

# LGBT, Religion and Human Rights: A Study of the Thought of Khaled M. Abou El-Fadl

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## Abstract

The “haram” (to forbid) fatwa issued by the MUI against LGBTs and the death penalty against sexual offenders “deviant” has shaken the people of Indonesia, especially those of diverse sexualities. “Religion”, suppose to provide ease and solace to the human condition, has effectively buried those of non-normative sexualities alive. This is despite the fact that the regional, national and international legal human rights instruments recognize their rights as human beings to express their sexual and gender identities and orientations. In essence, Shari’ah and Islamic law is being used as the theological foundation for the issuing of the MUI fatwa contrary to the concept of human rights. Here, the work of Khaled M. Abou El-Fadl is important as he attempts to break the tension between religion (Islam) and human rights using the social approach of contemporary humanities.

Keywords: LGBT, religion, human rights, Khaled M. Abou El-Fadl.

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## Introduction

This paper analyses the existence of LGBT (Lesbian, Gay, Bisexual and Transgender), who are grouped as *liyan* or others. The Indonesian language uses various terms to refer to transgendered males—*waria* (wanita pria/female male, transgender), or the more derogatory *banci* (pussy), *waria* (transgendered male), *bencong* (faggot), *wadam* (shemale) or *bisu* (transgendered spiritual leaders in Bugis culture) (Budianti, 2014:5). Their cross gender identities are conceived of as social deviance, a sin, haram (forbidden), and cursed. On December 31<sup>st</sup> 2014, the MUI (Indonesia Ulama Council) announced a *fatwa* banning LGBT in Indonesia. The *fatwa* declaring homosexuality forbidden was formally scribed and signed by Prof. Dr. H. Hasanuddin, AF. MA, and homosexuality was later classified a crime. The announcement proclaimed that people found

engaging in homosexual relations will face death by hanging. This *fatwa* adds to further violence to the burden of discrimination that LGBT individuals experience in the family, and within society more broadly. Islam is a religion which promotes peace, tolerance and acceptance, yet the well-known Islamic phrase “*rahmatan lil ‘alamien*” is no longer based on the practice of compassion (*rahmat*) as is seen in the explicit bias of this *fatwa*.

The MUI has a significant influence on the study of Islam in Indonesia, and the MUI’s *fatwas* are often used as a mainstream reference by Muslim scholars in Indonesia in their attempts to make decisions based on Islamic custom. The MUI seems to take a role as the only reference for syari’ah law in Indonesia. In *Speaking in God’s Name*, Khaled M. Abou El-Fadl states that the authority of the MUI in Indonesia has generated the impression that it acts as “God Hand”.

The contradiction between religion and human rights has elevated to the point that there is an impenetrable wall between the claims of the MUI and the opinions of the Muslim majority. As it stands now, it is becoming increasingly difficult to bridge the widening gulf between Islam (syari'ah or Islam law) and human rights for LGBT people in Indonesia.

This article discusses Khaled M. Abou El-Fadl's thought as a framework for dialogue between religion and human rights. It draws on a contemporary humanitarian sociological approach. Indeed, in his book, Khaled M. Abou El-Fadl does not talk explicitly about LGBT, however, his point of view on religion and human rights encourages equality and fairness for human dignity and value (*al-karamah al-insaniyah*), and offers new approaches to dealing with the social conditions present in Indonesia today.

The main questions that this paper addresses are: how can the thought of Khaled about religion and human rights contribute toward the dynamic co-existence of LGBT people in Indonesia, and how can his ideas be implemented. The main purpose of this paper is to encourage Muslim conservatives and the MUI to consider a different point of view and soften their hard-line stance against the basic of human right of LGBT citizens. Islam must be represented by contemporary Islam scholars like Khaled, to ensure that the version of Islam, which is progressive, and respecting of the human rights of marginalized groups, is emphasised for future generations, rather than a bigoted version of Islam which diminishes and admonishes the basic human rights of LGBT individuals in the name of religion.

