigma and discrimination. This is because being LGBT is often considered an aberration, and, in consequence, some people will try to link an LGBT person's shortcomings to poor work performance. The data reveal that this belief only holds for gays and lesbians whose appearance and body language are not congruent with their gender, and who do not disclose their sexual orientations. This means that gay men with masculine characteristics, defined by our informants as “not effeminate” (*tidak melambai*) and lesbians with feminine characteristics – characterized by gentleness and a lack of masculinity – are less likely to be encounter discrimination than effeminate gays and tomboyish lesbians. Some lesbians resort to wearing a *jilbab* to work as they believe that the headscarf, together with a feminine outfit, will soften their masculine image. For these gays and lesbians, the workplace appears to have an informal “don't ask don't tell” policy. Even when co-workers or superiors suspect that these gay and lesbian people might have an alternative sexual orientation, they will not probe any further as the physical evidence is not there.

Because people use physical appearance as a yardstick in assessing an individual's sexual orientation, effeminate men who are not gay, and, conversely, tomboyish women who are not lesbians, often suffer from discrimination as well. False accusations of being gay or lesbian can have detrimental effects, as co-workers tend to be suspicious of people whom

they suspect of being gay or lesbian, and some withdraw from, or even show hostility to, those so perceived.

Some informants in our study experienced blatant discrimination. One gay man was removed from his position as a waiter in a cafe in Yogyakarta. He was told that the management was embarrassed by his girlishness (*kemayu*). Since then he has been working in the kitchen as a cook, away from the eyes of customers.

Pretending to be heterosexual and, as a result, always being on guard against displaying revelatory mannerisms can be stressful:

*I work in a vocational school, a technical high school. I teach boys. Some of them are rough. Initially my friends were worried about me. They doubted that I would survive in that kind of environment, because I am very gentle. But I understand that I have to have an authoritative demeanour. When I am out with my friends I can be myself. You know... being girlish. Flirtatious. There are times when I feel that I can't be 100 per cent me when I am at school. I think my students know that I am gay. I am not sure. Some of them think that I look like somebody from a boy band. They told me about a singer from SMASH or something. So maybe they think that I just have the appearance of a member of a boy band... Sometimes I feel like I live in two different worlds. It makes me tired. (Ru, a gay man in Pontianak)*

*I had a job in a bank once. It went well for a while but I never felt too comfortable there. There were questions every day about my personal life, whether I had a girlfriend, when I was going to get married, etc. I decided that was not the life for me. I would rather work on my own, free of that constant harassment. (Sugiarto, gay man in Yogyakarta)*

Some LGBT people choose to be themselves, even at the risk of losing their jobs. A lesbian in Jakarta works as a sales promoter, and she often has long discussions, or even arguments, with her boss, regarding her appearance:

*I prefer to wear pants and a blouse. I don't feel comfortable wearing a skirt. I also don't like to wear high heels or make up. And those things define "sales promotion girl." I know that. So when I get a new assignment I have to talk to my boss, because our jobs are outsourced, you know. My office "supplies" sales promotion girls to different companies. Most of them want the usual feminine sales promotion girl. I know I am a major inconvenience for my boss. Sometimes I really test his patience. But what option do I have? Sales promotion girls who ask for too many allowances are considered problematic, and are often blacklisted by different companies. Thank God my job performance is considered good. So far I am not on anybody's black list (small laugh). (Set, a lesbian in Jakarta)*

Even though Set can maintain her gender expression at work, it comes at a cost. She is always worried about the possibility of being blacklisted, and consequently not being able to get a job. She has always been financially independent, and the thought of being unable to support herself is very unsettling.

#### **4. Manifestations of discrimination in the workplace**

With the exception of a few gay men and lesbians, most respondents had experienced some form of discrimination. The severity of discrimination varies, based not only on respondents' sexual expression or gender identity, but also on their social status.

**(a) Comments or jokes about the gender identity of LGBT people**

Research respondents stated that comments or jokes about a person's gender identity are the mildest form of discrimination. Te, a feminine transgender person in Kupang, works in an internet cafe. Physically, she looks like a woman, but her baritone voice betrays her birth sex. Occasionally, there are comments from customers about her gender identity, such as "Oh, look, look, there is a *banci*," (*banci* is a derogatory term for a transgender person). Te always tries to dismiss such comments, saying that they are not harmful. She also comments, however, on how it wears her down. She wishes she could just be treated like other people without the constant jokes and teasing.

K, a gay man working in a cafe in Yogyakarta, is repeatedly told by his friends, in jest, to stop being girlish. "*Kalau tidak kemayu gimana, sih?*" they ask – "What would happen if you were not girlish?" K concedes that, at first, the joke was merely annoying. Later, however, he was bothered by it. He feels that such statements are dismissive of his gender identity. The most frustrating part is that there is nothing he can do about it but smile or laugh at his friends' statements. Conversely, Sh – a transgender person from Pontianak, who likes to wear make-up and to do her hair and dress elegantly, reacts very strongly to jokes about her gender identity:

*I hate it, hate it, hate it when people in my salon jokingly call me "mas" (brother, a term used to refer to a man). I usually stare at them meanly and hiss to tell them to never ever call me "mas". I worked very, very hard – I put a lot of time and energy – to become who I am now. I will never allow anybody to belittle me in any way, even as a joke. (Sh, a transgender person in Pontianak)*

**(b) Social marginalization**

Acknowledgement is important for everybody, including LGBT people. Being acknowledged, however, does not necessarily mean that people have accepted another person's sexual orientation or gender identity. Sometimes what LGBT people need is also to feel included and to be smiled at. An example is that of Wa, a 62-year-old transgender person from Pontianak. She wears a *jilbab*, dresses modestly, and speaks softly. Her gender on her identity card is given as female, despite her insistence, when receiving the card, that she was transgender, and she has been dressing as a woman for about 20 years. She was recruited by the wife of the mayor of Pontianak to help her manage the *Pembinaan Kesejahteraan Keluarga*, or Family Welfare Empowerment Programme, which is a government-led mothers' organization. She worked in the programme for 10 years and her excellent work performance earned her a gold safety pin (*peniti emas*). She said that transgender people like her have to work twice as hard as heterosexual people to prove their worth.

