

# Sexualities, LGBT Rights and The Ban of 'Gay' Emoticons in Indonesia

Written by Eleni Polymenopoulou

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ELENI POLYMEÑOPOULOU, MAR 10 2016

Freedom of expression, sexuality and gay rights are long-debated themes in Indonesia. The debate sparked again, this time in early February 2016, when the government announced that same-sex emojis, stickers and emoticons should be withdrawn from use – including instant messaging Apps and social media such as LINE, WhatsApp, Facebook and Twitter. Such emoticons would include for instance, same-sex couples holding hands or same-sex faces with small hearts between them, which, according to the government, are capable of hurting Muslim sensibilities, and causing civil unrest.

Is this a typical policy-making decision in a Muslim state? Rather not. In Sharia-compliant countries, i.e. those countries where classical versions of Sharia law may be applied by courts and tribunals, such discussions are unthinkable. The same goes for neighbouring Muslim-majority countries that do not operate under an extremely rigid approach to Islamic law, like Malaysia and Bangladesh. In Indonesia however, with its approximately 250 million inhabitants that make it the largest Muslim-majority country, (and one of the founding members of the Organization of the Islamic Conference) everything is possible.

The reason is simple. Indonesia demonstrates an astounding diversity, evidence of large contrasts between the local lifestyles and the governmental edicts. Consisting of about 6,000 islands, with more than 300 different ethnic groups, Indonesian culture has always been a 'spice-mix'; an amalgam of animists and indigenous practices, colonial traditions, western influences and local habits – precisely like the traditional mixing and blending of its cuisine in *bumbu* recipes.

As a result, while a certain 'Islamic ethos predominates in national popular culture' (Boellstorff, 2005a: 577), the understanding and application of Islam in the Archipelago differs substantially from that of the Muslim South Asia and the Middle East. The country's similarities with neighbouring India and Singapore, the historic ideology of the *pancasila* and the need for the government to maintain a unique nation-state identity, as well as the touristic development have all played their part in this.

Hence, contrary to South Asian countries that maintain the colonial '377 offence' that criminalizes 'unnatural relationships' and any other acts of 'gross indecency' (Saxena, 2001: 375, Rehman & Polymenopoulou, 2013: 5, 35 & 51) and to Sharia-compliant countries where homosexuality may be punished even by the death penalty (ILGA, 2015: 9-10; Rehman & Polymenopoulou, 2013:4) homosexuality in Indonesia is not a crime (ILGA, 2015: 73). There is only one area where Sharia law is strictly applied and enforced by local Sharia Courts: the region of Aceh in Northern Sumatra. In this area, despite the calls of Human Rights Watch and other human rights organizations, rigid corporal punishments such as flogging, are common for homosexual acts. In other regions, particularly the smaller islands, a certain openness towards the recognition of multiple gender identities, diversity and sexual preferences can be observed. This includes recognition of 'modern' sexual identities such as gay and lesbian Muslims, but also traditional transgender identities such as the *wairas* (similar to the *hijras* in the Muslim South Asia) (Hamzic: 2011, 241; Lau: 2008: 72). It also includes exceptional cases of small indigenous communities, including the Bugis people in the Southern Sulawesi, where gender diversity and trans-sexuality are diversified and well respected (Graham Davies: 2010).

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On the other hand, however, the tensions under the fear of religious extremism are rising. Hence, while the Indonesian gay scene in Medan (Sumatra), Java, Bali and Komodo is flowering (including on dating sites), Indonesian gay Muslims find it hard to be openly both gay and Muslims (Boellstorff, 2005: 577). It is further alarming that in many areas local bylaws ('*perda*'; '*peraturan*') have passed, defining homosexuality as a crime, and extending the punishments to non-Muslims. These bylaws have passed not only in Aceh, but also in cities such as Palembang (Southern Sumatra), where recent *perdas* define homosexuality as a crime, equating it to prostitution – also punished by similar bylaws (Arnez, 2016: 74; Molloy 2016; ILGA, 2015: 73).