### **Sexuality, Sex Orientation and Sexual Behaviour**

Sexuality is the way in which a person experiences their erotic experiences and expresses themselves as a sexual being. Within the individual there emerges a personal consciousness, as either a man or woman. The consciousness is based on their internal or personal capacities in relation and in response to their experiences. The study of sexuality encompasses several aspects including biological sex (penis, vagina, and intersex), gender identity, sexual orientation and sexual behavior. Gender Identity is formed through the process of socialisation and nurturing—a male is heteronormatively masculine and a female with is heteronormatively feminine. Transgendered persons

embody both masculinity and femininity. There are two kinds of transgendering—transwomen (male to female) and transmen (female to male) (Mulia, 2010: 286).

Sex orientation is the individual's capacity in relation to emotional attraction, lust, and sexual relations. Sexual orientation is given and unchangeable. No one has the power to decide to be born with a certain sexual orientation within Islamic context (Mulia, 2010:286). Sexual behavior is how someone expresses him/herself in their sexual relations. According to Musdah Mulia, sexual behavior is influenced by social construction; it isn't given, and can be learned. Some of the sexual expressions are anal-sex, oral sex, threesomes, orgies and sexual poses (or in Arabic, *liwath*). Some of these sexual behaviors are considered deviant because sex without consent and protection can spread the incurable disease which is AIDS (*Acquired Immuno-Deficiency Syndrome*), a syndrome that form symptoms and infections as the effect of the specific damage of human immune system infected by HIV (*Human Immuno-deficiency Virus*) inside human body.

Sexual orientation is generally categorised as heterosexual, homosexual, bisexual, and asexual. A heterosexual is a person who is sexually attracted toward his/her opposite sex. A homosexual is sexually attracted to people of the same sex. Homosexuality describes sexual relations between same-sex partners or those with interest in and who lust for the same sex (Kartono, 1989:247). Bisexuality is sexual interest in both sexes for both males and females. An asexual is a person who is not sexually aroused by either of the sexes.

Further to the sexual orientations mentioned above is the identity of transwoman. Transwomen are transgendered, transsexual (Danadjaja, 2003: 35) or homosexual males who transform their bodies to imitate the cis-woman's body through various means, which may include breast implant surgery, silicon injection, or total Sexual Reassignment Surgery (SRS). Although born with a penis, transsexuals are often aware that they are women in childhood. Many transsexuals see the penis and male superiority as something disgusting and reject it. According to Hesti and Sugeng (2005: v), there are several factors that lead to transsexuality: biological factors caused by sexual hormones and genetic anomaly; psychological factors and the culture of the society in which they are raised; and

Religious doctrine and biological determinism assume that heterosexuality is normative and non-heteronormativity is false and deviant. According to Musdah Mulia, those doctrines and points of view are radical and yet have become the mainstream perception in the course of human history. Over centuries, human thought has been dominated by the point of view that heterosexuality is normal and natural, while homosexuality is considered as a deviation, abnormal, a mental disorder or mental illness. Furthermore, social construction responds to homosexual influenced by gender inequality factor. In a patriarchal society, power, subjects, control and masculinities are dominated by males. Patriarchal culture constructs a man to be dominant, active and aggressive and a woman to be an object, be passive and to surrender. This order of construction creates man as dominant and is reflected for example by the number of violent assaults by men and myths about male sexual arousal and prowess. The heteronormative model dominates sexual and gendered construction in which heterosexuality is the only correct relationship while other sexual relations and gender identities are deemed anomalous and false. Due to the power and pervasiveness of this perception, over the centuries societies have internalised notions of homophobia and transphobia (2010:287-288).