As part of the Family Welfare Empowerment Programme, Wa sometimes had to attend meetings of the *Gabungan Organisasi Wanita* (Association of Women's Organizations). She experienced social marginalization on those occasions as some women did not want to shake hands with her, even though she extended her hand first. There were also those who did not want to sit next to her.

When the mayor left office after his term was up, there was much talk about Wa. Some people in the mayor's office questioned whether she, a transgender person, should stay in the programme when so many heterosexual women had similar, or better, capabilities. Since the mayor was no longer in office, his wife had to step down from her position as the



programme's head and Wa was left without her support and protection. Unable to stand the pressure and discriminatory tone of the talk about her, she chose to withdraw from her position.

**(c) *Bullying by other LGBT people***

There is a perception among some that LGBT people, compared to their heterosexual counterparts, are more supportive of others in the workplace. An, a gay man in Jakarta, explained that this is not always the case:

*Gay people can be meaner to other gays than straight people. Sometimes, during a meeting, a gay will dismiss another gay's idea by trying to reveal his gayness. Statements such as "your idea is so gay" are commonly said to bully a gay person. But I think the statement is not based on one's sexual orientation or gender identity. It is caused by the intense competition in the creative industries, such as IT and fashion design. Those industries are becoming saturated. There are just too many gays, and not enough jobs to go around. The pond is small, and there are too many fish. Some bosses feel challenged by their subordinates who have excellent work performance. Other workers are afraid of their better-performing colleagues. (Iv, a gay man in Jakarta)*

*Class is everything to gay men. I worked in accounting in a small consulting firm. I knew one of the managers from the club. He never hesitated to say hello outside but, in the office, he looked through me as if I did not exist. Maybe he had not come out but more likely he just wanted to make it clear that we were not of the same class. (Yudi, a gay man in Jakarta)*

The latter statement indicates that a workplace which is predominantly gay or, for that matter, LGBT may not necessarily be a more supportive workplace.

**(d) *Intimidation***

Alternative sexual orientations or gender identities are still not accepted or tolerated by many people, including the LGBT person's own family members. The cost of coming out is great, such as being disowned by one's family or being fired from one's job. For that reason, some people use the sexual orientation or sexual identity of LGBT people to blackmail them:

*My labour union is LGBT-friendly. We fight for the rights of LGBT people alongside other workers. The companies are not happy about what we are doing. Once I organized a demonstration to demand pay raises, in solidarity with other labour unions. Then somebody, I don't know who, sent many, many text messages to my husband and children, telling them that I am a lesbian. That day I could not stop crying. I don't understand why they have to involve my family in this business. (Ju, a member of an LGBT-friendly labour union)*

Ju did not elaborate further about her sexual orientation since the discussion occurred in a focus group discussion, and it is therefore not possible to determine whether she is in fact a lesbian. The crux of the matter is that a mere accusation, whether true or not, about one's sexual orientation can be used to cause great personal harm.

**(e) *Physical violence***

It has been stated several times in this report that transgender people are the most discriminated against in the workplace. It is noteworthy that discrimination against transgender people is partially attributable to the types of jobs that they often carry out.

Owing to their poor background and low levels of education, many have to resort to sex work. Sex workers in general, irrespective of their gender identity, are heavily discriminated against, since sex work is looked down upon in Indonesian society. Transgender sex workers suffer layered discrimination, based both on their gender identity and their line of work. In addition, in some areas in Indonesia prostitution is considered to be a disturbance of the peace, putting sex workers, particularly transgender sex workers, at risk of being subjected to raids by the State authorities. The purpose of such raids is to ensure that those who violate public morality will be rehabilitated, even though the means of rehabilitating them is not clear to transgender people.

Transgender respondents acknowledged that they are fearful of such raids. Rumours abound about transgender people who have suffered physical violence at the hands of the authorities. Upon seeing members of the security forces approaching the places where they gather, the first reaction among transgender people is to run away. A focus group discussion in Pontianak revealed that, several years ago, a transgender person had drowned in Kapuas River while fleeing from a raid. She did not know how to swim, but apparently was desperate to escape.

Transgender people in Kupang stated that physical violence from the general public, particularly young boys, is becoming progressively worse. There seems to be a correlation between the increasing number and visibility of transgender people and escalating physical attacks. Young boys have been known to throw rocks at them. Ar, a transgender person in Kupang, stated that the transgender people are not completely blameless. Some of them use social media, such as Facebook, to speak of, or even promote, their transgender identity in a vulgar and sexually explicit manner. Furthermore, some transgender people, mostly from outside Kupang, have been involved in theft and police have found stolen items in their boarding rooms. Such incidents confirm the public's belief in the abnormality of transgender people. As a result, other transgender people are considered guilty by association.

It is possible that the increasing number and visibility of transgender people in Kupang has stirred uneasiness, or even fear, among the general public in Kupang. Their presence is a challenge to the dominance of heterosexuality, which is considered the core of the very foundation of society: the family. Since people do not know a better way to deal with this seemingly new phenomenon, they resort to violence.

Violence against transgender people by other transgender people is common on the street in Pontianak. Some transgender sex workers extort money from other transgender sex workers, on the grounds of their seniority – they are older and have been in the business longer – threatening harm if they do not give in:

*We from the association of transgender people in Pontianak do not tolerate any sort of violent behaviour toward transgender people. We don't care who the perpetrators are, they can be non-transgender people, or transgender people. We will call the police and ask for their help. We don't understand how transgender people can extort money or physically harm other transgender people. Based on previous incidents, and they were not that many, those transgender people were not from here. Usually they are troublemakers where they come from. They are mean. They don't want to work, but they want the money. (She, a transgender person in Pontianak)*

Findings from the quantitative research do not corroborate those of the qualitative research. The quantitative data show no acknowledgement of the problems faced by LGBT people in the workplace. When asked whether it is difficult to be LGBT in their respective

workplaces, most respondents answered “neutral” (44.36 per cent). The survey did not, however, provide any scope to probe their definitions of “neutral”. Perhaps “neutral” means that they genuinely cannot agree or disagree with this particular question. It is also possible, however, that a “neutral” answer means that the question stirs uncomfortable feelings regarding work environments that are not accepting of LGBT people.