Until now, the government has held a moderate stance. Since 2000, gay prides have been regularly taking place, with the first one being celebrated in Surabaya in 1999 (Offord, 2011: 143); in 2002 the Q-fest, a pro-LGBT festival, was organized in Jakarta for the first time and is since then organized every year – a unique phenomenon in the Muslim world; in 2007, a group of international experts met in Yogyakarta (Java), and drafted the so-called 'Yogyakarta principles', posing an important step for LGBT rights as human rights with the support of the Gadjah Mada University; even in 2015, when the Muslim Council of Indonesian Ulema (MUI) issued an anti-gay fatwa, calling for the application of death penalty under Sharia law and for medical treatment services for LGBT individuals, the Indonesian Minister on religious affairs Saifuddin highlighted that 'homosexuality is an individual's choice' (Molloy, 2015).

The ban of the emoticons is the first time that anti-LGBT initiatives are not emanating from local councils, or from Islamic extremists, but from the government – affecting largely the social media. It is further alarming that few days after the ban earlier this year, when the MUI threatened that they would issue another fatwa on the prosecution of LGBT individuals and the prohibition of LGBT rights advocacy on University campuses, the Government did not take a clear stance in protecting LGBT rights. It rather adopted, as Halim et al (2016) note, a 'half-hearted' approach, noting that, while LGBT individuals should not be discriminated against, LGBT individuals 'should not take part in any LGBT campaigns'. The Minister of Religious Affairs in particular this time noted that LGBT rights are 'a threat to the countries values', qualifying homosexuality a 'social disease' and a 'potential impediment to the legal system of Indonesia which does not allow same-sex unions' (Halim, 2016). He also added that it is the duty of religious leaders and Islamic *madrasas* to provide support, help and counselling for LGBT individuals, 'give them critical thinking so they won't be easy to be influenced by values that are against Islamic teachings' (Prihantoro, 2016).

While the 'emoticon' debate itself seems rather trivial, the debates surrounding it are illustrative of the tensions between Islam and the local practices, as well as the perpetuating of the 'family principle' (*kekeluargaan*) in the Indonesian society, based on the idea of the heterosexual couple as the societal nucleus (Boellstorff, 2005a, 578; 2005b, 198-199). It is also illustrative of the hesitations of the government to reject intolerance and homophobia and abide by its human rights obligations. In a country where the threat of prosecution and punishment of homosexuals has revived, and where calls for medical treatment of homosexuality are back in every day reality, statements emanating from State officials that promote homophobia and incite to repression against sexual minorities are simply unacceptable. A number of authors have taken the stance that LGBT rights are not irreconcilable with the Muslim religion; there is no 'incommensurability' between Islam and heteronormativity (Bouhdiba, 1975; Murray & Will Roscoe, 1997; El-Rouayheb, 2005; Al-Haq Kugle, 2010; ; El-Rouayheb, 2005; Hamzic, 2011; Rehman & Polymenopoulou, 2013). The Indonesian government should swiftly clarify its stance.

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## About the author:

Dr Eleni Polymenopoulou is Lecturer in Law at Brunel University and visiting lecturer at the University of Grenoble, France. She wrote her doctoral thesis in French at the University of Grenoble and University of Athens, on the topic the conflicts of rights and 'clashes' between artistic freedom and religious beliefs. Her research focuses on the intersections between culture, religion and the law, freedom of expression and questions of religious extremism, as well as on the adjudication of social and cultural rights. Alongside her academic appointment, she has been working as a practicing lawyer and has collaborated with a number of NGOs in Greece, France and the UK, including the Greek Council for Refugees, the French Observatory of Intercultural Territories and the international organization for Freedom of Expression, Article 19. In 2015, she produced a country report on 'Freedom of Expression in Greece' for the International Press Institute (IPI). Dr Polymenopoulou's profile can be found on academia.eu and she can be reached at [eleni.polymenopoulou@brunel.ac.uk](mailto:eleni.polymenopoulou@brunel.ac.uk).