Homophobia and transphobia should not be tolerated in any society. The new millennium has entered the era of the globalised multi-market. People from different backgrounds more easily travel and interact. For this reason, it is imperative to openly discuss the topic of different sexualities and the existence of LGBTs in relation to religion and human rights. It is also important to resolve the dilemma of homophobia and transphobia from the perspective of "Islam" in Indonesia to ensure LGBT citizens and visitors are respected and valued according to the principles of human rights.

### LGBT in the Study of Islam

Reference to homosexuality can be observed in the Quran and the Hadists. In the Quran, homosexuality is described in the story of Luth which tells of the lives of the people of Sodom and Gomorra in Syam. The scripts are written as quoted below:

*And [mention] Lot, when he said to his people,  
"Do you commit immorality while you are seeing?"*

*Do you indeed approach men with desire instead of women? Rather, you are a people behaving ignorantly" (QS. An-Naml: 54-55).*

And then the verse,

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

Those stanzas tell about the people of Luth who perform homosexual acts or anal sex, which is nowadays termed *sodomy*, originally name after the Island of "Sodom". Elsewhere in the Quran, Luth the prophet asks his people:

*" Do you approach males among the worlds. And leave what your Lord has created for you as mates? But you are a people transgressing." (QS. Al-Shu'ara:165-166).*

The Quran does not mention the term homosexual (*liwath*) or any other sexual orientation in its text. The Quran mentions the word *al-fakhsha'* (contemptible). QS. Al-A'raf: 80, mentions the word *al-sayyi'at*, in QS. Hud: 78, the term used is *al-khaba'its*, while in QS. Al-anbiya': 74 the term is *al-munkar* as the term in QS. Al-Ankabut: 21.

The word *al-fakhsha'* is mentioned seven times in the Quran. Because the act is cursed, Allah torments them with big disaster. Historians believe that the torment was the first judgement day and the massive disaster occurred because of His Majestic power. The description of the Sodom and Gomorra's punishment in the Quran appears in the script:

*So We saved him and his family, except for his wife; she was of those who remained [with the evildoers]. And We rained upon them a rain [of stones]. Then see how was the end of the criminals. (QS. al-A'raf: 83-84).*

*So when Our command came, We made the highest part [of the city] its lowest and rained upon them stones of layered hard clay, [which were]. Marked from your Lord. And Allah's punishment is not from the wrongdoers [very] far. (QS. al-Hud: 82-83).*

Along with the Quran, the hadists (the traditional collection of stories from the Prophets or Islamic scholars) also refer to homosexuality. Those hadists are:

*From Abu Sa'id al-Khudri from Rasulullah SAW: "A man should not see the private parts of another man, and a woman should not see the private parts of another woman, and a man should not lie with another man under one covering, and a woman should not lie with another woman under one covering."*

*From Ibnu Abbas ra. from Rasulullah SAW: "Whoever you find doing the action of the people of Loot, execute the one who does it and the one to whom it is done". (hadist riwayat Imam Rawi)*

*From Ibnu Abbas ra. from Rasulullah SAW: "May Allah curse the one who does the action of the people of Loot," three times. This was classed as hasan by Shu'ayb al-Arna'oot in Tahqeeq al-Musnad. (Hadist riwayat an-Nasa'ie)*

The Quran quotations and the hadists from the prophet above are used for the consensus (*ijma' ulama'*) to agree that *liwath* and the same-sex sexual activities are considered as *harem* (forbidden). The prohibition is based on the principle of the ushul fiqh "*daarul mafaasid muqaddamu 'ala jalbi al-mashalih*" (to prevent deterioration is to prefer the good deed at first). These three frameworks were used by the MUI in its announcement of the fatwa on December the 30<sup>th</sup>, 2014 (See Decision Paper on p 8).