## 5. Evaluation and promotion

The majority of LGBT people surveyed in this study work in the informal sector, such as at beauty salons, small cafes, internet cafes, small grocery stores and home industries. Evaluation and promotion are not an integral part of their employment. Those who work as civil servants, such as teachers or government employees, stated that their evaluations have been favourable. Promotions are given in a timely manner. This is not the case for workers in the garment industry. Being known to have an alternative sexual orientation can lead to a dire situation:

*When the management finds out that someone is gay, or lesbian, or transgender, that person will never make any progress in their career. They can work in the factory for 10, 12, 15 years. They can be very loyal to the company. It does not matter. They will be stuck forever in the production unit. (Ju, member of an LGBT-friendly labour union)*

*I was disturbed to see that one of my favourite colleagues was discriminated against behind his back. He is a gay man, fairly open and Indonesian. He worked in communications. When other managers discussed the possibility of promoting him, they came to an agreement that they should not, that he was too effeminate and may not represent the organization well. As for me, he was one of the best and brightest. (Samual, a manager in Jakarta)*

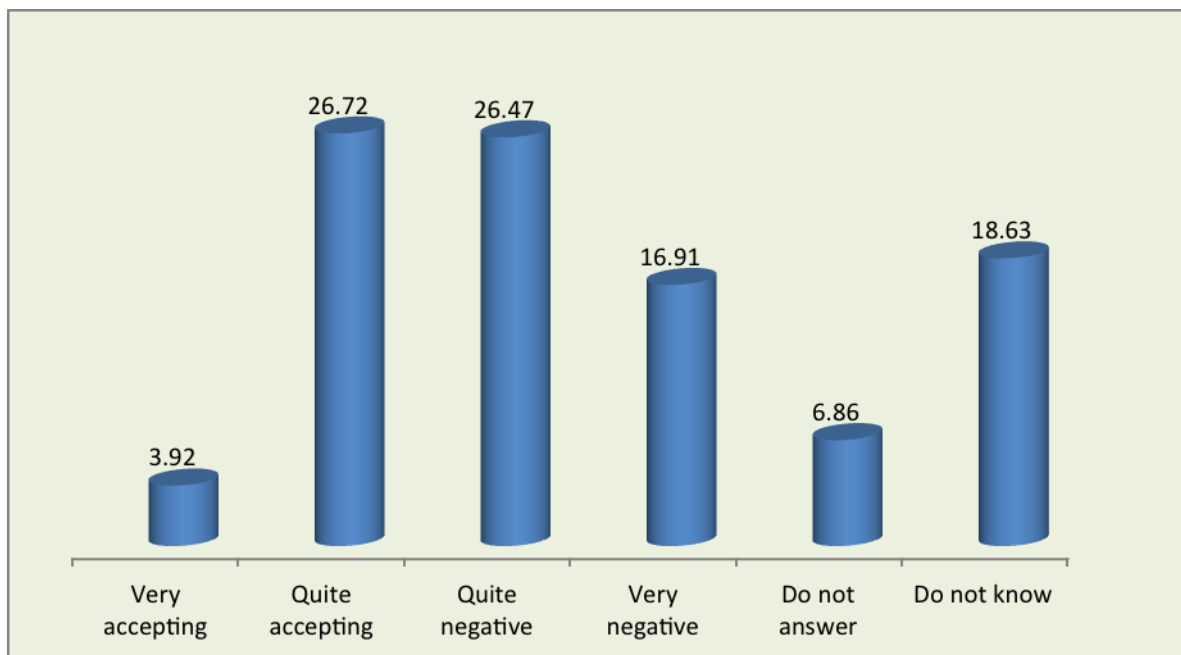
Those who work in the formal economy, such as teachers or other government employees, said that they never experience any problem with performance evaluations. Year after year they receive favourable evaluations and recommendations:

*As a teacher who works in a State school, I get formal evaluations from my superiors. So far their evaluations have been good to very good. I think they know that I am gay, even though I never told anyone at school about my being gay. My supervisors and the other teachers know that I participate in a gay sport competition. (Ru, a gay man in Pontianak)*

Ru’s experience, like the experiences of other gay men, lesbians and transgender people surveyed in this study, affirms their belief in the importance of professionalism and good work ethics. LGBT people generally believe that, as long as they do their job well, work diligently, and do not harm other people, they would be appreciated or even accepted by society at large. Their beliefs are not always congruent with what society thinks about LGBT people. This does not mean that they are not aware of the cases of discrimination that happen around them. Ar, a gay man in Kupang, told a story of a senior civil servant in Kupang who was transferred to a different office, out of town, apparently because he was suspected of being gay. He was middle-aged, professionally established, and financially secure. The only thing missing was a family, as he was single at the time of his transfer:

*After listening to this kind of story, we can understand why some gay or transgender people do not come out. We have a gay friend who committed himself to a “camouflage marriage”, not only to appease his parents, but also to save his job. He did not want to have to look for another job after working for the government for some time. He wanted that steady income, health insurance and pension after he retires. (Jo, a gay man in Kupang)*