Islamic classical history literature tells a story about Abu Nawas in a poem in which he has interactions with a boy and likes to drink wine. The script is a humiliation of Abu Nawas, but didn't turn into slander. The mystical Ulama, Al-Ghazali, once wrote poetry for his lovers (young boys). However, Al-Ghazali refused to be labelled homosexual (Spencer, 2004: 111). The MUI fatwa represents the dominant view of classical fiqh Ulama about LGBT. For some mainstream Muslim groups, the law on the prohibition of LGBT is a final and absolute decision because the Quran has written on it, the hadists exclaim it, and the Ulama agree upon both sources (*ijma'*). Clearly then, Khaled's comment on the authority of the fiqh is true. Nevertheless, every decision, word, act, and religious "text" is open to reinterpretation using a contemporary humanistic sociological approach.

### Civil Rights and LGBT in Law

Civil rights have come about to ensure freedom of expression and identity for LGBT people. Civil rights are based on the human right to be free, be equal, and have privacy, autonomy, integrity and

dignity. Moreover, civil rights represent general rights that protect all humankind. Civil rights protect people with different identities and allows them to express their sexuality and identity based on equal rights with others and in a non-discriminatory rights framework (2008: 23).

The state is responsible for the realization of these civil rights. However, as the implementer of the policy, the state is neglecting and ignoring the fulfilment of these rights as reported in Arus Pelangi's (an NGO concerned with LGBT issues) 2013 research. The report shows that 89.3% of LGBT in Indonesia experience violations based on their sexual identity, with 79.1 % of respondents claiming that they experienced psychological harassment, 46.3% experiencing physical violation, 26.3% economical violence, 45.1% sexual assault, and 63.3% who experienced everyday violence or discrimination within society. Attacks and violations were experienced from an early age in school in the form of bullying. It was reported that 17.3% of LGBT identified respondents had attempted suicide, with 16.4% of those attempting suicide more than once (aruspelangi.org)

Human rights are the basic rights a person is entitled to from birth. Because it is universal, the distribution of human rights needs protection and respect, and to be retained: no one can take or reduce the possession of these rights. The 1945 Constitution of the Republic of Indonesia Article 28 Clause 1 clearly states that everyone has the right to live and the right to preserve their life. Moreover, Article 71 Clause 39/1999 on Human Rights states that the government is responsible to respect, protect, ensure justice and improve human life as regulated in this law since the ratification of the International Convention on Human Rights.

The approval of human rights to protect LGBT rights began when the APA (American Psychiatric Association) conducted research on homosexuality. The research determined that homosexuality and bisexuality are not abnormalities, psychology disorders, or diseases. After the research, in 1974 the APA withdrew homosexuality from mental disorder list. The WHO (World Health Organization) adopted the result and it was approved by Health Department of Indonesia in 1983 (Mulia, 2010: 289).

Since then, homosexuality has been considered a sexual orientation and a basic right, and as such



has been included in various regional, national and international human rights documents. In the period 2004-2009, the Indonesian National Action Plan clearly stated that LGBT and IQ (Intersex and Queer) as a group were to be protected by the nation. The International Human Rights Document signed by 25 counties in Yogyakarta in 2007 demanded human rights protection for LGBTIQ. It states, "*Semua manusia terlahir merdeka dan sejajar dalam martabat dan hak-haknya. Semua manusia memiliki sifat universal, saling bergantung, tak dapat dibagi dan saling berhubungan. Orientasi seksual dan identitas gender bersifat menyatu dengan martabat manusia dan kemanusiaan sehingga tidak boleh menjadi dasar bagi adanya perlakuan diskriminasi dan kekerasan*" (Mulia, 2010:289)." Basic rights for LGBTs were approved regionally, nationally, and internationally. The question then remains, how do we assimilate God's law (the Quran and hadists) with human made law (national and international laws).

### **Dichotomy Between Religion and Human Rights**

The syari'ah law of Islam triggers the classic debate between the discourses of syari'ah and those of human rights. Several arguments correlate and connect the relevance between the two. First, some believe that syari'ah and human rights are partitioned and oppositional. This delineation closes the possibility for dialogue. Syari'ah cannot accommodate human rights and human rights are exempt from syari'ah interference. The differentiation is based on the concept that syari'ah is God's law directing human life: syari'ah is sourced in Divine power, while human rights are manmade and the result of human ideas without God's intervention. That theory leads to division between syari'ah and human rights because both have opposing perspectives and ideologies. In this theory, syari'ah and human rights are partitioned and divergent (Meyer, 1995: 209).

Second, the idea that syari'ah and human rights have an integrative relation. The explanation of this idea is that syari'ah does not explicitly mention the term human right, and so the formulation of human rights isn't inspired by the concept of syari'ah, yet both contain a similar spirit and values. Human rights are formulated on three basic principles of humanity: freedom, equal rights, and justice. On

the other hand, syari'ah requires a total surrender (*ta'abbudiyah*) to the Almighty. The fundamental ground of syari'ah is the unity of God (*tauhid*). As a monotheistic religion, Islam only worships one God. Therefore, the worship of humans or their fellowship is an act that devastates the sanctity of syari'ah itself. If the substantive concepts of syari'ah and human rights are investigated, however, the two support one another (Meyer, 1995: 210).

The two theories described above are in constant friction today. Some Islamic scholars still argue that human rights are in opposition to syari'ah. German orientalist, Frank Rossenberg (Meyer, 1995: 29-30) asserts that syari'ah law is a challenge as well as the villain in the attempt to promote human rights and justice. He adds that a universal human rights declaration is impossible to achieve if it has to be hand in hand with syari'ah law. Rossenberg offers two options; first, to insert the ratification of universal declaration into the legal systems of Islamic countries – removal of outdated and discriminatory Syari'ah law, for good is the consequence. Second, refuse the universality of human rights and preserve the Islamic law which most of the state is against with the basic principle of humanity. Effort to reconcile syari'ah law and human rights is like pairing a deer with a crocodile—one will be eaten, since the other needs to survive.

### **Between Religion and Human Right**

Khaled M. Abou El-Fadl's study examined the conflict between syari'ah law and human rights. Khaled was born in 1963 in Kuwait. Besides teaching, he wrote about Islam and Islamic law during his visits to the United States and Europe and attained his PhD in Law from the University of California. His study is unique because his approach to Islam is from a human rights, justice, compassionate and moral point of view. Moreover, he is well-known for his critique of terrorism and the puritanical Islamic *wahabi* promoted by Arab Saudi authoritarianism.

Khaled (2002, 117) argues that the separation of syari'ah law and human rights constitutes a political agenda that leads to the dishonour of Islam rather than to a more holistic understanding of Islam (*kaffah*). Khaled adds that this is the time for Muslims to shift from the rhetorical debate about whether human rights go hand in hand with syari'ah law or against it. Instead, it is time to focus on the more

important issue of how to raise peoples' awareness and educate the world on the ways in which both human rights discourse and Syari'ah law have parallel basic principles of freedom, justice, and equality. Khaled assumes that the commonalities of both can be found in the study of the treasures of ancient Islamic regulations (2002, 122).

Methodologically, there are many ways to explore primary sources with the aim of integrating human rights (for example, tolerance, dignity and integrity–self-fulfilling prophecies) into Islamic law. Islamic scholars assume that these three traditional Islamic values are able to be integrated into the human rights concept. Others argue that God has consistently granted basic rights to humans, but somehow, that Islamic social history has not been experienced in Western cultures. These socio-cultural gaps meant that Islamic culture was not included in the declaration of human basic rights which bind all citizens of the world (2002: 131).

International human rights assert that each individual is undeniably entitled to basic rights that cannot be taken away by another person, group, nation, or even God Himself. In Islam, Syari'ah law awards the possibility for God to intervene in granting individuals basic human rights. Similar to international human rights, Syari'ah law admits that basic rights are undeniably attached to each person, however, according to Syari'ah law, God has the power to take away those rights at any time. Over time, these concepts have merged into one concept: that a person or a state (government) may enact a policy to take away the basic rights of humans with the excuse of acting upon God's will. This misleading notion leads to the legalization of actions in breach of fundamental human rights (an-Na'im, 1990: 14).