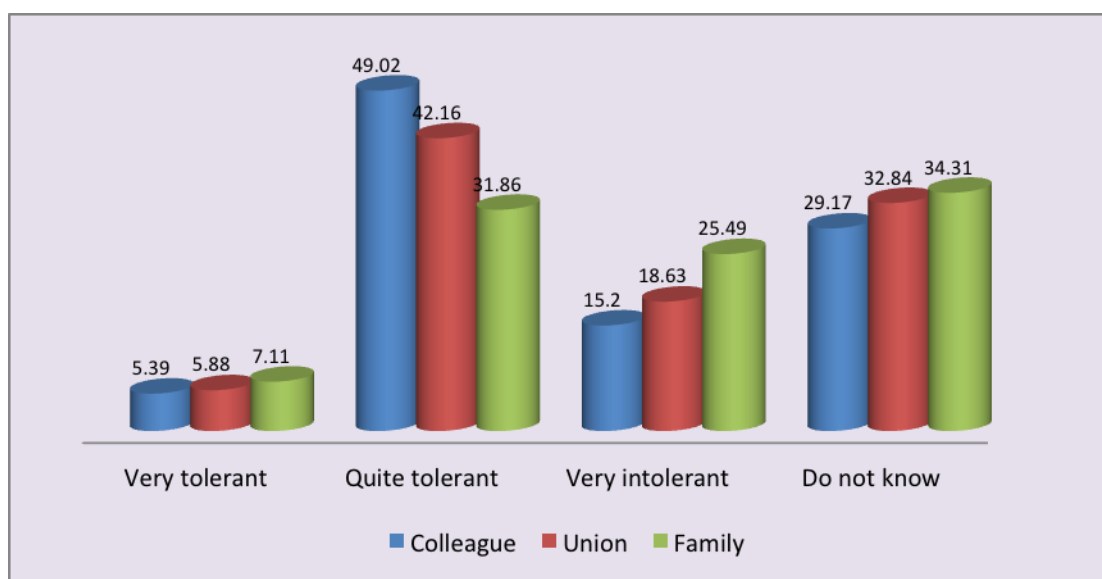
**Figure 6 Overall attitude towards LGBT people**



Source: PRIDE Survey, 2014

When the graphs and tables showing the attitudes of respondents are read as a whole, there is a mismatch between respondents’ homophobic attitudes and their tolerance of LGBT people. On the one hand, the majority of them think that homosexuality is wrong and unnatural. On the other, they also perceive themselves as quite tolerant of LGBT people. This discrepancy might have something to do with people’s tendency to see themselves in a positive light. While they genuinely feel bothered by homosexuality, at a cognitive level they understand that homophobic attitudes are frowned upon in certain parts of society.

**Figure 7 Tolerance of LGBT people**



Source: PRIDE Survey, 2014

**Table 3 Importance for society that LGBT people are open about their sexual identity**

| <b>It is important for society to have LGBT people being open about their sexual identity</b> | <b>Frequency</b> | <b>Percentage</b> |
|---|------------------|-------------------|
| Strongly agree  | 75               | 18.38             |
| Quite agree   | 109              | 26.72             |
| Neutral   | 87               | 21.32             |
| Quite disagree  | 38               | 9.31              |
| Strongly disagree   | 99               | 24.27             |
| Total   | 408              | 100.00            |

Source: PRIDE Survey, 2014

**Table 4 Difficulty of being LGBT in the workplace**

| <b>It is difficult to be LGBT in my workplace</b> | <b>Frequency</b> | <b>Percentage</b> |
|---|------------------|-------------------|
| Strongly agree                                    | 60               | 14.71             |
| Quite agree                                       | 81               | 19.85             |
| Neutral   | 181              | 44.36             |
| Quite disagree                                    | 35               | 8.58              |
| Strongly disagree                                 | 49               | 12.01             |
| No answer   | 2                | 0.49              |
| Total   | 408              | 100.00            |

Source: PRIDE Survey, 2014

The quantitative data provide a context for discussing the experiences of LGBT people in the workplace. It is interesting to note that, despite the grim picture painted by the quantitative data, the LGBT people in the qualitative study are able to demonstrate some degree of optimism – for example, the belief that their work, and by extension their existence, will be noted and appreciated as long as they show good work ethics and professionalism.

## D. Lack of legal protection and the ILO tripartite constituents' views on LGBT issues

**Table 5 Existence of policies on LGBT issues in the workplace**

| Does your workplace have regulations concerning LGBT people in the workplace? | Frequency | Percentage |
|---|-----------|------------|
| Yes   | 20        | 4.90       |
| No  | 364       | 89.22      |
| Unsure  | 21        | 5.15       |
| Do not know   | 1         | 0.25       |
| No answer   | 2         | 0.48       |
| Total   | 408       | 100.00     |

Source: PRIDE Survey, 2014

Indonesian law, at the national level, prohibits discrimination on any grounds. There is no law, however, that clearly and specifically forbids discrimination based on sexual orientation or gender identity. The LGBT respondents in this study argue that this is their main stumbling block to obtaining equal treatment in the workplace. Even though trade union representatives conceded that there might be some unpleasant treatment of LGBT workers, they stated that, as of now, they are under no pressure to protect LGBT people. Their main agenda is to fight for better wages and social protection (particularly with regard to health), and to attempt to curb outsourcing, as it affects workers' welfare. They further declared that there is still much work to be done on these three fronts, and thus LGBT issues are not of high priority. This is generally the position of Indonesian trade unions on most social issues.

In a similar vein, an official from the Ministry of Manpower pointed out that, about one year ago, a group of transgender people had contacted the Minister of Manpower to request special treatment to ease the discrimination that they felt to be inherent in the workplace:

*So the Government has not, not yet, provided transgender people with special treatment. They are treated the same as everybody else. There are two reasons for not providing transgender people with special treatment. First, the Government needs to maintain stability in our society. Giving transgender people special treatment will rock the boat too much, considering the fact that many elements of Indonesian society reject the existence of transgender people for religious reasons. Second, there are limits, in terms of human resources in the Ministry. Many in this Ministry think that normative gender issues, such as those of male and female workers, are still perceived to be complicated. Therefore this is not the time to think about LGBT issues. (R, a government official at the Ministry of Manpower)*

Interestingly, another official from that same ministry tactfully declined to be interviewed. He said that another division would be able to provide more appropriate information, and went so far as to provide a contact person. The real reason for his refusal remains unclear, but the researchers had the impression that he did not feel comfortable talking about LGBT-related issues and they wondered, if that was so, why he should feel such discomfort.