These two opposing perspectives trigger disagreement between human rights and Syari'ah. According to Khaled, the disagreement is not supposed to take place in the subjective experience. The subjective experiences of believers should become one of the important elements in overcoming the gap between human rights and religion. From the subjective level, there is a small possibility to integrate human rights and religion. On the objective level, however, humans have the capacity to resolve the conflict between syari'ah and human rights. If people are subjectively and objectively of the same understanding that a set

of basic rights can integrate human rights and the rights that God has given, then the gap between Syari'ah and human rights will disappear. However, if the rights in human rights are not hand in hand the rights in Syari'ah, then the tension between syari'ah and human rights will be ongoing (2002: 130).

Khaled assumes that Syariah law is based on the interpretation of legal experts or *fiqh* (Islamic law), and the nuances of Syari'ah today are determined by the interpretation of Muslim legal experts. According to Khaled, it is very possible that the texts of the Quran and hadists be read as inclusive of human rights. Unfortunately, the Islamic legal experts interpret them otherwise. On this point, the independence and autonomy of the legal experts are important in the process of interpretation (2002: 129). Khaled comes to the conclusion that today's Law of God is the result of the holistic process of human interpretation that offers two possibilities: it could be right or it could be wrong (2005: 194). So too, the MUI fatwa on LGBT in Indonesia has two possibilities: it could be right or it could be wrong.

Khaled suggests one key to unite the gap between Syari'ah and human rights is to visualize God as the expression of beauty (*al-jamal*) and the good (*al-Khair*). People have to be assured that their belief implies that God is always involved in the assortment of good and beauty reflected in the social reality. If they can reach that point, Khaled believes, the strain between Syari'ah and human rights will slowly evaporate (2002:130).

To help to understand Khaled's thought on religion and human rights, he designed a framework for human rights named *al-Dharuriyyat al-Khamsah* (the five human basic rights that need to be complied). The elements are: the right to convert to another religion, to live, be intelligent, bare offspring and own property. He declares that the five rights are the most basic rights that must be maintained, respected, and fought for through political and legal systems. This means that the systems of politics and the law in Islam have to protect and struggle to achieve human rights for all. Moreover, Khaled adds that these five basic rights do not represent the totality of all human rights, but those most basic rights that need to be shared (2005:188).

To improve the protective function of the *al-Dharuriyyat al-Khamsah*, Khaled outlined three categories of human rights. First, *dharuriyyat*

(*necessities*), including the basic and essential right to the sustainability of human life. If the first category is not a given, it can be assured that no right be fulfilled. Second, *hajjiyat* (needs) refers to all human necessities, but not urgent needs. Third, *tahsiniiyat* (*luxuries*), which is everything that not classified as something important and urgent. Khaled categorises these three stages based on the standard appropriate to the time and place in which people possess the rights. Therefore, Khaled suggests that in the human rights based on the three categories above, a soft approach be used to evaluate the interests of each person or group in their particular context (2005:188-190).

Based on these three categories, LGBT rights in Indonesia are in the first category of *dharuriyyat* (urgent). They are classified into the first category because the MUI fatwa has dragged LGBT people into further alienation within Indonesian society.

Following Khaled's idea about *dharuriyyat*, families need to be encouraged to accept their LGBT identified family member, and to treat them equally and with compassion and affection to encourage them to flourish. Furthermore, society should not insult, deride or marginalise them as second class citizens. Moreover, the government is obliged to prioritise LGBT issues.

Statistically, the most visible LGBT are sex workers. They take this job to survive. Negative stigma in society means that other employment options are limited. This is a vicious circle, since the marginalisation that leads to sex work, also leads to increased incidence of HIV and STIs, particularly among gay males and *waria*. Providing free health care, education and funding social services is the main duty of governments for both LGBT and heterosexual citizens. The shared resources from government should not only be provided to heterosexual people base from their recognition in their ID card as is currently the case. The government needs to provide safe schools for transgendered youth (because of their visibility) since 90 % of transwomen in Indonesia can only survive elementary school (2014:141).

Not surprisingly, the MUI has also announced a fatwa on Khaled's thought and study. They have a short cut method for this. Usually the MUI scholar who had read Khaled would state, "the MUI know better about what the author means, using the perspective of God, the MUI also fully understands what it

means in the text of Quran and Hadists, therefore the knowledge of the MUI is certain, straight to the point and final". That statement tends to suggest that the MUI scholar is the directive and represents the author, which fully discounts the role of the author and ensures an end to debate on interpretation of the text (*nash*). Khaled calls this approach closed, mono-interpretation authoritarianism. He describes authoritarianism as the act of a person, group or organization which closes or limits the will of the Divine, obstructs the core meaning of the text through limitations and presents the determination as an undeniably final result (2004:xiii).

It is too soon for the MUI to detail the types of punishments for LGBT, although the punishments are based on the hadiths of a Prophet. Those punishments are: punishment according to Islamic regulation (*jarimah*), determination of the sentence for the criminal, sometimes by execution, physical abuse or social isolation, as it written in the Quran and hadists of the prophet (*had*), or indecision on the punishment because it has not been the verdict of Shari'ah law (*ta'zir*). The social milieu at the time in which the hadists were announced was markedly different to that of Indonesia, even today. The death sentence announced by the prophet was only to prevail when Islamic Syari'ah law was the only vital law in Saudi Arabia at the time of Muhammad in the first century of *hijriyah* (Islam calendar). In Indonesia, the basic law is the Constitution of the Republic of Indonesia of 1945 with its symbol of the Garuda and with "Bhinneka Tunggal Ika" (Unity in Diversity) as the guiding philosophy of the nation. Indeed, Khaled admits that the national law is not Syari'ah law. Though national law is based on Syari'ah law, the law needs to adapt with the changes in the regime and the dynamics of social development, whereas, syariah law will remain as a static ideal norm. Khaled strongly argues that in Indonesia "syari'ah isn't the law of the state" (2005:184).

## Conclusion

On paper, regional, national and international laws are formally inclusive of rights for LGBT. However, reality reflects a different picture, one in which certain groups in society humiliate LGBT people. In their daily interactions LGBT individuals experience intolerance, discrimination, stereotyping and marginalization in the name of "religion". Instead

of being grounded in the "law of God", the law has transformed into a thick wall that separates humans because of their different sexualities. In the end, religion (or the comprehension of Islam) as the source of laws that guide human salvation have created a gulf that separates God from His creation.

Diversity in the human condition allows people to get to know each other universally and holistically instead of partially. If people get along in terms of rights, race, sexuality, and gender the bond of siblinghood will arise as the natural essence of the being human itself. It will bear the quotation in the noble Quran 13 "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted (QS. al-Hujurat:10)

There is no advantage in judging others as infidels (*kafir*), harem, and in assuming that they will go straight hell. Upon Him, all humans are equal, and only the level of the piety will be counted by Allah and only Allah knows the measurement and quality of piety. Therefore, Allah commands humans to compete in doing good *fastabiqul khoirot* in the dimension of theology and the social as it states in Quran, "For each [religious following] is a direction toward which it faces. So race to [all that is] good"). Wherever you may be, Allah will bring you forth [for judgement] all together. Indeed, Allah is over all things competent (QS. al-Hujurat: 13). As a heterosexual muslimah, there is no intention to humiliate a trustworthy institution like the MUI through this paper. However, the writer wants to show Islam as the religion that it is in the hearts of believers, instead of how it has been re-appropriated as a tool for dogma.

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