In-depth interviews with representatives of APINDO confirmed the lack of a protective legal umbrella for LGBT employees. As a rule, APINDO adheres to government regulations with regard to labour relations, including those on discrimination. As, to date, there are still no rules regulating labour relations for LGBT workers, APINDO has not given any attention to issues concerning LGBT workers in the workplace.

Religion seems to find a way into public decision making, both informally and formally, further inhibiting any acknowledgement of the need for legal protection for LGBT workers. Focus group discussions with members of the labour union revealed that the majority of them consider LGBT people of little or no importance, so long as they maintain their productivity and do not present issues related to their sexual orientation. Upon being questioned further on their opinions of LGBT people, some expressed strong homophobic attitudes. Several believed that being LGBT is a disease, which therefore has the potential to spread further. One member of the labour union believed that being LGBT could be cured through religious sermons (*siraman rohani*), which would make the workers heterosexual again.

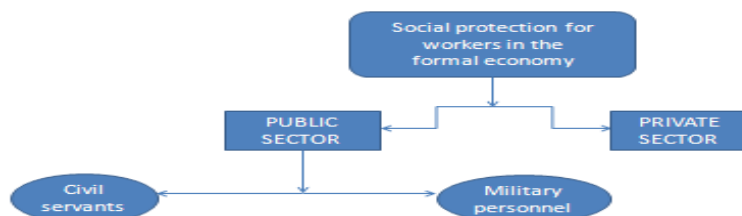
## E. Social protection programmes

Social protection programmes in Indonesia have undergone a major change since the enactment of Presidential Decree 12/2013 concerning health care insurance and Presidential Decree No. 111/2013 on the comprehensive social security scheme.

### 1. Social protection programmes prior to 2014

Before 2014, social protection programmes for workers in Indonesia could be grouped into two categories: social protection for employees in the formal sector, and social protection for employees in the informal sector. Social protection for formal sector employees could be categorized into protection for those working in the public sector (government employees) and those working in the private sector (private employees). Those who worked in the public sector could be further grouped into civil servants and military personnel (see figure 8).

**Figure 8 Social protection for workers in the formal sector**



Source: *Access and effect of social protection programs on workers in the informal and formal economies living with HIV and their households*. Centre for Population and Policy Studies, Gadjah Mada University, 2014.

Government regulations require both State and private enterprises to provide social protection to their employees. Social protection for civil servants consists of a health protection programme for employees and their families (*Asuransi Kesehatan*, or *Askes*) and a pension scheme (*Taspen*). Social protection for Indonesian armed forces personnel (*Asabri*) similarly includes health services and a pension allowance (Tambunan and Purwoko, 2002). Private corporate employees are covered by the *Jamsostek* programme, which provides various allowances, including insurance for workplace injuries, health, old age and death. All these schemes were organized by State enterprises.

Workers in the non-formal economy whose income was below the poverty line were eligible for protection through various social safety-net programmes for poor households (Sumarto and Bazzi, 2011). This came into being in 1998, following the Asian economic crisis, which caused severe economic difficulties in Indonesia, including high inflation, a decrease in the value of the Indonesian rupiah against the United States dollar, business collapses, large-scale dismissals of employees, and increasing poverty. The Indonesian Government had to seek loans from foreign sources, such as the World Bank and the International Monetary Fund. To obtain such loans, the World Bank and the International Monetary Fund required the Government politically and economically to restructure itself, which included the implementation of some new programmes. One of these was *Jaring Pengaman Sosial* (the social safety net programme).

In 2005 the social safety net programme became a poverty alleviation programme, which included, under its social protection cluster, a community health insurance programme, *Jaminan Kesehatan Masyarakat*, known as *Jamkesmas*.

Those who did not have a working contract with a government institution or private enterprise, or who worked in the non-formal sector and whose income was above the poverty line, were not covered by any social protection programme. Since the beginning of 2014 when the national social security system law came into effect, however, this group of workers has been included in such a programme.

## **2. Social protection programmes since 2014**

On 1 January 2014, *Askes*, *Jamsostek*, *Asabri*, and *Jamkesmas* came under the management of a single organization, known as *BPJS Kesehatan* (Social Security Agency for Health). *BPJS* manages health insurance for Indonesian citizens, regardless of their occupational status.

*BPJS* participants are divided into two groups:

- (a) Recipients of contribution assistance (*Penerima Bantuan Iuran*, or *PBI*), including the poor, near-poor, and totally disabled persons, as stipulated in the national social security system law; their insurance contributions are paid by the Government;
- (b) Non-*PBI* participants, consisting of wage workers and their family members, and also non-wage workers and their family members.



Wage workers are people who work and receive wages or salaries, including civil servants, members of the Indonesian armed forces, police, State officials, non-civil service government employees, private employees, and others who meet the criteria.

Non-wage workers are people who work outside contracted employment, or independent workers.

Non-workers are people who do not work but are able to pay for health insurance, including investors, employers, pension recipients or former State officials with pension rights, veterans, and independence pioneers, or those who meet the criteria (Kementerian Kesehatan RI, 2013).

The health insurance fees are paid regularly by participants or the Government (for recipients of contribution assistance). The amount paid varies, as follows:

- (a) IDR 25,500 per person per month, for participants who wish to have healthcare treatment in class III;
- (b) IDR 42,500 per person per month, for participants who wish to have healthcare treatment in class II;
- (c) IDR 59,500 per person per month, for participants who wish to have healthcare treatment in class I.

Membership in the BPJS health insurance programme is compulsory for all Indonesian citizens, even if they already have other health insurance. Expanding the membership of BPJS will take place gradually, and began on 1 January 2014. By 2019 at the latest, it is expected that all Indonesian citizens will be covered by the BPJS health insurance programme. Regulations governing the BPJS Ketenagakerjaan (Social Security Agency for Workers) programme are still being drafted, although the programme is expected to be fully operational by 1 July 2015, and is designed to include an additional pension benefit scheme.

LGBT people in this study who work as government employees have their health insurance needs taken care of by their employers. The same can be said for those who work for organizations or offices under formal work contracts. Most of the people in this study, however, were not enrolled in BPJS. They relied on out-of-pocket expenditures when they were sick. Many LGBT people surveyed for this study expressed surprised that such a programme exists. Overall, there seems to be a lack of awareness and knowledge of BPJS:

*What is BPJS? I don't know what it is. Never heard of it. I am sure many people in Pontianak, not just gays or lesbians or transgender people, are not aware of its existence. There is not enough socialization of the BPJS (programme). (She, a transgender person in Pontianak)*

*Oh, so BPJS is a health programme from the government. I have heard about it, but I don't really know how it works. (Yo, a gay man in Kupang)*

Some LGBT respondents in this study feel that the health insurance fees, although relatively low (particularly for those enrolled to have health care treatment in class III), will become an additional financial burden since they have to pay them on a regular basis:

*Yes, I know, 25,000 or so rupiahs may sound like a small amount of money. But if your income is not steady, it can be a real problem to set aside 25,000. Sometimes, when you are lucky, you may have that amount at the beginning of the month. But sometimes, when money is hard to come by, you may not have 25,000 to pay the health insurance fees. Then what? Then you get stressed out about it. So I understand why some people decide not to enrol in BPJS, even though they understand the proverb “get the umbrella ready before it rains” very well. (Seth, a transgender person in Jakarta)*

Mami (mother) Yu, a prominent transgender person in Jakarta, understands the predicament of LGBT people with unsteady sources of income. She works with a church in Jakarta to ensure that the LGBT people in her network not only have access to religious services, but also to an array of support, including healthcare. The church with which she is affiliated facilitates access to health care for LGBT people who are part of its congregation.

The importance of health insurance led a transgender teacher in Yogyakarta to keep her sexual identity a secret in order to maintain her job as a government employee. She taught electrical engineering at a vocational high school in Yogyakarta as a man until she retired. The retirement left her with a pension and healthcare insurance. After retirement, she came out as a transgender person, and focused on what used to be her side job: providing bridal make-up, clothing, and accessories.

There are regional differences regarding knowledge of, and access to, social protection. LGBT people in Yogyakarta and Jakarta know a lot more about social protection compared to their counterparts in Kupang and Pontianak. The discourse about social protection is also more sophisticated in Yogyakarta and Jakarta, where some LGBT people question whether an LGBT person’s partner has the right to obtain social protection, similar to the right held by the wife or husband of a heterosexual civil servant.

It is important to bear in mind that access to health insurance is a class issue. Those with a middle or upper-class background can easily obtain private insurance, regardless of their sexual orientation or gender identity. Some gay men and lesbians who participated in our focus group discussions in Jakarta disclosed that they have very good health insurance coverage from well-known companies.

## **F. HIV and AIDS**

### **1. Social protection programmes for people living with HIV employed in the formal economy before the launch of BPJS**

With regard to medication and health care for people living with HIV, social protection programmes in Indonesia have undergone considerable development. In 2012, the Minister of Manpower and Transmigration ratified a ministerial regulation regarding the provision of social protection for workers living with HIV, granting them access to medication for the treatment of HIV and AIDS. This regulation, Permenakertrans No. 20/2012, was an amendment of Regulation No. Per-12/Men/VI/2007, which provided technical guidance regarding the registration, premium payments, cash benefit payments, and application of a social insurance programme for labourers.

Regulation No. 12/2012 mandated PT Jamsostek, as a State enterprise, to provide health insurance to people living with HIV. Such people who are employed in the private

sector receive assistance to cover their medical care costs. This regulation clearly states that the costs of medication, care and medical treatment of HIV and AIDS will be covered up to the amount of US\$ 2,000 per individual case per annum.

The ratification of this ministerial regulation may be seen as an endeavour to reduce discrimination against workers in the formal sector who live with HIV, in that the Government does not provide different health services and treatment to workers based on their HIV status. It was 30 years after the first recorded HIV case that the Indonesian Government ratified this particular regulation. Prior to that there was no regulation formally indicating that the Government would provide health care and protection to people living with HIV.

The ratification of Regulation No. 12/2012 does not necessarily mean that discrimination against people living with HIV with regard to access to social protection has been eliminated completely. When employees living with HIV want to access social health insurance in accordance with this regulation, they have to declare that they are infected with HIV. Having revealed their HIV status, they will be at risk of other forms of discriminatory treatment. For example, they may be dismissed from their job or become alienated in their workplace.

## **2. Social protection programmes for people living with HIV employed in the formal economy after the launch of BPJS**

When the social security agency BPJS was launched in January 2014, Jamsostek became part of it. The availability of and regulations governing the Social Protection Programme for People Living with HIV are currently unclear. The study found that BPJS differentiates between HIV and AIDS: HIV is defined as a virus that attacks the immune system, whereas AIDS is the syndrome that appears at the advanced stages of HIV infection. People who are HIV-positive may appear healthy, as they do not always show symptoms of illness. They have to take antiretroviral drugs, however, to maintain their health. AIDS, on the other hand, emerges in the form of various opportunistic diseases (such as tuberculosis and diarrhoea) that are not dangerous for healthy people, but have proved lethal for people living with HIV, who have drastically weakened immune systems. Hence, BPJS only covers treatment for AIDS and opportunistic infections, along with some of the routine monitoring costs, but does not pay for the antiretroviral drugs, which are already covered by the Ministry of Health.

A previous study (Centre for Population and Policy Studies, Gadjah Mada University, 2014) has shown that availability of health insurance for people living with HIV does not correlate with its usage. On the contrary, people in this category are reluctant to use such insurance, for fear that their status as people living with HIV will be known by their employers. They are more likely to use regional government-funded health insurance to cover the cost of treating their opportunistic infections.

LGBT people in Kupang and Pontianak are less likely to be open about their HIV and AIDS status to their LGBT communities. Our informants stated that those who are HIV-positive are reluctant to disclose their status out of fear that members of their community will pass on the information. The word that they use is *ember* (bucket) to refer to people who cannot keep a secret. The secretive nature of people living with HIV can be attributed to the pivotal role that the LGBT communities play in their lives, and to the lack of knowledge

about HIV and AIDS. The likelihood of losing the support of their community looms large. The stakes are high, and therefore some of them choose not to be open to their LGBT communities.

Nevertheless, the study found that, when people living with HIV make their status known, the members of their communities – both LGBT communities and communities of people living with HIV – will actually help them get in touch with the Komisi Penanggulangan AIDS Nasional (National AIDS Commission) at the regional level and support them in any way they can. Workers who are HIV-positive are more likely to receive support – informational, financial, and psychological – if they belong to an LGBT organization. They will be paired with outreach workers and peer groups. These outreach workers and peer groups are lifelines, particularly for those who have been disowned by their families.

HIV-positive LGBT people in Yogyakarta and Jakarta are more willing to disclose their status to their communities. Perhaps this is related to the fact that support for people living with HIV is more readily available in both places, including the provision of safe houses for those who need a place to stay and continuous care. In addition, LGBT communities in Yogyakarta and Jakarta are relatively more educated about HIV and AIDS, and have access to healthcare from both State and private providers.

The LGBT respondents in this study indicate that LGBT people who are HIV-positive are very reluctant to use work-related health insurance from private companies, even when they have access to it. They are afraid that their HIV status will become grounds for their dismissal from the workplace:

*Oh, they won't be fired because of their HIV status. It happened to a couple of our friends who are HIV-positive. They never told their employers about being HIV-positive, but somehow their employers found out. Somebody must have told them about it. The employers told them to take extended leave. You know, the employers will find a way to lay them off without making any reference to their HIV status. Employers are clever like that. (Ar, a transgender person in Kupang)*

Some people living with HIV can remain economically active thanks to their ability to obtain antiretroviral drugs and keep opportunistic infections under control. Their pattern of health insurance use is very similar to that of the people living with HIV surveyed by the Centre for Population and Policy Studies, Gadjah Mada University (2014). They use pre-existing health insurance, namely that provided by regional governments, to cover the cost of treatment for their opportunistic infections, sometimes with the help of their support groups. The same support groups help them to obtain antiretroviral drugs from the local department of health.

### **III. Conclusions and recommendations**

#### **A. Conclusions**

LGBT people's understanding of their rights has grown tremendously over the past several decades thanks, among other things, to the proliferation of community-based organizations reflecting their interests and concerns. General social norms regarding sexuality do not seem to have changed at the same pace, however, as that of the LGBT movement. Since the reform of Indonesia's political and economic life, public attitudes towards gender, sexuality and identity appear to have become more conservative. This wave of public conservatism has played out differently at the national and local levels, but its influence is tangible throughout the country. Some examples include local ordinances on women and night work, the closure of brothels and entertainment areas, restrictions on condom purchases and an anti-pornography law that has been used to limit gender expression and public health campaigns.

Despite the differences within the LGBT community, the tendency to perceive LGBT people as a single entity also persists. The research conducted for the present study revealed that lesbians, gays, bisexuals and transgender individuals have different experiences in the workplace. Even though sexual stigma is closely associated with LGBT people, the types and severity of stigma faced vary because of a range of factors. LGBT people who conform to existing gender roles tend to face less sexual stigma. This conformity, however, comes at a cost: psychological stress caused by maintaining a double life and not being true to their own identity. Similarly, those who come from a well-to-do background can shield themselves from discrimination in the workplace since they can afford to choose types of employment which better accommodate their sexual orientations or gender identities.

In other words, sexual stigma and discrimination are not only LGBT issues, but also class issues. Class differences explain the varied experiences of LGBT people in the workplace. LGBT people from middle or upper-class families have a greater likelihood of being well educated, and thus are more likely to work in the formal sector, including in government offices. Some have the luxury of changing jobs if they feel that the stigma and discrimination against them in the workplace have become unbearable. Qualitative research shows that LGBT people with less education tend to find work in cafes, beauty salons, small convenience stores, and – in the case of many transgender people on the street – as sex workers. In the workplace, many LGBT people experience stigma and discrimination at all levels of employment: when looking for a job, going through the recruitment processes, maintaining their jobs, and seeking promotion. Types of discrimination in the workplace include: comments or jokes about the LGBT person's gender identity; social marginalization; bullying from other LGBT people; blackmail; and physical violence. Discrimination in the workplace is not only limited to workers who are open about their sexual orientation or gender identity, but also includes those who are suspected of being gay or lesbian.

This intolerant attitude towards LGBT people is a stumbling block to the development of non-discriminatory workplaces. Data from the quantitative research present a grim picture of the situation faced by LGBT people. A majority of respondents do not feel comfortable working with or being supervised by LGBT people, yet consider themselves to be somewhat tolerant of them. An inclination to look at LGBT people as situated outside society permeates public policy. Within the context of an increasingly religious Indonesian society,

accommodating the needs of LGBT people in the workplace is perceived to be a risky endeavour. The Ministry of Manpower is reluctant to promote policies that it perceives as sensitive and unpopular. Furthermore, the association of Indonesian employers, APINDO, has taken a passive stance, noting that its corporate members will follow government regulations that relate to their business, but that, as an association, it will not initiate anything beyond what is required by government regulations. As a consequence, the lack of legal protection for LGBT people makes it difficult for them to insist that their workplace should be non-discriminatory.

Data obtained through qualitative research show that, while LGBT people acknowledge that stigma and discrimination exist in the workplace, they believe that an adequate level of education, a good work ethic and other soft skills will guarantee their acceptance in the workplace. This discrepancy between what LGBT people believe will happen and what actually happens is somewhat ironic. Data from quantitative research show that laws governing LGBT rights in the workplace are non-existent. There is a lack of recourse for LGBT people should they experience discriminatory labour practices. Despite this, many LGBT people still hold on to the belief that many workplaces adhere to the principle of meritocracy.

There is a need for awareness-raising about alternative sexual orientations and gender identities, and a public discourse on these issues must go hand-in-hand with legal reform. This is because policymaking happens within a cultural context, one which is currently not supportive of LGBT people. It is also necessary for these awareness-raising efforts to include an understanding that LGBT people are not a single entity. Their experiences and needs in the workplace vary, owing to the intersection of their sexual orientation or gender identity with such elements as their social class (education, job, income), place of residence (rural vs. urban, Java vs. outside of Java), and age.

## **B. Recommendations**

### **1. For LGBT groups**

Advocacy about LGBT rights should be maintained, as not all LGBT people are aware of their rights as citizens and as workers. Of particular importance is awareness about labour advocacy frameworks and dispute resolution mechanisms. Lesbians, gay men and transgender people clearly all face different challenges in the workplace and the organizations that represent people from the community should have a better understanding of how to advocate positive policy change at national, local and enterprise levels.

There is also a need for increased awareness in the community about the range of available social protection schemes for workers in the formal and informal economies, and also those who are not yet employed. Access to healthcare remains a challenge for many despite the roll-out of a national health scheme that covers all citizens. It is particularly difficult for lower-income LGBT people to gain access to healthcare because of the stipulated co-payments, complex administrative procedures and required identification documents. Some civil society organizations are well versed in providing knowledge and assistance in this area, while others are not sufficiently prepared. Lastly, it is critical that LGBT groups become more engaged with ILO programmes and partners that offer vocational training and enterprise skills building.

## **2. For the national Government**

Ministry of Social Affairs Regulation Number 8, 2012 on the Guidelines for the Collection and Management of Data Regarding People with Social Welfare Problems and Social Welfare Potential and Sources, which classifies lesbians, gay men and transgender individuals as having a social functioning disorder, should be revised or annulled.

Discriminative local laws should be revisited, revised or annulled. The proliferation of local laws that criminalize sex work shows how stigma often finds its way into the legislative and policy frameworks that reflect social attitudes and prejudices. These anti-prostitution laws are often used to harass and persecute transgender individuals based on their real, or perceived, work.

The draft Indonesian criminal code, which was submitted to parliament in 2012, is still being debated with no likely completion date. The bill contains provisions that prohibit homosexual relationships, cohabitation of unmarried partners and purchasing of condoms by unmarried people – these may be found in part IV, on adultery and indecent acts, of article 485, chapter XVI, regarding crimes against decency. There has been considerable public debate on the bill, and LGBT advocacy groups should maintain constant pressure on the process in collaboration with the United Nations and government partners to prevent discriminatory provisions from being included in the final text.

For the Ministry of Manpower, the key focus should be on the clarification of non-discriminatory provisions of the law in respect of gender identity and sexual orientation. The law does state very clearly that discrimination of any kind that is not related directly to fitness for work should not be permitted. The lack, however, of explicit prohibitions against discrimination based on sexual orientation and gender identity is, therefore, a challenge for the protection of LGBT people in the workplace in Indonesia. With appropriate advocacy from LGBT groups and allies it is conceivable that a clarification note from the Ministry could be issued on the issue of gender identity and sexual orientation.

To support policy change at the national ministerial level, there is a need for capacity building on sexual orientation and gender identity within the Ministry. The Ministry already has many well-trained focal points at the national and provincial levels on gender and non-discrimination issues and it is important that discussions on these issues be integrated into existing initiatives rather than be positioned as an unrelated, stand-alone programme.

For national trade union confederations, there is a need to build a network of allies, primarily those involved in gender and HIV work, and link them to LGBT groups to carry out advocacy and awareness-raising initiatives. LGBT groups and the ILO can make a solid case to trade unions that a more inclusive approach to membership, training and labour negotiation will create stronger, more effective unions. Again, as with the Ministry of Manpower, it is important to tap into the strong network of gender and HIV focal points which are already aware of issues of gender identity and sexual orientation. Unions should work together with the Government on creating a labour policy that is free from discrimination against LGBT people. Unions should monitor labour practices in the workplace in order to prevent discrimination against workers who are LGBT.

There is also great potential for APINDO to form a corporate diversity network that is modelled on other global initiatives, with a view to addressing the issues of sexual orientation and gender identity, along with a range of other diversity issues that affect the productivity of

the workforce, including gender equality, ethnicity, indigenous peoples, disability and other priority concerns. APINDO has the overall goal of promoting productive and conflict-free workplaces and would in all likelihood buy into a broader integrated approach on diversity that upholds increased productivity as a priority.

### **3. For the ILO**

The ILO needs to continue and expand collaboration with APINDO and the labour unions to raise awareness about the stigma and discrimination faced by LGBT people in the workplace. Framing the stigma and discrimination against LGBT people as a form of gender-related discrimination might be helpful in pushing the Government to provide legal protection for LGBT people in the workplace.

Based on the results of this research, ILO should work with LGBT groups and its tripartite constituents to develop a white paper on sexual orientation and gender identity in the world of work, with specific recommendations on how to create a policy framework that incorporates LGBT issues into broader legal protections on gender equality and non-discrimination.

The ILO should also take steps to integrate LGBT concerns into key areas of the decent work agenda and decent work country programme. Where job promotion is concerned, the ILO should create linkages between employment service, vocational and other skills-building programmes, and LGBT community groups. Work in the area of gender equality and non-discrimination should use inclusive definitions of gender identity and sexual orientation, to ensure more inclusive responses. Social protection schemes and efforts to establish single-window services throughout the country should ensure that the most underrepresented segments of the LGBT community, in particular transgender people, are included. Enterprise-level programmes focusing on working conditions and compliance with international labour standards should also include LGBT concerns within efforts to improve working conditions, reduce sexual harassment, and promote non-discrimination and the right to privacy.

A key role that the ILO should continue to play is as interlocutor, to ensure that LGBT people increasingly participate in tripartite forums and policy initiatives. The ILO can encourage greater involvement of LGBT people within trade unions, and also in national meetings on a range of issues related to its work.

It is only through greater inclusion in continuing social dialogue with government, employers' and workers' organizations that the issues identified in the present report will be effectively addressed.





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